

DURHAM CITY COUNCIL WORK SESSION
Thursday, August 7, 2014 @ 1:00 p.m.
2nd Floor Committee Room – 101 City Hall Plaza

Present: Mayor William V. “Bill” Bell, Mayor Pro Tempore Cora Cole-McFadden and Council Members Eugene Brown, Diane Catotti, Eddie Davis, Don Moffitt and Steve Schewel. Absent: None.

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. He asked if there were any announcements from the council.

Council Member Brown requested an excused absence from the August 18, 2014 City Council Meeting.

Motion by Council Member Catotti seconded by Council Member Schewel to excuse Council Member Brown from the August 18, 2014 City Council Meeting.

The motion was approved unanimously.

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

City Manager Bonfield asked that Item #24 (Re-Adoption of City/County Emergency Operations Plan) be removed from the agenda. This item will be brought back at a later date.

The City Manager’s items were accepted by the council.

There were no priority items from the City Attorney and City Clerk.

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

Subject: Thalea Lyras

To receive comments from Thalea Lyras regarding relocating piped storm water drainage away from her property.

Ms. Thalea Lyras, a resident of Brookwood Drive, asked the council to permit city relocation of piped storm water drainage away from her property. She said it is currently piped from the street and neighboring properties directly into her private drainage system and said the city does not have an easement to utilize her private drainage system. Ms. Lyras said the pipe leading from the street into her private property inlet has failed and over a period of time has contributed to the complete failure of the 130+ foot terra cotta pipe, which has resulted in extensive soil erosion

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and sinkholes resulting in significant ground level changes. Ms. Lyras asked the city to cease using her private drainage system to pipe storm water through her failed pipe which is contributing exponentially to failure of her home's foundation, or to relocate or reroute the existing drainage system and if the city wishes to continue to use her property for public drainage, the city should obtain an agreeable recorded easement.

Dana Hornkolh, of the Public Works Department, said they have investigated the condition of the system at Ms. Lyras' property several times since July 2013 regarding her concerns, including on-site meetings. He said it appears the system was developed along the same time the house was constructed approximately in 1954 based on city records, and the time it was developed it was not in the city it was within the county and the area was annexed in 1966, which indicated the system was built based on county drainage standards at that time. When that was developed there were no requirements to place storm water requirements in easements. The Durham City Code of Ordinances requires that drainage on private property is to be maintained by property owners. He said the city does have a private drainage system program and staff has evaluated the condition of this system on Ms. Lyras' property to determine if it is eligible and based on the fact that the system's condition is not imminently threatening or currently threatening the home or primary egress or ingress, the system is not eligible for the private drainage system program; however, they have indicated to Ms. Lyras that anytime that condition changes they would be happy to revisit the site and determine if eligibility has changed.

Ms. Lyras stated due to the recent rain, her land has even gone down more, her back property has collapsed under her driveway and if it continues her home/foundation will be encroached upon. She said for her to fix the pipe is not prudent, it is a failed system, it is too long and needs to be rerouted to be more efficient. Ms. Lyras said there are ways to accomplish this if everyone worked together.

The Public Works Department will revisit Ms. Lyras' property and perform another evaluation.

Subject: June Forsyth

To receive comments from June Forsyth requesting an ordinance to prevent the planting and spreading of invasive bamboo.

Ms. June Forsyth requested the city to prepare an ordinance to prevent the planting and spreading of invasive bamboo. She said the bamboo has been classified as a biological pollution in New York, Connecticut and New Jersey. Most of the people plant the bamboo rhizomes in ignorance of its damaging properties she added. Ms. Forsyth said some ordinances say if it is planted it must be 40 feet from any boundary or building, and the owners of a property that has invasive bamboo, are liable if it spreads to an adjacent property.

General Services Director Joel Reitzer said they were in agreement with Ms. Forsyth in terms of the nature of the plant material.

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Kevin Lilly, of the General Services Department, said he has been in conversation with Ms. Forsyth and his staff has been maintaining the bamboo that does occur on rights-of-ways, and said that has been done at a fraction. He referenced the four types of bamboo and noted the running bamboo has the invasive tendency most of it coming in from Asia and Durham probably has it in 50 or 60 neighborhoods and it is extremely pervasive. He said the eradicating of bamboo is typically done by cutting, burning and backhoeing out the root system, but you have to sterilize the soil. Mr. Lilly said the city does have ordinances that address weedy growth and un-kept yards. With the bamboo they have taken steps through the UDO, in the landscape guidelines to prohibit the planting of various types of bamboo particularly yellow bamboo on development properties. They have not taken the steps to prohibit the sale of bamboo in the City of Durham - that would eliminate the product from coming in but does nothing for what is already here. He said in just the Duke University neighborhoods alone, they do not have the staff to address it without first regulating its importation into the City.

City Manager Bonfield said the right-of-way cuttings will continue, and City Attorney Baker said he will research the extent of the city's legal authority to deal with the issue. The City Attorney said he would be surprised if there is some authority available allowing the city to ban the sale of this particular type of bamboo.

Ms. Forsyth said if it going to be sold it should be clearly labeled how invasive and destructive it is and should have at least 30 or 40 feet setback from any property line or building.

Mayor Bell said Ms. Forsyth has brought to his attention something he was not aware of.

Subject: John Tarantino

To receive comments from John Tarantino regarding the budget.

John Tarantino provided a song selection on the FY2014-15 budget that was approved by council on June 16, 2014.

Subject: Mattioli and Associates

To receive comments from Del Mattioli requesting support/endorsement of the Life Bridge Mass Mutual's Free Life Insurance.

Del Mattioli addressed the council requesting their support of the Life-Bridge Mutual Free Life Insurance Program for eligible city employees. She said the insurance was an education-focused, community service program to provide free life insurance to working families who can least afford it, a death benefit to be used solely for education of designated beneficiaries; and a \$50,000 10 year-term life insurance policy on the life of one parent or legal guardian. Also, she referenced how the program worked; the educational choices; and eligibility guidelines.

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Ms. Mattioli said she has already met with the City's Human Resources Department and this program would be an additional benefit to the City of Durham.

Mayor Bell said the Human Resources Department is in receipt of this information; therefore, he would assume they will come back before the council and give their response.

Subject: Durham Services Homeless Advisory Committee – Appointment

To appoint a citizen to fill one vacancy on the Durham Homeless Services Advisory Committee representing Non-Profit Organization with the term to expire on June 30, 2017.

Mayor Pro Tempore Cole-McFadden asked the City Clerk to provide the demographics for the citizens appointed by the city.

Subject: Overtime Follow-Up Performance Audit (June 2014)

The Department of Audit Services completed the Overtime Follow-Up Performance Audit report dated June 2014. The purpose of the audit was to verify if the recommendations proposed in the original Overtime Performance Audit dated March 2013 were implemented by the responsible departments.

Council Member Moffitt questioned why two recommendations were not fully implemented.

Director of Audit Services Germaine Brewington commented on the two recommendations that were not fully implemented which pertained to policies. She said there were issues with the policy workflow; however, the system is up and running now. She said the Human Resources Director plans to speak with the city manager's office next week and the two remaining recommendations should be resolved and implemented.

Council Member Moffitt requested an update in the near future on the remaining two recommendations and when they will be completed.

Director of Audit Services Germaine Brewington replied yes she would provide that update.

Council Member Schewel said this information routinely comes before the Audit Services Oversight Committee and they receive a regular update on how and when those recommendations are being carried out.

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Subject: Utility Extension Agreement with BioMerieux, Inc. located at 150 Akzo Boulevard in Treyburn

BioMerieux, Inc. is requesting to extend the City's water and sanitary sewer systems to serve BioMerieux Line 4 Expansion, a building addition to an existing pharmaceutical manufacturing facility located at 150 Akzo Boulevard in Treyburn Industrial Park and outside the City limits.

The administration is recommending the city council authorize the city manager to enter into a utility extension agreement with BioMerieux, Inc.

Council Member Schewel asked will the improvements to Snow Hill Road pump station enable the city to better serve other present or future customers besides BioMerieux or will it just increase capacity for this one company.

Robert Joyner, of the Public Works Department, said when Treyburn was initially developed it was a 5,550 acre master development and overtime that development has broken up into pieces; etc. He said the infrastructure is to be completed in stages and this particular pump station was a small station and it has reached the end of its useful life. In addition, Mr. Joyner noted the repairs to the pump station are in serious need of repair and said there will be some increase in capacity; however, if there is significant other development in the future, there would need to be future expansions. Mr. Joyner also explained the difference between public and privates lines and the responsibility for upkeep.

Council Member Catotti asked what would it cost to upgrade the pump station.

The administration noted the estimate is around \$400,000 which is just the beginning of the design phase.

Subject: Utility Extension with Angel and Mavelin Orellana to Serve 602 Pleasant Drive (Water Only)

Mr. Angel Orellana and Ms. Mavelin Orellana are requesting a service connection to the City's water system to serve 602 Pleasant Drive, a single-family residence located outside the City limits. The Environmental Health Division of Durham County has verified that the water supply is of unsatisfactory quality.

The Department of Public Works recommends that the City Council authorize the City Manager to enter into a water extension agreement with Mr. Angel Orellana and Ms. Mavelin Orellana.

Council Member Catotti said since this is one parcel away from the city limits, why not annex it.

Robert Joyner, of the Public Works Department, said under the ordinance this particular situation is exempt from the annexation policy because it is a well that has failed due to contamination. He

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said under the ordinance it is not required for the owner to petition council for annexation. Mr. Joyner said they do ask citizens if they are interest in annexation and the vast majority say no.

Subject: City Code Revision of the Right-of-Way Ordinance (Chapter 62, Article II, Division I of the City of Durham Code of Ordinance)

The staff reported referenced that Chapter 62, Article II Construction, Excavation, etc., Division 1 of the City of Durham Code of Ordinances is known as the right-of-way ordinance. This ordinance states that it is unlawful to install private facilities and to construct or repair a street without a permit. The Public Works Department wishes to revise the current Right-of-Way Ordinance to clearly define the work that is allowed to be performed in the public right-of-way, the type of license or franchise, and/or permit required to do the work, and the approval process for the license.

The staff is recommending that the City Council adopt the proposed changes to the Durham City Code, Chapter 62, Article II, Division 1 of the Durham Code of Ordinances.

Robert Joyner, of the Public Works Department, briefed the council on the proposed revisions to this ordinance.

Subject: Presentation for the Preservation of Affordable Rental Housing

In response to the City of Durham's application for funding of CDBG, HOME, ESG and General Funds for FY 2014-2015, Durham Community Land Trustees, Inc. and Woodland Associates, Inc., submitted applications for funding being made available for the preservation of existing affordable rental units. The requested funds would be used to make urgently needed capital and accessibility improvements to each of the affordable Low Income Housing Tax Credit projects.

All of the rental developments: Rockwood Cottage Apartments, Mutual Manor Apartments, Mathison Apartments, Morehead Glen and West Park, are currently in compliance with federal tax credit program rules and requirements and City rent restrictions. Compliance with rent restrictions has not allowed the projects to build sufficient replacement reserves to meet their capital improvement needs. In order to allow the developments to continue to serve individuals and families whose income does not exceed 50% - 60% of Area Median Income, the owners are requesting City funds to help address immediate capital improvements needs.

The Department of Community Development recommends that City Council receive a presentation regarding the requested funding for the preservation of affordable rental units and its inclusion in the Department's funding plan.

Assistant Director of Community Development Larry Jarvis provided a power point presentation on this item commenting on the existing rental projects (Rockwood Cottage Apartments, Mutual

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Manor Apartments, Mathison Apartments, Morehead Glen and West Park), the needed repairs for these rental units and an operating pro-forma.

Council Member Schewel said he thought this was a good expenditure of city funds and thanked the administration for bringing the item forward.

Mayor Pro Tempore Cole-McFadden voiced concern regarding a citizen contacting her who was upset that she was being informed that she would need to move from her present rental unit.

Selena Mack, of Durham Community Land Trustees, briefed the council on the circumstances that arose concerning the citizen who was under the threat of being relocated due to being out of compliance with guidelines.

At this time, City Clerk Gray announced that Chris Tuttle received 7 ballot votes for reappointment to the Durham Homeless Services Advisory Committee.

Settling the Agenda – August 18, 2014 City Council Meeting

City Manager Bonfield announced the following items for the August 18, 2014 City Council Meeting agenda: Consent Items 1 thru 11 and General Business Agenda Public Hearings Items 14 thru 19.

Motion by Council Member Catotti seconded by Council Member Moffitt to approve settling the agenda for the August 18, 2014 Council Meeting as stated by the City Manager.

The motion was approved unanimously at 2:34 p.m.

There being no further business to come before the Council, the meeting was adjourned at 2:34 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk