



February 12, 2010

**IFYI HIGHLIGHTS**

- Contact Center Feedback
- Good Job Engineering & Inspections Dept.
- Water in the Vicinity of Landfill Tested
- Research in Special Education Programs
- Stormwater Regulations
- Update on FY 09-10 Snow Program Budget

TO: Mayor and Members of Council  
FROM: Rashad M. Young, City Manager *DWY*  
SUBJECT: Items for Your Information

**Contact Center Feedback**

Attached is the weekly report generated by our Contact Center for the week of 2/1 – 2/7/10.

**Good Job Engineering & Inspections Department**

Attached is a letter from Lomax Construction showing their appreciation for a job well done on Moses Cone Hospital Renovations.

**Water in the Vicinity of Landfill Tested**

Water Resources staff has taken water samples in the vicinity of the landfills to test for safety issues per Council Member Wade's request at the November 17, 2009 Council Meeting. Test results are expected in late-February or early-March, and will be shared with City Council in a future edition of the IFYI.

**Research in Special Education Programs**

At the June 2, 2009 Council Meeting, Council Member Bellamy-Small requested staff research compliance with special education programs offered for special populations. Whenever Parks & Recreation management has been made aware of an accessibility challenge, they have partnered with other city staff (i.e. Engineering and Inspections, Facilities, Field Operations, Transportation and Community Relations/Public Affairs) to respond to the concern and provide a suitable resolution to the issue. As Parks & Recreation facilities are renovated or constructed, accessibility compliance (per the Americans with Disabilities Act) is important as evidenced in the facilities planning and design work. On a regular basis, the staff of the Parks and Recreation Department has reached out to the community to better learn how to accommodate needs whenever a barrier presents a challenge and has used that data to respond quickly and positively.

**Stormwater Regulations**

At the February 2, 2010 Council Meeting, Council Member Wade asked staff to assist speaker from the floor Joe Moss with stormwater fees. Attached is a memo from City Attorney Terry Wood regarding City of Greensboro stormwater regulations. City Attorney Wood is sending a written response to the constituent.

**Update on FY 2009-10 Snow Program Budget**

Attached is an update on the Snow Program Budget for Fiscal Year 2009-2010 from Director of Field Operations, Dale Wyrick.

## Public Affairs Department Contact Center Weekly Report Week of 2/1 – 2/7/10

### Contact Center

4179 calls answered this week

### Top 5 calls by area

#### Water Resources

Balance Inquiry – 1149

New sign-up - 149

General Info - 141

Request to Cutoff – 112

Pay by Phone - 94

#### Field Operations

Solid Waste Schedule - 651

Ice and Snow - 220

No Service/Garbage – 74

Bulk Guidelines - 45

No Service/Recycling - 31

#### All others

Police/Watch Operations – 291

Warrants – 174

Courts/Sheriff – 164

Online Payments - 81

Tax Department - 41

### Comments

We received a total of **18** comments this week:

- 16 comments for Field Operations

Email comment from customer: All these city workers in downtown working around the clock to not just shovel ice/snow but to REMOVE is the most stupid thing I have ever seen. The event could be postponed very easy and workers attention could be on the roads to make it safe for everybody. If an emergency calls such as a pregnant women going in labor its very concerning the road conditions are bad (but could be better). Please don't respond to this use your time and our tax dollars to continue to REMOVE snow from were its not needed. Watch fox 8 to see how stupid it really makes you look!

Email comment from customer: Saw this on TV and was appalled to see taxpayer dollars being used Saturday to pay Overtime to a large number of city workers to insure clean streets for the Civil rights museum dedication and opening on Feb. 1<sup>st</sup>. You can't tell me this couldn't have been postponed for a week. Let me see, Christmas parades are cancelled, fireworks cancelled and I bet if this was a Veteran's day event, or some other type of event, it too would have been cancelled and rescheduled, But no, for some reason we feel compelled to continually appease the Black community and Greensboro didn't disappoint this time either.

Woman called to thank the driver of one of the trucks - she had stepped on a patch of ice and got stuck, couldn't go anywhere. He drove by, but then he looked back, stopped, got out, and grabbed hold of her, and walked her back to where there wasn't any ice. Thank you! She doesn't know what she would have done if he hadn't stopped!

Wanted to call back and say thank you for the good job the City has done handling this snowy mess - they're on a Monday route, street was missed, and we came back right after they'd called to report it. He appreciates all the hard work.

Lives in NW Greensboro that was newly annexed. Wants to let us know that they are now a part of the city. Would like it if we did more than just take their money. Wants roads plowed.

Understands the importance of the Civil Right Museum. Does not understand why it took 5-8 Plows and 45 extra workers (per the news cast) to clear downtown but his street is not clear enough for him to go to work. He feels the clearing could have been completed Sunday when the snow was done instead. Hopes that the city will not allocate workers for just one area again.

Wants someone to provide a schedule of snow plowing. Wanted to speak to someone who can tell her a schedule.

I would like to know why Pleasant Ridge Rd. in NW Greensboro is not a Priority road for plowing. It is a major road with lots of traffic. The neighborhood streets off Pleasant Ridge get plowed but then people can't get on to the main road. Also, Pleasant Ridge is used to get to many NW schools, especially Pearce Elem ON Pleasant Ridge. We need Pleasant Ridge plowed too! It used to be on the priority list a few years ago.

Email comment: You need to do an even better and faster job you should have learned by now as New York does a better job than you do and you wonder why people are leaving the city of Greensboro and Guilford county need to train all city employees for snow removal and put everything else on the backburner and have everyone doing snow removal

Wants to thank the crew for doing such a great job in plowing her street. She reported it on yesterday and last night the street was plowed down to the bare street.

Called to thank the snow removal crew for the fast response and excellent job after the request to have snow cleared.

Caller requests that the city develop a plan to remove large piles of snow and ice left when scraping roads. When a road is scraped, side roads are left with a barricade of snow and ice.

Thank you for getting streets passable, was running out of food, but now can get to the store...thanks.

Did not like how the snow plow left a pile of snow at his and neighbors driveway. Could not understand why he did not plow a few more feet to the dead end. Inconvenient to back out of their driveway into neighbor's driveway in order to get out.

Customer (pres of neighborhood association) rec'd many calls from residents, is very upset about the way the plows have piled snow in front of everyone's driveways. "I'm not knocking what they do, because I know they have a lot going on. It could have been done with more care. When they get so close to the curb they could ease up a bit and not let it pile up so bad."

Customer calling wanting to thank the yard waste crew he said "I just wanted to thank the yard waste crew for picking up 50 to 75 or more bags of leaves for us the other day. We were afraid with more bad weather coming this weekend that the bags would start to break up and blow leaves everywhere again. Thanks again for the great job!"

- 1 comment for [GDOT](#)

Customer called back to thank us. A few weeks ago, he called in about the traffic signal at Friendly and King George. We went out and corrected the problem, and he was very thankful for the work we did.

- 1 comment for **Water Resources**

Complaint about city not having pay by phone for bills. States we are behind in this and this is an inconvenience to customers. Most people have a telephone but no computer.

### **Overall**

Calls about the weather and snow removal dominated the week, followed closely by calls resulting from the changing trash collection schedule caused by the bad weather. Complaints received early in the week changed over to calls thanking us for our hard work as the crews were able to get streets cleared and the weather improved. Friday brought another round of weather, but the temperature and rain made short work of the mess.

We are bracing for the wintry weather that is predicted this week.

# LOMAX CONSTRUCTION

February 4, 2010

City of Greensboro  
Inspections Department  
1001 4<sup>th</sup> Street  
Greensboro, NC 27405

Re: Moses Cone Hospital 2500/2600 Renovations  
1200 N. Elm Street, Greensboro, NC

Mr. Butch Simmons:

I wanted to thank you for the hard work and dedication your department showed during our past project with Moses Cone Hospital. The 2500/2600 project was critical for Moses Cone Hospital and Greensboro due to the H1N1 outbreak. This 9,500 square foot project had to be completed by January 8<sup>th</sup> 2010 for the predicted peak of the flu season. Though other contractors refused to price the accelerated project due to the time constraints (60 days), Lomax agreed to take on the challenge.

While we worked 2 shifts 24 hours a day, 7 days a week for 2 months, we could not have been successful had it not been for the exceptional cooperation and dedication of the Inspection Department. Because of our combined efforts we received state acceptance on January 6<sup>th</sup>, completing the project 2 days early.

We especially would like to extend our thanks to Marshall Perry, Danny Nall, Pat Rose and David Jones for their direct involvement and efforts in making this project successful. They went above and beyond for Lomax and more importantly, their community and should be recognized for their extraordinary efforts including performing inspections on nights, weekends and even Holidays.

With gratitude and looking forward to our next challenge, we say thank you.

Sincerely,  
LOMAX CONSTRUCTION, INC.

John Lomax  
President

Richard Lewis  
Project Manager

Tim Smith  
Superintendent

Donald York  
Superintendent

cc: Steve Freyaldenhoven TFF Architects  
Landon Wyatt Moses Cone Health Systems  
Rashad Young City Manager, City of Greensboro



February 9, 2010

**TO:** Rashad Young  
**FROM:** Terry Wood, Tom Carruthers  
**SUBJECT:** Stormwater Regulations

Stormwater runoff is rain or snowmelt that does not evaporate or penetrate the ground and is collected by storm drains that transport it to receiving waters. The Greensboro City Code, Chapter 27, Stormwater Management, was enacted May 2, 1994. Many of the larger cities in this state passed similar ordinances during this time period. These ordinances were necessitated by expansion of Federal Regulations and enabled by passage of State law. These local laws were challenged in Durham in 1999 and resulted in the General Assembly amending its statutes to clearly authorize the current ordinance structure in place in Greensboro and in every major metropolitan area in the state. Greensboro's Ordinance has withstood a class action lawsuit that challenged its scope and authority. The Stormwater Management Division of the Water Resources Department operates today as an efficient and coherent "Public Enterprise", fully in compliance with Federal, State and Local regulations. The applicable case law and statutory authority is summarized below.

In 1987, the United States Congress enacted an amendment to the Clean Water Act of 1972 (CWA) known as the Water Quality Act of 1987 (WQA). Pub.L. No. 100-4, 101 Stat. 7 (1987). The WQA represented the first major revision of the CWA since 1977. It clarified certain areas of the law as well as granted new powers and responsibilities to the U.S. Environmental Protection Agency (EPA) and states.

The WQA requires, among other things, that cities of 100,000 or more in population obtain a National Pollutant Discharge Elimination System (NPDES) permit in order to discharge stormwater from their municipal storm sewer systems (MS4s) into the nation's waters. Any state desiring to administer its own permit program under the WQA may apply for permission to do so with the EPA. In 1975, North Carolina received approval from the EPA to administer its own

permit program under the CWA and was granted permission to continue this program under the WQA. As such, Article 21 of Chapter 143 of the North Carolina General Statutes grants the North Carolina Department of Environment and Natural Resources (DENR) and the North Carolina Environmental Management Commission (EMC) the authority to administer this program and adopt a statewide plan with regard to establishing and enforcing stormwater rules for the purpose of protecting the surface waters of the State.

When Congress enacted the NPDES permitting program, it did not provide the states with funding to support these comprehensive stormwater management programs. N.C.G.S. § 160A-312(a) allows cities and towns to “acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of any or all of the public enterprises as defined in this Article to furnish services to the city and its citizens.” N.C.G.S. § 160A-312(a). ... The General Assembly amended N.C.G.S. § 160A-311 to include in its definition of public enterprises “[s]tormwater management programs designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater and structural and natural stormwater and drainage systems of all types”. N.C.G.S. § 160A-311(10) (as amended in 2000) Smith Chapel Baptist Church v. City of Durham, 350 N.C. 805, 815, 517 S.E.2d 874, 881 (1999)

The City collects a storm water utility fee that it uses to improve, repair, and maintain those portions of the storm water drainage system that are owned by the City. This fee is specifically authorized by the General Assembly. *See N.C. Gen.Stat. § 160A-314(a)* (2007) “A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by any public enterprise. Asheville Sports Properties, LLC v. The City Of Ashville, 683 S.E.2d 217 (2009)

Greensboro’s method for charging stormwater fees is based upon the amount of impervious area present on each lot. An “impervious area” is an area composed of any material that impedes or prevents natural infiltration of water into the soil. Impervious area includes but is not limited to roofs, decks, driveways, patios, sidewalks, parking areas, tennis courts, concrete or asphalt streets, crushed stone and gravel surfaces. On commercial lots, the City calculates the total impervious area in square feet and divides this number by 2,543. The City rounds up any decimals. The 2,543 figure is the average amount of impervious area existing on residential properties in Greensboro. This average amount is referred to as the “equivalent residential unit”, (ERU), which is listed as a unit on the bill. The City charges \$2.70 per ERU; this rate was set in 2004. The bill is based upon the amount of ERUs present on that lot. On residential lots, the City bills on a three tier basis. Lots with over 2,900 square feet of impervious area are billed \$3.90 monthly. Lots with between 2000 to 2,889 square feet of impervious area are billed \$2.70 monthly. Lots with 600 to 1,999 square feet are billed at \$1.50 monthly. Lots with less area are not billed.

The definition of “impervious area” and the method of accessing fees based on ERUs used by Greensboro are very similar to what is used in Durham and which has been upheld by the North

Carolina Supreme Court. “(T)he City was completely within its statutory authority when it based the utility fee rates on the impervious area of the property. . . . The test is not whether any particular customer has directly benefited from the use of a discrete or particular component of the utility plant, but whether the municipal authority has acted arbitrarily in establishing its rates.” See Smith, above

Finally in June 2001, the City’s Stormwater Management Ordinance survived constitutional challenge in 99 CVS 10078, The Children’s Home Society of North Carolina v. City of Greensboro. In this decision Judge Albright did not rule specifically on the Ordinance but it was noted in the Settlement that the modifications of the state enabling statutes in the year 2000 distinguished Greensboro’s Ordinance from earlier Ordinances in other cities that were successfully challenged. Crucial in this decision was the reality that the City of Greensboro spends the large majority of its Stormwater fees on activities that are clearly proper under the enabling statute. In addition the City contributes to the Stormwater Management Division approximately 23% of its total budget. Thus if any small portion of the activities of this division were deemed to exceed the statutory authority, this separate money from the general tax fund would more than cover these activities.

It is clear that beginning in 1987 the Federal Government mandated that the states obtain permits from the EPA before it could discharge stormwater into the waterways of the United States. DENR was authorized by the Federal Government and the State of North Carolina to regulate this procedure. The General Assembly codified the right of municipal governments to collect Stormwater utility fees to fund infrastructure for this purpose. Greensboro’s Stormwater Management Division is properly structured, authorized, and enabled to perform its tasks required by the Federal and State Government. Its methodology and fee structure comply fully with the law. Given Greensboro’s placement at the headwaters of the Cape Fear River Basin, the efforts of this division contribute a great deal to the quality of life of hundred’s of thousands of the citizens of this state. As such it is a valuable asset to the entire state.

TW/tc

cc: Allan Williams  
David Phlegar

Field Operations Department  
City of Greensboro



February 12, 2010

**To:** Rashad M. Young, City Manager  
**From:** Dale Wyrick, PE, Director of Field Operations  
**Subject:** Update on FY 2009-10 Snow Program Budget

The purpose of this memo is to provide an update on the status of the City's current year Snow Program Budget (101-4303-05). As you are aware, this section budget is used for the purchase of materials (primarily salt), contracted equipment (motor graders), maintenance of snow plows, salt spreaders, and brine distribution units, and miscellaneous supplies used in snow and ice removal operations. Personnel and heavy equipment costs are based in the assigned operator's home account, most of those residing in our Streets and Storm Water Maintenance Division. As a general rule, our plan for funding this budget (\$293,000) accounts for about 3 activations of the snow program, with each activation assuming a 2 day duration, and based on removing a typical snow or ice event occurring in Greensboro during the winter season. That "typical" winter plan allows for the purchase of about 2,500 tons of salt and budgets for about 60 hours of 4 contracted motor graders. In a typical Greensboro winter, this plan has proven to be an adequate budgeting strategy. Needless to say, this year's winter has already been more severe than usual, and has resulted in a significant section budget overrun to date of \$175,000.

There are several reasons for this overrun, which I believe need to be brought to your attention. First, up until this FY, we were paying about \$60/ton for salt. Our material "planning" quantity for the year is about 2,500 tons, or about \$150,000. In a typical winter, like the winters experienced in the past 5 or 6 years, this has been more than enough to last an entire snow season. This year, the annual contract for salt went up to \$81/ton, so our typical "planning" quantity of 2,500 tons went up to just over \$200,000 (not budgeted) before the first flake fell. During the 1/29/10 storm alone, we actually used about 2,500 tons of salt, our typical annual quantity. For this FY, we have purchased 5,000 tons of salt (\$1,000 of that at \$89/ton) for a total salt expenditure of \$413,000. This figure alone accounts for \$120,000 of the overrun for the section budget.

In addition, the 1/29/10 storm required us to get additional help from the private sector to help push snow from our roadways. Between two local companies, we have spent just under \$50,000 on contracted motor graders. Previous overrun of \$120,000 added to this \$50,000 accounts for about \$170,000 of the section budget overrun. Finally, we have spent around \$5,000 on ice melt for snow removal at city facilities and miscellaneous supplies (shovels, etc.). That results in the \$175,000 overrun to date.

Please keep in mind that these figures do not include employee overtime amounts, which we will determine over the next week. We will have to adjust our expenditures throughout the rest of the FY to make up for this overrun, which could get larger as the weather dictates. My first thought (given current roadway conditions) is that we will cut back on our sidewalk repair contracted maintenance to make up for the snow program budget overrun.

Please let me know if further information is required.