

**DURHAM, NORTH CAROLINA
MONDAY, OCTOBER 21, 2013
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor William V. 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, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation followed by the pledge of allegiance led by Mayor Pro Tempore Cole-McFadden.

Mayor Bell read a proclamation designating October 24, 2013 as Food Day which was presented to Kelly Stack, Holistic Health Practitioner.

Also, a presentation was made by the Mayor Bell, City Manager Bonfield and Strategic Initiatives Manager Jay Reinstein regarding the City of Durham receiving the Certificate of Excellence Award for their superior performance management efforts from the International City/County Managers Association. Several departments and their staff were recognized for their efforts regarding this award.

Mayor Bell announced that Durham ranked 4th as the Best Place to Live and Work by Livability.com.

Council Member Schewel announced the top finishers in the 2nd Annual Schewel Challenge and thanked everyone who participated in the 5-K Run.

[Excuse Mayor Pro Tempore Cole-McFadden]

Mayor Pro Tempore Cole-McFadden asked to be excused from the meeting after action was taken on the Consent Agenda.

MOTION by Council Member Catotti seconded by Council Member Schewel to excuse Mayor Pro Tempore Cole-McFadden from the Council Meeting after the Consent Agenda was approved at 7:14 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.

Mayor Bell asked for priority items by the City Manager, City Attorney and City Clerk. There were no priority items.

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Mayor Bell explained that the Consent Agenda is approved with a single motion and items pulled from that agenda by any citizen or council member will be discussed at the end of the agenda. Consent Agenda Item # 2 was pulled by a citizen, Dorothy Croom.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:15 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.

[CONSENT AGENDA]

SUBJECT: Resolution Requesting the Release of Certain DPAC Premises and Authorizing the Execution and Delivery of a Notice of Extension to the DPAC Deed of Trust to Extend the Lien to Additional Property

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt a Resolution Requesting the Release of Certain Premises Related to an Installment Purchase Contract and Authorizing the Execution and Delivery of a Notice of Extension to the Deed of Trust Related Thereto in Order to Extend the Lien to Additional Property; and

To authorize the City Manager to approve and/or execute all project related property transactions, instruments and agreements required pursuant to the approved development agreement and adopted resolution including, but not limited to, termination and release of dumpster easement, new dumpster easement, easement for maintenance of mechanical equipment, one building agreement, the easement for cross access, the easement(s) for footings, the easement for utilities, deeds for fee parcels, deed(s) for air rights, stormwater cross access and utility easement(s), easement(s) for stormwater drainage, termination of 9 ft. cross access easement (in East Deck), new cross access easement (in East Deck) and the temporary construction easement(s) was approved at 7:15 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.

Resolution #9876

SUBJECT: Utility Extension Agreement with Helen M. Ellison to Serve 7227 Fayetteville Road

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to enter into a utility extension agreement with Helen M. Ellison to serve 7227 Fayetteville Road was approved at 7:15 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.

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SUBJECT: Memorandum of Agreement - North Carolina Floodplain Mapping Program – Federal Emergency Management Agency Flood Insurance Rate Map Updates

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute the Memorandum of Agreement with the North Carolina Floodplain Mapping Program and to pay, under such agreement, and additional letters implementing such agreement, an amount of up to \$160,000.00 for capital expenses associated with the update of flood studies and mapping as specified in the agreement was approved at 7:15 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: Watershed Protection and Community Park Development - Southview Land Purchase – Durham County

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to approve an option for the fee simple acquisition of +/- 134 acres of undeveloped land from the Trust for Public Land, identified as a portion of existing Parcel ID 194086, for a purchase price of \$450,000.00 with the option to be exercised only if Durham County approves participation in the purchase and appropriates \$200,000.00;

To authorize the City Manager to sell under the authority of NCGS 160A-274 and either the Mayor or the City Manager to convey by deed, 104 acres of the 134 acres to Durham County for \$200,000.00 subject to an interlocal agreement that details the City-County relationship; and

To adopt an Ordinance amending the Water and Wastewater Capital Improvement Project Ordinance, Fiscal Year 2013-2014, the same being Ordinance # 14465, for the purpose of adding funding in the amount of \$450,000.00 for the Watershed Protection – Southview Property project was approved at 7:15 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.

Ordinance #14515

SUBJECT: Designation of Voting Delegate - National League of Cities Congress of Cities and Exposition, November 13-16, 2013, Seattle, Washington

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to appoint Mayor Pro Tempore Cora Cole-McFadden as a voting delegate to attend the National League of Cities Annual Business Meeting on Saturday, November 16, 2013 was approved at 7:15 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.

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The City Council disposed of the following agenda items at the October 10, 2013 Work Session:

1. Durham Housing Authority Board of Commissioners - Appointment
(This item was referred back to the City Clerk's Office for Re-advertising)

To appoint a citizen to fill one (1) vacancy on the Durham Housing Authority Board of Commissioners with the term to expire on September 28, 2018.

7. Raleigh-Durham Airport Authority
(A report was received at the 10-10-13 Work Session)

To receive an annual report on the State of Affairs of Raleigh-Durham Airport Authority/RDU International Airport.

8. Durham Performing Arts Center (DPAC) Oversight Committee Annual Report
(A report was received at the 10-10-13 Work Session)

To receive the Durham Performing Arts Center (DPAC) Oversight Committee Annual Report.

10. Timothy Ferry
(Citizen did not appear at the 10-10-13 Work Session)

To receive comments from Timothy Ferry regarding tenant's protection.

11. Joe Bowser
(Citizen did not appear at the 10-10-13 Work Session)

To receive comments from Joe Bowser regarding police misconduct and its lack of response to a complaint he filed.

[GENERAL BUSINESS AGENDA - PUBLIC HEARING]

SUBJECT: Durham Traffic Separation Study (TSS)

To conduct a public hearing to receive citizens' comments on the Durham Traffic Separation Study (TSS).

Transportation Director Mark Ahrendsen stated the Draft Traffic Separation Study is a collaborative effort by the City of Durham, NCDOT, Triangle Transit and Norfolk & Southern

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Railway. The study was prepared over the past two years, with extensive public engagement, to evaluate and recommend safety and mobility improvements at 18 different railroad crossings in Durham. He reported the notice of tonight's hearing was advertised on multiple dates in the local print media, distributed via the City's PAC list serves, and reported by the media in several news articles. The full report is available for public review on the City's website and hard copies of the report are available for review in the City's Transportation Department located in City Hall, and at the NCDOT Division 5 Office located at 2612 N. Duke Street.

He noted after the public hearing, staff is recommending that the City Council receive comments and refer them to the administration and study team for review, response and consideration in the development of the final report recommendations. The final recommendations will be considered by Council at a future meeting. He noted the comment period on the study will remain open through November 18 and comments submitted through last Wednesday have been provided as an attachment to the Council. He asked that these and all other comments submitted by November 18th be included as a part of the public record.

He stated at the October 10th Work Session, City Council received a detailed presentation on the Traffic Separation Study (TSS) and a shortened version of the presentation will now be presented by Matt West of Kimley-Horn and Associates, the consulting firm that prepared the TSS traffic engineering evaluation. Also, he introduced participants [NCDOT, TTA and others] that have been involved with developing this study.

Matt West, of Kimley-Horn & Associates, gave a power point presentation on the Durham Traffic Separation Study [TSS] which is a joint study between the City of Durham, NCDOT, Triangle Transit, and Norfolk Southern Railway highlighting the following:

Durham Study Limits

- 18 at-grade crossings
- 2 grade-separated crossings
- 1 proposed crossing
- Neal Road to Cornwallis Road
- Divided into three sections
 - West Section: Neal Road to Buchanan Boulevard
 - Downtown Section: Gregson Street to Driver Street
 - East Section: Ellis Road to Cornwallis Road

Durham Traffic Study Sections 1, 2 and 3

Safety Improvements Considered – Near Term, Mid-Term and Long-Term

Near-Term (2-5 years)	Mid-Term (5-7 years)	Long-Term (more than 7 years)
Upgraded Crossing Safety Equipment	Gates and Flashers	Grade Separations
Signs and Pavement Markings	Roadway Traffic Signals	Crossing Closures

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Medians and Barriers	Medians and Barriers	Pedestrian Grade Separations
Bike and Pedestrian Improvements		

Outreach Efforts – Council Work Session, Stakeholder Meetings, Public Improvement Project Ranking – Data Factors, Environmental Factors and Stakeholder Input Long-Term Alternative Ranking

Crossing	Section	Alternative	Rank
Blackwell, Mangum, and Roxboro Streets	Downtown	Grade Separation	1
Ellis Road West	East	Grade Separation	2
S. Dillard Street	Downtown	Close Crossing (Construct Pedestrian Underpass)	3
Ramseur Street	Downtown	Close Crossing (Construct Pedestrian Underpass)	4
Cornwallis Road	East	Grade Separation	5
Briggs Avenue	Downtown	Grade Separation	6
Ellis Road East	East	Grade Separation	7
Plum Street	Downtown	Close Crossing (Construct Pedestrian Underpass)	8
N. LaSalle Street	West	Grade Separation	9
Fayetteville Street	Downtown	Grade Separation	10
Glover and Wrenn Roads	East	Grade Separation at Glover Road and Close Wrenn Road	11
Neal Road	West	Grade Separation	12

Mayor Bell opened the public hearing.

Terry Rekeweg, a resident of Raleigh, proposed a revision to the Durham-Orange Light Rail Projects. He stated the proposed light rail would eliminate 18 new railroad crossings just through revising the middle portion of the light rail alignment. He provided Council with a handout entitled Proposed Revised Alignment – Summary of Improvements.

Geoff Durham, representing Downtown Durham, Inc., stated that DDI fully supports the short-term alternatives and the identification of funding to continue work on low cost upgrades which

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would improve the safety and aesthetics of the downtown crossings. He made comments regarding the top priority given to Blackwell, Mangum and Roxboro crossings for further study of long term alternatives; however, they request an expansion of the list to include Dillard, Ramseur and Duke Streets. He spoke against the Dillard Street crossing. He stated when the redevelopment of the two car dealerships takes place with large scale mixed-used developments, the Dillard Street crossing will be an important part in maintaining connectivity on the eastern end of the downtown. He said that DDI supports moving forward by adopting the traffic separation study in order to be in a position to pursue further funding, but without necessarily endorsing the specific proposed long-term alternatives.

Dan Jewel, representing Durham Area Designers [DAD], referenced the work done by DAD on this item. He stated the engineering efforts and analysis that comprise the TSS are important, but it is only part of a now critical comprehensive look that is needed to the impacts of the proposed grade separations and street closings. He stated we need to study in much more detail the urban design impacts such as aesthetics, the pedestrian experience, effects on local businesses, economic impact and social justice issues.

Randy Hester, representing DAD, made comments on the downtown investment for improvements that have taken place on Main Street, the downtown section and American Tobacco and it is dependent not only for vehicular traffic, but for pedestrian traffic to be able to eat downtown. He stated this plan as proposed is far worse than the existing situation. He showed Council an illustration that would create a concrete channel along Main and Blackwell Streets/Ramseur, retaining wall along Pettigrew Street/Vivian. He asked Council to reject this proposal and request alternatives that clearly articulate the pedestrian and car experience and the cost so that they can be evaluated by civic criteria.

Eric Heidt, representing DAD, stated he supports the short-term and mid-term solutions presented in the study. He referenced issues with the Ellis Road West crossing referencing issues with the scheme, cost vs. benefits, East End Connector and neighborhood impacts. He stated that we need to go back to the drawing board to better serve Durham.

Robyn Heeks, representing DAD, stated the Traffic Separation Study is weakest in clearly defining the problem that it seeks to solve and without a clear definition of the problem you run into with the potential of creating more problems with the solution than you solve. She made comments regarding the study's preamble which does not mention larger urban questions such as, scale, aesthetics, and economic and social impacts. She stated the study neglects other factors that influence safety and congestion such as streetscape design, way finding and perceptions of safety and may create new problems: pedestrian inhospitable tunnels, underpasses and closures, a new form of isolation that separates the City that we have all worked so hard to create connections and transparency; scale issues where retaining walls and bridge structures will dwarf or demolish streetscape and homes; and urban design issues where walls block sight lines that help connect and unify the city.

Doug Osborn, representing CDJ Properties, LLC, spoke against the Dillard Street crossing. He stated this will put a damper on downtown redevelopment such as walking and traffic..

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Deputy County Manager Lee Worsley made comments on the Traffic Separation Study and potential impacts on the County government operations. He stated street closings would have an impact on EMS response time and services and they welcome the opportunity to meet with members of the team to discuss the locations of EMS stations. Also, he expressed a concern with the Dillard Street crossings which is located adjacent to the County's General Services Department which provides building and grounds maintenance services for all County buildings. The Dillard Street crossing is an important connection between the Human Services Building, General Services and the Court House as well as other major County facilities in close proximity to General Services.

Gwen Silver commented on various studies done of Northeast Central Durham. She expressed a concern with closings having an impact on vehicular traffic and urged Council to not consider closing several streets [Plum, Ramseur and Blackwell] since this will divide this already struggling community.

James Chavis expressed a concern with closing streets in his area that would cause congestion and said he would like to know why this is being proposed. He asked Council to postpone this study and make a better suggestion because we need our street crossings for pedestrian and vehicular traffic to help stop congestion.

Robyn Heeks made additional comments stating our problems can be avoided with studying possible design solutions. Also, she stated if grade separations are needed, they need to be studied on a landscaped level. She offered alternatives such as elevated bio-duct and rail channels. She asked that more time be taken to offer solutions that keeps the City integrated, keeps all existing roads open because we do not want to create new isolation or fragmentation and would like for the study to look at systematic solutions for connecting these grades.

Mayor Bell closed the public hearing.

Council Member Brown thanked everyone for coming out and expressing their concerns. He stated that he would like to see and hear what the alternatives are. He would like to see the other plans and alternative that the DAD representatives can present as well. He noted he was troubled by this study.

Transportation Director Mark Ahrendsen addressed the timeline. He stated there are details to be worked out as it relates to the grade separation and the scale issues. He stated staff is recommending that they review comments heard tonight, take them into consideration as they develop the final recommendation to bring back for Council consideration.

Mayor Bell made comments on what is driving this issue referencing the downtown that is beginning to develop and continuing to develop, a downtown divided by railroad corridor, a downtown that anticipates the possibility of light rail and commuter rail coming through it, and traffic patterns will not get any better if we do nothing. He stated he did not expect that this study tonight would be the solution, but a starting point for discussion. He noted the issue of money [how much this would cost and where we get the money to pay for it] has not been discussed.

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Council Member Moffitt stated he would feel more comfortable if alternatives were broader in terms of the urban fabric. He asked if consideration was given to lowering and raising the tracks rather than at each crossing raising or lowering the streets in the separation study.

Matt West, representing Kimley Horn & Associates, replied yes and discussed the one criterion they used throughout the project commenting on the horizontal and vertical changes. He addressed how they arrived at the option of closures and grade separations.

Council Member Schewel asked the consulting firm questions regarding the study and how it relates to the public comments heard tonight, and third level of funding recommendations.

Matt West, representing Kimley Horn & Associates, stated this report will take the City to a point that allows them to make a decision to spend money to further study a crossing. In terms of funding, he reported that they do not know where the funding is coming from at this point and timeframe.

Council Member Schewel made comments regarding recommendations in the study. He shared his opinion on what is driving this issue. He felt that it is rail freight and Norfolk-Southern's desire to have their trains go through here quickly--wanting two tracks to go through Durham where they now have one. He stated our community would like to have a reasonable price for the Duke Beltline, bike and pedestrian improvements. If we want to give N/S what they want and some of the things are important for us as well, but there needs to be a discussion with community involvement and receiving a response from Norfolk/Southern that is important to us and the TTA rail alignment is important as well.

Council Member Schewel stated the community's desires need to be considered just as strongly as N/S's desires. He made comments on the new state highway funding system and statewide tier funding is for freight only. He stated that he would like to get the central downtown crossings into the State scoring system and would like to do this without committing to street closings and with the ability to do detailed studies of these crossings discussed tonight. He felt that if we could get into the scoring stream, the city would have a chance on getting some of the things funded. He said if we do not get into the State's scoring system, we would never be able to solve any solutions.

Council Member Catotti stated this is an important first step and when this item comes back to Council maybe by December that we would move the process along and allow us to move forward for a future feasibility study. Also, she stated when this item comes back-- Council may look at accepting the report as opposed to an endorsement of particular recommendations.

Council Member Brown said according to the Secretary of N. C. Department of Transportation, our population is increasing at a rate that does not meet up with our budget for what is needed to be done in this state for a viable transportation system and transportation funds are less due to receiving less gasoline taxes because cars are fuel efficient. He stated he is not looking for the necessary funds from the federal or state governments that are needed to put this proposal on the map. He made comments on discussions that have not taken place yet such as the budget implications, what's a fair approach to Norfolk/Southern payment vs. Durham taxpayers he asked.

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He stated that he would not support closing any sites mentioned and what's coming down the pike is less funds to maintain what we currently have now. He suggested that we first must support what is already in existence and to do less is a disservice to the community and state.

Council Member Schewel referenced the importance of moving parts of this proposal towards the statewide scoring system due to the lack of funding for light rail and commuter rail. He made comments on the three tiers of the state transportation funding—the largest tier being statewide funding which funds freight, but does not fund light rail or commuter rail. He stated one of the ways to get the corridor funded is to get state funding for the freight. If we can get into the scoring stream with the idea that we will be reviewing each issue individually with no commitments to closing anything will advance our community's goals in terms of the light rail and commuter rail.

When this item comes back to Council, Mayor Bell asked staff to provide recommendations on the short-term projects outlined in the study.

MOTION by Council Member Schewel seconded by Council Member Catotti to refer this item (Durham Traffic Transportation Study) back to the administration to review comments received and to bring a report back to Council was approved at 8:27 p.m. by the following vote: Ayes: Mayor Bell and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Excused Absence: Mayor Pro Tempore Cole-McFadden. Absent: Council Member Clement.

[ITEM PULLED FROM CONSENT AGENDA]

SUBJECT: LIABILITY CLAIMS SETTLEMENT AUTHORITY DELEGATION

Dorothy Croom raised a concern that she was not able to present her case to the Development Review Board and Board of Adjustment regarding concerns with the proposed Southpoint Sprint Tower.

Mayor Bell indicated that Ms. Croom's concern was not related to this item.

MOTION by Council Member Moffitt seconded by Council Member Brown to adopt a Resolution providing for the Handling of Claims; and

To authorize the City Manager to compromise or settle claims against the City and its officers and employees; and authorizing tolling agreements with respect to claims by or against the City and its officers and employees was approved at 8:32 p.m. by the following vote: Ayes: Mayor Bell and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Excused Absence: Mayor Pro Tempore Cole-McFadden. Absent: Council Member Clement.

Resolution #9875

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Mayor Bell reminded the council of the special meeting scheduled on Thursday, October 24, 2013 at 10:30 a.m. to discuss Durham's downtown vision.

There being no further business to come before the City Council, the meeting was adjourned at 8:33 p.m.

Linda E. Bratcher, CMC
Deputy City Clerk

D. Ann Gray, MMC, NCCMC
City Clerk