

November 8, 2018

A Regular Work Session of the Danville City Council convened on November 8, 2018 at 7:51 p.m. in the Conference Room located on the Fourth Floor of the Municipal Building. Council Members present were: L. G. "Larry" Campbell Jr., Mayor Alonzo L. Jones, Dr. Gary P. Miller, Sherman M. Saunders, Fred O. Shanks, III, Adam J. Tomer, Vice Mayor J. Lee Vogler, Jr., and Madison J.R. Whittle (8). James B. Buckner was absent (1).

Staff Members present were: City Manager Ken Larking, Deputy City Manager Earl B. Reynolds, Jr., City Attorney W. Clarke Whitfield Jr., and City Clerk Susan M. DeMasi.

Mayor Jones presided.

MINUTES

Upon **Motion** by Council Member Saunders and **second** by Council Member Whittle, Minutes from the Regular Work Session held on October 4, 2018 were approved as presented. Draft copies were distributed to Council Members prior to the Meeting.

WORK SESSION ITEMS

REVIEW OF EMPLOYEE AND RETIREE BENEFIT CHANGES FOR 2019

Director of Human Resources Sara Weller introduced Carrie Bartlett from One Digital; her firm assists the City with their insurance negotiations, plan designs, and contribution strategies. Ms. Bartlett reviewed her Power Point, *2019 Employee Benefits Renewal Review*, a copy of which has been retained in Laserfiche in the City Clerk's folder, Presentations to Council. Ms. Bartlett explained this year, the initial medical renewal from Gateway was a 10.1% increase, shared by the City and employees. They were able to negotiate that down to a 4.7% increase by making some minor modifications to the benefit plans, changing how the pharmacy was managed and introducing some enhancements for employees. The other benefits offered, dental, vision, work site benefits from Allstate, were all status quo for 2019. Ms. Bartlett noted they will have an update on the RFP for the onsite/nearsite clinic as well.

Ms. Bartlett noted they changed the specific stop loss (SSL) which is the special coverage for individuals covered under the plan, from \$150,000 to \$175,000; that provided about \$224,000 in savings. If someone has a catastrophic claim, the City is protected for anything over that \$175,000. The City also moved to a different pharmacy benefit manager, from Express Scripts to MedTrackRx, with about \$344,000 worth of savings. One of the enhancements added for any employees under the high deductible health plan, is they will be able to get certain medications covered at no charge to them; those are typically maintenance medications.

Ms. Bartlett stated they have noticed an uptick of employees and dependents utilizing the emergency room for non-emergent reasons, things they could be going to a primary care doctor or urgent care for. In order to help mitigate those claims, they changed the benefit so if someone goes to the ER for a non-emergent reason, there is an additional cost. Under the 1500 plan, it is a \$250 co-pay plus 20%, and under the two high deductible plans, it is a \$250 co-pay after the deductible. Employees would still have coverage, but for non-emergent reasons, they are going to pay a little bit more. For preventive care screenings, they will be covering colonoscopies and mammogram at 100% for employees. Ms. Bartlett noted they are going to introduce a dependent verification review; this looks at all the dependents covered under the health plan to make sure they are actually eligible dependents. They will be utilizing an outside source for this to remove any legal risks; people that cover any spouses or children will be reached out to, to provide

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verification. Over time, sometimes people stay on the plan that shouldn't be and the employer doesn't want to pay for claims for people that are not eligible.

Ms. Bartlett noted enrollment had shifted from the different plans from 2017 to 2018; in general most of the employees are still in the traditional co-pay based plan, but there has been a significant increase in enrollment in the consumer driven plan. In the high deductible health plans, people are eligible to sign up for the health savings account; that allows them to put money aside long term to fund medical services. The City contributes \$1,000 for employee only coverage, or \$2,000 for any dependents that are covered. For participation in the Wellness Program, the City is increasing the incentive from \$20 to \$25, and participation in Tobacco Cessation went from \$35 to \$55. As a change in the Wellness Requirements, if people have been identified as having a particular increased risk, they will have to complete additional phone calls with the nurses from Gateway. Ms. Bartlett discussed the update on the Onsite/Nearsite Clinic Wellness Initiatives stating the City issued the RFP, had quotes from eleven different vendors, staff narrowed it down to three finalists and are in the process of finalizing their decision. Staff is moving forward and should have an announcement in the next month or so.

For the 2018 Wellness Initiatives, they completed the onsite Biometric Screenings for employees, and a wellness committee was established. They conducted a wellness survey and recommend maintaining the current initiatives, adding additional nurse coaching calls and some incentives for employees as they participate throughout the year. Ms. Bartlett stated the top chronic conditions are hypertension, high cholesterol, obesity and diabetes. The Wellness Survey results showed participants were interested in healthy eating, healthy cooking, heart health, better understanding of health insurance, health maintenance and prevention. Employees also liked the idea of healthy food options, safe and accessible walking areas and a wellness/relaxation room.

Council Members thanked Ms. Bartlett for her presentation.

CONSIDERATION OF AUTHORIZING EXECUTION OF A LEASE AGREEMENT WITH NORFOLK SOUTHERN

Director of Transportation Marc Adelman explained this is an ongoing lease agreement unless a party gives thirty days notice they would like to terminate the lease. Council agreed to put this on an upcoming business agenda.

CONSIDERATION OF AUTHORIZING A DEED OF EASEMENT FOR ACCESS ACROSS PARCEL #60207

Assistant City Attorney Ryan Dodson explained there is a parcel landlocked from a public right of way, and a City parcel with some frontage road on London Bridge Drive that would allow access. Staff has been in contact with the owners who have requested an easement, have agreed to assume all costs related to recording the easement and have agreed to the special conditions the City put in place. Council agreed to put this on an upcoming business agenda.

DISCUSSION OF STORM DRAINAGE ON PRIVATE PROPERTY

City Manager Ken Larking explained several months ago, Council Member Shanks requested information on how the City handles Stormwater throughout the City. Director of Public Works Ric Drazenovich has researched how other cities handle Stormwater both on public and private land, will discuss what he has found and what is currently done in the City.

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Mr. Drazenovich reviewed his power point presentation *Private Property Storm Drainage*, a copy of which has been retained in Laserfiche, in the City Clerk's folder, Presentations to Council. The reasons for the presentation were, information requested by City Council, complaints from property owners, recent heavy rains revealed storm drain issues on private property, clarification of the City Code and policies regarding private property storm drainage. Mr. Drazenovich noted the objectives were to clear up misconceptions about storm drainage, describe current and past State Stormwater Regulations, what the City Code has been in the past, distinguish between public and private systems, how the private property drainage improvement evolved, what comparable cities do with private property Stormwater drainage and some options, estimates, costs and evaluating funding sources.

Some common misconceptions are that all streams belong to the City, all stream maintenance is a City responsibility, all pipes and catch basins are City responsibility, all rain water is City water, all washouts and sinkholes are a City responsibility, all flooded buildings are due to the City's drainage system, and all erosion on private property is the City's responsibility. The realities are that streams belong to the property owner, stream maintenance and repair is the responsibility of the property owner and unless there is an easement, the storm drain pipe and catch basin cleaning, maintenance, installation and repair belong to the property owner. The City is responsible for adequate storm drainage on City property and in the right of ways. If there are washouts and sinkholes on private property, they are the responsibility of the property owner.

All properties have drainage characteristics, and every property and right of way contributes to the Stormwater volume, flows onto neighboring properties and then into water courses or tributaries. Natural water courses and drainage conveyances cannot be denied to an upstream user. During the heavy rain the City experienced, people who aren't near a creek or in a low area got flooded because their basement was below grade, it went over the top of their steps and flooded their basements. It is the property owners duty to convey it through their property, either with a channel or pipe.

Mr. Tomer questioned the Stormwater drains near curbs, those are on the right of way and the City maintains those, what if one of those were clogged, the water backed up and went into somebody's residence. Mr. Drazenovich stated if the drain gets clogged on a City right of way and floods somebody, that would be a City responsibility. Mr. Larking noted just because the drainage is blocked, doesn't necessarily make it a City responsibility, it would be a VML claim. Sometimes the City was not aware of blockages, and because of the City's legal status, if the City is not aware of a situation, they cannot correct it. Because the City has so much to deal with, the City is given a certain leeway to not be legally responsible for that. If the City was negligent, was told about the clogged drain but did not clean it, that would be different. Mr. Drazenovich noted the City does have a robust cleaning program, but blocking the drain could be as simple as someone parking there with their tire in front on the drain.

Mr. Drazenovich explained the City Code states property owners have a duty to keep the adjacent gutters and drains clear of debris. It is a misdemeanor to obstruct public Stormwater drains or natural water courses. Property owners have a duty not to obstruct the flow of streams with trash and debris. A property owner cannot remove excess vegetation from stream banks and cause it to wash out. Installation and alteration, repair or replacement of a private system requires a permit (after 1989). Property owner flushing of private system does not require a permit. Except as allowed in Division V, no City money can be spent on private repairs. Driveway pipes can be installed by Public Works if the owner provides the pipe. New developments are subject to approval for adequacy of Stormwater system.

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State Stormwater Codes include State Erosion & Sediment Regulations adopted in 1974. Statewide Stormwater management adopted in February 1982 attempted to reduce downstream erosion from a 2-year rainfall event only; they used two year because a natural channel sizes itself to a two year storm at bank-full capacity. They did not mandate flood control for major storm events. In 1991 to 2005, the State's regulations became increasingly stringent, started regulating runoff and required detention to reduce runoff to predevelopment quantity of water. After 2005, the State started extensive regulations regarding pollution, discharges and water quality. The State has a lot of requirements that it requires the City to enforce.

City Code, prior to 1989, did not accept any easements, there were no standards, inspections or permitting for pipes on private property; however the VDOT standards were followed in the right of way. There were no standards or limitations of building homes or businesses over the top of a Stormwater pipe and there is no current restriction on that. Dr. Miller questioned if the City needed to correct that and Mr. Drazenovich noted he did not know if the City could, if that was an intrusion on the rights of people to build. It is not automatically bad for them to build over a storm drain, the right pipe and size needs to be used. City regulations prior to 1989 did not restrict runoff from new developments other than the state regulations. The City did occasionally construct regional projects such as Timberlake Drive in 1989, Orchard Drive Detention Pond, and the City is now looking at trying to do something with Apple Branch.

The City Code after 1989 is a little more stringent; it was adopted in May of 1989 and the City began requiring a permit for property owners to install and repair drainage systems. The City's regulations don't include runoff controls except what the state requires the City to do. The Codes the City has in place since 1989 are basically construction restrictions and repair of the drainage; it really doesn't address quantity or quality. The property owner is still responsible for the cost of installation or repair on private property unless it is determined to be eligible under the City Stormwater management policy. Easements are required for new Stormwater systems installed by the City on private property.

The City will cover 100% of the cost to install, alter, modify, repair or replace Stormwater drainage systems if the Stormwater system is or will be located on public property or the right of way; the Stormwater drainage problem has been caused by something the City did in the right of way such as inadequate pipe size; if the Stormwater is causing flooding damage to City owned facilities or is interfering with the flow of traffic on a City street; if there is repeated flooding of an inhabitable dwelling, not located in the 100 year flood plan, by a natural drainage system, where more than 50% of the water comes from streets. Mr. Drazenovich noted for the last item, there is really no place that staff is aware of that it comes from more than 50% of City streets.

Mr. Drazenovich noted the City will do a 50/50 joint participation with the installation, alteration or replacement of Stormwater drainage systems on private property if there are severely eroded stream banks causing damage to improvements (house or garage) on private property, as of June 1975; there is an existing drainage system that conveys street drainage that was installed on private property under a storm sewer agreement. If the City works on private property, they have a standard agreement that states even though they work there, it is the property owners responsibility to maintain it. If it is necessary to extend a street drainage system onto private property in order to correct street flooding or erosion. Mr. Drazenovich noted Section 9-156 states basically that if it is not done under those Division 3 or 4 guidelines, it is the landowner's responsibility.

Mr. Drazenovich reviewed how the storm drainage on private property evolved over the years. Subdivision developers bought a piece of property, built the streets and sewers and determined

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which lot had storm pipes. The property owner's responsibility to convey the water across their property was what caused them to connect on to City pipe. The developer filled the lots and in some cases built houses over the pipe and the lots were sold. Mr. Shanks questioned if someone wanted to do that today, they would have to get a permit from the City and Mr. Drazenovich noted they would. The City would size it and recommend material to them. Subdivision developers built roads with culverts in natural drainage swales. The unimproved lots were sold and the new owner piped and filled the lot and houses were built over the pipe. The City constructed roads and culverts, the adjacent property owners extended the culverts and filled over the top. Commercial sites were developed with storm drainage; those pipes do not belong to the City.

Mr. Drazenovich reviewed who owns the Stormwater system and who is responsible to install, alter, repair, replace or maintain systems on private property. When the developer installs the drainage, the developer is responsible for it. When the developer sells the lot, the new owner is responsible. When it is resold, the next owner is responsible and so on. Many people don't know they are responsible for that pipe. In response to Mr. Saunders, Mr. Whitfield noted there is no redress for an owner who was unaware of a pipe on their property. Mayor Jones questioned how a property owner would find out if there was a pipe under their house and Mr. Drazenovich explained they could call his office and they will investigate it; there is no charge for that.

Mr. Larking noted his understanding of the way development occurs, when a government entity puts in a road, and puts in a pipe necessary to keep the water off the road, that is what they are concerned with. They leave the pipe open on both sides of the road. There is vacant property for years afterwards that is sold to somebody else who develops it. They attach a pipe to the end of the pipe the government agency put in the road, to help make the rest of that property more developable. He does not see how they need to be responsible for a private property developer who sized the pipe, attached it to an existing pipe to make their property more developable; that is not how the Code is. There are many examples of this happening throughout the City, and Mr. Drazenovich stated 250. It becomes a high burden on the taxpayers generally to cover the cost of what a private property owner did some years ago to make their own piece of land developable. It is a tough situation, but it could be extremely expensive situation for the City to handle that and then be able to decide where to earmark that money.

Mr. Drazenovich reviewed drainage issues on private property including corrugated metal pipes beyond their functional life; collapsed or cracked pipes under structures; undersized pipes; settlements, sinkholes, erosions and washouts; blocked pipes, manholes and catch basins; debris buildup on the inlet or outlet of pipes, and lack of cleaning and maintenance. The City has video inspection capabilities and will assist property owners in diagnosing problems. Mr. Drazenovich explained the City has occasionally constructed Stormwater projects of regional significance, usually due to frequent flooding of roads such as the Timberlake Storm Sewer Project and the Orchard Drive Detention Basin; they are currently looking at Apple Branch. Mr. Shanks questioned if the Orchard Drive facility could be expanded or made larger and Mr. Drazenovich noted it could be deepened a little bit, but the land coming to it is very flat and they cannot back it up onto private property. That limits how full they can make it.

Mr. Drazenovich noted they polled other Cities if they perform Stormwater drainage work on private property without an easement and got a no from everybody; Mr. Drazenovich then reviewed notes and exceptions from those localities which included Lynchburg, Roanoke, Petersburg, Richmond and Martinsville. Mr. Drazenovich explained how big the problem is stating there are 250 miles of stream bank, a lot of the complaints they receive are stream bank erosion, and 240 of them are on private property. There are 300 miles of open channels that are not streams and 275 of them are on private property. There are 150 miles of pipe and 50 miles on

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private property (only a portion of private property structures and pipe has been collected.) There are 8500 catch basins and manholes (2,200, known, are on private property.) There are 250 houses and businesses constructed over storm pipes. Potential funding sources include VDOT Revenue Sharing and VDOT Smart Scale. FEMA Flood Mitigation Funds are given out by a cost benefit ratio, how often it floods and how much property gets damaged. Staff is working on an application for the next round from FEMA to do something on the bottom of Apple Branch. If the City does not receive it, it would be about \$3M to \$4M to channelize that. The General Fund, CIP Bonds or Creating a Stormwater Utility are other sources. A Stormwater Utility basically taxes according to how much impervious area is on a lot.

Mr. Drazenovich noted options are educating property owners about their Stormwater responsibilities, revise Stormwater regulations or continue with existing regulations as written. The costs depend on the additional services offered by the City. If the City were to clean all the systems, they would have to double the storm drainage staff and equipment. If the City were to install, repair or replace old deteriorating systems, it would require a significant amount of capital funds annually and it would be difficult to decide who goes first; this approach would expose the City to additional liability. Mr. Drazenovich noted the decision to take on the added responsibility and liability of the systems on private property that may be very old, deteriorating, undersized and built of inferior materials would add significant cost to the City's General Fund Budget.

Mr. Shanks noted he would encourage Council to reconsider this issue later and believes there was some opportunity for the City to participate in a program that addresses neighborhood drainage issues and regional drainage issues.

Council Members thanked Mr. Drazenovich for his presentation.

COMMUNICATIONS

City Clerk reminded City Council the Veteran's Day Parade was this weekend and to meet at 2:15 p.m.

Dr. Miller noted there have been questions and complaints about the boxwood blight, the boxwoods that died were put on the side of the road, the City picked them up and brought them to be mulched; that mulch is contagious and can spread the blight. Mr. Drazenovich noted if the blight is here it is already in the mulch because they have picked up a lot in the last few years. It also spreads by contact; there is no good answer. Mr. Vogler suggested educating the public and Mayor Jones asked the City Manager to look into this.

MEETING ADJOURNED AT 9:24 P.M.

s/Alonzo L. Jones
MAYOR

s/Susan M. DeMasi, CMC
CITY CLERK