

CITY OF DARLINGTON

SPECIAL MEETING

TUESDAY, MARCH 13, 2018 AT 6:00 PM

The City of Darlington held a Special Meeting on Tuesday, March 13, 2018 at 6:00 PM in the Courtroom/Council Chambers located at 400 Pearl Street. Those in attendance included: Mayor Gloria C. Hines, Council Members: Mayor Pro-Tem Coleman Cannon, Councilpersons Carolyn Bruce, Elaine Reed, Bryant Gardner, Sheila Baccus and John Milling. Others attending included: City Manager, Howard Garland, City Attorney Kevin Etheridge, Mrs. Betty Jackson, Ms. Jannie Lathan, Mrs. Joyce Thomas, Police Officer Jimmy Davis.

Mayor Hines called the meeting to order at 6 PM and she did the invocation which was followed by the Pledge of Allegiance.

FIRST READING ORDINANCE 2018-06 MASTER STORM WATER ORDINANCE

Mayor Hines said we're here tonight for another first reading of ordinance 2018-06 Master Storm Water Ordinance because we added something to it. Mr. Garland said for the record this has been a confusing issue. He said this project started with an original grant application in October 2015 to S.C. Rural Infrastructure Authority with the first grant application being rejected. We reapplied in March, 2016 for the same project (Chalmers Street ditch) and that project application was successful in June 2016 and the original amount was \$445,000. He said we had a procurement process we went through to secure an engineer which was Mike Hanna Engineering out of Florence. Mr. Garland said they came back with the original PER which was done by Davis & Brown and said there was 72 acres which wasn't included in the original project and that needed to be included as a part of the outfall. The project was essentially designed just to work in the middle but it wasn't designed to take it all the way to the outflow. He said this is where the project sort of grew in size. Mr. Garland said the original estimate from Mike Hanna was going to be approximately \$1.5 million dollars. He said we put it out for bid the first time and it came back with a low bid of

\$2.8 million dollars. It was strongly suggested that we rebid this out, which is what we did. The second bid opening was in October with a low bid of \$2.567 million dollars from Lands Down Earth & Pipe. Mr. Garland said they had a shortfall of over \$1 million dollars and they struggled to try and come up with a way to pay for this. He said they first approached USDA about doing a Rural Development loan for 40 years and everything was looking good until Rural Development said we have to submit bid documents. Mr. Garland told them we already had the bid and that was per S.C. Rural Infrastructure Authority bid documents and they told him he had to do their bid documents now. He said we can't do that because we've already bid the project. So, the USDA RD lane was closed and the only other avenue that we had to get the project done was to go to our Bond Attorney and ask him if there's any way we can combine any of the fees from other things that we charge and he said, "Yes" (the Sunday alcohol sales which was passed in January could be added to that). Mr. Garland asked Mr. Zeigler to get with First Tryon Financial and Tyler Trout to see if they would put this out for bid with some of the banking folks they have on their list and they found a bank that was interested and for the last three or four weeks they have been compiling the information they've asked for. Mr. Garland said to get this project completed and not lose the \$445,000 in grant funds, they are executing this new Master Storm Water Ordinance and the Bond which is with Sterling Financial. Mr. Zeigler said Mr. Garland contacted him several months ago regarding this storm water project and the shortfall we were experiencing. He said we did a \$1,350,000 Storm Water bond last year and this is the borrowing that is secured by and payable from that storm water fee. Mr. Zeigler said what we're able to do in terms of a revenue bond like this is constrained by the amounts we collect from the storm water fee. He said when they first looked at this they had a couple of different potential ways to handle it, but what they decided to try was to refinance the existing bond by rolling it in with the new money we need for the shortfall. He said if we did all that and just did it on the basis of the storm water fees it doesn't cover it, so they started looking for other options and Mr. Garland suggested the Sunday alcohol sales fee that we receive pursuant to a referendum we had last year. Mr. Zeigler said that statute has a list of things that you can pay for out of the fees and one of things is "drainage projects". He said there's no mechanism that says you can issue a bond that's secured by a pledge of the alcohol license fee, but what you can do is create a mechanism that allows the alcohol license fee subject to appropriation by Council every year to flow into this storm water system and have that money available in case you need it. Mr. Zeigler said they ended

up redoing the Master Ordinance. They did a Master Ordinance last year, but it didn't have any of the language that would allow the alcohol license fee. He said they did a new Master Ordinance that has a separate fund in it called the "Appropriations Fund" and from time to time Council can appropriate monies from any available sources including from the alcohol license fee. He said this gives that extra money to pay those bonds in case it's needed. He said you have the pledge of the storm water fee hardwired into the document and you have to use that money to pay the bonds and you also have the option, under the new Master Ordinance to appropriate part of your budget process every year, money from the alcohol license fee and as it comes in, it becomes restricted and has to be used to pay those bonds. He said those two together were enough to make this a saleable prospect for a bank. In order to make this all work, the term of the bond had to be longer than what we had. Mr. Zeigler said working with First Tryon, Mr. Garland was able to find Sterling National Bank which made a proposal with a 20-year term on the bond which is rare for bank placed bonds in this day and age. Mr. Zeigler said from a legal perspective we have this new Master Ordinance which will replace the old one, but we will be paying off those bonds that was issued under the old and then a new Series Ordinance which is the financing ordinance for the new bonds. He told Mayor & Council that he will need two separate votes on those ordinances when the time comes. Mayor Hines asked if the bond can be paid off in less than 20 years. Mr. Tyler Trout said, "That's right, but for the first five years the bank wants you to not repay them so in their documents they will have a "no call prepayment provision". He said in the first five years you cannot give them their money back, but after that, you can give them their money back. He said there is a period of time where they will charge you a 1% penalty, which is what we have in our current documents as well. Councilman Gardner asked if the 1% is for the entire loan. Mr. Zeigler and Mr. Trout said it will be on what's outstanding at that time. Mr. Trout said his firm is First Tryon located in Charlotte, NC and they help municipalities in North Carolina, South Carolina & Georgia borrow money. He said Mr. Zeigler is our legal expert, but they are our financial expert. Mr. Trout said their job is to get as many banks competing for our business as possible so you can get the best rates, best terms and provisions. He said Sterling National Bank in Charlotte, NC is going to loan us the money at a 4.15% fixed interest rate. He said it's not final yet, they want to wait until we get to the closing in early May before they lock that rate, so he's hopeful it will be around 4% or maybe 4.15% for a term of 20 years. He said the storm water revenue that we collect every year is about \$135,000 and the payments on this bond will be about

\$180,000 so of our temporary license fee which is about \$75,000 we are expecting to collect on a yearly basis, \$45,000 of it has got to go to pay this debt. He said finding a 20-year loan is relatively rare in this market because interest rates are rising and banks don't want to commit their capital for a long period of time. Mr. Trout said they were pleasantly surprised to get a 20-year loan and some of the feedback they got from the bank was that in addition to our storm water revenues the general financial health of the City made them feel comfortable enough to give us the loan. Mayor Hines asked Mr. Trout if this was a fixed rate and he said, "Yes, which is even more rare to get a fixed rate for 20-years". Mr. Zeigler wanted Council to keep in mind that the alcohol sales fee is not hardwired into these documents, so every year they have to remember to appropriate the money to that fund. Councilman Milling said, "But we always have to appropriate something". Mr. Zeigler said, "You don't have to appropriate and they can decide not to appropriate and that's part of the risk the bank is taking because they know full well that this Council and the successor will have the discretion to appropriate or not". He said they are counting on us that we will appropriate. He said if you don't want this to go into default, unless the storm water fees go up or collections come in better... Councilman Milling interrupted and said, "Am I correct, if it went into default then they will have the right to come in and set storm water fees at whatever they want". Mr. Zeigler said, "Potentially, yes Sir". Mr. Zeigler said there is a covenant in the ordinance that says you are going to maintain rates at a level along with other available funds to pay for these bonds. He said, so you have a duty that if we don't have the money, to put on the rates necessary. Councilman Gardner asked if they looked at the cost difference because he understands bundling them into one bond, but it seems like we will be giving up the 3.16%. Mr. Zeigler said the problem is that the outstanding bond holder has rights to prevent this new bond from being issued, so in order to be able to do the second piece, we pretty much had to take the old one out and wrap them all together into one. Mr. Trout said even if they were legally allowed to do that the new bank wouldn't want to loan you the money because their principal repayment would come after the 15-year term of the BB&T loan. Mr. Garland wanted to note that we currently have \$166,000 in the storm water fee and project by the time first payment is due in November we'll collected another \$66,000 for a total of \$232,000 in the account. He said the first two payments could come out of the storm water fee account independent of the Sunday alcohol collections. Councilman Milling said then we wouldn't have any more money in the storm water account to do any other storm water projects. **Mayor Hines made a motion to accept the**

First Reading on Ordinance 2018-06 Master Storm Water Ordinance. Councilwoman Elaine Reed seconded the motion. Councilman Milling said he's not opposed to things to help the City, but he couldn't vote for this the first time around and he's just not going to be able to vote for this the second time around. Councilman Gardner said he's really concerned that the project has grown from a \$400,000 project, to a \$2.3 million-dollar project and it's now a \$2.7 million-dollar project. He said it's just growing and growing and we're going to put our City at a disadvantage from a storm water standpoint for 20 years. He said that's very scary from a financial standpoint for his children's future. Councilman Milling asked if we've been told by our legislative delegation (because they previously indicated they could come up with \$1 million-dollars in funding to cover this shortfall) that they are not able to come up with that money? Mayor Hines said they haven't told her anything and Mr. Garland said he has not heard anything either. Councilman Milling asked if they have any opportunity to wait and see what the legislative delegation does or doesn't do before we step forward or do we vote now and come back in April. Mr. Zeigler said you can always defer second reading. He said it doesn't hurt to give it a first reading and whenever you see what's happening you can kick second reading down the road if you need to. Councilman Gardner asked if Council is comfortable with that? Councilwoman Reed said, "Just like you may have reservations, I have assurances and that's where I'm going". She said we didn't get this far for it not to be, it's absolutely necessary. Councilwoman Reed said just like you all feel like we needed to spend a half million on a truck to do it. This is what it's going to cost to get the project done and it will help more than one section of town. Mayor called point of order. Councilman Gardner asked if discussion has ended. Mayor Hines told him that he's had two chances to speak, Mr. Milling had two chances to speak and Ms. Reed had a chance. Mayor Hines allowed Councilman Gardner to ask a question. Councilman Gardner said, "So, if we pass both of readings we can't pay a dollar into it for the first five years so even if our Senator or House of Representatives was able to get us funds we couldn't appropriate them to this for five years, is that correct"? Mr. Zeigler said you can pay into it as much as you want, you just couldn't pay the bond off. Councilman Gardner wanted to know if we get a \$500,000 grant can we pay it on the bond. Mr. Trout said with the current structure if you've got \$500,000 and wanted to pay it on the loan and no longer be charged interest on that amount, they would say the documents states that you have to wait for the five-year period before you can do that, but because we have the potential for a grant that's coming through, they can have them write into the documents that it is subject to "no call for 5 years

except in the case where we receive grant money or one time payments”. Councilman Gardner asked if the interest rate is negotiable and Mr. Trout said, “No, at this point, it’s not”. Mr. Trout said they’ve taken proposals at the 20-year term and there aren’t any other banks willing to compete for that loan. He said it’s not an unusual rate. **All voted for the motion except Mr. Milling who voted against it.**

APPROVAL OF FINANCING FOR SOUTHWEST DARLINGTON STORM WATER PROJECT

Councilwoman Bruce made a motion for approval of financing for Southwest Darlington Storm Water Project. Councilwoman Baccus seconded the motion. All voted for the motion except Councilmen Milling and Bryant Gardner who voted against the motion.

Councilman Milling asked Mr. Garland to contact the Legislative Delegation and see what their position is. Mr. Garland said, “Sure”.

SELECTION DARLINGTON COUNTY CAPITAL PROJECT SALES TAX COMMISSION

Mayor Hines said we received a letter from the County asking for an appointee to this committee. She said they need to pick someone that knows about the courthouse and the necessity of the courthouse remaining in Darlington. Councilman Gardner said he thought Ronnie Ward spoke very eloquently and represented our City very well and would think that Council would be in support of putting him on the committee. Councilwoman Reed said she is in support of Ronnie Ward because he did an excellent job. Councilman Milling said he appreciates Ronnie Ward that volunteered to get himself on the agenda and being the former Mayor he’s familiar with the necessity and need for these offices to be in Darlington. Councilwomen Bruce and Baccus were both in support of Ronnie Ward being on the committee. **Upon motion of Councilman Gardner, seconded by Councilwoman Reed, to nominate Mr. Ronnie Ward to represent the City of Darlington for the Darlington County Capital Project Sales Tax Commission, which unanimously carried.**

ADJOURNMENT

Upon motion of Councilman Bryant Gardner, seconded by Councilman John Milling the meeting adjourned at 6:26 PM.

Mayor

ATTEST:

Clerk & Treasurer