

DURHAM CITY COUNCIL WORK SESSION
Thursday, May 8, 2014 @ 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, Eddie Davis, Don Moffitt and Steve Schewel. Absent: None.

Also present: Deputy City Manager Wanda Page, City Attorney Patrick Baker and City Clerk D. Ann Gray.

Mayor Pro Tempore Cole-McFadden called the meeting to order.

There were no announcements from the council.

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

Deputy City Manager Page referenced the following items:

- Agenda Item #3 – Proposed Sale of Property at 606 East Way Avenue (need to suspend the rules and vote today)
- Agenda Item #7 – Adoption of Proposed Water and Sewer Rates for FY2014-2015 (presentation will be provided)
- Agenda Item #11 – Proposed Fiscal Year 2014-15 Budget and Fiscal Year 2015-2010 Capital Improvement Plan (presentation will be provided at the May 19, 2014 City Council Meeting)
- Agenda Item #13 – Adoption of Proposed Stormwater Rates for FY2015 (presentation will be provided)

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

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

After Mayor Pro Tempore Cole-McFadden announced each item on the printed agenda, the following items were pulled for discussion/comments and/or action by the council.

Subject: Ronderrence Peterson

To receive comments from Ronderrence Peterson regarding forming a committee to institute such programs into the community for more African American Coalition.

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

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Subject: Proposed Sale of Property at 606 Eastway Avenue – PIN #0831-10-45-6766

The staff report indicated that on September 20, 2004, City Council approved a contract with Century 21 Four Star Realty to market thirty single family and sixteen condominium style units that were to be constructed as part of the Barnes Avenue redevelopment which is now known as Eastway Village. Section 86 of the City Charter authorizes the City Council, by an affirmative vote of at least four members to publicly or privately sell, lease, rent, exchange or otherwise convey real or personal property or any interest in such property belonging to the City. Construction is complete on Phases I, II and III of the development and marketing efforts continue on the remaining units at Eastway Village.

Of the forty-six constructed units at Eastway Village, City Council has approved forty-three Offers to Purchase and Contract. Additionally, the City has received the following offer:

<u>Offer From</u>	<u>Property Address</u>	<u>Sales Price</u>	<u>Earnest Money</u>
Angela Parker	606 Eastway Avenue	\$120,900.00	\$500.00

Ms. Parker's offer of \$120,900.00 is the City's full price for the single-family detached unit located at 606 Eastway Avenue. The proposed financial structure of the purchase is a 2% City of Durham first mortgage loan of approximately \$104,500.00.

The administration will return with offers for the City Council to accept or reject on a continuing basis until the remaining properties in Eastway Village are sold.

The Department of Community Development recommends that City Council determine the property at 606 Eastway Avenue to be surplus, authorize the sale of the property under the authority of Section 86 of the City Charter, accept the offer to purchase for the property located at 606 Eastway Avenue, and authorize the City Manager and the Mayor to sell and convey the property by a non-warranty deed and authorize the City Manager to terminate the contract for sale if the contract terms are not fulfilled.

Earlier in the meeting, Deputy City Manager Page asked the council to suspend the rules and take action on this item.

Motion by Council Member Catotti seconded by Council Member Brown to suspend the rules of the council and take action on this item was approved at 1:08 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent At Time of Vote: Mayor Bell.

Assistant Director of Community Development Larry Jarvis commented on the financing of homes in Eastway Village during its initial stage, and briefed council on the remaining units which have not sold and the incentives offered to move forward with these two remaining properties.

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Motion by Council Member Schewel seconded by Council Member Moffitt to determine the property at 606 Eastway Avenue to be surplus and authorize the sale of the property under the authority of Section 86 of the City Charter;

To accept the offer to purchase for the property located at 606 Eastway Avenue and authorize the City Manager and the Mayor to sell and convey the property by a non-warranty deed; and

To authorize the City Manager to terminate the contract for sale if the contract terms are not fulfilled was approved at 1:13 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent At Time of Vote: Mayor Bell.

Subject: Network Hut License Agreement between the City of Durham and Google

The staff report indicated that the Network Hut License Agreement presented for City Council's consideration is the document representing the understanding between Google and the City of Durham that was negotiated as part of the City's invitation by Google to explore bringing high-speed internet access to City of Durham residents.

The agreement provides the terms and conditions pursuant to the occupancy and use of various real property sites that are owned by the City. The sites will be used for the purpose of constructing structures that will house network equipment and fiber that are part of Google's fiber optic network ("Network Hut"). The purpose of this Agreement is to establish the terms and use of the Network Huts. The Network Huts are an integral component of the fiber network design contemplated by Google if Durham is selected as one of the 34 cities in nine metro areas to receive Google Fiber. Google released plans to explore the deployment of high speed internet in these nine metro areas in February of 2014. Similar Network Hut License Agreements are expected to be considered by six other triangle municipalities including Carrboro, Cary, Chapel Hill, Garner, Morrisville, and Raleigh. These municipalities make up the Raleigh-Durham metro area identified by Google as a potential Google Fiber expansion area.

The administration is recommending that the council authorize the City Manager to execute a Network Hut License Agreement with Google that provides for the lease terms and conditions that will be proposed for the construction and housing of network equipment huts to be located on various real property owned by the City of Durham.

Council Member Catotti asked what was the market rate for Google fiber hut lease payments in the City of Austin.

The administration will provide this information prior to the May 19, 2014 meeting.

Discussion was also held on the following: 1) specifications (size) of the huts - final locations for the huts have not been selected; and 2) the basis for the \$2.00 per square foot annual fee.

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Subject: Amendment to Existing Home Investment Partnership Agreement with Southside Revitalization Phase 1 LP

The staff report indicated that on June 18th 2012, City Council approved a construction to permanent loan package with Southside Revitalization Phase 1 LP in the amount of \$5,250,000.00 to assist in the financing of 132 rental units on the former Rolling Hills site, now known as The Lofts at Southside. The loan package consisted of two Housing Bond Program Income loans; one in an amount up to \$1,466,261.00 to be repaid from 60% of net cash flow annually at an interest rate of 2% over a 40 year term; the other in an amount of up to \$800,000.00 at 0% interest deferred for 30 years and beginning in the 31st year to be repaid from 60% of cash flow over a 45 year term. In addition, a HOME loan up to \$2,033,739.00 at 2% interest to be repaid from 60% of cash flow and a NSP-3 loan in the amount of \$950,000.00 at 2% to be repaid from 60% of cash flow over a 40 year term. Due to additional costs associated with the delays caused by the removal of contaminated soils on the site and unusually wet conditions over the past nine months, the limited partnership is seeking additional financial assistance for the redevelopment effort in an amount of \$500,000.00.

The Department of Community Development recommends that City Council authorize the expenditure of up to \$500,000.00 in HOME funds, and authorize the City Manager to amend the existing construction to permanent fourth deed of trust HOME loan agreement with Southside Revitalization Phase 1 LP in the amount of \$500,000.00 for a total loan amount up to \$2,533,739.00 and to execute such other non-loan related documents as necessary and as required by other lenders and the investor to include but not limited to an inter-creditor agreement and a disbursing agreement.

Larry Jarvis, Assistant Director of Community Development, said this item was a part of the substantial amendment that was approved Monday night (May 5th) and referenced the previous work session whereby the administration presented the updated five year funding plan and it was indicated they were no longer trending down the entitlement monies at the rate they anticipated at one point in time. Based on the belief and the assumption that the entitlement fund is going to remain constant, he said they should be able to bring a second phase on within the same timeframe that they originally anticipated.

Subject: Unified Development Ordinance Text Amendment – Tree Coverage Calculations (TC1300002)

This is a privately initiated text amendment to amend the method of calculating required tree coverage areas pursuant to Section 8.3, Tree Protection and Tree Coverage, of the Unified Development Ordinance. The Durham City Council held a public hearing on this item at its February 3, 2014 meeting and continued the item until May 19, 2014, to allow the applicant to consider revisions based upon comments received at the hearing.

The applicant, Ron Horvath, has submitted a request to close the public hearing for this text

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amendment request and refer the application back to the administration for further consideration. If the City Council approves this request, the applicant will be responsible for all additional notification fees if a new public hearing is required.

The staff recommends closing the public hearing and referring the text amendment request back to the administration.

City/County Planning Director Steve Medlin stated the applicant in this case, Ron Horvath, would like to go back and narrow the scope of the text amendment down, in essence to be applicable to residential and to also look at the issue of density transfers and impervious surface calculations. Based on this, staff has advised Mr. Horvath that they will need additional time to review his text amendment and the applicant has asked that this item be referred back to the administration after closing the public hearing.

Subject: Adoption of Proposed Water and Sewer Rates for FY 2014-2015

The staff report indicated that in FY 2008 - 2009, Durham's City Council first adopted a tiered rate structure for water volume charges applicable to single family residential customers. The tiered rate structure effectively introduced the concept of "the less you use, the less you pay." Durham's customers have continued to embrace a water efficient ethic during normal times and extended dry periods. Over the past several years, City Council has supported the administration's requests for modest rate increases to cover increasing operating costs and debt service. The rate increases also support Durham's large capital program which focuses on replacement of our aging infrastructure and meeting new regulatory requirements and system growth. Water Management staff have coordinated with Finance Department staff to develop a fiscal strategy providing sufficient funding for operating and capital needs while maintaining favorable debt coverage. This collaboration, including input from the bond advisors, has ensured that Durham's bond rating remains very high.

Staff approached this year's budget cycle with a desire to keep the tiered rate structure in place, while refining costs to reflect not only the departmental needs – operational and capital – but the current economic climate and its impact on Durham's water and sewer customers. To meet these needs, the department proposes modest increases for the water and sewer service and volume charges for FY 2014-2015. The result is an approximate 3% overall increase in the monthly water/sewer bill for the average inside City customer. This proposal also continues the one penny per hundred cubic feet dedicated to watershed protection efforts.

The administration recommends the proposed rates be adopted effective July 1, 2014, with implementation for bills issued on or after August 1, 2014.

Also, Water Management Director Don Greeley gave a power point presentation on the Water and Sewer Fund and CIP proposed FY 2015 Rates commenting on the following topics: 1) Project Updates; 2) Rate Objectives & Strategies; 3) Key Issues; 4) Capital Improvement Program; 5) Customer Consumption; 6) Proposed Rates and 7) Capital Facility Fee Increase.

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Subject: Adoption of Proposed Stormwater Rates for FY 2015

The staff report indicated in order to continue retrofit program development in the Falls Lake watershed while maintaining required activities associated with the National Pollution Discharge Elimination System (NPDES) permit, the administration recommends adoption of a stormwater rate increase of 7.5% effective July 1, 2014. This increase is lower than the City Council adopted budget development guidance of 8.5%. Changes to stormwater utility rates require a public hearing under applicable State law.

The stormwater fund is a utility in that it receives no tax support for stormwater related activities. Current rates for all residential tiers and non-residential are “middle of the pack” when compared with benchmark cities that have stormwater fees. The proposed increase of 7.5% supports increased capital funding of stormwater retrofits to comply with the Falls Lake Stage I existing development requirements. Project funding for the South Ellerbe Creek wetland (former Duke Diet Fitness Center) as well as nitrogen and phosphorous credit purchases are included in the FY 15 stormwater rate increase.

Also, the staff report referenced the average customer bill impacts of this increase.

The administration recommends the City Council hold a public hearing to receive comments on the proposed stormwater rate increase and adopt an ordinance to change the fee schedule revising stormwater rates effective on July 1, 2014.

In addition, Paul Wiebke, of the Stormwater Division, gave a power point presentation on this item commenting on the following topics: 1) Stormwater Enterprise Fund; 2) Key Issues; 3) FY13-FY15 Budget Summary; 4) Multiyear Rate Model Overview; 5) FY14-FY19 CIP Project Funding; 6) Customer Bill Impact FY15 7.5% Increase; 7) Projected Accounts & Revenue by Tier; 8) Monthly Bill Benchmarking; 9) Monthly Residential Stormwater Rate History; 10) Proposed FY15 Expenses by Program; and 11) Completed Project Highlights.

At this time, Mayor Bell announced that a joint meeting will be held with the Durham City Council, Durham County Board of Commissioners and the Durham Public Schools Board of Education on Wednesday, May 21, 2014 at 3:00 p.m. in City Hall. The purpose of the meeting is to receive the “Made In Durham” report.

Mayor Pro Tempore Cole-McFadden said at the previous work session she expressed concern regarding how the council would be assured that the monies spent by the City would be specifically earmarked for Durham residents and she said the manager has not been able to obtain an answer. She said she would like to receive a more concrete response to her question because whatever is being planned should contain something to assure the City that the monies being spent for this program are for Durham residents.

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Settling the Agenda – May 19, 2014 City Council Meeting

Deputy City Manager Wanda Page referenced the following items for the May 19, 2014 City Council Agenda: Consent Items 1; 2; 4 thru 10; GBA Item #11 and Public Hearings Items 12 thru 15.

Motion by Mayor Bell seconded by Council Member Brown to approve settling the agenda for the May 19, 2014 City Council Meeting as stated by the Deputy City Manager.

The motion was approved unanimously at 2:49 p.m.

There being no further business to come before the Council, the meeting was adjourned at 2:49 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk