

DURHAM CITY COUNCIL WORK SESSION
Thursday, April 18, 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 Bonfield, City Attorney Patrick Baker and City Clerk D. Ann Gray.

Mayor Bell called the meeting to order.

Mayor Bell asked if there were any announcements from the council members.

Council Member Catotti asked for an excused absence from the May 6, 2013 City Council Meeting. She stated she would be attending the Regional Transportation Alliance Leadership Briefing and Tour.

[Excuse Council Member Catotti]

Motion by Mayor Pro Tempore Cole-McFadden and seconded by Council Member Brown to excuse Council Member Catotti from the May 6, 2013 City Council Meeting.

The motion was approved by a vote of 6/0 at 1:05 p.m.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Bonfield said presentations will be provided on the following items:

- Agenda Item #8 – Durham Performing Arts Center Operating Agreement
- Agenda Item #11 – Lease Agreement for the Durham Bulls Athletic Park and Development Agreement
- Agenda Item #14 – FY2013-2014 Proposed Water and Sewer Rates
- Agenda Item #15 – Triangle J Council of Governments Member Update
- Agenda Item #16 – Youth Opportunity Initiative

Also, the City Manager requested that Agenda Item #20 (Zoning Map Change Vermilion) be referred back to the administration.

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).

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

There were no items from the City Clerk.

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

Subject: Completion of Streets in Dunwoody Subdivision

To direct the Public Works Department to hold a public hearing to order the improvements to complete the street in Dunwoody Subdivision by assessment with a 10% City contribution.

The Dunwoody Subdivision is a Category 4 failed development where the original developer has failed to complete the street infrastructure. The purpose of this item is to present options (as outlined in the staff report) for Council's consideration on how to move forward with the completion of street infrastructure for this development.

Susan Rogers, a resident of Dunwoody Subdivision, referenced an email sent to all members of the council regarding completion of streets in Dunwoody Subdivision noting the developer walked away from their community in 2005 long before the economic downturn and long before he filed personal bankruptcy in 2009; and their bond which was insufficient expired and other developments having bonds to fall back on to cover or assist with their infrastructure needs.

She said they believed the City of Durham was negligent in regards to their road issue and that the City of Durham should take on 100% of cost of their infrastructure needs; however, in the spirit of compromise and shared duty, their neighborhood recommendation is that the City of Durham pays 10% (\$2,100) plus \$6,000 (the cost of the bond that expired) and they will pay a per lot amount of \$1,075. Also, Ms. Rogers recommended that the residents be allowed 5 years to pay the assessment balance to the City at a 0 percent interest rate.

City Manager Bonfield said the proposal mentioned by Ms. Rogers is that the city pay 10% plus \$6,000 with the remaining amount to be distributed per lot for five years with no interest.

Ms. Rogers said that is what they are proposing.

Robert Joyner of the Public Works Department said this bond did have language in it that was not standardized at the time – a clause was put into the item which allowed an expiration of a bond which has never been standard language and was missed by staff at the time.

City Manager Bonfield said the staff's original recommendation is consistent, but based on the circumstances he would not have a problem recommending the proposal mentioned by Ms. Rogers; however, he has not spoken with the City Attorney regarding precedent setting.

Council Member Schewel said he thought the compromise mentioned was a fair resolution and he appreciated the manager mentioning that.

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Mayor Bell said he felt it was a reasonable compromise and he would support it also.

Council Member Brown said he concurred with the compromise. Also, Council Member Brown raised questions to Ms. Rogers regarding what she was told during the closing of their home, which she responded to.

Mayor Pro Tempore Cole-McFadden also spoke in support of the compromise which she felt was reasonable.

Council Member Moffitt thanked the residents for working with the city instead of looking for a complete bailout, which he said makes it very easy to be supportive of.

Mayor Bell asked if all of the residents had to be in agreement with the compromise.

City Attorney Baker said he would speak with the staff in his office currently working on this matter and he would advise the manager and council of his findings.

Subject: Triangle J Council of Governments Member Update

To receive a presentation from Triangle J Council of Governments.

In a continued effort to keep member governments informed about the activities of their regional council, Kirby Bowers, Executive Director of Triangle J Council of Governments, presented a power point presentation providing a brief background on the organization and outlined programs and projects of particular interest to the City of Durham. The presentation also covered the sources of funds that support the organization's work, including the way assessments from member local governments provide the foundation for leveraging significant resources to support long-range planning for the region.

The city council thanked Mr. Bowers for the presentation.

Subject: Youth Opportunity Initiative

To receive a presentation on the Youth Opportunity Initiative from Ann Oshel.

Ms. Ann Oshel, Durham Site Director for Alliance Behavioral Healthcare, briefed the Committee on a youth opportunity proposal. She referenced the project as Youth Opportunity Initiative, but stated that it was not the final name.

Ms. Oshel gave a brief introduction of Durham's System of Care (SOC). The Child System of Care began in 2002. Child and Adult SOC were integrated in 2009.

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Alliance submitted a proposal in response to the IBM Smarter Cities Challenge recommendations to look at youth service system from prevention to intervention for young people who have become disconnected from services and support.

The proposal is a summary of three entities (Office of Workforce Development, MDC, and IBM Smarter Cities Challenge) that have expertise in disconnected youth (ages 14-24 year old). Durham SOC would be a way to convene the stakeholders and partners in this effort.

Ms. Oshel further explained Durham's SOC concept. The system of care would look at funding, mentoring, program outcomes, and how people navigate the system. One IBM suggestion was to develop a roadmap for the program. SOC would convene to build consensus and identify visions and goals.

IBM felt that "Durham's **Building Every Chance of Making It Now and Grown up (BECOMING)** initiative and System of Care programs are excellent examples of programs that take a holistic view, which should be scaled to all youth populations."

Advantages of Durham's SOC acting as a conduit include its extensive experience facilitating community change efforts that cover the life span ranging from prevention to intervention; and the alignment with BECOMING, which is a six-year grant funded by Substance Abuse and Mental Health Services (SAMSHA). The grant focuses on 16-21 year olds. There is a local match of \$7 million in the BECOMING grant.

Alliance has submitted the following proposal:

- Hiring of two positions (IBM recommendations)
 - Youth Services Director
 - Youth Opportunity Coordinator (lived experiences; prospective of youth voice)
- Facilitate strategic planning process (6-month planning process as recommended by IBM)
- Establish Youth Services Steering Committee (modeled after Gang Reduction Steering Committee)
- Leverage existing resources thru BECOMING

Ms. Oshel presented the steps for getting started:

- Road map and action plan
 - Establish specific and results-oriented goals
 - Clearly define tasks with assigned action owners
 - Clearly defined success measures with benefits realization
 - Behavioral, process and technology enablement actions
- Begin recruitment of positions
- Convene Steering Committee
 - Establish reporting format for status updates
 - Select strategic plan vendor
- Determine project based workgroups
 - Employment
 - Data sharing/collection

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- Training
- Work force development
- Communications
- Target date July 1, 2013.

Discussion was held on the System of Care approach; IT Technology Infrastructure future needs; MDC's proposal/request for support vs. the Youth Opportunity Initiative; the role of System of Care; and the homeless population input.

Subject: Durham Performing Arts Center Operating Agreement

To authorize the City Manager to execute an agreement with Durham Performing Arts LLC, JN America LLC and Professional Facilities, Inc. for the purpose of operating the Durham Performing Arts Center.

Community Development Director Reginald Johnson provided a power point presentation on this item referencing the following:

Revised & Restated Durham Performing Arts Center Operating Agreement

Background

- DPAC has enjoyed great success since November 2008
- Operator expressed interest in longer term commitment to Durham
- Administration agrees longer term commitment is in City's best interest
- DPAC as economic catalyst
- Goal: Incentivize Operator to produce revenue at a high level enabling City resources for capital replacement, debt service, repair and maintenance

Key Points

Term

- Potential for 27 years beginning in 2013, ending in 2040
- Current agreement ends in 2014, with 5 year extension to 2019
- Operating Profit Share – Assume \$4 million operating profit; Current 60% / 40% split with \$4 million operating profit is \$2.4 million / \$1.6 million
- Management fee remains the same
- Centralized Service fee increases
- Facility fee increases
- Formalization of DPAC Facility Fund
- Securing Naming Rights will be Operator's responsibility
- Radius Restriction: Exemption for City of Greensboro
- DPAC Name
- Operator continues to guarantee all annual operating deficits

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General Services Director Joel Reitzer made comments on the repair and maintenance schedule for the DPAC.

Repair and Maintenance/Improvements

- Preventive Maintenance Plan
- Annual Cap/Repair and Maintenance Costs
- Capital Expenditures Projection Schedule
- Specific Improvements Schedule

After the presentation, several members of the council raised concerns/questions regarding the sharing proposal for the DPAC. It was noted that the proposed new deal would not provide as much revenue for the city in years the theatre does well [a profit sharing that will give operator PFM/Nederlander 70 percent of any annual net income that tops the \$3 million]. Currently, the city and operator split the theater's income on a straight 60/40 basis.

Subject: Lease Agreement for the Durham Bulls Athletic Park and Development Agreement between City of Durham and the Durham Bulls Club, Inc.

To adopt a Resolution that authorizes the City Manager to advertise for upset bids in accordance with G.S. 160A-269 for the lease of the Durham Bulls Athletic Park located at 409 Blackwell Street and provides that if no upset bids are received, the City Manager may accept the offer from the Durham Bulls Baseball Club, Inc. to lease the Durham Bulls Athletic Park located at 409 Blackwell Street for an initial term of 20 years effective January 1, 2014, with options to renew for two additional 5-year terms at a rate subject to adjustment according to the contract;

To authorize the City Manager to execute the Lease Agreement for the Durham Bulls Athletic Park located at 409 Blackwell Street with the Durham Bulls Baseball Club, Inc., if no upset bid is received, for an initial term of 20 years effective January 1, 2014, with options to renew for two additional 5-year terms at a rate subject to adjustment according to the contract;

To authorize the City Manager to execute a development agreement with the Durham Bulls Baseball Club, Inc. for deferred maintenance and new improvements at the Durham Bulls Athletic Park with the City's contribution capped at \$12 million, pursuant to the terms and conditions outlined in the development agreement;

To adopt a Resolution Exempting the Durham Bulls Athletic Park Project from G.S. 143-64.31;

To authorize the City Manager to negotiate and execute a professional services contract with Roughton, Nickelson, DeLuca, PA for the design of repairs and renovations for the Durham Bulls Athletic Park in an amount not to exceed \$725,580.00; and

To authorize the City Manager to negotiate and execute a CMAR contract with Lend Lease (US) Construction, Inc. for preconstruction and construction services, (including early bid packages) so long as the City's total financial obligation under the CMAR contract, plus architectural services contract, plus direct City purchases does not exceed 12 million.

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General Services Director Joel Reitzer provided a power point presentation referencing the following:

Agreements – Overview

- Lease agreement – new lease (20 years)
- Development Agreement – roadmap for implementation of deferred maintenance and new improvements at the Ballpark (City – Direct procurement of lights and seats; architectural contract – RND; CMAR contract – lend lease)

Lease with Durham Bulls Athletic Club

- 1992 – Lease with Club (as amended)
- Existing Lease expires in 2015
- Existing Lease – Club pays rent; City maintains facility
- Existing Financial Model: \$150,000 for the ballpark; \$85,000 for office space; additional revenue sharing formula; recent years-City's operating costs exceed revenues by more than \$200,000
- New Lease – 20 year lease – effective January 1, 2014; 2-(5) year options to renew
- New Financial Model: Club responsible for operating costs and expenses; revenues received generate stream to provide for debt service and capital improvements; City general funds no longer required to support ballpark day-to-day operations; City's obligations for future capital repairs and upgrades reduced
- Specific lease terms include: Club pays City \$125,000 per year base rent (CPI adjusted with cap); Club pays additional rent to City as follows; 3% of gross revenues that exceed \$10,750,000; Special events – 1.25% of gross revenues; 3rd party events – 1.25% of revenues; Club pays for all utilities; Club responsible for implementation of preventative maintenance program and all costs associated with specified repair and maintenance up to an annual cap of \$200,000 (CPI adjusted with cap); Club is not responsible for repairing or replacing structural components of the Ballpark

Development Agreement

- Currently unfunded are approximately \$6 million of deferred maintenance (including ADA) items. Under the proposed agreements and financial model, the City will be responsible for funding 100% of the cost of these deferred maintenance items.
- Club has identified approximately \$8 million of new improvement capital projects – Refresh ballpark after 20 years; Create new revenue opportunities
- Under the financial model, the cost of the deferred maintenance and new improvements in excess of \$12 million will be borne by the Club
- To expedite the completion of the deferred maintenance and new improvements Club will oversee the design and construction of the capital projects
- City will contract directly for purchase of stadium lights (est. \$446,000) and stadium seats (est. \$697,000) – as sole source exception for standardization and compatibility

Club Work

- Club Minimum Investment – at least \$2 million – Signage in the outfield area; New concessions and retail facilities in several areas of the ballpark; Estimated cost of these

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items to be between \$1 - \$2 Million. Club will pay for all costs of the Club work and execute its own contracts for these improvements

Budget and Contracts

- City's contribution is capped at \$12 million – RND contract – amount NTE \$725,580; City Procurement- lights (est. \$446,000); stadium seats (est. \$697,000); Lend lease contract – Balance of \$12 Million (not captured in architect contract or direct procurement)
- Club's contribution is a minimum of \$2 million
- Club is responsible for cost of work in excess of \$12 million

Finance Director David Boyd briefed the Council on the Durham Bulls Athletic Park Cashflow Comparison (current model and new model). Also, he referenced the following:

Funding

- \$12 million City Bond Issuance – Debt service is estimated to be approximately \$970,000 per year; Paid back with revenues generated from the lease of the ballpark as well as other General Fund revenues
- Finance Department estimates that over life of the lease the financial model developed will result in positive gross cash flow to the City of \$7,380,000 (Present Value \$4,063,650) when compared to a cash flow under the existing financial model

Also, General Services Director Joel Reitzer commented on the deferred maintenance items and proposed new improvements at the Durham Bulls Athletic Park.

Representatives from the Durham Bulls shared with council proposed renovations to the ballpark in various areas.

Subject: Main Street Replacement Over Campus Drive Progress Report

To receive a report on the North Carolina Department of Transportation Main Street Bridge replacement project over Campus Drive.

Director of Transportation Mark Ahrendsen referenced that three major construction projects have been underway since January 2012 along Main Street, which are: 1) the City's Main Street water main replacement project; 2) the NCDOT resurfacing and restriping project along Main Street from 9th Street to Peabody Street, and a segment of Swift Avenue from Main Street to Caswell Place; 3) and the NCDOT bridge replacement project over Campus Drive.

Representatives of the City, NCDOT, Duke University and residents have met over the past 18 months to discuss opportunities to mitigate traffic impacts, accelerate and compress construction timelines and coordinate the construction phasing of the three construction projects.

The water main replacement and resurfacing projects are complete. Temporary pavement markings for the "road diet" along Main Street have been installed on the new asphalt surface. Final pavement markings, a signalized pedestrian crossing on the east leg of Main Street and

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Campus Drive and traffic signal safety improvements will be completed in April 2013. The NCDOT bridge replacement project is scheduled to begin on May 13, 2013 and end on September 20, 2013.

Due to the closure of Main Street, Mr. Ahrendsen also referenced detour routes for traffic.

Subject: Proposed Water and Sewer Rates FY 2013-2014

To adopt an Ordinance to Change Rates for Water and Sewer Service pursuant to City of Durham Code of Ordinances Section 70-51(a)(1); Chapter 15 of the Fee Schedule for the City of Durham; Part 15-104, (a) INSIDE CITY (1) Residential, (3) Non-residential, (4) Fixed Consumption Charge and (5) Service Charge and (b) OUTSIDE CITY (1) Residential, (3) Non-residential, (4) Fixed Consumption Charge and (5) Service Charge, effective July 1, 2013, applied to all bills rendered on or after August 1, 2013.

The staff report noted that in FY 2008-2009, the Durham City Council first adopted a tiered rate structure for water volume charges applicable to single family residential customers. The tiered rate structure was effective initially in introducing the concept of the “the less you use, the less you pay.” Fortunately, this behavior change has continued with customers adopting a water efficient ethic during normal times and demonstrating a heightened awareness during extended dry periods. The City Council has approved modest rate increases over the past several years to cover increasing operating costs and debt service. The rate increases also support Durham’s large capital program which focuses on replacement of aging infrastructure and meeting new regulatory requirements and system growth. Staff approached this year’s budget cycle with a desire to keep the adopted tiered rate structure in place, while refining costs to reflect not only the department needs – operational and capital – but the current economic climate and its impact on Durham’s water and sewer customers. To meet these needs, the department proposes modest increases for the water and sewer service and volume charges for FY 2013-2014. The proposed rates continue the one penny per hundred cubic feet adopted last year dedicated to watershed protection efforts.

The administration recommends the proposed rates be adopted effective July 1, 2013, with implementation for bills issued on or after August 1, 2013.

Also, Water Management Director Don Greely provided a power point presentation on the water and sewer fund proposed FY 2014 rates.

Subject: Water and Sewer Capital Facility Fees Update

To conduct a public hearing to receive comments on the proposed fee changes; and

To adopt an Ordinance Amending Chapter 15, Part 15-103 (Capital Facilities Fees) of the City’s Fee Schedule with an effective date of October 1, 2013.

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The staff report noted that the city establishes capital facilities fees for all new connections to the City water and sewer system as authorized under Section 70-50 of the City Ordinance. These fees are earmarked for the construction and expansion of water and sewer facilities to provide necessary capacity for service. These fees were last updated in 2010 and the proposed fee schedule is reflective of the City's current cost of service. Changes to capital facility fees require a public hearing under applicable State law.

At this time, City Clerk Gray announced that Wade Smedley received 5 votes and Kara Taff received 6 votes for appointment to the Workforce Development Board; Rebecca Winders; Eilee Francie Bielen and Will Lambe received 6 votes for appointment to the Durham Planning Commission; and Natasha Harris and Douglas Reid Dorney, Jr. received 6 votes for appointment to the Durham City/County Appearance Commission.

Settling the Agenda – May 6, 2013

City Manager Bonfield announced the following items for the May 6, 2013 City Council Meeting agenda: Consent Agenda Items 1; 2; 3; 4; 5; 6; 7; 9; 10; 12; 13; & 14. General Business Agenda Items 8; 11 & 17 and Public Hearings Items 19; 21; 22; and 23.

Motion by Council Member Catotti seconded by Council Member Schewel to settle the agenda for the May 6, 2013 City Council Meeting as stated by the City Manager.

The motion was approved by a vote of 6/0 at 5:32 p.m.

Closed Session – 5:35 p.m.

Motion by Council Member Catotti seconded by Council Member Brown to hold a closed session regarding attorney-client consultation, pursuant to G. S. 143-318.11(a)(3).

The motion was approved by a vote of 6/0 at 5:33 p.m.

Open Session – 6:44 p.m.

Motion by Mayor Pro Tempore Cole-McFadden seconded by Council Member Schewel to return to open session.

The motion was approved by a vote of 6/0.

No action was taken by the council in open session.

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There being no further business to come before the City Council, the meeting was adjourned at 6:44 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk