

DURHAM CITY COUNCIL WORK SESSION
Thursday, January 8, 2015 @ 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: City Manager Thomas J. Bonfield, City Attorney Patrick Baker and City Clerk D. Ann Gray.

The meeting was called to order by Mayor Bell welcoming all in attendance.

Council Member Brown asked for a moment of silence for the victims who were assassinated recently in Paris, France.

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

City Manager Bonfield referenced the following items:

- Agenda Item #7 – City of Durham Employment and Training 2014-2016 Grant Project Ordinance Superseding Grant Project Ordinance #14632 (suspend the rules and vote)
- Agenda Item #15 – Katina Parker, a citizen, would not be present to speak at today’s meeting

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

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

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

SUBJECT: CITY OF DURHAM EMPLOYMENT AND TRAINING 2014-2016 GRANT PROJECT ORDINANCE SUPERSEDING GRANT PROJECT ORDINANCE #14632

MOTION by Council Member Catotti seconded by Council Member Schewel to suspend the rules of the City Council and take action on the above-mentioned subject was approved at 1:12 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.

MOTION by Council Member Catotti seconded by Council Member Brown to authorize the City Manager to accept the Employment and Training Grant by executing the grant documents; and

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To adopt the City of Durham Employment and Training 2014-2016 Grant Project Ordinance Superseding Grant Project Ordinance #14632 was approved at 1:12 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.

ORDINANCE #14712

SUBJECT: STEPHEN HOPKINS

To receive comments from Stephen Hopkins regarding the gentrification in and around downtown Durham particularly Northeast Central Durham, Southside and Fayetteville Street.

Stephen Hopkins made the following statement: "I use to have a lot of respect for this City Council but, as of the last seven years, it seems as if you all don't care about what is really happening in the Black community all around downtown or in downtown. Black people in Durham are being forced further and further away from downtown; we are being priced out of our neighborhoods, Black businesses can't afford to move into downtown so that they can benefit from all of the growth. There aren't any jobs that pay a living wage being created that will hire us. The Black non-profits are losing funding and thanks to this Council are closing their doors. This is happening because of the way the City Manager and his staff is viewing the value of black people and what we add to the City. Don't take my word for it. I am asking you to hold a public meeting with Durham city residents so that we can let you know what our feelings are about the City Manager and his effectiveness. Me personally, I think it is time for us to say that your services are no longer needed Mr. Bonfield. Thank you."

Mayor Bell replied that he could respond to some of the comments made by Mr. Hopkins; however, he stated he would not and felt Mr. Hopkins was way off base with him comments, but noted Mr. Hopkins was entitled to his opinion.

SUBJECT: LAILA NUR

To receive comments from Laila Nur regarding actions of law enforcement in recent protests.

Ms. Laila Nur addressed the council stating they were in grievance for the families/victims of police brutality and in protest for the lack of accountability that is occurring. She referenced the conduct of Durham police officers against protestors and by standers. Ms. Nur stated the Chief of Police, Jose Lopez, stated he was willing to meet and speak with concerned Durham residents about police violence and police reaction to the recent protests; and stated he has failed to return any calls. Ms. Nur stated people have been trying to reach the police chief since the middle of November 2014 with no avail. She said he had invited them to the table, but he himself had not come to the table to hold a conversation; she referenced the protest at South Point Mall where a truck driver drove his tractor trailer into the crowd and all the officers present stood around and did not take action, except for one female officer.

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Mayor Bell stated that it would be helpful if Ms. Nur could share with the City Manager the specific times contact was made with the Chief of Police.

SUBJECT: RESOLUTION APPROVING CITY OF DURHAM (DATA) 2014 TITLE VI PROGRAM UPDATE

The staff report indicated that the Transportation Department recommended adoption of a resolution approving City of Durham (DATA) 2014 Title VI Program Update. The City of Durham is required by the Federal Transit Administration to develop a Title VI compliance program in accordance with federal regulations.

Pierre Osei-Owusu, of the Transportation Department, referenced the status of the standards which were outlined in the Powerpoint presentation.

Council Member Schewel suggested a report be given in the future on how the City was doing on the standards.

City Manager Bonfield stated many of the items would be covered during the upcoming budget work sessions.

SUBJECT: NORTH DURHAM WATER RECLAMATION FACILITY AND ACADIA STREET WATERLINE REPLACEMENT – CONTRACT WITH THE JOHN R. MCADAMS COMPANY, INC.

The staff report indicated that in cooperation with the City of Durham's Small and Local Business Enterprise Program, the Department of Water Management issued a Request for Qualifications to qualified SLBE firms for professional engineering services for surveying, design, and permitting, for the relocation and replacement of an existing waterline feeding the North Durham Water Reclamation Facility and the existing waterline located in Acadia Street north of West Markham Street and South of I-85.

The Department of Water Management received two responses to the RFQ and selected the engineering firm The John R. McAdams Company.

The department recommended that the City Council authorize the City Manager to execute a contract with The John R. McAdams Company Incorporated for Professional Engineering Services in an amount not to exceed \$98,950.00 for the North Durham Water Reclamation Facility and Acadia Street Waterline Replacement contract.

Council Member Schewel spoke to the small local business enterprise operating in a way that cross-purposes with the minority hiring goals. Regarding the item, he said the bidder did a good job hiring a minority contractor; however the bidder himself had nine employees with only three being African-Americans.

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City Manager Bonfield stated the minority hiring component was not anything that could be required; however, it could be promoted as a part of the City's value system.

SUBJECT: PROPOSED SALE OF NO-BUILD EASEMENTS AT 505 RIGSBEE AVENUE TO LIBERTY WAREHOUSE APARTMENTS, LLC – PARCEL 104933

The staff report indicated that Liberty Warehouse Apartments, LLC (LWA), owner of the property located at 611 Rigsbee Avenue and identified as parcel 104932, seeks to acquire two no-build easements from the City that will enable Towers 1 & 2 of LWA's proposed new building to be constructed on the property line it shares with the adjacent city-owned Durham Central Park. The applicable building code requires at least ten feet of separation between structures when one structure is situated on a shared property line and has window openings. LWA has proposed to situate its two towers on the shared property line with the City and plans to install windows in the side of the towers that overlooks Durham Central Park. To accommodate this proposal, the easements are necessary to create the ten feet of separation required by the applicable building code.

The proposed easements extend ten feet from the property line and cover 1,433.00 square feet of the City-owned parcel located at 505 Rigsbee Avenue (parcel 104933).

The Real Estate Division had conferred with City departments to determine if the location of the proposed easements will interfere with the parcel's current use as a public park or with any future public use or purpose. There were no objections from the departments to granting the easements.

The City is authorized to convey these easements to LWA by N.C.G.S. §160A-273, which states in part, "[a] city shall have authority to grant easements over, through, under, or across any city property...."

The General Services Department recommended City Council accept Liberty Warehouse Apartments, LLC's offer of \$11,822.00 to purchase two easements totaling 1,433.00 square feet over a portion of parcel 104933 located at 505 Rigsbee Avenue; and authorize the City Manager to sell and the City Manager or the Mayor to convey the easements by deed.

In addition, the staff recently received communication from East West Partners Management Company and Durham Central Park board members detailing contributions and/or assistance that East West Partners had made or had committed to make regarding amenities in the park.

Council Member Moffitt stated at this point he did not have a problem with selling an easement on the portions of the park being requested; however, he wanted to make certain the City had the right to use and enjoy the existing facilities located there. He stated he would not be happy with an easement, whereby two years from now, the City passed to East West Partners the ability to affect the City's use or the ability to lease the use of the casting facility.

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General Services Director Joel Reitzer spoke to the drawings in the staff report as being elevation drawings; and addressed the utilization of the facility being City property.

Deputy City Manager Ferguson spoke to the sidewalk stating it was a requirement and part of the site plan; no CO's could be issued in the new building until the sidewalk was constructed; he confirmed that it was East West Partners intentions to build the sidewalk; the design and placement of the sidewalk was something that Central Park; East West Partners and Durham Parks & Recreation had collaborated on; and stated the donation to the construction of Mt. Merrill was complete.

Bryson Powell, of East West Partners, commented on the notation regarding impervious surface stating it was simply an offer to explore a theory; if they had additional impervious surface on their site, the completion of the sidewalk elements in the park which account for impervious surface, could be incorporated into their allocation which would alleviate any new storm measures inside the park which are costly and take up valuable space.

For clarification, Deputy City Manager Ferguson commented on the aspects of Liberty Arts as it relates to the easement and the conversations that had taken place regarding going forward with Liberty Arts' access. He stated at this point, he was fairly comfortable representing that Liberty Arts was comfortable with the current and future situation that they have access to the facility.

Regarding the intentions of East West Partners to build the sidewalk, Council Member Catotti asked if Durham Central Park had any liability or obligation to build the sidewalk.

Deputy City Manager Ferguson stated it was his understanding that East West Partners would undertake the construction of the sidewalk.

Council Member Catotti asked if that language should be included in the easement agreement.

City Attorney Baker stated that depends if the Council was satisfied with what they heard was a commitment or if they wanted to add it to the agreement. He stated generally when the City enters into an easement agreement it is about the land subject - which is the subject to the easement and associated costs. The City Attorney stated the Council had flexibility if there were specific things they wanted; having a letter agreement or adding it to the easement, which would be unusual he stated.

Council Member Catotti stated she wanted it to be clear that Durham Central Park was not obligated to build the sidewalk because the cost would be significantly higher than the contribution amount. In terms of disclosure, Council Member Catotti stated she was on the Central Park Board and no one had asked her to speak specifically on the matter but it was a concern that she raised at the meeting.

Senior Assistant City Attorney Rosenthal stated she heard the concern of Council Member Catotti and stated she thought the situation had been addressed in an earlier agreement between the City and East West Partners. Attorney Rosenthal stated if it was not addressed, she would place it into the easement agreement.

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Pertaining to the sidewalk, Bryson Powell, of East West Partners, stated they would be happy to paper it; formalize it in a different document if it would be helpful.

City Attorney Baker stated they would take a look at it and make a recommendation.

Regarding any safety improvements needed, Deputy City Manager Ferguson stated based on dialogue they have had, that would be Liberty Arts obligation. He stated Liberty Arts had a high degree of confidence hoping the situation would not present itself, but have indicated they believe the facility to be their responsibility to address safety improvements.

SUBJECT: CONTRACT WITH MID-ATLANTIC ASSOCIATES, INC. FOR IMPLEMENTATION EPA BROWNFIELDS ASSESSMENT GRANT

The staff report recommended approval of a contract between the City of Durham and Mid-Atlantic Associates, Inc. in the amount of \$354,999.00 to conduct engagement activities and environmental assessments services.

Council Member Moffitt questioned a reference in the agreement referring to a site assessment; and asked staff where were the specific sites located.

Chris Dickey, of Office of Economic & Workforce Development, stated the sites would be located all around OEWD's target areas. He stated they would hold public meetings trying to identify the sites for assessment.

SUBJECT: CONTRACT SD-2014-01 WITH PRISM CONTRACTORS – MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) INSPECTIONS

The staff report indicated that on October 30, 2014 bids were opened for Contract SC-2014-01. The contract included the inspection of portions of the Municipal Separate Storm Sewer System for site locations throughout the City of Durham. The lowest responsive bid was submitted by Prism Contractors & Engineers, Inc. of Williamsburg, Virginia.

The Public Works Department recommended that the City Council authorize the City Manager to execute a contract with Prism Contractors & Engineers, Inc., in the amount of \$101,500.00; and to authorize the City Manager to negotiate change orders provided that the total project cost does not exceed \$101,500.00.

Dana Hornkohl, of the Public Works Department, stated the contract was a service contract not a professional service contract; and no registered professional was needed to perform the work, which he stated was the main difference. He stated they were able to evaluate on qualifications but it coincided that the lowest bidder was the best qualified to perform the work.

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SUBJECT: KRONOS SALES, SOFTWARE LICENSE AND SERVICES AGREEMENT FOR AUTOMATED WORKFORCE TIMEKEEPING AND SCHEDULING SOLUTION

The staff report indicated that in June of 2014, the City began negotiations with Kronos Incorporated to provide equipment, software, professional and educational services, and support that will enhance timekeeping and scheduling effectiveness for the Parks and Recreation and Fire Departments and will integrate with the City's Enterprise Resource Planning System, MUNIS.

The administration recommended that the City Council authorize the City Manager to execute an agreement with Kronos Incorporated for an Automated Workforce Timekeeping and Scheduling Solution at a cost of \$265,164.40.

A Fire Department representative stated with the new timekeeping system, efficiencies would be realized and commented on the current antiquated system.

SUBJECT: AGREEMENT WITH KRAMDEN INSTITUTE, INC. FOR COMPUTER DONATION

The staff report indicated that the City of Durham's Technology Solutions Department was seeking authorization to donate all desktop computers taken out of production (without monitors) and no longer meet the City's business requirements, to Kramden Institute, Inc., a non-profit corporation, in Durham, North Carolina. Kramden Institute's mission is to help deserving students fulfill their academic and personal potential by awarding them home computers where they had none before, and to provide low cost computers to area non-profit organizations.

During FY 2015, the Technology Solutions Department will replace desktop computers that no longer meet the City's business requirements throughout City departments. The computers replaced are surplus computers and will be ready for disposal. In the past, computers have been disposed of by listing them with GovDeals.com for purchase by companies that provide services to various governmental agencies. This practice has allowed these companies to sell surplus equipment via the Internet to the highest bidders. Additionally, computers have been submitted to the City's auction for disposal.

The administration recommended that the City Council authorize the City Manager to declare desktop computers that no longer meet the City's business requirements to be surplus and authorize that the equipment be donated to Kramden Institute, Inc. for repurposing within the City of Durham based on the contract established with the City.

Council Member Davis spoke in support of the item and thanked all involved who worked to make this happen.

[SETTLING THE AGENDA – JANUARY 20, 2015 CITY COUNCIL MEETING]

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City Manager Bonfield referenced the following items for the January 20, 2015 City Council Meeting agenda: Consent Items 1-6 and 8 thru 11. He also noted the items which were disposed of earlier by the Council.

MOTION by Council Member Catotti seconded by Council Member Brown to settle the agenda for the January 20, 2015 City Council Meeting as stated by the City Manager.

The motion was approved unanimously at 2:00 p.m.

There being no further business to come before the Council, the meeting was adjourned at 2:00 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk