

DURHAM CITY COUNCIL WORK SESSION
Thursday, November 20, 2014 @ 1:00 p.m.
2nd Floor Committee Room – 101 City Hall Plaza

Present: Mayor William V. “Bill” Bell and Council Members Eugene Brown, Diane Catotti, Eddie Davis, Don Moffitt and Steve Schewel. Excused Absence: Mayor Pro Tempore Cora Cole-McFadden

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

Mayor Bell called the meeting to order welcoming all in attendance.

[Excuse Mayor Pro Tempore Cole-McFadden]

MOTION by Council Member Moffitt seconded by Council Member Schewel to excuse Mayor Pro Tempore Cole-McFadden from the November 20, 2014 Work Session was approved at 1:03 p.m. by the following vote: Ayes: Mayor Bell and Council Members Catotti, Davis, Moffitt and Schewel. Noes: None. Absent At Time of Vote: Council Member Brown.

There were no announcements from the Council.

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

Deputy City Manager Wanda Page referenced the following items for consideration by the Council.

- Presentation will be provided on Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2014
- Presentation will be provided on the Proposed Acquisition of 320 Muldee Street for the Department of Transportation and Signal Shop Operations
- Supplemental Item will be provided at the December 1, 2014 meeting regarding a Landlord Certificate by the tenant, Shaner SPE Associates Limited Partnership for the Durham Marriott City Center

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

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

Mayor Bell proceeded with announcing each item on the agenda; and the following items were pulled for comments and/or discussion:

SUBJECT: ELOIS JOHNSON

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To receive comments from Elois Johnson regarding installing signs to fine citizens for dog-poo and the noise from inflated commercial bounce houses.

Elois Johnson addressed the council requesting that signs be erected in the City of Durham informing citizens what the fines were for not cleaning up dog-poo after their pets. In addition, Ms. Johnson spoke on commercial bounce houses and the noise that was generated and stated bounce houses should not be allowed in a residential area which is less than 12 feet apart.

Mayor Bell asked Deputy City Manager Page to follow-up on Ms. Johnson's concerns.

SUBJECT: COMPREHENSIVE ANNUAL FINANCIAL REPORT FOR THE FISCAL YEAR ENDED JUNE 30, 2014

To receive and accept the Comprehensive Annual Financial Report for the Fiscal Year Ended June 30, 2014 as presented and approved at the October 27, 2014 Audit Services Oversight Committee Meeting.

Carlen Hill, representing Cherry Bekaert, presented a Powerpoint presentation on the summary of the financial audit for the City of Durham for the period ending June 30, 2014 noting that the City of Durham received an unmodified opinion from the auditor. He said an unmodified opinion is submitted when the audit had been conducted in accordance with generally accepted auditing standards, if it had been possible to apply all procedures necessary in the circumstances, and if the auditor had no reservations concerning the fairness of the financial statements.

Mr. Hill briefed the council on the results of the audit; audit areas of focus; internal control; required communications and accounting measurements and metrics.

Mayor Bell thanked the staff and administration for the positive audit.

SUBJECT: TAKE HOME VEHICLE PERFORMANCE AUDIT REPORT DATED OCTOBER 2014

The staff report indicated that the Audit Services Department completed the report for the Take Home Vehicle Performance Audit dated October 2014. The purpose of the audit was to assess the reasonableness of current practices over take home vehicles and identify potential cost saving opportunities.

The administration recommended that the Take Home Vehicle Performance Audit Report (October 2014) be accepted as presented and approved at the October 27, 2014 Audit Services Oversight Committee Meeting.

Council Member Catotti stated the audit raised some very interesting questions and asked what was the timetable to bring back the proposed recommendations. Specifically, she asked which

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recommendations would come before the Council and which ones would be handled administratively.

Director of Audit Services Germaine Brewington stated that management concurs with all of the recommendations and referenced the timetable for implementation for the following recommendations:

- The City Manager's office should establish a citywide take home policy – Implementation July 2015
- All departments with take home vehicles should perform a review of the take home vehicles to identify opportunities to eliminate take home vehicles that do not meet the intent of a citywide policy – Annual review once the citywide policy is adopted
- Departments with take home vehicles should establish a process to maintain accurate and updated assignment records – Implementation February 2015
- Department Directors should ensure that employees report the benefit of having a take home vehicle in accordance with policy FP 205-R1 "Personal Use of City Vehicle." - Implementation January 2015

Council Member Catotti asked if anything would come back to the Council for review or for consideration.

Deputy City Manager Page stated that typically the recommendations are followed until the completion by the Director of Audit Services who provides quarterly reports on the status of all open items to the Audit Services Oversight Committee.

Council Member Moffitt stated if a lot of the police cars are leaving the county, it does not provide much deterrence. Also, he noted that he was glad to see policy moves that should make sure that when money is spent, it is where it is needed.

Council Members Davis and Schewel noted that take home vehicles may be used as an incentive for recruitment of more police officers to live in the City and hoped this could be explored.

Council Member Catotti stated she would like to have information on other neighboring jurisdictions and what their policies were.

Deputy Police Chief Larry Smith commented on officers on call and noted it was understood if an officer was on a second job, the officer would need to leave if needed. He said along with the vehicle there is a management expectation of response, the first priority is the job with the City of Durham, and stated if they needed officers and they are on a second job, they would need to leave that job. He stated the norm is when you are call you cannot make any plans.

Mayor Bell stated police officers were a different group of people, they have a very high visibility; their visibility is what they have that no other city employee had, and it's a stressful job he stated. Also, he stated there's more ownership when you are living in the community you are responsible for securing and said he would like to see a way to make more of that occur.

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Council Member Brown asked for information in the future on incentives that other cities may provide to police officers that live in the communities they serve.

**SUBJECT: CITY WIDE STRATEGIC PLAN PERFORMANCE AUDIT REPORT
OCTOBER 2014**

The Audit Services Department completed the report for the Strategic Plan Performance dated October 2014. The purpose of the audit was to validate the underlying data reported for Goals 1-5 in the City-Wide Strategic Plan performance measures for the August, 2014 publication.

The Department of Audit Services recommended the City Council receive and accept the Strategic Plan Performance Audit dated October 2014 as presented and approved at the October 27, 2014 Audit Services Oversight Committee meeting.

Mayor Bell asked how well was the City doing in meeting the goals set out in the strategic plan.

Director of Audit Services Germaine Brewington replied she felt what was being done could be strengthened. She mentioned the 100 measures being monitored to meet the five goals and the administration being at 80% and stated it would be better if at 100%. Ms. Brewington said they are putting some things in place to help remedy the situation.

SUBJECT: MEMORIALS ON CITY PROPERTY OR RIGHTS-OF-WAY

The staff report indicated the memorials that commemorate tragedies or deceased individuals were not an uncommon sight 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 are pursued in a consistent manner throughout the city, a policy had been drafted for adoption to guide the actions of staff when memorials are encountered or brought to staff's attention.

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

Council Member Schewel asked how would memorials come to the attention of staff.

Deputy City Manager Bo Ferguson replied the policy anticipates it would come to the attention of staff during the maintenance of rights-of-way by the General Services staff and said this would not preclude other city staff from making General Services aware of memorials. In addition, Deputy Ferguson commented on the meeting he attended with the Bicycle and Pedestrian Commission regarding memorials on city property or rights-of-way. Deputy Ferguson stated the notion of creating this policy is not to crack down on memorials but to provide consistency and transparency on how they are treated.

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City staff suggested a 30-day limit starting from the time a memorial came to their attention, as long as it presented no interference with the public safety of the public use.

The Bicycle and Pedestrian Advisory Commission preferred leaving memorials erected as long as there were no objections.

Council Member Catotti stated she would prefer a policy vs. none and voiced concerns regarding complaint-driven being arbitrary. She stated she would prefer to have a time period and said if 30 days was not long enough, maybe 60 days or 90 days.

Mayor Bell recognized the following speaker for comments:

Jeff Bakalchuck said if there was a memorial that was not impacting public enjoyment and not impacting public safety and does not have any community opposition, he suggested there was no reason for city staff to actually do work and remove it. Also, he stated any complaints regarding memorials should come from Durham residents.

After discussion by the Council, it was recommended a complaint-driven policy with the grace period extended to 45 days.

In addition, Mayor Bell agreed the complaint should be a valid Durham resident, not someone residing in another jurisdiction.

Council Member Brown raised concern with the sign that had been erected by a citizen regarding the Durham County Sheriff. He stated he had received several complaints regarding these signs and he reviewed them as political; and the time period has expired for political signs he stated. Council Member Brown stated he found the sign very offensive and distracting.

City Attorney Baker spoke on the conversations in the past noting that the UDO does not categorize the sign as a political sign. He stated it is categorized as a temporary sign. In addition, he stated there is a Supreme Court case on this particular issue which should be decided by the end of this Spring and they would be able to take their guidance from that decision once rendered.

Mayor Bell agreed with Council Member Brown that the sign appears to be political which had been erected by a citizen and suggested that the City Attorney look at what the definition was for a political sign.

SUBJECT: U-3308 NC 55 (ALSTON AVENUE) WIDENING MUNICIPAL AGREEMENT

The staff report indicated that the N. C. Department of Transportation (NCDOT) was scheduled to widen NC 55 (Alston Avenue) from NC 147 to NC 98 (Holloway St.). Project bidding begins in April 2015 with two years of construction. In addition to widening Alston Avenue, the project includes replacing the Alston Avenue bridge over NC 147, the Pettigrew Street bridge over

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Alston Avenue, and the North Carolina Railroad bridges over Alston Avenue. As part of the project, the City requested the inclusion of sidewalks along Alston Avenue and other streets affected by the project, brick pavers between the sidewalks and curb in a portion of the project, and stamped and stained decorative concrete crosswalks at the intersections of Angier Avenue, Main Street, and Holloway Street. Existing sidewalks will be replaced at no cost to the City. New sidewalks, brick pavers, and the decorative crosswalks are recommended to be funded with 80 percent federal Surface Transportation Program – Direct Attributable (STP-DA) funds through the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) and 20 percent City of Durham matching funds. The estimated cost to the City is \$57,327.00.

The Department of Transportation recommended that the City Council authorize the City Manager to execute the U-3308 NC 55 (Alston Avenue) Municipal Agreement with the N. C. Department of Transportation at an estimated cost of \$57,327.00.

Council Member Schewel stated there were no bike lanes on Alston between NC 147 and Main Street and stated there were bike lanes north of Main which could no longer exist if it is four-lanes once the traffic reached a certain level.

Regarding the lack of bike lanes, Director of Transportation Mark Ahrendsen commented on the compromise working with NCDOT for final design of the project having wide lanes but no bike lanes; and stated there would be no parking on Alston Avenue between 147 and Main.

SUBJECT: MAPLEWOOD AND BEECHWOOD CEMETERIES DESIGN CONTRACT AMENDMENT WITH COULTER JEWEL THAMES, PA

The staff report indicated that on April 5, 2013, the City executed a professional services agreement for Design and Consulting Services for the Maplewood and Beechwood Cemeteries Facilities and Site Improvements Study with Coulter Jewell Thames, PA in the amount of \$46,300 to provide investigation/analysis of the site and facility deficiencies, conceptual design for site improvements and for facilities space planning, and a prioritized scope of work for improvements with an associated opinion of costs.

The agenda item request was to amend the original contract to include full design services through the Construction Administration and Closeout Phases for priority cemetery improvements at both Maplewood and Beechwood Cemeteries that were identified in the Study dated February 12, 2014. Priority improvement items included in the Amendment #1 design scope of work include: entry improvements, driveway repair and replacement, walkway improvements, additional parking, improvements to maintenance/service and soil storage areas and accessibility upgrades at both cemeteries. Amendment One would increase the design fee by \$202,080.00.

The Department of General Services recommended that the City Council:

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- Authorize the City Manager to execute an amendment to the design contract with Coulter Jewell Thames, P.A. for the Professional Design and Consulting Services Agreement for Maplewood and Beechwood Cemeteries Facilities and Site Improvements Study in the amount of \$202,080.00; and
- Establish a design contingency in the amount of \$18,000.00, and authorize the City Manager to negotiate and execute amendments to the Professional Design and Consulting Services Agreement for Maplewood and Beechwood Cemeteries Facilities and Site Improvements Study with Coulter Jewell Thames, P.A. provided the total cost does not exceed \$220,080.00.

General Services Director Joel Reitzer spoke on the expenditures for the contract and remaining funds in the perpetual care fund; and stated they would like to recommend any CIP additions for specific items that might not be able to be completed. He commented on some of the highest priority items and referenced roadways within the cemeteries that needed maintenance.

Mayor Bell asked when would the damaged fencing at Beechwood Cemetery be repaired.

General Services Director Joel Reitzer replied he would provide an answer regarding the fence repair at Beechwood Cemetery prior to the December 1, 2014 Council meeting.

SUBJECT: SETTING PUBLIC HEARING TO CONSIDER RESCINDING THE ORDERING OF ELEVEN PETITIONED SIDEWALK PROJECTS

The staff report indicated that at the September 4, 2014 City Council Work Session, an item was brought before Council regarding the prioritization of sidewalk construction, including eleven sidewalk projects previously ordered by City Council as a result of petitions from abutting property owners. Council expressed a desire to change the assessment rate from \$5.00 per front foot to \$35.00 per front foot for the seven (7) least expensive projects currently on the petitioned construction list and eliminate the four (4) most expensive projects from the list altogether.

After consulting with the City Attorney's Office, it is Public Works' opinion that in order to do this Council must first hold a public hearing and adopt a resolution to rescind the original ordering of all eleven petitioned sidewalks. Should Council then wish to proceed with the seven least expensive projects at the \$ 35.00 per front foot assessment rate, additional Council actions would be required.

The adoption of the resolution would set a public hearing to consider rescinding the ordering of the eleven sidewalks on the current ordered petition list, which was the first step required to allow the re-issuance of petitions under Council desired criteria.

The Public Works Department recommended that City Council adopt a resolution setting a public hearing to consider rescinding the ordering of all petitioned sidewalks.

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Council Member Catotti referenced the options outlined in the staff report; stated it would appear the Council would want to proceed with rescinding and requested clarification on the implication for the projects.

Deputy City Manager Bo Ferguson stated once the projects are rescinded the neighborhood would need to re-petition and noted re-petitioning would not commit the Council to approve the project. He said once the council rescinds, the old projects are gone; a new process would begin; and Council may choose to approve or not approve.

Director of Public Works Marvin Williams stated it may be best that the Council proceed with the first four steps and then decide what the rate would be; which petitions would be recognized if sufficient signatures are obtained, setting the directive as they go along.

Deputy City Manager Bo Ferguson stated if Council was willing to provide direction to staff on which projects they desired to consider at the new rate, the staff would take that direction and communicate to the various residents which would provide discouragement to those projects the Council had indicated they would not entertain and encouragement to those projects the Council voiced support for.

Discussion was also held on reevaluation of the Durham Walks Plan during the upcoming budget process.

At this time, Assistant City/County Planning Director Patrick Young commented on the 2005 Comp Plan and station area planning.

SUBJECT: FIRST QUARTER FY14-15 FINANCIAL REPORT

To receive the First Quarter 2014-15 Financial Report.

Assistant Budget Director John Allore shared a Powerpoint presentation on the First Quarter Financial Report for FY 2014-15. The report was based on three months of financial information. In addition, he noted the update reflected the administration's effort to continually monitor the City's financial status and the next financial update will be given on February 19th.

The Council thanked the administration for the report.

City Clerk Gray announced the ballot results for the Durham City/County Appearance Commission.

Settling the Agenda – December 1, 2014 City Council Meeting

Deputy City Manager Wanda Page announced the following items for the December 1, 2014 City Council Meeting agenda: Consent Items 1-14; and Public Hearings Items 16-20.

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MOTION by Council Member Catotti seconded by Council Member Brown to settle the December 1, 2014 City Council Meeting agenda as stated by Deputy City Manager Page was approved at 3:05 p.m. by the following vote: Ayes: Mayor Bell and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Excused Absence: Mayor Pro Tempore Cole-McFadden.

There being no further business to come before the Council, the meeting was adjourned at 3:05 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk