

DURHAM CITY COUNCIL WORK SESSION
Thursday, June 6, 2013 – 1:00 p.m.
Committee Room – 2nd Floor – 101 City Hall Plaza

Present: Mayor William V. “Bill” Bell, Mayor Pro Tempore Cora Cole-McFadden and Council Members Eugene Brown, Diane Catotti, Don Moffitt and Steve Schewel. Absent: Council Member Howard Clement, III.

Also present: City Manager Thomas J. Bonfield, City Attorney Patrick Baker and City Clerk D. Ann Gray.

The meeting was called to order by Mayor Pro Tempore Cole-McFadden.

Mayor Pro Tempore Cole-McFadden asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Bonfield referenced the following items:

- Agenda Item #37 – Ellerbe Creek Aerial Sewer Crossing Replacement Project – Change Order #1 (need to suspend the rules and vote today)
- Citizen’s Matter – John Tarantino present today to provide comments

The City Manager’s items were accepted by the Council.

City Attorney Baker requested a closed session at the end of the meeting regarding attorney-client consultation, pursuant to G.S. 143.318 11(a)(3).

The City Attorney’s item was accepted by the Council.

There were no priority items from the City Clerk.

Mayor Bell requested a closed session at the end of the meeting to discuss a personnel matter, pursuant to G.S. 143.318 (a)(1).

After Mayor Bell read each item on the printed the agenda, the following items were pulled for comments/discussion and/or council action.

Subject: Scott Barndt

To receive comments from Scott Barndt regarding housing for the elderly and solicitation.

Scott Barndt addressed the council regarding his need for housing, and recommended that the recently revised solicitation ordinance be modified.

Executive Director Dallas Parks, of the Durham Housing Authority, said he would speak with Mr. Barndt regarding his housing needs and try to work with him.

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Subject: Blue Ridge Environmental Defense League

To receive comments from Beverly Kerr introducing Wendy Shi of Duke University who will be addressing the current Perchloroethylene (PERC) situation in North Carolina.

Beverly Kerr introduced Wendy Shi, Duke University, Master of Environmental Management. Ms. Kerr said Ms. Shi is one of four Duke Stanback interns working this summer with BREDL on the environmental campaign issues. She noted the interns are part of the Stanback Internship Program at Duke University's Nicholas School of the Environment. Since its founding in 1995, the program, which is funded by Duke alumni Fred and Alice Stanback, has enabled more than 500 deserving students to organizations across North Carolina and nationwide.

Subject: Stanback Internship Program at Duke University

To receive comments from Wendy Shi regarding the current PERC situation in North Carolina.

Wendy Shi stated she was currently working on the PERC campaign. Perchloroethylene (PERC) is a manufactured chemical used as the primary solvent for dry cleaning of fabrics. She addressed the current PERC situation in North Carolina and especially in the Durham area, environmental and health impacts, current clean-up policies and measures and future clean-up planning. She noted her objective is to present the findings and help facilitate involvement in the clean-up. Ms. Shi called on the Council to require the immediate phase out of PERC.

The council thanked Ms. Shi for her comments and noted it was very informative.

Council Member Catotti asked what is the council's ability to regulate PERC.

City Attorney Baker noted the council has no ability to phase out PERC and what is being requested is some sort of resolution/statement from the council that would ultimately go to DENR noting that PERC should be phased out.

By the end of the summer schedule, Council Member Catotti suggested that Ms Shi bring back to the council a resolution for consideration.

Subject: Campaign4Change Youth Summer Program

To receive comments from Otis Lyons regarding the Campaign4Change Youth Summer Program.

Otis Lyons said Campaign4 Change has been in existence in the City of Durham for 12 years and referenced their mission and activities they have undertaken to better the Durham community.

Mr. Lyons commented on the DONS Basketball League which is a Durham based community outreach program that is free for all youth, at no cost to parents. The league and its games

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simulates the authentic NBA experience. A league that incorporates mandatory community service, educational and character building workshops and physical fitness. The League deliberately targets the youth in the most underserved areas of the Triangle. It reaches out to participants in every way possible including providing uniforms, transportation, entertainment, league magazine, team dinners and many other amenities. This upcoming season the league has partnered with local businesses and will be offering youth Career Trade opportunities. He referenced several organizations in Durham that sponsor teams covering all the uniforms and other things the team would need.

Mr. Lyons provided information to council regarding their budget and commented on the items highlighted in green where assistance is needed. He requested the city's assistance with funding this basketball league.

Mayor Bell spoke on his attendance at a recent Campaign4Change Youth Program and their positive results.

Mayor Pro Tempore Cole-McFadden asked if there were funds in the gang reduction budget program.

City Manager Bonfield said at this point there are no extra funds in the gang reduction program.

Mayor Bell said this is a worthwhile program and he would hope the city could find some way to be a sponsor.

Council Member Brown asked what is the cost of sponsoring a team.

Mr. Otis Lyons replied the cost this year is \$3,000.

Subject: John Tarantino

To receive comments from John Tarantino in observance of Flag Day.

Mr. Tarantino provided a song selection "The National Anthem" in observance of Flag Day.

Subject: Approval of the Assignment, Assumption and Modification of the Loan to Preiss-Steele Place Housing, Inc.

To authorize the City Manager to execute the Assignment, Assumption and Loan Modification Agreement for the existing Preiss-Steele Loan.

The staff report noted that Development Ventures, Inc. a nonprofit subsidiary of the Durham Housing Authority was awarded low-income housing tax credits by the North Carolina Housing Finance Agency in 2012 for the rehabilitation of Preiss-Steele Place Apartments. Preiss-Steele

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Place Apartments, located at 500 Pickwick Trail, Durham, North Carolina, is home to 102 elderly and disabled individuals whose incomes are at 60% or less than the area median income.

The current owner is Preiss-Steele Place Housing, Inc., also a nonprofit subsidiary of Durham Housing Authority. In order to take advantage of the tax credits, the current owner must sell the project to a for-profit entity to syndicate the tax credits. As of the date of the application for tax credits, the City had an existing loan to the project in the amount of \$1,512,122.00, which loan continues to be serviced by the current owner. The estimated balance of the City's loan as of June 15, 2013 is \$1,450,792.92. The Developer, DVI, is requesting the City to allow the new for-profit owner of the project to assume the existing City loan, as modified by an Assignment, Assumption and Loan Modification Agreement in a form substantially similar to Exhibit A which is a part of the staff report.

Council Member Schewel asked what is the entity of the new for-profit owner and will Preiss-Steele Place still have the same board of directors as the Durham Housing Authority.

Shannon McLean, of Durham Housing Authority, said the new for-profit entity will be Preiss-Steele Place LLC. In terms of the board members, Ms. McLean said Development Ventures, Inc. would be the managing member and the board members will be the same.

Council Member Schewel asked if Development Ventures will be doing the renovations or Preiss-Steele LLC.

Shannon McLean replied Development Ventures will be the developer to do the renovations. Also, she explained Development Ventures' role vs. Preiss-Steel, and commented on the developer's fee.

Subject: Contract with Downtown Durham, Inc. for City Services and Programs for the Downtown Durham Municipal Service District – FY 2014

To authorize the City Manager to execute a contract with Downtown Durham, Inc. to provide services within the Downtown Municipal Service (MSD) in an amount not to exceed \$583,192.00 for FY 2014, subject to City Council budget authorization.

The staff report indicated that the City found a need for specialized services and programs within the BID, which comprises the downtown areas and has experienced a marked increase in pedestrian intensity and activity due to various economic development efforts. Multiple public and private amenities would benefit from the specialized services and programs within the BID, which amenities include, but are not limited to, the Durham Performing Arts Center, the Carolina Theater, the Durham Bulls Athletic Park, CCB Plaza, the Downtown Durham Marriott and Convention Center, West Village, American Tobacco Campus, Bright Leaf Square, Golden Belt, Central Park and the numerous businesses and restaurants throughout the BID. The BID will receive an increase in street-level, appearance-related services, such as frequent sidewalk cleaning, and pressure-washing, street level hospitality services to direct people to key downtown sites and services while acting as safety eyes-and-ears within the BID District.

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Beginning on July 1, 2012 to June 30, 2013, the City entered into a contract with Downtown Durham, Inc. to provide the aforementioned services by a third party contractor.

Council Member Schewel asked what was the difference between the economic development services offered in item #9 vs. this item, and asked why the additional \$31,000 for administrative expenses for Downtown Durham Inc.

OEWD Director Kevin Dick replied that BID services by statute have to be enhanced where as ongoing economic development services may be meeting with downtown merchants on a day-to-day basis, helping businesses that may want to come to downtown and providing information regarding resources. He said the \$31,000 is a reapportionment of the existing resources.

Council Member Catotti asked the City Manager to remind the council what the city's contribution for downtown cleanup and services were previously and how it compared to the \$250,000 from the general fund.

City Manager Bonfield replied he thinks it is the same, and OEWD Director Kevin Dick concurred.

Mayor Pro Tempore Cole-McFadden asked if discussion had taken place regarding the workers working downtown on the Martin Luther King Jr. holiday when most businesses are closed.

OEWD Director Kevin Dick said the company outsources these services and at that time the company did not recognize MLK holiday.

Mayor Pro Tempore Cole-McFadden replied it did not seem appropriate for them to be working on that holiday.

Subject: Ninth Street Infrastructure Project Development Agreement between the City of Durham and CPGPI Regency Erwin, LLC

To adopt a Resolution, pursuant to N. C.G.S. 143-64.32, Exempting Ninth Street Streetscape Improvement Project from N.C.G.S. 143-64.31; and

To authorize the City Manager to execute a development agreement with CPGPI Regency Erwin, LLC to perform streetscape improvements on Ninth Street in an amount not to exceed \$807,864.79.

The staff report indicated that for many decades, the Ninth Street district has been a prominent commercial area that has attracted patrons from the Research Triangle region and beyond. In particular, individuals from entities and areas such as Duke University's East Campus, Duke University business offices, as well as residents of the Watts-Hillandale neighborhood and other neighborhoods in West Durham have made Ninth Street a thriving commercial district. In spite of this success, there are infrastructural challenges, along Ninth Street that could compromise continued success of the commercial district, if not addressed. These issues include: 1) a lack of

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adequate lighting; 2) deteriorating sidewalks; 3) disorganized signage; and 4) a lack of aesthetically pleasing amenities.

OEWD Director Kevin Dick commented on his recent meeting with the Ninth Street merchants bringing them up to speed on what the negotiations are. He said the development team was also represented at the May meeting.

Council Member Schewel referenced the parking study and parking constraints in this area and asked if there were plans to handle parking.

OEWD Director Kevin Dick said they have been working to negotiate the development agreement and parking lease simultaneously, but the development agreement is further along and is before the council presently. Also, he commented on the workforce development plan for this project.

Subject: Bids – Term of Contract for Hydrofluosilicic Acid (800 Tons) – Key Chemical, Inc.

To authorize the City Manager to enter into a contract with Key Chemical, Inc. in the amount of \$375,032.00 for providing the City with a term contract for hydrofluosilicic acid (800 tons).

This contract under consideration will furnish/provide the City with its estimated two year requirements for hydrofluosilicic acid which is used in the drinking water for the prevention of tooth decay.

Key Chemical, Inc. of Waxhaw, North Carolina was the lowest responsive bidder. The total cost of the contract is \$375,032.00. Funding for this contract is available from the operating budget of the Water Management Department. All bids received were competitive and within budget.

Water Management Director Don Greeley noted the city is not obligated to a particular amount and said this contract amount sets the price based on estimated volume.

Subject: Compensation and Classification Plan Recommendation

To approve recommended changes; and

To adopt as amended the City of Durham's Compensation and Classification Plan.

The staff report indicated that pay adjustments and classifications studies are part of the well managed City goal of the strategic plan. This item recommends changes to the City of Durham's Compensation and Classification Plan including pay grade changes, classification title changes, classification additions, classification deletions and market pay adjustments.

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The Durham Minimum Livable wage recommendation will increase the livable wage rate from \$11.91 to \$12.17 per hour effective January 1, 2014.

Council Member Schewel questioned the pay grade assignment chart which was explained by Dawn Holmes of Human Resources.

Also, the administration will provide Council Member Moffitt with a copy of the City's Compensation & Classification Plan.

Subject: Proposed FY 14 Planning Department Work Program

To approve the FY14 Planning Department Work Program.

The staff report indicated that the inter-local cooperation agreement between the City and County for merged planning functions charges the Planning Director with preparing and submitting to the Planning Commission and City and County Managers a work program that must be forwarded to both governing bodies for approval.

Council Member Schewel questioned the absence of urban farming follow-up in the work program and referenced the city council's past discussion on commercial composting; aquaponis. He asked if the reason for it not being included is due to the lack of resources.

Assistant Planning Director Pat Young stated they made some pretty significant changes to the urban farming provisions in the UDO earlier this fiscal year and at that time they did commit to reviewing additional issues such as aquaponics, and said it is not included in the work plan strictly because of resources. He said he would be happy to take that item back to the Director to see if it can be addressed with other areas being deferred or delayed.

Also, Assistant Planning Director Patrick Young commented on the housing transit portion referenced in work plan and the number of staff that would be involved in the process.

Subject: Duke Energy Power Pole Replacement Angier-Driver Streetscape

To authorize the City Manager to approve payment of the invoice to Duke Energy in the amount of \$228,586.58.

The staff report indicated that on March 4, 2013, City Council approved the award of Contract ST-258 with Fred Smith Company for streetscape construction in the Angier-Driver targeted neighborhood commercial area. The contract involves street demolition and construction, replacement of electrical, water, sewer and storm water utilities, installation of streetscape and landscaping, and traffic signals and decorative street lighting for the Angier-Driver Business District in the City of Durham.

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An integral part of that project has been the replacement of the existing power poles by Duke Energy. The new poles are taller to move the top-most overhead wires higher, more out of the line of sight. In addition, the new poles will be located behind the sidewalk whereas the existing poles are immediately behind the curb. Once the Duke Energy work is complete, the Fred Smith Company will install new electrical utility lines to the residences and businesses as part of their contract. Duke Energy has provided the City with a proposal which totals \$228,586.58 for the labor and materials required to replace the power poles and wires.

Council Member Moffitt referenced a previous agenda item approved for Angier-Driver and asked when will the last expenses be known for Angier-Driver.

Public Works Director Marvin Williams said this is the last expense and they knew this item was coming forward, but unfortunately they did not have the estimates from Duke Energy prior to submitting the construction contract to the city council.

Subject: Bus Refurbishment Contract Award – Midwest Bus Corporation

To authorize the City Manager to enter into a contract with Midwest Bus Corporation of Owosso, Michigan to refurbish up to twenty-two of the 2003 model transit buses at a net cost of \$13,941.00 per bus, not to exceed a total of \$306,702.00.

The staff report indicated that the City currently operates twenty-six 2003 model buses that are nearing the end of their useful life of 12 years and 500,000 miles. However, most of these buses have been repowered with new engines and with refurbishment the useful life of the buses could be extended three to five years. The total cost to refurbish twenty-two of the 2003 model transit buses operated by DATA is \$306,702. A total of \$357,386 from two federally-funded bus improvement earmark grants, previously approved by City Council is available to refurbish these buses. Upon completion of the refurbishment, \$50,684 will remain for future bus improvements.

Mayor Pro Tempore Cole-McFadden referenced the two bids received and the substantial amount difference between the two bids - \$30,314 per bus vs. \$13,941 per bus. She asked if the city would be able to receive a quality product for \$13,941 per bus.

Director of Transportation Mark Ahrendsen said they do not intend to compromise quality; however, they felt the \$30,314 per bus was excessively high and the bid being recommended will give the city good quality work. Also, he said the lower bidder is the same company that did bus repowering work recently and they were satisfied with the work performed.

Subject: Ellerbe Creek Aerial Sewer Crossing Replacement Project – Change Order #1 with Crowder Construction Company

To authorize the City Manager to execute Changer Order #1 with Crowder Construction Company for the Ellerbe Creek Aerial Sewer Crossing Replacement Project, SRM-2EA, providing the change order does not exceed \$1,134,279.57; and

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To authorize the City Manager or his designee to negotiate and execute change orders to the contract provided that the total cost of all change orders does not exceed the project cost of \$2,338,279.57, plus the established contingency fund of \$116,000.00.

The staff report noted that on December 3, 2012, City Council awarded the Ellerbe Creek Aerial Sewer Crossing Replacement Project to Crowder Construction Company. The original project scope consisted of replacing approximately 80 feet of concrete piers and steel beams that support two 30-inch gravity sewer lines over Ellerbe Creek near the North Durham Water Reclamation Facility. A temporary emergency repair of a failing pier was made in 2011. This project is the permanent solution to the failing pier system, where the two sets of piers are being replaced with one simply-supported steel truss spanning Ellerbe Creek.

The two 30-inch mains transport approximately 4 million gallons per day of sewage to the North Durham Water Reclamation Facility. This about 50% of the current North Durham Water Reclamation Facility's flow and 25% of the City's total flow.

Because bypass pumping was needed for the project, Department of Water Management staff used the opportunity to clean and inspect the lines for potential line/rehabilitation of the interior of the mains with cured-in-place pipe. The interior cleaning exposed many corroded portions of the ductile iron mains. Also, at locations of minimum wall thickness, pressurized water from the cleaning operation punctured through the pipe walls.

Due to the conditions revealed, the Department of Water Management staff recommends against lining/rehabilitating the mains and instead proposes replacing them with a new ductile iron system with interior corrosion protection. This is the basis of the change order, which also includes the following items:

- Adds the replacement of 250 feet of 30-inch pipe with 250 feet of 42-inch pipe
- Modifies the steel truss to carry a single 42-inch main
- Adds one manhole
- Adds 80 days to the project

Motion by Council Member Schewel seconded by Council Member Moffitt to suspend the rules of the city council and take action on this item was approved at 2:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

Motion by Council Member Schewel seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute Changer Order #1 with Crowder Construction Company for the Ellerbe Creek Aerial Sewer Crossing Replacement Project, SRM-2EA, providing the change order does not exceed \$1,134,279.57; and

To authorize the City Manager or his designee to negotiate and execute change orders to the contract provided that the total cost of all change orders does not exceed the project cost of \$2,338,279.57, plus the established contingency fund of \$116,000.00 was approved at 2:37 p.m.

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by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

Settling the Agenda – June 17, 2013 City Council Meeting

City Manager Bonfield referenced the following items for the June 17, 2013 City Council Meeting agenda: Consent Items 1 thru 27 and GBA Public Hearing Items 28 thru 32.

Motion by Mayor Pro Tempore Cole-McFadden seconded by Council Member Schewel to settle the agenda for June 17, 2013 City Council Meeting as outlined by the City Manager.

The motion was approved by a vote of 6/0 at 2:38 p.m.

Closed Session – 2:38 p.m.

Motion by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to hold a closed session regarding attorney-client consultation, pursuant to G.S. 143.318 (a)(3); and

To discuss a personnel matter, pursuant to G.S. 143.318 (a)(1).

The motion was approved by a vote of 6/0 at 2:38 p.m.

Open Session – 4:15 p.m.

Motion by Council Member Moffitt seconded by Council Member Catotti to return to open session.

The motion was approved by a vote of 6/0 at 4:15 p.m.

No action was taken in open session.

There being no further business to come before the Council, the meeting was adjourned at 4:15 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk