

DURHAM CITY COUNCIL WORK SESSION
Thursday, August 22, 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 Diane Catotti, Don Moffitt and Steve Schewel. Excused Absence: Council Member Eugene Brown. 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 asked that the council suspend the rules and take action on Item #8 (Raleigh-Durham International Airport Federal Aviation Administration Grant Offer for Terminal 1 Aircraft Apron Rehabilitation Construction Phase 1). He said the executed grant needs to be in the possession of the FAA no later than September 17, 2013.

The City Manager’s item was accepted by the council.

City Clerk Gray informed the council of the valid protest petition filed against Item #22 (Zoning Map Change-Kent Corner 2).

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

There were no items from City Attorney Baker.

Mayor Pro Tempore Cole-McFadden announced each item on the printed agenda and the following items were pulled for comments/discussion/and/or action by the council.

Subject: Scott Barndt

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

Note: Mr. Scott Barndt was not present to speak.

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Subject: Joe Collins

To receive comments from Joe Collins regarding a demolition at 207 East Club Boulevard.

The staff report indicated that this property was an old junk store that burned back in August 2007. It sat vacant for many months until the City had it demolished in July 2008. The issue is about the shed on the back of the lot. The condition of the house was never in dispute. Below are the facts as known to code enforcement staff after researching this case.

- Staff received many complaints about the condition of the burned out structure from the neighbors in Northgate Park and at many of the monthly PAC 2 meetings
- Burt Rauch, former code enforcement officer, conducted an inspection and he sent out a 60 day unsafe building letter to all parties of interest on August 28, 2007
- One of the many violations addressed the junk and debris throughout the property
- The finding of fact letter was sent out on February 27, 2008 after the owner failed to remove the structure as agreed and after a meeting was held by the owner and the Planning Department. This meeting was held to determine if the structure could be rebuilt if demolished
- The property owner, Mr. Collins, hired Big Mike, a demolition contractor from Virginia, to demolish the structure
- Big Mike pulled the permit on May 13, 2008
- There was no activity by Big Mike
- NIS put out bids for the demolition job which was won by Gibbs Grading
- The structure and all outbuildings were demolished and cleared by Gibbs on July 24, 2008. He did not pull a permit for demolition which was the practice at the time

The city's position is that they did indeed notify owner, Mr. Joe Collins, in the Unsafe Letter. Mr. Collins, the owner, has stated that the sheds were full of old antiques that the value of the antiques and his building is worth well over \$10,000. He stated he was willing to settle for the lien NIS has placed on the property which is around \$7,500.

Staff went through Mr. Rauch's files and pictures and based on the notes in the file as well as the pictures, staff does not feel that the City should settle with Mr. Collins. The pictures clearly show that the shed was open to the public and was full of junk and debris.

Mr. Joe Collins addressed the council regarding the demolition of a garage without consent or notification at 207 E. Club Boulevard. He expressed concern with the city saying he owed them for the demolition work that was done. Mr. Collins said the city owed him because of what they had done to him.

City Manager Bonfield asked Mr. Collins had he filed a claim.

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Mr. Collins said no one told him he needed to file a claim. Also, Mr. Collins stated Rick Hester, of the NIS Department, agreed that he had been done wrong and he was going to see if he could get the billed taken care of for him. He said Mr. Hester asked if he would be happy with that and he said he told Mr. Hester no he would not be happy, but he guess he could live with it because he was tired of the situation.

City Manager Bonfield asked Mr. Collins to meet with Deputy City Manager Keith Chadwell so he could get the information and staff would follow-up with him.

Bill Anderson said the building was taken down quite a number of years ago and he wanted to make certain that the facts are remembered and Mr. Collins is treated fairly. He noted he was aware of the complaints from the citizens in the area and said Mr. Collins did not ignore them. Mr. Anderson said he remembers Mr. Collins putting a sign and a watchman on duty in an effort to protect the property at night.

Sergeant Piatt, of the Durham Police Department, addressed the council informing them of his responding to an incidence one night at Mr. Collins' property in question on May 27, 2008. He noted the people watching the business that night were arrested due to a criminal act.

Mayor Pro Tempore Cole-McFadden said that Deputy City Manager Chadwell will be gathering information from Mr. Collins and responding accordingly.

Subject: Partners Against Crime (PAC One)

To receive comments from Vivian McCoy and Dave Rush regarding unpaved streets (45) in District One.

Vivian McCoy expressed concern with the unpaved portion of Briggs Avenue. She said at the corner of Briggs and Kate Streets, the property belongs to the state. She said they have been waiting for years to have 45 streets paved in District One. Ms. McCoy said her immediate concern is the streetscape being done on Angier and Driver and having Briggs Avenue which is one block and one-half away that is dirt. She asked what is going to happen, will it be paved or will the council indulge in collaboration with the state because they own part of the property.

City Manager Bonfield said he was not aware of the details of this request but they can certainly follow-up with PAC One.

Vivian McCoy asked how long will it take for the city to get back with her and will the city be contacting the state about the property they own at the corner Briggs and Kate.

City Manager Bonfield said they would be reviewing all of that and they would be in touch with Ms. McCoy as quickly as they can.

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**Subject: Raleigh-Durham International Airport – Federal Aviation Administration (FAA)
Grant Offer for Terminal 1 Aircraft Apron Rehabilitation, Construction Phase 1**

The Raleigh-Durham Airport is in receipt of, and has approved, a new offer from the Federal Aviation Administration (FAA) for a project at the Raleigh-Durham International Airport. The FAA also requires the City of Durham, along with the City of Raleigh and the Counties of Durham and Wake, to accept grant offers made by the FAA under the Airport Improvement Program.

The project consists of replacing a portion of the Terminal 1 aircraft apron, the area of which coincides with the current terminal building renovations project. The work includes new drainage, concrete pavement, and pavement markings, all meeting current FAA standards.

Earlier in the meeting, City Manager Bonfield asked the council to suspend the rules and vote on this item today.

Motion by Council Member Catotti seconded by Mayor Bell to suspend the rules of the council and take action on the above-mentioned subject was approved at 1:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown. Absent: Council Member Clement.

Motion by Council Member Catotti seconded by Mayor Bell to accept the Federal Aviation Administration Grant Offer in an amount of \$3,297,834.00 for Terminal 1 Aircraft Apron Rehabilitation – Construction Phase 1, Project No. 3-37-0056-043-2013;

To authorize the City Manager to execute the grant agreement; and

To authorize the City Attorney to give assurances with respect thereto was approved at 1:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown. Absent: Council Member Clement.

Subject: Deer Bow Hunting Ordinance

To adopt an Ordinance Amending the Code of Ordinances to Permit Bow Hunting of Deer within City Limits in Accordance with State and Local Regulations.

The staff report indicated that Durham’s City Council has received several resident requests that deer hunting with bow and arrow be permitted within city limits to combat an overpopulation of deer. These requests cite motor vehicle collisions, spread of disease, and damage to the natural landscape as the detriments of having an overpopulation of deer with City limits. Furthermore,

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the Urban Archery Organization has issued a petition to the City of Durham to begin participating in North Carolina's Urban Archery Program.

A committee consisting of City/County staff, local hunters, Duke Forest staff, and the N. C. Wildlife Resources Commission met on March 18th and May 21st to discuss deer management techniques. After considering the issue of deer overpopulation and management options, the committee recommends that the City Council amend its Code of Ordinances to permit bow hunting in the City limits during the state's deer season for the central region.

The following persons spoke on this item.

Dave Owen raised skepticism about the city allowing bow hunting. He also read a poem describing a conversation between a doe and a fawn, with the doe complaining that humans want to skewer them right in their own backyard when tall garden fencing and a measured approach to driving would as easily address the problem. Also, he provided council with information on addendums to be considered and added to the proposed ordinance.

David McAdams spoke in support of the city allowing deer bow hunting. He said the abundance of deer have an effect on property values, makes it unpleasant to live when deer are coming and eating things out of gardens; and they have an effect on human health and create hazardous driving. He said the responsible way is to have a controlled plan.

Don Hilke said hunters love deer and they do not want to see the deer suffer more than anyone else. He spoke in support of deer bow hunting and the passage of the ordinance noting this would be very low impact to the community. Mr. Hilke also noted the organizations in the area that accepted venison donated by hunters to feed needy families.

Robert Reda, President of the Broker Arrow Archery Club, noted that neighboring Chapel Hill allows bow hunting. He said he obtained permission to hunt on about 30 properties in Chapel Hill and only four or so are larger than two acres. He said that an owner's permission has to allow not just the shooting of an animal but also the retrieval of its carcass. Mr. Reda said he also contacted the North Carolina Wildlife Resources and he was told that there has never been a reported accidental shooting with a bow and arrow. Also, he said the Town of Chapel Hill has not had any problems reported due to hunting in the town limits.

Matt Jenkins also spoke on a program entitled Bow Certification and Referral Service and said they have been instrumental with Duke University and Duke Forest with their archers who are trained, certified and insured. He said as a member of the NCBA, every member has \$100,000 insurance from the day they become a member. He suggested the council consider some kind of certification whether it is a BCRS or a UAC certification in coordination with the state wildlife resources division.

Kirk Vaughn stated he would like to see the ordinance work for Durham and he was willing to assist in anyway.

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Council Member Catotti raised questions regarding permission of property owners and the rationale of two acres.

City Manager Bonfield said he was not on the committee, but was certain there was discussion about what would be the minimum parcel size considered to be safe.

A member of the committee said they studied this issue and reviewed the number of parcels of land within Durham County and the municipal boundaries. He said from his experience just living outside the city limits on just over two acres of property most of which is lawn - when you are hunting from a tree stand on a little parcel of woods with the range of a bow and arrow being 20 to 30 yards maximum and more typically 10 to 20 yards being the shooting distance, which is sufficient acreage. He said the committee felt that from a safety aspect, two acres was more than reasonable, but of course that is something that could be up for discussion by the council.

City Manager Bonfield requested the item be referred back to the administration.

For clarification, Council Member Moffitt said the administration will review banning the use of dogs and firearms; banning the use of mechanical deer feeders; review for the purpose of including a sunset period (two or three years); having a 250 foot buffer zone for property lines, dwellings/other occupied buildings and review the minimum parcel size that will be allowed for hunting.

Also, Council Member Catotti suggested looking into having a required certification.

City Manager Bonfield said the city is relying on the state to that (certifications) and the city was not really setup for training/licensing/permitting.

It was noted that this item will be scheduled as a public hearing when it comes back to the council for consideration.

Subject: FY 2013-14 CIP Budget Amendment Request for CIP Ordinance #14464

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal Year 2013-2014, as amended, the same being Ordinance #14464 for the purpose of adding funding in the amount of \$641,729.00 to various capital projects.

The Department of Community Development is requesting an amendment to the Capital Improvements Program Ordinance #14464 Section D – Housing and Neighborhood Revitalization, to transfer (allocate) Reserve for Pending Projects funds to other capital projects.

A summary of all changes for impacted capital improvement funds was also provided in the supporting information.

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Community Development Director Reginald Johnson explained the reasoning for the increase in expenditures in Southside East Phase 1, and said this was in an earlier plan already seen by the council.

Also, Mr. Johnson said the funding for the Southside East Phase 2 rental infrastructure is one of the line items; the funding for the Southside East balance of infrastructure Phase 1 is included; and the funding balance for the McCormack Baron and Salazar deferred loan.

Subject: Contract Extension for AmeriNational Community Services, Inc. (ACS) for Mortgage Loan Servicing

To authorize the City Manager to execute the AmeriNational Community Services (ACS) agreement by three months followed by no more than three automatic thirty-day extensions, if needed, which may extend the contract through January 30, 2014; and

To authorize the expenditure of an amount not to exceed \$72,000.00 beyond the original agreement amount of \$502,000.00.

The staff report indicated that the City of Durham has contracted with AmeriNational Community Services, Inc. to provide mortgage loan servicing for the City's 600+ community development loans. The agreement expired July 31, 2013. The annual amount paid to AmeriNational is approximately \$90,000.00.

The Department of Community Development wishes to extend this contract for three months to give staff time to finalize the vendor selection process. AmeriNational has provided satisfactory services during the term of the agreement. Staff will use the extra time afforded by the extension to thoroughly examine the current loan portfolio requirements to determine best practices going forward for more efficient management of the portfolio.

Community Development Director Reginald Johnson commented on the \$30,000.00 termination fee.

Subject: Confirmation of Assessment Rolls for Water Main in the Valley Springs Road Area

To conduct a public hearing to receive comments on the confirmation of assessment rolls for water main in the Valley Springs Road area;

To adopt a resolution confirming each of the following assessment rolls:

- Water Main on Valley Springs Road from Rose of Sharon Road to Rivermont Road and Rivermont Road from Valley Springs Road West to the West Property Line of PIN 0813-01-19-7523; and

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- Water Main on Valley Springs Road from Rivermont Road North, then West to include PIN 0814-03-10-7214, Rose Road from Valley Springs Road to the North Property Line of PIN 0813-01-19-9957 and Forrestdale Road from Valley Springs Road to the end of the cul-de-sac.

The City Council previously adopted a resolution ordering the making of the subject improvements. The improvements have now been completed, and the preliminary assessment rolls have been prepared. In accordance with Section 77 of the Charter of the City of Durham, a resolution is scheduled to be adopted by City Council on August 19, 2013, setting a public hearing for September 3, 2013, for confirmation of each of the subject assessment rolls.

Council Member Moffitt requested information on the assessment process.

Robert Joyner, of the Public Works Department, said the assessment process is fairly a complicated area and suggested they come back and give a presentation or get with Council Member Moffitt directly.

Council Member Moffitt agreed to have a one-on-one discussion with staff regarding the assessment process.

Subject: Update on North Carolina Ecosystem Enhancement Program Stream Restorations in Durham

To receive a presentation on the North Carolina Ecosystem Enhancement Program Stream Restorations in Durham.

The staff noted through a collaborative partnership with the City, the North Carolina Ecosystem Enhancement Program has built several stream restoration projects in Durham. These projects help to protect its urban streams and riparian resources by reducing erosion and restoring stream function. These projects contribute to pollutant reduction and Falls and Jordan Lake Nutrient Management Rule compliance as well as address local creek impairments such as excess sediment (turbidity). The North Carolina Ecosystem Enhancement Program constructed these projects and then evaluates the projects annually for a period of approximately 5 years. Project success is primarily based on continued stability of the stream, structural elements, and plant survival in vegetated areas. The two stream restoration projects that have been completed and evaluated have been successful. After the NCEEP evaluation period is complete, long term maintenance of the projects becomes the responsibility of the City. Currently, two of the NCEEP stream restoration projects are under City maintenance with the remaining three expected to transfer within the next four years.

The State's evaluation period is complete for two of the City's NC Ecosystem Enhancement Program restoration projects. Third Fork Creek stream restoration in Forest Hills Park and Ellerbe Creek stream restoration at the Hillandale Golf Course. The projects were evaluated by the state and City staff and were considered successful upon closeout. The City has taken over

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the maintenance of these projects and contracted to address invasive and nuisance vegetation in restored buffer areas along the streams. It is anticipated that the remaining three projects will be transferred to the City for long term maintenance in the next two to four years. The invasive vegetation work is needed in order to preserve the buffer areas and to ensure that the water quality aspects of the stream restoration function properly. Proliferation of these types of plants can degrade the quality of the wetland and stream resources on these projects. These are beneficial projects that will continue to help reduce pollutants such as nitrogen, phosphorus, and sediment in three major watersheds. In total, nearly 3 miles of stream have been restored.

Also, Lance Fontaine, of the Public Works Department, provided a power point presentation updating council on the North Carolina Ecosystem Enhancement Program Stream Restorations in Durham.

Mayor Bell said the presentation has been informative and suggested the staff make a presentation to the citizens in Forest Hills to make them aware of what is going on, that is not only about water, but the stream restoration of the banks.

City Manager Bonfield suggested a 30 minute TV segment on DTV8.

At this time, City Clerk Gray announced the results of the ballots for the Equal Business Opportunity Program Advisory Committee; Durham Bicycle and Pedestrian Advisory Commission; Durham Historic Preservation Commission and the Durham City/County Appearance Commission.

Settling the Agenda – September 3, 2013 City Council Meeting

City Manager Bonfield announced the following items for the September 3, 2013 City Council meeting agenda: Consent Items 1; 2; 3; 5; 6; & 9 thru 15. General Business Agenda Item #4 and Public Hearings Items 17 thru 27.

Motion by Council Member Catotti seconded by Council Member Schewel to approve the agenda for the September 3, 2013 meeting as stated by the City Manager.

The motion was approved by a vote of 5/0 at 2:40 p.m.

There being no further business to come before the Council, the meeting was adjourned at 2:40 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk