

DURHAM CITY COUNCIL WORK SESSION
Thursday, September 24, 2015 @ 1:00 p.m.
2nd 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.

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

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

City Manager Bonfield referenced the following item:

- Agenda Item #3 – An Ordinance to Revise the Temporary Street Closing Procedures for Special Events – a presentation will be provided

In addition the City Manager commented on his attendance, along with the Mayor Pro Tem, at the Raleigh-Durham Airport regarding the Delta Air Line announcement pertaining to non-stop service to Paris beginning in May 2016.

Upon a motion and properly seconded, the City Manager’s item was accepted by the Council.

City Attorney Baker requested a closed session at the end of the meeting for attorney-client privilege, pursuant to NCGS 143.318.11(a) (3).

Upon a motion and properly seconded, the City Attorney’s item was accepted by the Council.

There were no priority items by the City Clerk.

Council Member Catotti reminded her colleagues and citizens that early voting was opened; and encouraged everyone to exercise their right.

Council Member Davis stated last week marked the fifth anniversary of the R. Kelly Bryant Bridge dedication. Also, this week marked the 98th birthday of Mr. R. Kelly Bryant.

After Mayor Pro Tem Cole-McFadden announced each item on the printed the agenda, the following items were pulled for presentation; comments or discussion:

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SUBJECT: MAYOR’S POVERTY REDUCTION INITIATIVE UPDATE – HEALTH TASK FORCE

To receive a presentation on the Poverty Reduction Initiative from the Health Task Force.

Council Member Moffitt, Co-Chair of the Health Task Force, recognized LaTonya Gilchrist who provided the following report:

The Health Task Force has been meeting over the past year. Guided by the PRI’s data collection processes that included Community Listening Sessions and PRI questionnaire, Task Force members examined health disparities related to low resource communities, reviewed results of the community survey and compiled a list of potential initiatives.

While there were many promising ideas and programs involving health, the task force has settled on the Community Health Worker initiative. The Community Health Worker is a complete program with a job description, administrative home, office location, salary and training. Residents from the focus area will be hired to do this work. The Community Health Worker initiative will serve as an “employment ladder” and an entry level into the health care profession.

Activities Completed

- Established core competencies of the Community Health Worker
- Determined administrative home and location for office when required
- Wrote job description (Department of Public Health position)
- Explored partnerships for workforce development including Social Services Work First program; Office of Economic Workforce Development at the Work Training initiative

Upcoming Steps

- Continue creation of a training and certification program, working with Durham Tech and the Durham County Department of Public Health
- Finalize credentialing and training curriculums
- Complete evaluation plan
- Work with Board of Public Health towards creating a credentialing program
- Continue efforts to locate sufficient funding for PRI area

The Health Task Force continues to meet bi-weekly, carrying out the action steps to alleviate issues residents have identified as their greatest needs. The Health Task Force will continue to inform, educate and include community members in their quest to improve the overall health and wellbeing of residents within the impact area.

The Council thanked the task force for the report.

SUBJECT: DURHAM PERFORMING ARTS CENTER OVERSIGHT COMMITTEE ANNUAL REPORT

To receive the Durham Performing Arts Center Oversight Committee Annual Report.

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Susan Callaghan, Vice Chair of DPAC Oversight Committee, presented the following report:

1. The DPAC Oversight Committee met 5 times during the 2013-2014 fiscal year (September 9, 2014; December 9, 2014; March 24, 2015; April 21, 2015; and June 9, 2015).
2. The Oversight Committee reviewed in detail the fifth full-year financial statements from the Operator which covered the period July 2013 through June 2014.
3. At each meeting the Committee has received detailed reports from the DPAC Operator as well as updates from the City on operational as well as physical aspects of the DPAC.
4. The Committee has provided the Operator advice and recommendations on prioritizing items for the Capital Expenditures Budget which is the list of items that, in the reasonable opinion of the Operator, are necessary to keep and maintain the DPAC consistent with operating standards outlined in the Operating Agreement. After extensive discussion, the Committee voted to approve the recommendations for submission to the City Manager.
5. The Oversight Committee did hold one of its meetings at the DPAC and the General Manager did provide a tour of the facility in order to actual operational and physical plant needs.
6. Several Oversight Committee members have visited the DPAC during a range of performances to observe first-hand the patron experience and the DPAC operation during the midst of performances.
7. The Oversight Committee is discussing developing a recommendation for an undetermined project that will benefit the DPAC and the Durham community.
8. At present, the Committee does not have any areas of non-compliance by the Operator relative to the Operating Agreement.

Bob Klaus, General Manager of the DPAC, also presented a Powerpoint presentation on the 2014-2015 season highlights; and the upcoming season events for 2015-2016.

Community Development Director Reginald Johnson presented the 2014-15 financial results for the Durham Performing Arts Center.

**SUBJECT: PROPOSED TEMPORARY CONSTRUCTION EASEMENT AND
REVOCABLE USE EASEMENT WITH EMPRESS DEVELOPMENT LLC
FOR SHARED USE OF ALLEY ADJACENT TO 112 WEST MAIN STREET**

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The General Services Department recommended City Council accept Empress Development LLC's request to improve 410 square feet of public alley adjacent to 112 W. Main Street by granting a temporary construction easement and a revocable use easement (collectively the "Easement"); and authorize the City Manager or the Mayor to convey the Easement by deed.

At the request of Council Member Schewel, Assistant General Services Director Jina Propst explained what was meant by "revocable"; also referencing the terms and conditions.

**SUBJECT: GENERATOR MAINTENANCE AND EMERGENCY REPAIR SERVICES
CONTRACT 2014 WITH NATIONAL POWER CORPORATION –
AMENDMENT NUMBER ONE**

The Department of Water Management recommended the City Council authorize the City Manager execute a contract amendment with National Power Corporation for the generator maintenance and emergency repair services for a not-to-exceed annual expenditure of \$204,863.00 renewable annually at the option of the City Manager for up to four additional years.

At the request of Council Member Moffitt, Water Management Director Don Greeley explained the reason why the additional generators were more costly than the current ones.

**SUBJECT: PROPOSED SALE OF 110 CHESTNUT STREET (PARCEL #118597) BY
UPSET BID**

The General Services Department recommended that City Council declare the city-owned property located at Chestnut Street surplus; propose to accept the offer of \$20,000 from Chad Perry to purchase 110 Chestnut Street; advertise for upset bids pursuant to the procedure set forth in the NCGS; authorize the City Manager, pursuant to Section 86.3 of the City Charter, to accept the bid from the highest qualifying bidder at the conclusion of the upset bid process and to authorize the City Manager or the Mayor to convey 110 Chestnut Street via non-warranty deed.

Council Member Schewel raised a concern that the proposed lot was not being sold for what it should be; and referenced for sale lots in Southside increasing. David Fleischer of the General Services Department, referenced the appraised value of the lots that were sold in the Southside development averaging \$15,000; stated prices have been escalating in the area; and the initial offer of \$20,000 for 110 Chestnut Street was just a vehicle to start the upset bid process. Also, he said if the property was desirable, upset bids were often received.

It was suggested that the staff place a sign at the property in order for people to know about the upset bid process.

**SUBJECT: PROPOSED SALE OF VARIOUS PROPERTY INTERESTS TO LAMBERT
DEVELOPMENT HUNT STREET, LLC FOR THE PARKSIDE AT
MORRIS RIDGE PROJECT**

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The General Services Department recommended to declare the property interests located at 501 Foster Street surplus; propose to accept from Lambert Development Hunt Street, LLC compensation totaling \$209,396.00 to purchase the property interests enumerated in the executive summary, all of which are shown on the plat; which would be recorded at the Durham County Register of Deeds if the transaction was completed; authorize allocation of funds as enumerated in the financial impact section; advertise for upset bids pursuant to the procedures set forth in the NCGS; authorize the City Manager to accept the bid from the highest qualifying bidder at the conclusion of the upset bid procedure; and authorize the City Manager or the Mayor to convey the property interests via non-warranty deed.

Council Member Moffitt raised a question about the appraisal, page 56 of the staff report; which referenced comparing the properties to the comparables; and that there was an adjustment made due to some of the comparables having entitlements in place; and asked what was meant by entitlements.

David Fleischer of the General Services Department stated that in this context, entitlements were things that specific lots have such as access to a street; utilities; and sewer connections.

SUBJECT: MAYOR'S HISPANIC-LATINO COMMITTEE REQUEST TO BE AN OFFICIAL COMMITTEE

The Human Relations Division of the Neighborhood Improvement Services Department recommended that the Mayor's Hispanic/Latino Committee be recognized as an official committee of the City of Durham.

Neighborhood Improvement Services Director Constance Stancil stated it was their intent to rewrite the bylaws; and stated they would also be reviewing having the same appointment process as other boards and committees.

SUBJECT: AN ORDINANCE TO REVISE THE TEMPORARY STREET CLOSING PROCEDURES FOR SPECIAL EVENTS

The administration recommended that the City Council adopt the proposed "Ordinance to Revise the Temporary Street Closing Procedures, To Revise Prohibitions on Obstructing and Impeding Pedestrian and Vehicular Travel On Sidewalks, and to set a Fixed Civil Penalty for Violation of Article II (Sales and Solicitations in the Street Right-of-Way).

Deputy City Manager Bo Ferguson briefed the Council on what had not been working well in the special events process. He provided a Powerpoint presentation which outlined the summary of proposed changes to the special event permit process referencing the application; application deadline; cancellation deadline; special event permit application questions; special event guidelines; disclaimers and acknowledgements; notification of neighboring residents and businesses; permit review and approval process; advertising restriction and insurance

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requirements. Also, he referenced the creation of an internal review committee entitled “The Special Events Review Team”; which would create a much more transparent and collegial discussions amongst departments; meeting monthly including all the core departments that touch special events; and creating an opportunity whereby they could invite outside stakeholders. Mr. Ferguson also stated the committee could meet in public and invite; in a public comment period; persons to speak including the event holder.

Deputy City Manager Ferguson stated the proposed ordinance had been written to provide the staff flexibility with an opportunity to make an administrative change just in case some of details mentioned appeared not to be working as expected. He also referenced the feedback received noting that as downtown continues to grow; with intense construction activity taking place; these factors have created an environment whereby special events have become more problematic and disruptive; specifically to merchants and residents; and stated the staff did not have the solution to the problem regarding the number of events; no policy direction of how much is too much; how frequent is too frequent. Mr. Ferguson stated some events request a greater footprint than they need to have; and it was a judgment call as to how much footprint was too much. He stated they have heard particular sensitivity to certain streets; some reasonable discussion on the impact of closing Corcoran; and heard feedback not to close Chapel Hill and Main simultaneously. He asked the Council if they wanted the staff to be particularly protective of downtown on special event requests.

Mayor Pro Tempore Cole-McFadden recognized the following citizens for comments:

Phyllis Coley, of Spectacular Magazine/event planner, acknowledged the positive working relationship with staff in assisting her with the process; was supportive of having a public comment period; asked when would the process change; requested that event planners be given at least six months since the advance notices were 60 days out; asked by what criteria would be decided if it was a simple event versus a large event; and would Durham taxpayers be given consideration over someone from the outside who wanted to have an event downtown.

Deputy City Manager Ferguson noted there was not a stated preference for Durham taxpayers in the process; however, there was a higher level of scrutiny to first time non-Durham events; stated the implementation timeline would be at the pleasure of the Council.

Mayor Pro Tempore Cole-McFadden inquired if local preference could be provided.

The City Attorney’s Office stated in general, they were not supposed to favor persons from the City of Durham over people from other places; and was unsure if that was an area they could enforce; but they would check into that if the Council was interested.

Mayor Pro Tempore Cole-McFadden inquired about the expectation of the Council in terms of moving forward with a revised ordinance.

Deputy City Manager Ferguson replied it was at the Council’s pleasure; and stated there was some urgency in the downtown community to get the revised ordinance in place. He stated his only request of the Council was the expectation of the improved process going along with the

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adoption because the ordinance changes were critical to support the administrative process they had laid out. Also, he stated they were comfortable with the Council taking some time to deliberate if they chose to do so.

Dan Ellison, owner of property in downtown, stated it was great the City wanted to improve the procedures; stated he was glad to hear Mr. Ferguson state he was opened to taking more time to involve additional stakeholders; noted this was his first time hearing of the proposal; stated he was on the board of the Durham Arts Council, as well as serving on other committees, which might have some additional input that could be helpful; and suggested additional time be allowed to involve other constituencies.

Discussion was held by Council on people downtown paying rent striving to make storefronts successful receiving some greater consideration; events being designed to make them more amenable to downtown merchants; speaking with Inter-Neighborhood Council and the Cultural Advisory Council for additional feedback; the process for Halloween night on Club Boulevard; the process does not change the current laws regarding free speech; law enforcement presence for special events; the liability insurance; who makes the decision for EMS and who would pay; city services event planners pay for and city services the taxpayers pay for; requiring major events to provide recycling; the upcoming Moogfest event producing a large amount of bottles and cans; what can and cannot be fenced off; if the CCB Plaza was ever ticketed or was there contemplation or other spaces being closed off; the right granted for appeal of the hearing officer's decisions to superior court; if it was necessary/appropriate to make violations of the ordinance a misdemeanor; civil penalties vs. criminal penalties; parades being a separate process; provisions for recurring events such as Durham Central Park/Farmers' Market with street being closed every Saturday; incorporating into the process an online clearing house for information; email for persons who want to receive notices; and providing a map of the area.

The administration stated they had some flexibility in the actual process; stated the Council could approve the ordinances with direction to staff; to continue the public input process; and they would have the flexibility to make changes due to the public input; which would allow them to contact some stakeholders they have not reached yet.

The Council requested a copy of the new special events guidelines once finalized.

SUBJECT: UPDATE ON POLICE HEADQUARTERS

The General Services Department requested that the City Council provide direction to staff regarding a preferred site layout for the new Police Headquarters complex.

Assistant General Services Director Jina Propst provided a recap of the process. At the August 20, 2015 Work Session, staff and City consultants, O'Brien Atkins Associates P.A. and Lend Lease (US) Construction, (the Project team) presented five updated site layout concepts to City Council. Council requested receipt of additional public input prior to further discussion at the September 8 City Council meeting. At Council direction, staff solicited feedback from interested parties.

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- On September 1, staff received a proposed site layout from Durham Area Designers (DADs) and Preservation Durham. The Project steering committee met with DADs and Preservation Durham on September 2 to discuss the proposed elements and offer feedback.
- On September 3, staff provided Council with a supplemental memo that included attachments of the pro/con matrix developed by staff to evaluate the five updated schemes using 19 criteria considerations for the project; DADs/Preservation Durham proposed layout (DAD's Scheme); DAD's/Preservation Durham's pro/con matrix self-evaluation; and staff's pro/con matrix analysis of the DADs scheme. After the supplementary memo was submitted, DAD sent a revised self-evaluation pro/con matrix directly to Council that differed from the DAD initial self-evaluation. In summary, the supplementary memo raised concerns that the DAD's scheme misses an opportunity for the project to have a positive impact on Main Street, as well as a presence for a key public facility along this critical urban thoroughfare. The Project team asserts the interests of the community and the occupants of the building are best served if the building has some frontage and a public entrance on Main Street
- On September 8, Council received a letter directly from Downtown Durham Inc. supporting the design scheme 4.

At the September 8 City Council meeting, staff advised Council that due to the timing of receipt of the DAD's scheme and revised matrix materials, the Project team requested additional time to complete a detailed analysis of the layout. Council directed staff and City consultants to further evaluate, analyze, and give consideration to the proposed DADs/Preservation Durham site layout. An analysis of the DADs Scheme was also presented in the supporting information.

Jeffery Bottomley, of O'Brien Atkins, provided a Powerpoint presentation commenting on the visuals and noting the site constraints; referenced the givens and considerations that had been discussed with the group between what use to be Walker and Main with Carpenter still in place; the future development proposed by Durham Area Designers and Preservation Durham; referenced a street view of the proposal with the triangular space between Main and what use to be Walker on Hood; provided a diagram for the planning strategy behind DAD's scheme and the architect's various schemes; existing buildings and costs; provided illustrations of police facilities in other cities noting they were not glassless fortresses; referenced and provided photos of successful projects in Durham that have one entrance on the street; commented on civic architecture as a presence on the street; stated they could have glass; variation of building materials; depth; which would enhance the character along the street; and stated you do not have to have barriers and other things; stated just because they are near the street does mean they have to build a wall; and they were not proposing a wall. Mr. Bottomley stated they had options to develop the character of the street; and stated there was nothing that would prohibit people from walking down the street, or discouraging them from walking the street.

Discussion and/or comments was held by Council on designing a headquarters and adhering to the UDO; which the architect stated they would adhere to in the design of the project; the number of firms that submitted proposals on the project; it was noted the service court behind Ramseur was a service court for the Ramseur building not the police department; not spending

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city money to preserve the Carpenter Building for City use; there was a concern about selling the Carpenter building for a private development and the rehab costs; there was a concern with \$1.8 million in potential additional costs with the DAD design because of the compression; there were concerns about constraints of the current site; not allowing room for expansion and impacts on Main Street; keeping the deck internal with whatever scheme was decided upon; and schemes 4 and 5 provided that.

Council Member Catotti stated she personally preferred schemes 4 or 5; not savings the Carpenter Building; which would allow the City to have more design control.

Council Member Moffitt stated he agreed the City would have more control with schemes 4 or 5; referenced the photographs submitted by the architect; his desire to activate the street; and the need for security and safety. He stated from the beginning he said the site was too small; not allowing room for expansion; and the impacts on Main Street. He stated the site was entirely wrong; and he could not support of any of the schemes for the site.

Mayor Bell stated if the Council was not prepared to build the police headquarters on the East Main Street site, the Council needed to walk away because there were not any other sites to consider. The Mayor stated the question was which of the six designs presented best fit the site. He commented on not spending additional funds to save the Carpenter Building; and he was reviewing either scheme 4 or 5. He stated he felt a great development could be accomplished on Main Street and stated Council needed to reminded, the project was being done for the police first; making certain the City had a facility that could accommodate law enforcement.

Council Member Schewel stated he agreed with the Mayor regarding the site; and given the alternatives, he continued to think it was the best.

Dan Jewel, representing the Durham Area Designers, stated at this point the Council has a decision to make and felt the decision would be wise. He referenced their requests; that there be a transparent ground floor façade on Main Street; requested that the Council make a statement in their desire to move forward on a particular scheme; that the designers meet the UDO requirements for ground floor transparency for either an arcadic courtyard or storefront type frontage; noted DAD was still in favor of savings the Carpenter Building; and felt it could be done more economically.

Mayor Pro Tempore Cole-McFadden asked a representative from the police department to share their view on the desired scheme.

Deputy Chief Anthony Marsh thanked everyone for all their input and consideration; stated the police department did not want a bunker armored fortress type facility either; stated they wanted to come to work in a nice inviting building as well; and they wanted to be good neighbors. He stated in terms of preference; he was personally comfortable with scheme 5.

Regarding the site, Council Member Brown stated he was not too keen on it due to the costs; and stated this was the site chosen by the Council; and referenced the reasons why he could not support keeping the Carpenter Building.

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Mayor Pro Tempore Cole-McFadden spoke in opposition to savings the Carpenter Building and spoke in support of scheme 5.

Council Member Schewel stated he preferred scheme 5; and stated he felt there was a way to keep the Carpenter Building by having a RFP for the triangular green space; and referenced reducing the amount of space on Hood Street which would take care of a lot of the objections made with the DAD design; spoke on how the \$1.8 million could be reduced by the potential sale of the Carpenter Building and the triangular green space; noted the disadvantage of having the Carpenter Building privately developed; and stated if the Council was not in agreement with him; he would favor scheme 5. Mr. Schewel stated he thought the Council was missing an opportunity; noted private development and changing the way the DAD design dealt with the Hood Street land would diminish the extra costs for the City.

Mayor Bell stated you would end up doing a lot of servicing on the streets with the DAD design; utilizing more on street parking; and referenced the same type of servicing situation on Blackwell Street in the vicinity of the American Tobacco.

Council Member Davis stated he liked the DAD proposals; the concept of what it might do to brighten the entire area; and stated his second option would be scheme 5.

Mayor Pro Tempore Cole-McFadden asked the administration what did they require from the Council today.

Assistant General Services Director Jina Propst stated they would need to be given the preferred option by the Council; the site layout, in order for them to move forward with the next phase; and bringing back to the Council a schematic design submittal for review.

At the request of Council Member Catotti, Jeffery Bottomley, of O'Brien Atkins, referenced the differences between schemes 4 and 5.

City Manager Bonfield asked if was the consensus that the majority of Council supported scheme 5; and the response was yes.

Settling the Agenda – October 19, 2015 City Council Meeting

City Manager Bonfield referenced the following items for the October 19th City Council meeting agenda: Consent Items 1 & 2; 5-10 & 12; GBA Item 4; and Public Hearings Items 15 – 19. The City Manager also stated the Council disposed of the following items at the work session; Items 11; 13; 14; and Item 3 was referred back to the administration.

MOTION by Council Member Moffitt seconded by Council Member Brown to approve settling the agenda for the October 19, 2015 City Council Meeting as stated by the City Manager.

The motion was approved unanimously at 4:20 p.m.

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Closed Session – 4:21 p.m.

MOTION by Council Member Schewel seconded by Council Member Brown to go into closed session for attorney-client privilege, pursuant to NCGS 143.318.11(a)(3).

The motion was approved unanimously at 4:21 p.m.

Open Session – 4:57 p.m.

MOTION by Council Member Davis seconded by Council Member Catotti to return to open session.

The motion was approved unanimously at 4:57 p.m.

No action was taken by the Council in open session.

There being no further business to come before the Council, the meeting was adjourned at 4:58 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk