

DURHAM CITY COUNCIL WORK SESSION
Thursday, September 19, 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 Bell.

Mayor Bell asked if there were any priority items from the City Manager, City Attorney and City Clerk.

City Manager Bonfield asked the council to suspend the rules and take action on the following item:

- Agenda Item #7 – Ten Year Lease for the Office of Economic & Workforce Development with Edgemont Tenant, LLC at 807 East Main Street

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

City Manager Baker requested a closed session regarding Eric Daniels vs. City of Durham and Hope Allen vs. City of Durham, pursuant to G. S. 143.318.11(a)(3).

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

There were no items from the City Clerk.

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

Council Member Schewel and Mayor Pro Tempore Cole-McFadden extended their condolences to the Walker family regarding the recent shooting of Derek Walker. Council Member Schewel said the entire community recognizes this as a terribly sad tragedy. He also said one of his wife’s employees had witnessed the confrontation and referenced a police negotiator showing skill and compassion as he tried to talk Mr. Walker into surrendering. He suggested continued training for police in mental-health needs and research into best practices for intervening in such situations. Mayor Pro Tempore Cole-McFadden said she knew Derek Walker as one of his mentors and she was among the grieving community.

Mayor Bell also extended his condolences to the family and friends of Derek Walker.

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Excuse Mayor Bell

Motion by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to excuse Mayor Bell from the October 7, 2013 City Council Meeting and the October 10, 2013 City Council Work Session.

The motion was approved by a vote of 6/0 at 1:12 p.m.

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

Subject: William Traywick, Jr.

To receive comments from William Traywick, Jr. regarding Durham Area Transit Authority.

Note: Mr. William Traywick was not present to speak at the meeting.

Subject: Timothy Ferry

To receive comments from Timothy Ferry regarding the protection of its tenant's rights.

Timothy Ferry addressed the council asking that they take an active part in the protection of its tenant population from overly expanded tenant contracts, from the exponential "market value" increases in rent at the end of a contract period; etc. He said the city is allowing these apartment landlords to come in make out their own contracts and charge whatever rent they want.

Mayor Bell thanked Mr. Ferry for his comments and said the only rent control the city possibly has any say so over is those properties that the city is involved in renting itself which the city might have entered into a private developer with. The Mayor also acknowledged the City Attorney for further comments.

City Attorney Baker noted that the City of Durham has no authority over private contracts between a tenant and landlord. He said if it was something related to fair housing or broader than that the city could get involved; however, he did not hear that concern from Mr. Ferry.

Council Member Brown said he was a little confused about the comments that landlords are increasing the rent and stated normally you would have a year's lease at a specific price which the landlord has to adhere. He said what happens after the first year is really up to the landlord.

Mr. Ferry said he knew it would be stated that Durham does not have anything in writing to address his concern but Durham could do a lot. He said there are states now where they have some kind of control over the rents by landlord.

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Mayor Bell said any type of authority we have as a city comes from the state/general assembly and the City of Durham cannot just make up its own laws. He suggested that if Mr. Ferry had further comments he could speak with City Attorney Baker.

Subject: Scott Barndt

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

Mr. Barndt addressed the council regarding his need for housing and ask them to revisit the solicitation ordinance to provide further clarification on a couple of the rules contained therein. Also, Mr. Barndt commended the Police Chief for the reduction in crime in the city.

Subject: David Hall

To receive comments from David Hall regarding problems that exists in certain areas of Durham's leadership.

David Hall read the following statement: My name is Attorney David Hall. On June 22nd I was shot in the back while talking to my neighbor in my front yard, about 3 or 4 blocks from here. Since then a media whirlwind has surround alleged comments made by Chief Lopez and an apology he made at a later date. I deliberately refrained from making any comments regarding his statement until the day of our march. I was however accused of stirring the pot and racializing the situation without having ever made a statement.

I'm here today to address the leadership of our city, not to talk about my incident, but to address a sickness in Durham. Now I want to be clear! I am not calling anyone a racist. However, Durham is suffering from a cultural sickness call institutional racism. Speaking of race is not taboo. Not dealing with this is. Durham is the City of Medicine, we know how to remedy the causes of sickness and not just build institutions to deal with the symptoms.

Institutional racism exists within a culture and causes extreme disparities in how policies affect certain groups of people along racial lines. Chief Lopez pointed out that he is a man of color, that he is of Puerto Rican decent and has promoted minorities to positions of power within the Durham police department, I guess indicating that race is not an issue with him. Further, I would like to point out that our Mayor is black, our School Board Superintendent is black, our top prosecutor is black, our head Public Defender is black, many of our Judges are black. Our city council has two black members. Often I look around in court and notice that the Judge is black, the county attorney is black, the defense attorneys are black and every defendant in court is black, yet the disparities continue to increase. Installing people of color is not the only answer.

Even with all these African-American leaders, the disparities still exist and are growing. That is the ugliness of institutional racism. Racism is an institution and it does not care who is at the helm. The city of medicine is sick, it has a runny nose, and I am sick of being the kleenex on the

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runny nose of Durham. I am here to insist that the leadership of Durham accept this diagnosis and agree to work on the root cause of institutional racism as it exists in Durham.

Mayor Bell, how can you accept the fact that save for your license plate, you would be over 160% more likely to be pulled over in your own city than some of your colleagues that sit with you here today?

Today we come with a solution. Training led by the Racial Equity Institute. Phase 1- Foundational training in historical and institutional racism.

In our contemporary society, racism shapes the outcomes of all institutions. It pits entrenched patterns of power against what are often faint images of equity.

Yet even those who are concerned about growing achievement gaps, disparities in health and wealth, and the mass incarceration of black and brown people are challenged in their understanding of how racism remains alive and well in all our institutions, advantaging some while harming others.

This training will give all of us a context of understanding from which we can develop a plan to attack the systemic ills of institutional racism that only holds our communities back.

Subject: Tia Hall

To receive comments from Tia Hall regarding problems that exists in certain areas of Durham's leadership and Durham Police Department.

Tia Hall said if you prix them they do bleed and their call is not a desire for revenge. Their desire is for reconciliation and healing. She said this is not a joking matter in a land where black bodies hung like strange fruit from trees, it is not a joking matter even behind closed doors when those thoughts even in gestures reside in the same minds that must make quick decisions and implement policies that greatly impact the lives of others. She said it is joking matter when the attorney that was shot is my husband of 22 years and the father of our three children. Ms. Hall referenced several occasions whereby her son was questioned by police officers which appeared as racial profiling.

Subject: Meghan McDowell

To receive comments from Meghan McDowell regarding the Civilian Police Review Board.

Meghan McDowell read the following statement to the council:

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Council Members and Mayor Bell, I am here today as a member of FADE. Fostering Alternative to Drug Enforcement. FADE is a local coalition of community members exploring the impact of the War on Drugs in Durham. We believe that traffic stops and searches in Durham are directly related to this war and that these stops disproportionately affects Durham's Black and Latino community.

Yesterday in a "Special City Life with Chief Lopez" the Chief, in speaking about his overwhelming community support said "of course we have some individuals who are protesting and marching, but if you look at Durham's history you'll find that these are the same individuals that have protested and marched. Many of them are doing it without all of the facts." He also said that "it's such a shame that this has to be done in such a public way because, quite frankly, a lot of people just don't understand and they don't get the facts."

Here are the facts that we know. Recent studies found that marijuana use is virtually the same across the board for all communities. Yet Durham's drug crime prison population is 6.4% White, 29.1% Latino, 65.1 Black. Black people make up 41% of the Durham, North Carolina population. Of all motorists' searches over the past 5 years, the following percent were Black:

- 2013: 82.93% (current through July)
- 2012: 81.19%
- 2011: 80.98%
- 2010: 78.68%
- 2009: 76.68%

As you can see, the issues of racial disparities in Durham are getting worse, not better. Could it be that we are still marching because we are not being heard?

A few more facts that were presented to Chief Lopez this past April, came from a report by UNC Professor, Frank Baumgartner. In a ten-year study of all traffic stops in North Carolina, the facts show that black motorists in Durham are 200% more likely than white motorists to be searched by law enforcement as a result of routine traffic stops. Black suspects in Durham are nine times more likely than white suspects to be incarcerated for criminal conduct. This one statistic places Durham at the highest level of racial disparities in North Carolina's 100 counties.

We hope that you not only hear us today but that you make a commitment to work with us to reconcile these issues.

At this time, additional citizens were in attendance requesting to be heard - to voice concern regarding recent incidents involving the police department.

Mayor Bell said he wanted the city's Human Relations Commission to wade in and receive additional comments from citizens regarding alleged incidents involving the Durham Police Department.

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It was noted that the next regular meeting of the Human Relations Commission was scheduled for Tuesday, October 1, 2013 at 7:00 p.m.

Subject: Challenging Our Students to Achieve: The New State Standards and Durham Public Schools

To receive a presentation from Superintendent Eric Becoats on Challenging Our Students to Achieve: the new state standards and DPS.

Superintendent Eric Becoats presented a power point presentation highlighting the following:

How far we've come:

- DPS has already challenged ourselves to raise our standards through our One Vision. One Durham. Strategic Plan
- Graduation rate in 2012-13 was just under 80% - up nearly 10 points in just four years
- This summer, 81% of our graduates planned to go on to higher education
- We have been on track to meet many of our strategic plan targets, but now the way we evaluate our targets have changed (new state standards)

What are the new state standards?

- North Carolina adopted new standards for curriculum and teaching that will better prepare our students for graduating and moving into college or a career
- These are state requirements
- The standards raise the bar for teaching and learning in Durham Public Schools and across North Carolina

The Standards.....

- Were adopted K-12, in all subjects
- Are clear, understandable and consistent
- Include rigorous content and application of knowledge through high-order skills

Will better prepare each student, no matter where he or she is on the learning spectrum, for college, a career, and life.

What does this mean for teachers?

- New, more rigorous curricula
- Better ways to assess what a student has learned and how well he/she understood it

What does this mean for students?

- More rigorous lessons
- More critical thinking
- More integrated learning
- More accountability

A better foundation for success in life – for furthering their education or moving into a career

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What does this mean for parents and the community?

- Better prepared students
- More rigorous learning experience
- More critical thinking
- Individualized learning and personalized instruction

What does this mean for DPS?

- Students held to higher standards = performance results will dip
- In years past, school districts across the state have seen performance levels drop for a year or two immediately after standards change
- Teachers adjust....students are challenged
- After the initial dip performance, scores begin to rise again

How is DPS rising to meet the standards?

- Invest in a quality education for all children
- Focus on being an innovative, proactive organization
- New standards help us identify areas of need
- New exams will show us how to better teach the diverse students who attend DPS

How are we communicating?

- Presentations to community groups, partners, faith-based organizations, PTA
- Evening info sessions for parents and families
- Media outreach, information and FAQs on website, and Channel 4

The City Council thanked Superintendent Eric Becoats for the report.

Subject: Bids – State Contract Purchase for Twenty-two Police Patrol Vehicles - Butler Chrysler Dodge Jeep, Inc.

To authorize the City Manager to enter into a contract with Butler Chrysler Dodge Jeep, Inc. in the amount of \$556,822.20 for providing the City with twenty-two Police Patrol Vehicles.

The staff report indicated that Butler Chrysler Jeep, Inc. of Beaufort, South Carolina was the lowest responsive bidder. Butler Chrysler Dodge Jeep Inc. bid pricing is from the North Carolina State contract 070B. The total cost of the contract is \$556,822.20. Funding for this contract is available from the CIP Fleet Replacement Funds. There are no good alternatives to making this purchase. All bids received were competitive and within budget.

Mayor Pro Tempore Cole-McFadden said she was always concerned that the city does business in its own city and noted that a firm in South Carolina rather North Carolina is being recommended to receive the contract for police vehicles. She asked if the state requirements and the city requirements are the same.

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Finance Director David Boyd said they have to award the contract to the lowest responsible bidder.

Mayor Pro Tempore Cole-McFadden asked, so the city does not have any flexibility?

Finance Director David Boyd replied correct.

Mayor Pro Tempore Cole-McFadden said Sport Durst Chrysler/Dodge/Jeep is the local bidder and asked what is it about their bid that makes it higher.

Michael Boyd, of Fleet Management, said the state contracts have a huge amount of volume which gives them a lower cost per vehicle.

Subject: Ten-Year Lease for the Office of Economic & Workforce Development with Edgemont Tenant, LLC at 807 East Main Street

The staff report indicated that the Office of Economic and Work Force Development (hereafter referred to as "OEWD") and the Office of Equal Opportunity and Equity Assurance (hereafter referred to as "EO/EA") have leased a total of 8,778 square feet of space in the Dibrell Building at 302 E. Pettigrew Street since September, 2007. OEWD occupies 6,408 feet of space and EO/EA occupies 2,298 feet of space. The rental rate beginning September 1, 2013 is \$23.29 per square foot. The lease terminates August 31, 2014.

Due to ongoing issues regarding complaints from City employees housed in the OEWD portion of the City's space, OEWD identified a new space for their operations at the former Golden Belt Manufacturing complex located at 807 E. Main Street.

General Services Department staff on behalf of OEWD negotiated a lease for 6,264 square feet of space at 807 E. Main Street (Building 5, Golden Belt). The initial lease term is ten years with an option to renew for three additional years. The rental rate for the first year of the lease is \$18.50 per square foot, yielding a first year annual rent of \$115,884.00. The rental rate will increase by three percent each year. In addition, after the first lease year, the City shall pay its proportionate share of the increase in Landlord's expenses for property taxes, insurance premiums, and Common Area Maintenance; any increase shall not exceed 5% of the prior lease year's controllable charges. The Landlord is responsible for all expenses except utilities. The Landlord is also responsible for construction of interior modifications to the space as requested by OEWD, not to exceed \$80,000.00. The construction is slated to be completed within 120 days of lease execution.

A First Amendment to Lease Agreement will be executed in conjunction with OEWD's relocation to 807 E. Main Street (Building 5, Golden Belt). The amendment reflects the Landlord and Tenant's desire to amend the Lease at The Dibrell Building at 302 East Pettigrew Street, Durham NC in the following manner:

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- a) Termination of OEWD's current premises consisting of 6,408 rentable square feet.
- b) Confirmation of EO/EA's responsibility to pay its pro-rata share of electricity charges billed to the premises consisting of 2,298 rentable square feet.

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 Council Member Brown to suspend the rules of the city council and take action on the above-mentioned subject was approved at 2:30 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 Catotti seconded by Council Member Schewel to authorize the City Manager to execute a ten-year lease with Edgemont Tenant, LLC in the amount of \$1,328,480.19 for space at Building 5 of the Golden Belt complex located at 807 East Main Street; and

To authorize the City Manager to execute the First Amendment to Lease Agreement between Venable Tenant, LLC and City of Durham for the Dibrell Building at 302 East Pettigrew Street was approved at 2:30 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.

Subject: Mini Assessment Roll for Sewer Main on East Cornwallis Road

To amend the Assessment Relief Policy to include preexisting access to a utility as a criterion for relief of the assessment with the provision that a future frontage charge will be due and payable at the prevailing rate at the time of application for connection;

To conduct a public hearing to receive comments on Confirmation of the Mini Assessment Roll for Sewer Main on East Cornwallis Road; and

To reconsider the assessment against the property of UDI Community Development Corporation and to find that the property, identified as 4601 Industry Lane, PIN 0729-02-97-7530, has not benefited from the sewer main improvement at this time and to grant relief of the assessment in the amount of \$13,990.00, with the provision that the applicable sewer frontage charge will be due and payable at the prevailing rate should the property connect to City sewer (in accordance with City policy).

The staff report indicated that the City Council, at its meeting on November 5, 2012, held a public hearing regarding the assessment of a sewer main on East Cornwallis Road. The assessment roll and subsequent mini roll have been confirmed, with the exception of the property of U.D.I. Community Development Corp. Mr. Ed Stewart spoke on behalf of U.D.I. at the August 19th Council meeting objecting to the assessment, and the item was referred back to the administration to

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provide more information. The requested additional information has been attached and summarized in this memorandum. Council action is required to confirm or relieve the said assessment.

Based on a review of the assessment relief policy established by City Council in 1979, the Public Works Department has determined that the policy is inadequate to address the issue of benefit to 4601 Industry Lane for the new sewer main, as the property had preexisting access to the sanitary sewer located on the property. The Public Works Department therefore recommends that the existing 1979 relief policy be amended to allow relief until tap on for properties that have preexisting access to the utility being assessed (water, sewer, or water and sewer). The Public Works Department further recommends that City Council conduct a public hearing, receive public comments, reconsider the assessment, find that the property has not benefitted from the sewer main at this time and grant relief of the assessment with a provision that a sewer frontage fee will be due and payable at the prevailing rate should the property connect to City sewer in accordance with Section 70-17 of the City Code of Ordinances and the revised assessment relief policy.

Council Member Moffitt stated he was having a little difficulty being able to support the staff recommendation for changes to the – the reasons for relief of the assessments. He said what the recommendation is calling for right now and it illustrates a larger situation - if somebody has access to sewer, the city places sewer across their property to reach other properties . Council Member Moffitt said with this case the property owner has contested the assessment and the staff recommendation is to change the relief items granting relief from the assessment until such time they tap on which means they already had access to sewer – then they are assessed for the new sewer line put on their property which they do not actually need. He said he was a little confused why the city would assess them at any time for a utility placed across their property that they do not actually need to use.

Public Works Director Marvin Williams said the staff recommendation is requesting that the council not assess the property owner for the new sewer line that has been installed – they would actually just pay a tap fee. He said the same thing would apply for a developer, if they came in and constructed a residential project and they installed a sewer line - they still would be responsible for paying that tap fee or connection.

City Manager Bonfield said that is only if they added additional taps.

Council Member Moffitt asked if the new line was not in place and they wanted to tap into the sewer, would they pay a tap fee at that time?

Public Works Director Marvin Williams replied yes. He said in the future whenever that connection is made whether it be to the existing line that is already on the property or the new line that is constructed the fee that will be paid is the actual tap fee. Mr. Williams said and at this point they did not know what that fee would be in the future.

Council Member Brown asked if you bring sewer into an area that needs it because of septic tank failure then that cost is based upon the frontage. He said therefore if you have a 100 feet frontage and the assessment now is \$50.00, so that is \$5,000, is there an additional tap fee?

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Public Works Director Marvin Williams replied no - that is the fee/frontage fee it depends on what you want to call it. It could be referred as an assessment; tap fee or a frontage fee.

Subject: Street Closing – 128 Linear Feet of Holland Street (SC1300001)

To conduct a public hearing to receive comments on the Street Closing – 128 Linear Feet of Holland Street (SC1300001); and

To adopt an Order permanently closing 128 linear feet of Holland Street with the condition that the property owner(s) of the closed right-of-way record a ten (10) foot wide public pedestrian easement.

The staff report indicated that the applicant desires to close this right-of-way as part of the redevelopment of the 315 East Chapel Hill Street property. Specifically, the applicant wishes to utilize half of this right-of-way as outdoor space for a planned hotel use at 315 West Chapel Hill Street. The property has an associated site plan currently under review. As this right-of-way is a distinct and well-traveled pedestrian passage-way, staff recommends the recording of a 10 foot wide public pedestrian easement, so that the public may continue to utilize this space.

Council Member Catotti asked the staff to be prepared to discuss at the upcoming council meeting if there are any alternatives. She said there is a ten foot easement as part of the street closing and she would like to have some clarity on who maintains access, what is specified on the site plan. Council Member Catotti said her concern is now that we own the right-of-way, the city controls the property essentially and if the street is closed and the access is given to the folks on either side, are we surrendering our rights?

City/County Planning Director Steve Medlin stated they will be working with the applicant and the adjacent property owner. He said they were going to retain that 10 foot easement to allow for public access - as part of the easement agreement they are going to require that the property owners assume all responsibility for both improvement and long term maintenance of that right-of-way.

Council Member Catotti asked what recourse would the city have if it is not maintained to the city's satisfaction.

City/County Planning Director Steve Medlin said that will be part of the easement agreement they will have to execute with the city.

Council Member Catotti asked are there alternatives [city has allowed outside dining on sidewalks] could it be explored for them to do what they wanted without actually surrendering, selling or giving away the property/without closing the street.

City/County Planning Director said as late as Monday they met with the developer and he expressed an interest in taking a look at that possibility and the desire to close the right-of-way was really at the request of a city department because of the improvement that the property owner wanted to be

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able to put in that public right-of-way (outside dining venture). It just creates some liability issues for the city.

Council Member Catotti said if the street is closed and there is an easement she did not know what kind of protection the city would have in the future against any state law, changes or challenges.

City Attorney Baker said he would get with the Planning Director to see if there are some potential ways of doing that.

City Manager Bonfield said it is important that the city maintain public access to that property.

OEWD Director Kevin Dick commented on the reason for the request to close Holland Street by the developer.

Subject: Report on Failed Struggling Developments

To receive a report from the Public Works Department on the Failed and Struggling Development Program.

The staff report indicated that the failed and struggling development program was created to assure the completion of all required infrastructure and private storm water facilities at minimal costs to citizens and the City of Durham. The report is outlined below:

A. Number of projects per category as of September 10, 2013

Table 1: Project and Subdivision Totals per Category

Category	Description	Projects or Phases	Number of Subdivisions Represented
1	Restructured Developments	24	8
2	Monitored Developments	23	7
3	Struggling Developments	33	3
4	Failed Developments	20	9
	TOTALS	100	27
	Completed Developments without financial impact to the residents of the projects*	90	26

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Category	Description	Projects or Phases	Number of Subdivisions Represented
	Completed Developments with financial impact (ie project will be assessed for completion of infrastructure) to the residents of the projects	1	1

B. List of developments added to program since March 4, 2012

No new developments have been added to the Failed and Struggling Development Program.

C. Status of current Category 4: Failed developments

The Category 4 failed developments are listed below in Table 2.

Table 2: Category 4 Summary

Subdivision	Total Lots	Vacant Lots	Security Obtained		Incomplete Infrastructure
			Streets	Stormwater Facilities	
Bay Pointe Phase III	68	0	\$145,000	n/a	Streets
Green Gardens Phase II	70	18	Any Remaining funds from Baypoint III	n/a	Streets
Pearl Knoll	12	6	\$10,000	\$12,000 and \$4,317 (SFA)*	Streets and stormwater facility
Riverside on the Eno	24	13	\$60,000 (\$30,000 used to pave the streets)	\$24,000 and \$19,790 (SFA) +\$30K left from streets	Stormwater facilities
Windermere Ridge Townhomes	42	19	\$10,000	\$60,000	Street and stormwater facilities
Northern Way	13	6	\$14,000	\$42,496	Street, transfer of

					Stormwater Facility to an active HOA, address maintenance deficiencies,
Forrest Brook	20	1	\$6,000	n/a	Sidewalk only
The Landings at Southpoint Phase 1	2 buildings with 27 apartments each built (1 future building with 103 units remaining)		n/a	\$0	Stormwater facilities

* (SFA): Funds to secure obligations required by Stormwater Facility Agreements

Project Status Updates

1. Bay Pointe Phase III: A sixty eight lot phase of the Bay Pointe subdivision project with all lots completed. The development requires the completion of streets in conformance with City requirements, which includes among other items, repairs to curb and gutter, utility cover adjustments, street subgrade repairs, and completion of the required asphalt structure. This subdivision has no required stormwater facilities. Please see Green Gardens Phase II below.
2. Green Gardens Phase II: A seventy lot phase of the Bay Pointe Subdivision with eighteen vacant lots left for construction. The development requires the completion of streets in conformance with City requirements, which includes among other items, repairs to curb and gutter, utility cover adjustments, street subgrade repairs, and completion of the required asphalt structure. This subdivision has no required stormwater facilities. The vacant lots in the subdivision are owned by SunTrust Bank. The Public Works Department has facilitated the purchase of the Green Gardens Phase II development. The Public Works Department has successfully negotiated with the new owner (Level Homes) of Green Gardens phase II and will be bringing an agreement forward for approval that would allow the City of Durham to take advantage of the construction in the Green Gardens Project and complete the infrastructure in the Baypointe Phase III neighboring subdivision.
3. Pearl Knoll: A twelve lot project with six vacant lots, the development requires the completion of streets in conformance with City requirements, which includes among other items, repairs to curb and gutter, utility cover adjustments, street subgrade repairs, and completion of the required asphalt structure. The subdivision has a single stormwater facility that must be completed. The vacant lots in the project are owned by BB&T Bank.

The Public Works Department has been working with BB&T to resolve the situation, since insufficient security funds exist to complete all of the required improvements. This task has been complicated by the lack of a legally established HOA. BB&T Bank recently decided to sell the Pearl Knoll lots at auction to divest itself of the responsibility of completing this project. The Public Works department will endeavor to work with the new owner of the project to seek a resolution that completes the infrastructure.

4. Riverside on the Eno: A twenty four lot subdivision with thirteen vacant lots owned by BB&T and private owners. The development contains two stormwater facilities that need to be completed. During the 2012 paving season, the Public Works Department completed the streets using approximately half of the money from the construction security collected for this purpose. The remaining funds from the construction security will be used for the completion of the stormwater facilities.
5. Windermere Ridge Townhomes: A forty lot phase of a seven phase townhouse project. The development requires the completion of a street in conformance with City requirements, which includes among other items, repairs to curb and gutter, utility cover adjustments, street subgrade repairs, and completion of the required asphalt structure. The subdivision has a single stormwater facility that must be completed. The completion of the development has been delayed due to bankruptcy and foreclosure for the third time. At the end of the current foreclosure, SouthBank will become the new owner of the project. The future phases of the development have been purchased by a new owner who will develop these parcels in the future. The Public Works Department, Southbank and the new developer are developing an agreement to use the collected securities so that the infrastructure can be completed in the near future. Once the home owners association agrees to participate in the agreement and to allow access to complete the project infrastructure, the Public Works Department will bring the agreement and stormwater facility agreement forward for City Council Approval.
6. Northern Way: A twelve lot project with six vacant lots, the development requires the completion of streets in conformance with City requirements, which includes among other items, repairs to curb and gutter, utility cover adjustments, street subgrade repairs, and completion of the required asphalt structure. The subdivision has a single stormwater facility that was completed but not appropriately maintained or transferred to the home owners association. The vacant lots are owned by RCP Investments, LLC and private owners. The Public Works Department has met with developers interested in buying the vacant lots and has explained to them the work required to complete the infrastructure.
7. Forrest Brook: The streets are complete in this subdivision. The only infrastructure that remains to be built is approximately 100 feet of sidewalk and one curb ramp in front of the only vacant lot. Public Works will require the owner of the lot to build the sidewalk and curb ramp prior to releasing the certificate of compliance.
8. The Landings at Southpoint: The first phase of a condominium development, the development contains three stormwater facilities that are unfinished and are currently unmaintained. The project contains no streets, only parking lots. Paragon Commercial Bank has foreclosed on the development rights to the project for the future condominium

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units. The Public Works Department has met with Paragon Commercial Bank and has explained to them the work required to complete the infrastructure.

D. Status of Category 3 Projects in Litigation: Stonehill Estates and Ravenstone I & II

The securities associated with Ravenstone and Stonehill Estates subdivisions are the subject of a federal declaratory judgment lawsuit brought by the companies that issued the securities. Both the City and the sureties have filed motions for summary judgment. The judge has not ruled on these motions yet.

E. Developments successfully completed since July 1, 2012

1. Brightleaf at the Park: Brightleaf at the Park in Durham is located north of Highway 70 approximately 3,000 feet east of the intersection of Highway 70 and Mineral Springs Road. Brightleaf is notable as the largest subdivision in the struggling and failed development program in Durham and is also the largest subdivision actively under construction. It is a mix of single family residences, townhomes, an apartment complex, a school, and a swim and tennis club with a potential density of 2200 residential units that encompasses approximately 800-acres of property. By comparison, Brightleaf is approximately four (4) times larger than the Ravenstone and Stone Hill Estates subdivisions combined. On August 22nd, 2013 the street infrastructure in Brightleaf at the Park was completed by LSTAR. The Public Works Department will be bringing these streets forward for acceptance in the near future. By July of 2014, the Public Works Department expects the completion of the remaining 17 stormwater facilities located in the project.
2. Dunwoody: A twelve lot subdivision project that has houses constructed on all lots. The development contains a single ribbon paved cul-de-sac street in which the street has not been completed. This subdivision has no required stormwater facilities. The Public Works Department completed the street infrastructure on August 9th of 2013. The final cost of the street infrastructure is \$12,110.74. The Dunwoody residents will be responsible for \$4,010.74 of this amount. An assessment package for this amount will be brought forward to City Council for approval in the near future.
3. Lynn Hollow II: A forty seven lot phase of the subdivision that has houses constructed on all lots. The development required the completion of streets in conformance with City requirements, which included among other items, repairs to curb and gutter, utility cover adjustments, street subgrade repairs, and completion of the required asphalt structure. This subdivision has stormwater facilities that were completed by the original developer and are currently owned and maintained by the Lynn Hollow Home Owners Association. Public Works completed the street infrastructure of the Lynn Hollow Project on August 2, 2013. The final cost of the street infrastructure is approximately \$35,000.00 (there is one punch list item still outstanding). The project had \$22,000.00 in construction securities that were applied to the completion of this work. As these streets were accepted, the remaining cost will be absorbed by the Public Works FY 2013 repaving funds.

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4. Ashton Hall: A 400 lot, 6 phase subdivision which began construction in 2007 under McCar Homes. McCar homes constructed portions of Phase 1, 3A, 4, and 5 before going bankrupt in 2009. In early 2010, Beazer Homes purchased the subdivision and began to bring the development back to life. Since then, Public Works has constantly monitored the status of the development to ensure that the subdivision would be completed. Public Works has worked closely with Beazer Homes to complete the remaining infrastructure. To date, the infrastructure for Phases 1, 3A, 4, 5, and 6 has been completed. Phase 3B is currently under construction and is continuing to move forward with completion. The remaining Phase 2 is currently in the plan approval process to begin construction.
5. The Park at Southpoint: A 24-lot mixed used development (primarily commercial) that has two lots developed, housing the Johnson Lexus and Crown Honda car dealerships. The road that accesses the two dealerships, Southpoint Autopark Boulevard, was constructed in 2005. The Developer issued a bond in lieu of installing the final lift of asphalt on the road. This road connects Highway 751 to Audobon Lake Drive and is heavily travelled. During these past 8 years Public Works constantly had asked the Developer to repair the road and install the final lift of asphalt. In 2011 Public Works contacted the bonding company requesting that the improvements on the road be completed. Working with the bonding company, and the Developer, Public Works has negotiated to complete the improvements on Southpoint Autopark Boulevard. The street infrastructure repairs and the final lift of asphalt were installed in July and August of this year.
6. Crestfield: A 31 lot subdivision with 18 vacant lots recently completed the foreclosure process. The subdivision was added to the Failed and Struggling Development Program as a Category 3 struggling development in 2012. The developer went bankrupt prior to completing the streets and a drainage issue created by the development of the project. Stormwater facilities were not required for this subdivision. Harrington Bank, FSB completed the street infrastructure in December 2012. The drainage issue has been completed by Southbank and the neighboring property owners affected have accepted the improvements as complete and resolved.

The Public Works Department continues to coordinate with developers, banks, bonding companies, attorneys, and prospective buyers to complete infrastructure for projects in the Failed and Struggling Development Program. In the future, the Public Works Department will bring to City Council specific projects with recommendations for action when projects have no route to completion other than specific City intervention.

Settling the Agenda – October 7, 2013

City Manager Bonfield referenced the following items for the October 7, 2013 City Council Meeting: Consent Items 1 thru 6 and 8; Public Hearings Items 11 and 12.

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Motion by Council Member Catotti seconded by Council Member Brown to settle the agenda for the October 7, 2013 City Council Meeting as stated by the City Manager.

The motion was approved by a vote of 6/0 at 3:03 p.m.

Closed Session – 3:05 p.m.

Motion by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to go into closed session regarding Eric Daniels vs. City of Durham and Hope Allen vs. City of Durham, pursuant to G.S. 143.318.11(a)(3).

The motion was approved by a vote of 6/0 at 3:05 p.m.

Open Session – 3:20 p.m.

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

The motion was approved by a vote of 6/0 at 3:20 p.m.

The council held a discussion on citizens' matters and other citizens requesting to be heard on those items.

Mayor Pro Tempore Cole-McFadden requested that the attorney review the council procedures regarding citizens signing up to speak at work sessions (specifically citizens requesting to be heard on other citizens' matters) and work out the details to resolve this matter.

For clarification, City Attorney Baker said from what I am hearing council does not want citizens to speak on items placed on the agenda at the request of another citizen.

Several members of council noted that is correct.

Mayor Bell encouraged the members of the city council, if possible, to attend the Human Relations Commission meeting scheduled for Tuesday, October 1, 2013 at 7:00 p.m.

There being no further business to come before the council, the meeting was adjourned at 3:27 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk