

**DURHAM CITY COUNCIL WORK SESSION**  
**Thursday, September 4, 2014 @ 1:00 p.m.**  
**2<sup>nd</sup> 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.

Mayor Pro Tempore Cole-McFadden called the meeting to order and asked if there were any announcements from the council.

The Mayor Pro Tempore stated she was nominated as a friend at Hillside High School and would be honored at the school’s annual banquet in October.

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

City Manager Bonfield referenced the following presentations scheduled to be heard:

- Durham County Tax Administration Annual Tax Settlement
- FY2013-14 Fourth Quarter Financial Report
- Regional Branding Study for Transit
- Prioritization of Sidewalk Construction Projects

In addition, the City Manager stated that a carryover item from the September 2, 2014 meeting had been added pertaining to his Report in Response to Recommendations from the Human Relations Commission and Civilian Police Review Board.

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

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

Council Member Moffitt stated there are three vacancies on the Durham Open Space and Trails Commission and suggested that Council only fill two seats, and refer the remaining vacancy back to the Clerk’s Office for re-advertising.

After the Mayor Pro Tempore read each item on the printed agenda, the following items were pulled for comments and/or discussion:

**Subject: John “Giovanni” Tarantino**

To receive comments from John “Giovanni” Tarantino regarding a tribute in recognition of the Public Works Director.

**September 4, 2014**

Mr. Tarantino provided a song selection recognizing the Public Works Director Marvin Williams and his department.

**Subject: Durham County Tax Administration Annual Tax Settlement**

To receive a presentation from the Tax Administrator on the annual tax settlement for FY2014.

Tax Administrator Kimberly Simpson presented a power point presentation on the annual tax settlement for FY2014.

Ms. Simpson said the total tax bill levy for the City was \$141,352,435.57; and the actual collections were \$140,270,189.92 for a 99.23% collection rate. Durham County's collection rate was 99.34%, and the actual collections were \$242,367,776.69.

The Council thanked Ms. Simpson for the positive report.

**Subject: Memorials on City Property or Rights-of-Way**

The staff indicated memorials that commemorate tragedies or deceased individuals were not an uncommon site along roadways and on public property in Durham. While it is important to respect the solemn purpose of these installations, the City must balance that respect with its responsibility to manage the rights-of-way to protect public safety and ensure public use and enjoyment of city facilities. In order to ensure that these goals were pursued in a consistent manner throughout the city, a policy was drafted for adoption to guide the actions of staff when memorials were encountered or brought to staff's attention.

The administration recommended the Council adopt a Resolution Affirming City Policy Pertaining to Memorials on City Property or Rights-of-Way.

Council Member Moffitt requested that the item be referred back to the administration recommending that comments be included from the Durham Bicycle Pedestrian Advisory Commission.

**Subject: Award of Dedicated Housing Funds to Vermilion Homestead, LLC – 60 Unit Affordable Rental**

In response to the City of Durham's application for funding of CDBG, HOME, ESG and General Funds for FY 2014-2015, Workforce Homestead, Inc. submitted an application for a subsidized loan using Dedicated Housing Funds in the amount of \$193,506.00 to provide gap financing for a 60 unit affordable townhome style community. These units will be constructed on Cook Road at Martin Luther King Jr. Parkway, comprised of two and three bedroom units and will be available to individuals and families whose income does not exceed 30%, 50% and 60% of the area median income.

**September 4, 2014**

On July 24, 2014, the City Council received a presentation from the department and the developer. In response to Council's request, additional financial information was provided along with the proposed loan documents.

The Department of Community Development recommended that City Council authorize the expenditure \$193,506.00 in budgeted Dedicated Housing Funds for the purpose of creating 60 affordable housing units, and authorize the City Manager to execute a Construction/Permanent Loan Agreement and related legal documents for a period of 20 years at 1% interest with Vermilion Homestead, LLC.

Council Member Moffitt questioned the project development costs, specifically the line item for construction contingency in the amount of \$254,667.00. He asked if the loan could be structured to be an amount equal to the construction change orders up to \$193,506.00. He said if the developer did not need the additional contingency, they would not receive it.

Assistant Community Development Director Larry Jarvis provided an overview on how the loan is currently structured, and referenced what would be the impact if the City did not put its money in until the end, which would increase the construction interest. He said they already know there would be costs above and beyond what was anticipated at the time of the tax credit application and recommended that the full amount be approved so the project would operate on sound footing from the beginning. Mr. Jarvis said if all of the contingency was not needed, it would reduce the amount of the deferred developer's fees hopefully.

Jim Yamin, the Developer, addressed the council speaking on the construction contingency line item.

Council Member Schewel said this was a critical project and the City had a need for the housing; and thanked staff for the financial information provided which he stated was more understandable than the initial presentation on the item.

**Subject: Selection of Third Party Administrator for Workers Compensation and General Liability Adjusters – Corvel Corporation**

The staff noted that in December 2011, the City entered into a contract with Brentwood Service Administrators for workers' compensation claims administration services and a contract with the North Carolina League of Municipalities for liability administration services. Each contract will expire in the fall of 2014.

In June 2014, the Finance Department issued a request for proposal for a third party administrator to provide both workers' compensation and liability administration services and received seven responses. The proposals were evaluated by a committee comprised of personnel from the Finance Department and representatives from the City's Insurance Broker, Arthur J.

**September 4, 2014**

Gallagher. Based on this evaluation, the committee invited two of the seven firms for interviews, which included a demonstration of their Risk Management Information System.

The Finance Department recommended the City Council authorize the City Manager to enter into a contract with Corvel Corporation as the City's third party administrator for workers' compensation and general liability claims administration for a period of three years with three optional one year extensions.

Referencing the service the vendor would be offering, Finance Director David Boyd addressed Council Member Schewel's question on how the ability to make phone calls would minimize worker's comp claims.

**Subject: FY 2015 Contract between the City of Durham and Center for Documentary Studies**

The administration recommended approval of the contract with the Center for Documentary Studies for \$55,000.00 to produce the Full Frame Documentary Film Festival and several other events throughout the year that would bring visitors to downtown Durham and spur economic development through cultural arts. The contract would be for Fiscal Year 2015 and last retroactively from July 1, 2014 thru June 30, 2015.

Council Member Schewel inquired about a summer youth intern being funded.

Peter Coyle, of the Office of Economic & Workforce Development, stated they have been speaking with the vendor to fund a summer youth intern, and hopefully this would occur.

**Subject: Acceptance of a Grant from the North Carolina Horse Council**

The North Carolina Horse Council awarded a \$5,000 grant to Durham Parks and Recreation to support the development of a parking lot at the Scott King Road access to the American Tobacco Trail. This project will provide a parking lot that includes some pull through spaces for horse trailers. The Scott King Road access to the trail would be the first access to the American Tobacco Trail for equestrians in Durham; south of Scott King Road the trail was accessible to horses. Additional funding for this project was approved on June 16, 2014 in the 2014 Capital Improvement Project budget.

The administration recommended that City Council adopt a Resolution Accepting a CIP Project Related 2014 North Carolina Horse Council Grant; and to authorize the City Manager to accept the North Carolina Horse Council grant of \$5,000 by executing any associated grant documents and to adopt an Ordinance amending the General Capital Improvement Project Ordinance, Fiscal Year 2014-2015.

Council Member Moffitt inquired if the parking area would be constructed this year.

**September 4, 2014**

Beth Timson, of the Parks & Recreation Department, responded it is likely that the parking area would be constructed this coming summer.

**Subject: FY2013-14 Fourth Quarter Financial Report**

The administration presented the Fourth Quarter Financial Report for FY 2013-14. This report was based on twelve months of financial information. The administration presents each quarterly report to City Council at a regularly scheduled work session.

Budget Director Bertha Johnson shared a powerpoint presentation highlighting a number of charts and tables which provided additional information on the City's financial status in key areas.

The summary results of the report were as follows:

- Departmental expenditures projected to be under budget by approximately \$5.6 million
- All departments projected to be within budget
- Revenue surplus of \$1.3 million
- Other financing sources – transfer from reserves and fund balance were not required
- \$1.71 million was transferred to fund balance

The City Council thanked the administration for the report.

**Subject: Regional Branding Study for Transit**

The staff indicated that following an 18-month evaluation, including surveys and focus groups, five Triangle area transit agencies agreed to move forward with a branding approach that unifies these transit agencies through a customizable, but common naming convention. The proposed new brand name is Go, followed by the city name. For example, GoDurham, GoChapel Hill, GoRaleigh, etc.

Participating agencies were informing their respective boards and authorities about the proposed renaming of their transit systems through September. If agencies, with the concurrence of their boards, agreed to move forward, the public launch including an information campaign to inform employees, riders and others of changes to signage, bus paint schemes, websites, maps, etc. would begin in November 2014. The rebranding initiative would be phased in with full implementation occurring over several years.

Director of Transportation Mark Ahrendsen shared a powerpoint presentation on the Triangle Area Transit Partners Regional Branding Project.

The Office of Public Affairs and the Transportation Department recommended that City Council receive the presentation from Triangle Transit regarding the proposed rebranding of Durham

**September 4, 2014**

Area Transit Authority, along with transit agencies in Raleigh, Chapel Hill, Cary and Triangle Transit.

Mayor Pro Tempore Cole-McFadden asked if the Durham Convention and Visitors Bureau was involved in the process.

Damien Graham, representing Triangle Transit Authority, replied they were not involved specifically; however, they provided a couple of different surveys and said it is possible that DCVB could have been included in an interview process.

Mayor Pro Tempore Cole-McFadden asked that the report be shared with Shelly Green, CEO of the Durham Convention and Visitors Bureau.

Director of Transportation Mark Ahrendsen replied he would provide the report to Ms. Green.

**Subject: Prioritization of Sidewalk Construction Projects**

The staff report indicated that during the review of the 2014-15 Capital Improvement Program, City Council members discussed the priority of implementing citizen-petitioned sidewalk projects over high-priority sidewalk projects identified in the DurhamWalks! Pedestrian Plan.

The City Council requested a follow-up review of current sidewalk projects prior to expenditure of additional sidewalk construction funds allocated in the 2014-15 CIP. The purpose of this item was to provide the Council with a report on current sidewalk project priorities and provide an opportunity for the City Council to affirm or modify current policy direction.

It was recommended that the City Council receive a report from the administration concerning current sidewalk construction priorities; and direct the administration to proceed with designing and constructing eleven City Council-ordered petition sidewalk projects with remaining funds designated to specific downtown sidewalk projects and to the City Council's Unfunded Construction Priority List projects.

Director of Transportation Mark Ahrendsen provided an overview of the sidewalk construction program.

Peter Skillern asked the Council to also consider existing sidewalks that needed repairs.

The Council had a discussion on petitions received from citizens for sidewalks; rising costs for sidewalks; and the DurhamWalks! Pedestrian Plan. In addition, comments were made by council members on the original assessment rate \$5.00 per linear foot; \$35.00 per linear foot and the average cost of \$55.00.

**September 4, 2014**

Mayor Bell stated the Council was not able to control rising costs and in fairness to the citizens who have filed petitions for sidewalks, they should be contacted informing them of what the new cost would be to see if they were still interested in having sidewalks.

It was the consensus of the City Council to allow the seven lowest cost petition sidewalk projects to move forward with a revised assessment rate of \$35.00 per linear foot, versus the original \$5.00 per linear foot assessment. These seven projects were Hardwick Drive; Fayetteville Road; Juliette Drive; Monmouth Avenue; Infinity Road; Yorktown Avenue and Green Street. Also, it was the consensus of the Council to cancel and therefore not advance the four more expensive sidewalk petition projects. These four projects were Grandale Drive; South Roxboro Street; Sedwick Road and University Drive.

The item was referred back to the administration.

**Subject: City Manager's Report in Response to Recommendations from the Human Relations Commission and Civilian Police Review Board**

The City Manager provided a handout which outlined his response to the recommendations presented by the Human Relations Commission and the Civilian Police Review Board.

The Human Relations Commission presented thirty-four recommendations to the Council and City Manager. The Mayor announced each of the thirty-four recommendations by the Human Relations Commission and the following recommendations were pulled for further discussion:

- HRC 9 – recommend that a written form be required for all consent searches. This form must be signed by the citizen/detainee and should be available in English and Spanish.
- HRC 10 – recommend the Durham Police Department require all officers to document with an incident report any encounter that requires a search of the person or property. This report should include a reason for the stop and search.
- HRC 11 – recommend supervisors and possibly professional standards review these reports for any irregularities.
- HRC 12 – recommend the Durham Police Department ensure that the traffic stop data is reviewed quarterly to track any irregularities. Should the data show unusual trends, it should be reported to the Chief of Police and reviewed by qualified independent analysts. Any reports should be made available to City Council for review within a reasonable time.
- HRC 13 – recommend that the Durham Police Department collaborate with a national independent training organization, approved by the City Manager and City Council, to create and implement a racial equity training program for Durham police officers.
- HRC 15 – recommend the Durham Police Department enhance their mental health and crisis intervention training for those officers who interact regularly with the community.
- HRC 16 – recommend the Durham Police Department job performance evaluation. include a review of stop/search data for irregularities in conduct and policy.

**September 4, 2014**

- HRC 17 – recommend a yearly training needs analysis in order to make any adjustments necessary to meeting the needs of the community.
- HRC 18 – recommend the City of Durham reach out to municipalities, such as the City of Seattle, WA to make inquiries about their initiatives regarding making marijuana arrest a low priority.
- HRC 24 – recommend the time allowed to appeal to the Citizens Police Review Board be extended to 30 working days after documented receipt of the Internal Affairs response.
- HRC 28 – recommend Complaint Forms be available to complete online, and allow for electronic submission with tracking and receipt of complaint form.
- HRC 33 – recommend the City of Durham partner with the Human Relations Commission and outside organizations (Fostering Alternative Drug Enforcement, National Association for the Advancement of Colored People, Southern Coalition for Social Justice, etc.) to promote a comprehensive program to educate the citizens of their rights in regards to police stops, searches, and their avenues of redress.

City Manager Bonfield stated as it related to the matter of consent searches, he had spent a considerable amount of time reviewing the recommendations and previously it was requested that requests for consent to search by H.E.A.T officers during traffic stops be documented by audio or video recording utilizing a signed consent form. He commented on the recommendation allowing undocumented consent as an option, and indicated at this point, he was changing that recommendation in order for all of the vehicle stops/searches to be under the same methodology for consistency - that traffic stops be documented with audio, video recording or utilizing a signed consent form.

The Mayor spoke in support of having a written consent form for stops/searches and explained his rationale for utilizing the form.

Mayor Pro Tempore Cole-McFadden and Council Members Schewel, Moffitt voiced support for the written consent form.

Council Member Davis raised concern regarding citizens being victims of crime and questioned the potential about someone who would do harm to communities, often minority communities, because they would be able to walk away by saying no to the consent.

The Police Department provided a handout which indicated the 2013 data for stops/searches; and the information presented was by gender, race and the reason for the searches.

Discussion was held on exploring the use of body cameras; estimated costs of body cameras; reasonable timetable for having body cameras; percentage of vehicles being stopped that are searched; types of searches and reasons; the percentage of searches for African-American drivers; what constitutes reasonable suspicion/probable cause; providing semi-annual reporting vs. quarterly reporting; the resources that would be needed to report quarterly; the number of crime analysts in the police department; racial equity training schedule updates; mental health and crisis intervention training; early intervention system alert indicators; yearly training needs

**September 4, 2014**

analysis; and accelerating the Police Department's review of the misdemeanor marijuana arrests for the period January 1, 2013 thru July 1, 2014.

The Civilian Police Review Board provided 10 recommendations to the City Manager and Council. Mayor Bell read each of the 10 recommendations and the following recommendations were pulled for further discussion:

- CPRB 3 – the Professionals Standards Division should provide complainant with a letter confirming receipt of the complaint. The letter should explain the investigative process that the complaint will follow and when the complainant should expect to hear back from the Police Department. In addition, the letter should include contact information for the Captain of the Professional Standards Division or their designee.
- CPRB 4 – in the determination letter to the complainant by the Professional Standards Division, the letter should additionally provide some detail of the facts of the case, the six levels of discipline for a City of Durham employee and whether or not the officer was in fact disciplined. The letter should note that the specific discipline, with the exception of suspension, demotion or termination, cannot be disclosed due to the Personnel Privacy Act.
- CPRB 6 – the Civilian Police Review Board should receive quarterly Performance Review Reports from the Professional Standards Division of the Police Department.
- CPRB 7 – the annual report of the Civilian Police Review Board should be posted on the City Manager's website.
- CPRB 8 – the CPRB will develop a brochure about the complaint process and CPRB

At the request of Council Member Moffitt, the City Attorney was asked to provide information on what was legal to divulge if a complaint was upheld.

Discussion was held on providing quarterly reports on the number of appeals filed, the number of appeals resolved; outcome of the appeals; average time to resolve filed complaints; annual report of the Civilian Police Review Board being on the City Manager's website, as well as the City Clerk's website; and the timetable for production of brochure in both English and Spanish.

Senior Assistant to the City Manager Karmisha Wallace indicated the revised procedures for the Civilian Police Review Manual would need to come before the Council for approval.

Mayor Bell said this concluded the Council discussion/suggestions to the report and asked the City Manager to provide an update at the September 18<sup>th</sup> work session on what actions had been taken.

City Manager Bonfield spoke to continuing the work on the communication form which would be available electronically; tracking the progress internally; and on a regular basis updating the progress so the public could see what is being done as well.

**September 4, 2014**

Council Member Brown thanked the administration for all the work they had done on this item. He said the process being undertaken was a good one.

Mayor Bell stated this had been a revealing exercise; however, he felt it would be beneficial to the community.

At this time, City Clerk Gray announced the ballot results for the Durham Open Space and Trails Commission; Durham Housing Authority Board of Commissioners and the Audit Services Oversight Committee.

**Settling the Agenda – September 15, 2014 City Council Meeting**

City Manager Bonfield referenced the items to be placed on the Consent Agenda and the General Business Agenda/Public Hearings for the September 15, 2014 City Council Meeting.

**Motion** by Council Member Catotti seconded by Council Member Schewel to settle the agenda for the September 15, 2014 City Council Meeting as stated by the City Manager.

The motion was approved unanimously at 4:19 p.m.

There being no further business to come before the Council, the meeting was adjourned at 4:19 p.m.

D. Ann Gray, MMC, NCCMC  
City Clerk