

**DURHAM CITY COUNCIL WORKSESSION**  
**Thursday, October 22, 2015 @ 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 W. Baker and City Clerk D. Ann Gray.

The meeting was called to order by Mayor Pro Tempore Cole-McFadden welcoming all in attendance.

The Mayor Pro Tempore asked if there were any announcements from the Council.

Council Member Moffitt requested that Charlie Deal, a restaurant owner, be allowed to address the Council regarding roadway construction in downtown Durham. He stated numerous owners in downtown had come to him with concerns about the construction.

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

City Manager Bonfield stated that the following citizens would not be in attendance today to speak: Delvin Davis; Tia Hall and Nia Wilson.

Upon a motion and properly seconded, 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 Pro Tempore announced each item on the printed agenda, the following items were pulled for comments and/or further discussion:

**SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION  
APPOINTMENT**

To appoint a citizen to fill one (1) vacancy on the Durham City-County Appearance Commission with the term to expire on April 1, 2018.

Council Member Schewel requested that the item be referred back to the City Clerk for re-publicizing of the vacancy.

**SUBJECT: JOHN TARANTINO**

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John Tarantino provided a song selection regarding the upcoming departures of Eugene Brown, Diane Catotti and Jose Lopez, as well as the election results.

**SUBJECT: UNCONSCIOUS BIAS TRAINING FOR THE WATER MANAGEMENT DEPARTMENT – JJA CONSULTANTS, INC.**

The Human Resources Department recommended that City Council approve JJA Consultants, Inc., from Fairfax, Virginia as the firm selected for consulting and technical assistance in developing unconscious bias training for the Water Management Department; and to authorize the City Manager to execute a contract between the City of Durham and JJA Consultants, Inc., in the amount of \$99,187.00.

At the request of Council Member Schewel, the staff will make the corrections to the memo prior to the November 2<sup>nd</sup> Council Meeting.

**SUBJECT: CHARLIE DEAL**

To receive comments from Charlie Deal regarding construction of roadways in Downtown Durham.

Charlie Deal, a restaurant owner in downtown Durham, voiced concern stating the construction of roadways in downtown was having a significant impact on his and other businesses; he spoke specifically about the construction barriers located in front of the Dos Perros and Pompieri restaurants; referenced heavy equipment being parked for a days; weekend road closures; disrupted work being done during peak business hours; diesel powered equipment operating in front of his business; shining blinding lights into their dining rooms; jack hammers rattling the windows; during inclement weather the road being closed and no work being done; and referenced the financial impact that had been experienced due to the construction. He offered several suggestions for the future to alleviate concerns.

Deputy City Manager Bo Ferguson stated he and others had been in contact with a number of business owners and had heard a number of the suggestions mentioned by Mr. Deal; which were reasonable. He stated with the project and future projects, they could bring different alternatives to the council; noted the contractors would be completing construction on Mangum in a few weeks; and stated wanted to learn from these lessons and do a better job in the future.

Water Management Director Don Greeley stated he would check to see if the work was completed in front of Dos Perros, and if so, they would get the barriers removed.

Council Member Moffitt stated there were some things that could be considered which would not have a cost implication such as: angling the lights in a different manner; and making certain construction equipment was not idling directly at front doors.

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**SUBJECT: FOURTH AMENDMENT TO ASSIGNMENT AGREEMENT BETWEEN THE CITY OF DURHAM AND THE DURHAM BULLS BASEBALL CLUB FOR THE OPERATION OF THE DURHAM ATHLETIC PARK**

The staff recommended that the City Council authorize the City Manager to execute an amendment to the Assignment Agreement with the Durham Bulls Club extending the operation of the Durham Athletic Park an additional 12 months to September 30, 2016 for a contract amount of \$111,980.28.

Council Member Catotti stated it appeared there could be more of an opportunity for additional off season community events to be held at the Durham Athletic Park; and suggested more promotion and usage would be ideal because the facility seemed to be an under-utilized asset.

Grace Dzidzienyo, of OEWD, stated they had met with the General Manager and they were developing strategies to implement more cultural events at the facility.

**SUBJECT: UNDERGROUND PRIVATE UTILITY INSTALLATION COST RECOVERY**

The Public Works Department recommended that City Council direct staff on the preferred underground private utility installation cost recovery option and authorize the department to proceed with a public hearing to amend the recommended fee schedule.

Assistant Public Works Director Tasha Johnson provided background information on what had transpired since this item was presented to Council at an earlier work session held in July.

Ms. Johnson also provided a Powerpoint presentation on the Underground Utility Permit Fee Analysis "Revision to Existing Tiered Rate Structure."

Mayor Pro Tempore Cole-McFadden stated there were speakers to the item.

Indira Everett, representing Duke Energy, thanked the members of Council for the opportunity to address them on behalf of the six service providers; Duke Energy, AT&T, Frontier, Level3 Communications, PSNC and Time Warner Cable. She stated their group had decided to put aside their personal agendas and any competition and work together to help the City resolve the matter. She stated we are faced with the fortunate and challenge of being a growing community and as good corporate citizens, they wanted to be a part of the progression individually and collectively. Ms. Everett stated they all met this morning and thought rather than the Council hearing from all of them individually, it might be more productive for her to summarize their thoughts. She stated due to the magnitude of the process, they have found the process a bit challenging for them to catch up since they were not a part of the planning of the proposal before it was crafted; however, she wanted the Council to know that their team was certainly coming together in trying to help resolve the matter in a very productive way. She thanked the City Manager and City Attorney, as well as the staff, for meeting with them and answering questions as they worked

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through the challenges in the proposed permitting fee increase. Ms. Everett stated they would like to dispel any thoughts that the coalition has not taken the matter seriously or had been dragging its feet on a response. In fact, on the contrary, she stated they provided a response on the 16<sup>th</sup> and a lot of interaction with the staff; and vetting all the data goes throughout their companies and they have tried to manage that as quickly as possible. She referenced since the item was on a previous work session agenda the utilities and staff have met and exchanged numerous emails and correspondence. Ms. Everett referenced they have asked for specifics in the contract with Kimley-Horne to help them better understand the breakdown of the \$1.6 million proposed budget as well as the City's legal interpretation of the N. C. General Statute that the utility companies feel precludes several of the additional fees outlined in the proposal.

Ms. Everett stated it's certainly worth noting that members of their coalition like most of the Council had great concerns about the impact any increase would have on the customers, the citizens; they empathized with the concerns expressed about not wanting to increase taxes on the residents for these needs; and as a coalition had the same concerns because any increased costs to their business would in many cases have to be passed onto the customer because they were regulated by the Utilities Commission that approved rates increases based on operational costs; and stated that is why they were taking the matter seriously and wanting to carefully consider all impacts to not only their businesses, but to Durham citizens. She respectively requested that the Council allow them to continue the productive conversations with the staff so they can best respond while keeping in mind a goal to find a win-win for both the City, the business community, and the citizens of Durham.

Mayor Pro Tempore Cole-McFadden inquired about the extension of time being requested by the coalition.

Ms. Everett stated the group did not define a time; however, she noted 30 days seemed appropriate for them to vet the information through their various organizations.

John White, of the Durham Chamber of Commerce, requested the Council allow the process to continue to resolve the matter; stated the process they were undertaking was working; and referenced the work and communication with the City staff was beneficial.

Council Member Catotti asked what would be accomplished by allowing additional time; she asked would an alternative funding proposal be submitted.

John White replied it would help them to continue to sort through the math; referenced the response just received yesterday from staff which they would like to review; and said the additional time would allow them to come together; ask the questions as it pertains to each of the company's bottom line.

Mayor Bell stated he was not opposed to granting additional time if it resulted in a better understanding between the City and the utility companies. He stated he would not want the decision to go beyond the present Council.

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Council Member Moffitt stated he was not opposed to granting an extension; four weeks. Also, he spoke in support of the user of the services paying the costs, noting people can choose.

Deputy City Manager Bo Ferguson commented on the Charlotte model and how it functioned; and its downside.

Council Member Catotti asked if council action on the item would be done at a work session or at a Monday night council meeting.

Mayor Bell suggested that Council take action at a work session.

Deputy City Manager Ferguson stated as to the process, the Council would make a decision as to the preferred model; and then a public hearing would need to be held to set the rate. He stated the date that the Council made the decision would not be the effective date for the rates.

Mayor Bell stated he would prefer the matter be finalized by the present Council.

Council Member Schewel asked if the costs of the fees would cover the costs of the work.

City Manager Bonfield stated maybe not on a job-by-job basis; but the City-County Inspections Department costs were covered by the fees.

Discussion and/or comments was held on the differences between proposed fees and the revised fees; having more consistent communication with residents regarding utility work being performed; where complaints from residents should be directed; the Charlotte model whereby they bill for their actual costs; support of 100% cost recovery; and not supplementing it at a loss to taxpayers.

**SUBJECT: WASTE INDUSTRIES TRANSFER STATION CONTRACT AMENDMENT**

The Solid Waste Department recommended the City Council authorize the City Manager to execute an amendment to the contract with Waste Industries, LLC in the amount of \$160,587.50 (\$141,988 for modifications related to the new transfer station and \$18,599.50 related to repairs at the existing structure), payable in an amount of \$0.073 per ton, until paid in full.

At the request of Council Member Moffitt, Assistant Director of Solid Waste Management Wayne Fenton, provided background information on the initial contract and explained the rationale for having to pay additional costs; the contract amendment.

**SUBJECT: MIST LAKE FACILITY EXPANSION**

To receive a presentation from the Department of Water Management and General Services for the expansion of the Mist Lake Facility and future space utilization opportunities created at the Public Works Operations Center.

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The staff report indicated that the Department of Water Management had completed a Facilities Master Plan for the Mist Lake Facility. The Master Plan included the relocation of the Water and Sewer Maintenance Division from the Public Works Operations Center. The Public Works Operations Center Facility currently houses Water and Sewer Maintenance and Public Works Street Maintenance Division. The PWOC Facility has space limitation for future expansion as well as flooding issues. Relocating Water and Sewer Maintenance out of Public Works Operations Center would allow space for both departments for the next 30 years planning horizon.

The Department of Water Management worked closely with General Services to develop the Mist Lake Facilities Master Plan and assessed different options to site a new facility. After reviewing several options, the departments were recommending the new facility be built at the current Mist Lake site.

Water Management Director Don Greeley presented a Powerpoint presentation referencing the following:

#### Public Works Operations Center – Future Planning

Recommendations from Master Plan for renovations and improvements

- Demolition of pump house/water meter shop
- Incorporate storm water management and other site improvements
- Renovation of 4 buildings in flood plain within regulated spending constraints
- Build new truck wash, brining area, and bulk material storage shed outside of flood plain

#### Department of Water Management – Opportunities

- Allowable space for required & expected growth
- Better utilization of existing personnel and equipment
- Better utilization of parts/tools warehousing and non-duplication of housing parts and tools
- Provide better internal communication within divisions
- Protection of parked vehicles and outdoor equipment during flooding situation now experienced at PWOC
- Provide more acceptable storage and in-house work area conditions for field personnel

#### Department of Water Management – Requirements

- Department of Water Management Facility Master Plan completed
- Department of Water Management growth over next 20-30 years (plant engineering & maintenance 35 employees; water, sewer maintenance 90 employees; additional personnel and work vehicle parking)
- Minimum of 27 acres of buildable area
- Site flexibility for potential growth beyond the 20 year projection
- Single story facility
- Adjacent roadway infrastructure for heavy truck use

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Project Cost Estimate

- Construction Cost \$ 41,677,100
- Soft Costs (design, permitting, testing, etc) 7,085,100
- Land Acquisition (estimated) 225,000
- Total Project Cost \$ 48,987,200

Funding for project has been included in the financial rate model.

Project Time Line

- Program Management Approval 4 months
- Architect/CMAR Selection Process 6 months
- Design/Permits 12 months
- Bid/Award 4 months
- Construction 22 months
- Total 48 months

Mr. Greeley also referenced the Mist Lake Facility Master Plan noting the structure was approximately 164,000 square feet; the General Services Department provided 13 sites and 10 were rejected due to parcel size; access; site topography; proximity and other feasibility issues.

The Council thanked the Water Management Director for the presentation and the level of planning for the future that had been done.

**SUBJECT: COMMENTS BY COUNCIL MEMBER EUGENE BROWN**

Council Member Brown provided a Powerpoint presentation showing dilapidated homes on and near Fayetteville Street and in proximity to North Carolina Central University. He stated a great university, North Carolina Central University, deserved a great gateway. He hoped with the new Council a concerted effort could be made to make this a priority. Mr. Brown stated he recognized a revitalization process would not be easy due to some of the homes residing in historic districts.

Mayor Pro Tempore Cole-McFadden stated the condition of dilapidated property was on the chancellor's front burner; also she stated an affordable housing study was done to look into what could be done with the houses.

**SUBJECT: EXCUSE COUNCIL MEMBER DON MOFFITT AND MAYOR PRO TEMPORE CORA COLE-MCFADDEN**

Due to Mayor Pro Tempore Cole-McFadden and Council Member Moffitt attending the upcoming National League of Cities Conference, the following action was taken:

**MOTION** by Council Member Catotti seconded by Council Member Schewel to excuse Council Member Moffitt and Mayor Pro Tempore Cole-McFadden from the November 5, 2015 City Council Work Session meeting was approved at 2:51 p.m. by the following vote: Ayes: Mayor

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Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Settling the Agenda – November 2, 2015 City Council Meeting**

City Manager Bonfield announced the following items for the November 2<sup>nd</sup> City Council Meeting agenda: Consent Items 1; 3 thru 10; 12 thru 14; Public Hearing Items 15 thru 20; the Council disposed of Items 21 thru 25 at the Work Session; and Items 2 and 11 were referred back to the administration.

**MOTION** by Council Member Catotti seconded by Council Member Davis to settle the agenda for the November 2, 2015 City Council Meeting as stated by the City Manager was approved at 2:52 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.

In conclusion, the Public Affairs Department shared a video of the dedication ceremony held on Saturday, October 17<sup>th</sup> for the Durham mural memorializing the civil rights struggle.

There being no further business to come before the Council, the meeting was adjourned at 2:58 p.m.

D. Ann Gray, MMC, NCCMC  
City Clerk