

**DURHAM, NORTH CAROLINA
MONDAY, FEBRUARY 17, 2014
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 Diane Catotti, Eddie Davis, Don Moffitt and Steve Schewel. Excused Absence: Council Member Eugene Brown.

Also present: City Manager Thomas 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 Council Member Davis.

[EXCUSED ABSENCE – COUNCIL MEMBER EUGENE BROWN]

MOTION by Council Member Catotti seconded by Council Member Schewel to excuse Council Member Brown from the City Council Meeting was approved at 7:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

Mayor Pro Tempore Cole-McFadden announced that the Human Relations Awards Ceremony will be held Friday, February 21, 2014 at 6:00 p.m. in the Hayti Heritage Center.

Council Member Moffitt expressed his appreciation to all City workers who worked during inclement weather making the City safe.

Mayor Pro Tempore Cole-McFadden asked that the City's severe weather policy for City employees coming to work be reviewed at some juncture.

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

Regarding Consent Agenda Item # 3 [Roadside Solicitation], City Attorney Baker informed Council that his office has to make a revision regarding soliciting on a one-way street from the driver's side of the car. He gave Council the option of referring this item back to the City Attorney's Office or moving forward tonight with an amendment presented at the Work Session. He stated the ordinance would not go into effect until 30 days after its passage.

Mayor Pro Tempore Cole-McFadden asked that this item be referred to the February 20, 2014 City Council Work Session in order to share information regarding the impact on residential areas specifically in Springfield, Missouri in terms of protecting people who live close to streets where individuals are soliciting.

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There were no priority items by the City Manager and City Clerk.

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 #3 [Roadside Solicitation] was pulled.

MOTION by Council Member Moffitt seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Moffitt seconded by Council Member Catotti to approve City Council minutes for the December 16, 2013 City Council Meeting, December 19, 2013 City Council Work Session, January 6, 2014 City Council Meeting and January 9, 2014 City Council Work Session was approved at 7:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

SUBJECT: BID REPORT DECEMBER 2013

MOTION by Council Member Moffitt seconded by Council Member Catotti to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of December 2013 was approved at 7:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

Date: January 21, 2014

To: Thomas J. Bonfield, City Manager

Through: Wanda S. Page, Deputy City Manager

**From: David Boyd, Finance Director
Sue Sandhoff, Financial Operations Manager**

Subject: Bid Report – December 2013

Recommendation

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of December 2013.

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4. **Bid:** **Bioxide Odor and Corrosion Control Solution**

Purpose of Bid: To provide the Department of Water Management with Bioxide solution for control of odors and corrosion at lift station locations throughout the City of Durham.

Comments: Bioxide ® is a registered trademark of Siemens Water Technologies, the sole source provider for the Bioxide solution.

15,200 gallons @ \$2.10/each

Opened: November 21, 2013

Bidders: Siemens Water Technologies LLC \$31,920.00

*Award based on: _____ Low Bid X Other (See Comments) _____

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	4		# Black Males	0	0%
Total # Females	1	25%	# White Males	3	75%
Total # Males	3	75%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	1	25%
			# Other Females	0	0%

5. **Bid:** **DFD Modular Live Fire Modular Training Structure**

Purpose of Bid: To provide a Modular Live Fire Training Structure, to include delivery, installation and training.

Comments: Training Structure bid was publicly advertised on City of Durham Purchasing web page and notification was made to six vendors/suppliers of like structures. Fire Training Structures was the only responsive, responsible bidder.

Opened: November 5, 2013

Bidders: Fire Training Structures, Phoenix, AZ \$299,807.00
American Fire Training Systems, Lockport, IL No Bid

*Award based on: _____ X Low Bid _____ Other (See Comments) _____

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based on: _____

**WORKFORCE STATISTICS
CORPORATION STATISTICS**

Total Workforce	321		# Black Males	81	25%
Total # Females	53	17%	# White Males	167	53%
Total # Males	268	83%	# Other Males	20	6%
			# Black Females	7	2%
			# White Females	46	14%
			# Other Females	0	0%

9. Bid: Toyota Tacoma 4 x 4 Extended Cab 2014

Purpose of Bid: To provide the Water Management Department, Engineering Division with a 4 x 4 extended cab truck.

Comments: Fred Anderson Raleigh LLC is the 2013-2014 State Contract (070G) supplier for this truck model.

Opened: December 6, 2013

Bidders: Fred Anderson Raleigh LLC, Raleigh, NC \$24,553.06

*Award based on: _____ Low Bid Other (See Comments)

**WORKFORCE STATISTICS
CORPORATION STATISTICS**

Total Workforce	488		# Black Males	72	15%
Total # Females	107	22%	# White Males	280	57%
Total # Males	381	78%	# Other Males	29	6%
			# Black Females	11	2%
			# White Females	88	18%
			# Other Females	8	2%

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10. Bid: Toyota Tacoma 2 x 4 Extended Cab 2014
 Purpose of Bid: To provide the City-County Inspections Department with an extended cab truck.
 Comments: Fred Anderson Raleigh LLC is the 2013-2014 State Contract (070G) supplier for this truck model.
 2 trucks @ \$20,558.60 each
 Opened: December 4, 2013
 Bidders: Fred Anderson Raleigh LLC, Raleigh, NC \$42,305.20

*Award based on: _____ Low Bid X Other (See Comments) _____

**WORKFORCE STATISTICS
 CORPORATION STATISTICS**

Total Workforce	488		# Black Males	72	15%
Total # Females	107	22%	# White Males	280	57%
Total # Males	381	78%	# Other Males	29	6%
			# Black Females	11	2%
			# White Females	88	18%
			# Other Females	8	2%

11. Bid: Toyota Tacoma 2 x 4 Regular Cab 2014
 Purpose of Bid: To provide the Water Management Department, Customer Billing Services Division with a regular cab truck.
 Comments: Fred Anderson Raleigh LLC is the 2013-2014 State Contract (070G) supplier for this truck model.
 Opened: December 4, 2013
 Bidders: Fred Anderson Raleigh LLC, Raleigh, NC \$18,577.00

*Award based on: _____ Low Bid X Other (See Comments) _____

**WORKFORCE STATISTICS
 CORPORATION STATISTICS**

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MOTION by Council Member Moffitt seconded by Council Member Catotti to authorize the City Manager to execute a contract with Fulcher Electric of Fayetteville, Inc. in the amount of \$219,726.75 for the installation of a mast arm traffic signal at Martin Luther King, Jr. Parkway and Archdale Drive and the installation of fiber optic communications cable along the Martin Luther King, Jr. Parkway corridor;

To establish a project contingency fund in the amount of \$32,959.01; and

To authorize the City Manager to negotiate change orders to the project provided the cost of the contract, including all change orders, does not exceed the total project cost of \$252,685.76 was approved at 7:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

SUBJECT: AGREEMENT WITH NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT) FOR SECTION 5303 METROPOLITAN PLANNING PROGRAM GRANT

MOTION by Council Member Moffitt seconded by Council Member Catotti to authorize the City Manager to execute an agreement with NCDOT for the disbursement and accounting of FY2014 FTA Section 5303 Metropolitan Planning Program Grant funds in the amount of \$248,463.00 was approved at 7:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

SUBJECT: AGREEMENT BETWEEN CIVICA SOFTWARE AND THE CITY OF DURHAM FOR THE REDEVELOPMENT OF THE DURHAM-CHAPEL HILL-CARRBORO METROPOLITAN PLANNING ORGANIZATION (DCHC MPO) WEBSITE

MOTION by Council Member Moffitt seconded by Council Member Catotti to authorize the City Manager to execute an agreement with Pixelpushers, Inc. DBA Civica Software for the development of the DCHC- MPO website in the amount not to exceed \$74,890.00 was approved at 7:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

SUBJECT: NORTH DURHAM WATER RECLAMATION FACILITY ROOF REPLACEMENT - CURTIS CONSTRUCTION, INC.

MOTION by Council Member Moffitt seconded by Council Member Catotti to authorize the City Manager to execute a contract with Curtis Construction, Inc. for the North Durham Water Reclamation Facility Roof Replacement Contract for \$328,985.00;

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To establish a contingency fund for the contract in the amount of \$33,015.00; and

To authorize the City Manager to negotiate change orders for the contract provided that the contract price, including all change orders, does not exceed the total project of \$362,000.00 was approved at 8:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

The City Council disposed of the following agenda items at the February 6, 2014 Work Session:

10. Durham Convention Center Annual Performance Results for Fiscal Year Ending June 30, 2013

(A presentation was received at the 02-06-14 Work Session)

To receive a presentation on the Durham Convention Center Annual Performance for Fiscal Year 2012-2013.

11. West Ellerbee Creek Trail-Phase II Status Update

(A presentation was received at the 02-06-14 Work Session)

To receive a presentation on the West Ellerbee Creek Trail – Phase II project status.

12. Impact Fee Appeal - Phillips Research Park Apartments

(This item was initially deferred to the March 3, 2014 City Council Meeting; however, the applicant's legal counsel made a subsequent request to the Administration to conduct the public hearing at the March 17, 2014 City Council Meeting.)

To conduct a public hearing and receive comments on the assessment of impact fees for Phillips Research Park Apartments; and

To confirm the impact fees assessed by City staff against the Phillips Research Park Apartments because City Council concludes and finds as fact that the City of Durham Code sections 30-81 et. seq. have been correctly applied to the Phillips Research Park Apartments project.

15. John Tarantino

(Comments were received at the 02-06-14 Work Session)

To receive comments from John Tarantino performing a musical satirical commentary.

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16. Ad Hoc Coalition on Affordable Housing and Transit
(Comments were received at the 02-06-14 Work Session)

To adopt a Resolution by the Durham City Council Supporting Affordable Housing around the Transit Stations and Neighborhood Transit Centers.

[ITEM PULLED FROM CONSENT AGENDA]

SUBJECT: ROADSIDE SOLICITATION

To adopt an Ordinance to Modify Restrictions on Sales and Solicitations in the Street Right-of-Way; and

To adopt an Ordinance to Restrict Unwanted Contact with and Intrusion into Occupied Vehicles on Roadways.

Rev. Carolyn Schuldt, representing Open Table Ministry, stated there are many people suffering as a result of this ordinance. Also, she expressed concern with several postponements of modifying ordinance and asked Council to come to some consensus showing some mercy to individuals who depend on soliciting.

Victoria Peterson raised a concern with person soliciting for money on street corners and with a lot of this activity happening in the African American business district.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to refer this item to the February 20, 2014 City Council Work Session was approved at 7:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

[GENERAL BUSINESS AGENDA]

SUBJECT: GROUND LEASE AGREEMENT BETWEEN CPGPI REGENCY ERWIN AND THE CITY OF DURHAM

To authorize the City Manager to execute a Ground Lease Agreement with CPGPI Regency Erwin, LLC for a surface parking lot on Ninth Street pursuant to the terms of the Ground Lease Agreement, which include with a commencement date of March 1, 2014 and monthly lease a primary term of 63 months at an initial monthly base rent payments of \$6,875.00 beginning June 1, 2014; and

To adopt an Ordinance to change parking fees imposing a rate of \$1.00 per hour effective June 1, 2014 to park in the Ninth Street lot between the hours of 8:00 a.m. to 7:00 p.m., Monday through Friday.

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Transportation Manager Mark Ahrendsen briefed Council on the ground lease agreement for a parking lot on Ninth Street and the ordinance to impose a \$1 parking fee to park in that lot. He stated there were questions raised at the Work Session about making improvements to the lot before the City begins paying the lease payments and charging. After discussions with property owner— he stated they are willing to delay commencement of the lease payments until June 1st. He reported that the lease agreement would be effective March 1, 2014 and lease payments as well as ordinance would be effective June 1, 2014. He informed Council that other concerns [employee parking on Ninth Street, Alley 8, connecting Iredell to Ninth Street and the grant program for 9th Street business owners] raised are addressed in the staff memorandum. He stated that they will continue to work with merchants on employee parking, the managers will continue to work with Duke University on a timeline and plan for improvements to Alley 8 and the Office Economic and Workforce Development will bring forth recommendations on a grant program in April 2014.

Mark Ahrendsen responded to questions raised by Mayor Bell. He stated the City will pay for the milling, but the developer will do the work as well as put out the contract. He stated the developer is responsible for milling, resurfacing and striping the parking lot with reimbursement from the City in an amount not to exceed \$30,000. He also gave an overview of pay station to be installed on Ninth Street which will allow the extension of time and cell phone capability.

Council Member Moffitt asked staff to make certain when working with the 9th Street merchants that all merchants in the zone are included and that Tom Campbell's listing of potential parking areas will be taken into consideration. In addition, he asked staff to provide Council with a status report in 45 or 90 days to see how things are progressing.

MOTION by Council Member Schewel seconded by Council Member Davis to authorize the City Manager to execute a Ground Lease Agreement with CPGPI Regency Erwin, LLC for a surface parking lot on Ninth Street pursuant to the terms of the Ground Lease Agreement, which include with a commencement date of March 1, 2014 and monthly lease a primary term of 63 months at an initial monthly base rent payments of \$6,875.00 beginning June 1, 2014; and

To adopt an Ordinance to change parking fees imposing a rate of \$1.00 per hour effective June 1, 2014 to park in the Ninth Street lot between the hours of 8:00 a.m. to 7:00 p.m., Monday through Friday was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

Ordinance #14576

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: DURHAM-MORRISVILLE ANNEXATION AGREEMENT

To conduct a public hearing to receive comments on the Durham-Morrisville Annexation Agreement; and

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To adopt an Ordinance Authorizing the Mayor to Execute a Revised Annexation Agreement between the City of Durham and the Town of Morrisville.

Patrick Young, of the City/County Planning Department, certified that all City/County Planning Department public hearing items on the agenda tonight have been properly advertised in accordance with law and affidavits are on file with the department. Mr. Young stated that this item is a requested revision to the existing 1997 annexation agreement between the City of Durham and the Town of Morrisville and the agreement covers the area of southeastern Durham County and northwestern Wake County where the municipal boundaries of Durham and Morrisville meet. He reported the requested change to this agreement would remove approximately 7 acres of property from the City of Durham's annexation area and place it within the Town of Morrisville's annexation area. This property is known as the "O'Briant property" and is part of a larger development proposal located within Wake County and the existing town limits of Morrisville. He stated City staff evaluated this request and determined that this property would be costly and difficult to serve with City of Durham municipal services. He referenced that the proposed amended agreement was reviewed by the departments of Water Management, Public Works and Finance and no detrimental impacts were identified to the long-term interests of the City. He stated staff recommends approval of the revised agreement, effective April 1, 2014.

Mayor Bell opened the public hearing.

Patrick Byker, representing the applicant, spoke in support of this item and stated that he was present to answer questions.

Patrick Young, of the City/County Planning Department, responded to a question raised by Council Member Schewel about the implication for any possible future City/County merger. He stated that he could not fully address question. Mr. Young commented that there are other areas within the Town of Chapel Hill, City of Raleigh and Morrisville that are in Durham County and if there was a future City/County merger, this agreement would be part of negotiations.

No one spoke against this item.

Mayor Bell closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to receive comments on the Durham-Morrisville Annexation Agreement; and

To adopt an Ordinance Authorizing the Mayor to Execute a Revised Annexation Agreement between the City of Durham and the Town of Morrisville was approved at 7:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

Ordinance #14577

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**SUBJECT: CONSOLIDATED ANNEXATION ITEM - FARRINGTON ROAD
BAPTIST CHURCH - PARKWOOD VOLUNTEER FIRE DEPARTMENT**

To conduct a public hearing to receive comments on the Consolidated Annexation Item – Farrington Road Baptist Church;

To authorize the City Manager to enter into a water extension agreement with LRC V, LLC;

To adopt an Ordinance Annexing Farrington Road Baptist Church into the City of Durham effective March 31, 2014;

To authorize the City Manager to make a one-time debt service payment to the Parkwood Volunteer Fire Department;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Residential Rural (RR) zoning for the property; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Recommendations: Staff recommends that the City Council approve the Utility Extension Agreement, Voluntary Annexation Petition and Initial Zoning.

Patrick Young, of the City/County Planning Department, briefed Council on the staff report. He stated that this is a voluntary annexation, utility extension, and initial zoning request submitted on behalf of Farrington Road Baptist Church. He stated applicants are requesting annexation of approximately 8 acres of property located at 6804 Farrington Road. The initial zoning designation request is for Residential Rural (RR) zoning, which is the same as the present County zoning designation. He reported that this zoning designation would allow the Church to seek a minor special use permit to develop an approximately 24,000 square foot place of worship on this site, if approved by the Board of Adjustment. He stated a utility impact analysis was performed by Public Works Department and they determined that utility service is adequate to serve the proposed development. He noted a fiscal impact analysis was performed by Budget and Management Services, which indicated that the proposal will be revenue-positive. He stated staff is recommending approval of this request.

Mayor Bell opened the public hearing.

Tom Stark, representing parties involved with annexation, made comments in support of this request.

Patrick Young, of the City/County Planning Department, explained how sales tax and other revenues are calculated at the request of Council Member Schewel.

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Council Member Schewel commented on the sales tax calculation and felt that a church was unlikely to generate this much revenue.

No one spoke against this item.

Mayor Bell closed the public hearing.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Schewel to receive comments on the Consolidated Annexation Item – Farrington Road Baptist Church;

To authorize the City Manager to enter into a water extension agreement with LRC V, LLC;

To adopt an Ordinance Annexing Farrington Road Baptist Church into the City of Durham effective March 31, 2014;

To authorize the City Manager to make a one-time debt service payment to the Parkwood Volunteer Fire Department;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Residential Rural (RR) zoning for the property; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 7:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Council Member Brown.

Ordinance #s 14578 and 14579

There being no further business to come before the City Council, the meeting was adjourned at 7:34 p.m.

Linda E. Bratcher, CMC
Deputy City Clerk

D. Ann Gray, MMC, NCCMC
City Clerk