

DURHAM CITY COUNCIL WORK SESSION
Thursday, February 4, 2016 @ 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 Eddie Davis, Jillian Johnson, Don Moffitt, Charlie Reece 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 City Council.

Council Member Johnson introduced and read the following Resolution; and asked the Council to consider the Resolution for adoption:

**RESOLUTION IN SUPPORT OF THE RIGHT OF NON-TENURE TRACK FACULTY
AT DUKE UNIVERSITY TO FORM A LABOR UNION AND BARGAIN
COLLECTIVELY**

WHEREAS, more than 3,300 faculty currently work at Duke University; and

WHEREAS, Duke University is the largest employer in the City of Durham with more than 35,000 employees; and

WHEREAS, Duke University was exempted from \$8,580,968 in property taxes from the City and County of Durham in tax year 2015 due to its non-profit status; and

WHEREAS, Duke University students paid \$61,748 in tuition and fees in the 2013 – 2014 academic year, up 55% from a decade earlier; and

WHEREAS, more than 14,800 undergraduate and graduate students enrolled at Duke University are increasingly dependent upon the instruction and guidance of non-tenure track faculty; and

WHEREAS, non-tenure contingent faculty should be adequately supported by their institutions for their growing presence and role in the academic pursuits of students in Durham; and

WHEREAS, many non-tenure track faculty at Duke University have worked for years without a meaningful raise, and

WHEREAS, many non-tenure track faculty do not have access to health care benefits; and

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WHEREAS, the cost of living in Durham is increasing and is expected to continue to increase as our area grows; and

WHEREAS, many non-tenure track faculty have little job security and cannot invest in a long-term future in Durham despite their desire to do so; and

WHEREAS, the City of Durham is stronger when more of our residents have stable and secure jobs that allow them to contribute to the common good of our city over the long term; and

WHEREAS, non-tenure, contingent faculty want to have a collective voice to help improve working conditions in order to be more effective teachers, researchers and professionals; and

WHEREAS, the decision of whether to unionize belongs solely to workers, and should not be interfered with; and

BE IT RESOLVED, that we, the Mayor and members of the City Council strongly endorse the efforts of non-tenure-track, contingent faculty at Duke University to form a union to improve their working conditions and to have a collective voice on campus.

Mayor Bell requested that the City Council work session agenda be adjusted to hear presentations in the following order:

- Item 19 – Presentation on the Poverty Reduction Initiative Jobs Taskforce
- Item 18 – Presentation on the Downtown Durham Rental Housing Subsidy Program by Enterprise Community Partners, Inc.
- Item 20 – Presentation on Proposed Fee Revisions for the Underground Utility Permit Program
- Item 14 – Contract for the Purchase of Body Worn Cameras for the Police Department

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Davis to approve the adjustments to the agenda as recommended by Mayor Bell was approved at 1:07 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: RESOLUTION IN SUPPORT OF THE RIGHT OF NON-TENURE TRACK FACULTY AT DUKE UNIVERSITY TO FORM A LABOR UNION AND BARGAIN COLLECTIVELY

At this time, Council Member Johnson asked that the citizens present in support of the Resolution be allowed to speak.

Mayor Bell recognized the following speakers for comments:

Jim Haverkamp, an adjunct faculty member at Duke and resident of Durham, stated they were seeking to gain a seat at the table; referenced there was a growing percentage of Duke faculty

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who were contingent basically working from semester-to-semester and year-to-year and often do not know when the time at the university could end; and stated they really don't have the power to sit down with the administration and say "can we do things better." He asked the Council to support the resolution introduced by Council Member Johnson. Mr. Haverkamp made available to Council a brochure entitled "Duke Non-Tenure Track Faculty Uniting For A Voice on Campus to Raise Standards in Higher Education."

John Schelp, a resident of Durham, spoke in support of non-tenure track faculty members to form a union at Duke; noted the faculty members provided a high quality education for students across many disciplines, despite having no job security; noted many of the faculty resided in neighborhoods near the campus; noted they were key to building better town-gown relations; and a strong community. Mr. Schelp left with the City Clerk several names of persons in support of the Duke University faculty union.

Mayor Bell thanked the citizens for their comments; stated as long as he had been an elected official and even before, he had supported the rights of labor unions; and stated he did want his comments to reflect negatively on the rights of union. The Mayor stated he had some concerns with the proposed resolution as presented; referenced language in the resolution he was not supportive of; acknowledging he wanted to know more about employment figures and other figures outlined in the resolution before he made a decision; wanting to see the source of the figures.

Mayor Bell referenced a letter from Vice President Phail Wynn addressed to the Mayor and Members of the Council; which noted "while we appreciate the Council's interest in this issue, non-tenured faculty at Duke will ultimately decide whether to seek union representation or not. Duke will support their legal right to explore their options and consider whether a vote is appropriate. At the same time, the university will continue to provide accurate information to its faculty and other employees regarding the costs and potential impact of unionization on the university and its students; and we expect the Council will endorse with equal vigor Duke's right to communicate with its employees on this important matter." Mayor Bell stated he did not feel the resolution was appropriate and preferred to have a letter from the Council forwarded to the appropriate persons at Duke expressing support for the last paragraph in the proposed Resolution.

Council Member Moffitt stated he strongly endorsed the right to organize; and was supportive of the following language in the resolution "the decision belonged solely to the workers and should not be interfered with." He also requested a friendly amendment to the resolution changing the word "*efforts to rights.*"

Mayor Pro Tempore Cole-McFadden raised concern with the proposed resolution; and the lack of diversity associated with the brochure handed out. Also, the Mayor Pro Tempore stated she had not had an opportunity to review all the information presented.

Council Member Johnson stated the brochure provided by Mr. Haverkamp contained information on faculty diversity; and the gender pay gap.

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Council Member Schewel had consulted with the City Attorney because he was a non-tenured visiting faculty member at Duke; seeking guidance if he should recuse himself from the resolution.

City Attorney Baker stated as it stands, there was no conflict with Council Member Schewel voting on the resolution; and he referenced the City's Code of Ethics Policy.

Council Member Schewel noted his support for the proposed resolution; appreciated Council Member Johnson introducing it; stated he understood the concerns raised by others pertaining to some wording in the document; and information just received at the meeting. He stated he would be willing to discuss the matter at a later date.

Council Member Davis also stated he had been a supporter of union and their activities; and stated he would like to see the resolution revised and put forth in a way that removed any restrictions or concerns in order that Duke and its faculty; employees move on with the business of trying to allow for the concerned employees to collectively bargain with Duke University.

Council Member Reece appreciated the comments received; thanked Council Member Johnson for drafting the resolution; spoke in support of the resolution as written; however, due to the concerns expressed by his colleagues; he stated he looked forward to receiving a forthcoming revised resolution incorporating all the concerns which would allow the Council to speak with one voice.

Council Member Johnson asked if it would be the procedure for her to make some changes and present a modified resolution for consideration at the upcoming council meeting; or would it need to come back to a work session.

Mayor Bell stated he would prefer the item come back to the Council at a work session. He suggested that Council Member Johnson work with the administration and City Attorney to draft a document which takes into consideration the comments/concerns; including the letter received from Duke University.

Mayor Bell asked if the City Manager and City Attorney were clear with the request; working with Council Member Johnson to revise the resolution and bringing it back at the council's next work session; in order for Council to act on it at the following meeting.

**SUBJECT: RESOLUTION REGARDING PUBLIC STATEMENTS BY ADVISORY
BOARDS AND COMMISSIONS**

Council Member Moffitt stated at the recent Human Relations Commission meeting, the members approved language regarding boards and commissions making public statements around matters that could be considered; which he agreed with. Council Member Moffitt read the following Resolution that he drafted and asked the Council for their support.

Resolution Regarding Public Statements by Advisory Boards and Commissions

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Whereas the City of Durham has numerous citizen advisory boards and commissions, and

Whereas those boards and commissions routinely discuss items relevant to their mission, and

Whereas those boards and commissions may wish from time to time to make public statements, and

Whereas it is beneficial for City Council to clarify the power of those boards and commissions to make such public statements,

Therefore be it resolved that advisory boards and commissions of the City of Durham may make and promulgate far and wide any public statement that 1) represents only the views of the board or commission, 2) does not purport to represent the position of the City of Durham, 3) does not require assistance by City staff either in its drafting or in its distribution, and 4) regards one or more issues which may reasonably be considered relevant to the mission of the advisory board or commission.

Resolved this the 4th day of February, 2016.

MOTION by Council Member Reece seconded by Council Member Schewel to suspend the rules of the City Council and take action on the Resolution Regarding Public Statements by Advisory Boards and Commissions was approved at 1:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt; Reece and Schewel. Noes: None. Absent: None.

MOTION by Council Member Moffitt seconded by Council Member Schewel to adopt a Resolution Regarding Public Statements by Advisory Boards and Commissions was approved at 1:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

RESOLUTION #9953

**SUBJECT: STATEMENT BY THE HUMAN RELATIONS COMMISSION
REGARDING TARGETING OF DURHAM IMMIGRANT YOUTH**

Council Member Moffitt read the following statement approved by the Durham Human Relations Commission at its February 2, 2016 meeting:

“The Durham Human Relations Commission is very concerned by the targeting of Durham immigrant youth by immigration authorities. We have learned of one young man being arrested on his way to school. Like many others, he came to the United States fleeing gang violence. If these young people are deported, this would go against our humanitarian principles and place their lives in grave danger. These young people are low priority for deportation, and for that reason, we would urge that they be granted favorable exercise of prosecutorial discretion. Please

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don't separate these immigrant youth from their families and the Durham Community. We, the Durham Human Relations Commission urge suspension of ICE raids in our local community and for the release of currently detained Durham youth. It has generated enormous fear among our immigrants and Latino community and has also disrupted their school attendance. We, the Durham Human Relations Commission value every member of the community.”

Mayor Pro Tempore Cole-McFadden asked where would the public statement be sent, stated the Council did not have any authority over ICE. The Mayor Pro Tempore stated it appeared to her that a public statement needed to be sent to an official; most likely a federal official such as Congressman Butterfield or Congressman Price.

Mayor Bell suggested endorsing the statement approved by the Durham Human Relations Commission on February 2, 2016; and to allow the Human Relations Commission to decide the next appropriate step.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Moffitt to suspend the rules of the City Council and to take action on the Durham Human Relations Commission Statement approved on February 2, 2016 was approved at 1:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

MOTION by Council Member Reece seconded by Mayor Pro Tempore Cole-McFadden to endorse the Statement by the Durham Human Relations Commission Regarding Targeting of Durham Immigrant Youth was approved at 1:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

Mayor Bell asked if there were any priority items by the City Manager, City Attorney and City Clerk.

City Manager Bonfield referenced the following items:

- Agenda Item #12 – City of Durham Employment & Training 2015-17 Grant Project Ordinance – requested rules be suspended and vote on item
- Agenda Item #16 – Global North Carolina, Inc. Contract to Transport, Process and Market Electronic Materials – requested rules be suspended and vote on item
- Agenda Item #30 Resolution Requesting a Deed of Partial Release for Certain Premises Related to an Installment Purchase Contract with New Durham Corporation & Related Matters – supplemental item carried over from the February 1, 2016 City Council Meeting
- Agenda Item #31 – Proposed Sale of the North Parking Garage by Upset Bid – supplemental item carried over from the February 1st City Council Meeting

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

City Attorney Baker requested a closed session at the end of the meeting for attorney-client consultation, pursuant to NCGS 143-318.11(a)(3).

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The City Attorney's item was accepted by the Council.

There were no priority items from the City Clerk.

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

SUBJECT: 2015 MUNICIPAL PRIMARY AND MUNICIPAL ELECTIONS

To authorize payment in the amount of \$400,386.00 to the Durham County Board of Elections for the City of Durham 2015 Municipal Primary and Municipal City Elections.

Council Member Johnson spoke to the amount of the primary election costs; stated due to the fact that the results from the primary to the general election rarely change; asked if a different system had been considered for electing the Mayor and Council Members.

Several years ago, it was noted that Director of Elections Michael Perry had suggested Council consider changing the process for municipal elections; and in 2006 a public hearing was held on the matter.

Council Member Davis stated he would like the Council again to seriously take a look at following the Chapel Hill model or the Raleigh model; comparison between those two; as well as keeping the status quo in Durham. He suggested that this be done prior to the next election in 2017.

Mayor Bell stated that he would not be running for re-election in 2017; however, he would like to be a part of the discussion. He stated the communities in Chapel Hill and Raleigh were different than Durham; which needed to be understood.

Council Member Reece referenced a memo prepared by City Attorney Baker on the election process; and asked that it be distributed to the new elected council members after the budget; and having a broader conversation at a later time.

Council Member Moffitt requested that the City Clerk place an item on an agenda in late August 2016 for Council discussion on the municipal election process.

SUBJECT: CITY OF DURHAM EMPLOYMENT AND TRAINING 2015-2017 GRANT PROJECT ORDINANCE #14786

The staff report noted that the item amends the City of Durham Employment and Training 2015-2017 Grant Project Ordinance #14786. The amendment reflects a total increase of \$22,684.00 in available Workforce Innovation and Opportunity ACT funds resulting in a new total of

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\$1,570,276.00. Line-item revisions to the 2015-2017 budget have made the amendment necessary to maintain an overall balanced budget.

The staff recommended that City Council authorize the City Manager to accept the Employment and Training Grant by executing the grant documents and adopting the City of Durham Employment and Training 2015-2017 Grant Project Ordinance in the amount of \$1,570,276.00, superseding Grant Project Ordinance #14786.

Earlier in the meeting, City Manager Bonfield asked that the Council take action on the item at the work session.

MOTION by Council Member Schewel seconded by Mayor Pro Tempore Cole-McFadden to suspend the rules of the City Council and take action on the item was approved at 1:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Schewel to authorize the City Manager to accept the Employment and Training Grant by executing the grant documents; and

To adopt the City of Durham Employment and Training 2015-2017 Grant Project Ordinance Superseding Grant Project Ordinance #14786 was approved at 1:44 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

ORDINANCE #14891

**SUBJECT: GLOBAL NORTH CAROLINA, INC (GEEP) CONTRACT TO
TRANSPORT, PROCESS AND MARKET ELECTRONIC MATERIALS**

The staff report noted that the contract would allow the continued collection, processing and marketing of electronic waste (“e-waste”) at the City’s Convenience Center, and was necessary because the City’s current e-waste management service provider, MeTech Recycling, advised the City in November 2015 of its intention to stop accepting e-waste materials from the City as soon as the City could secure a new service provider.

The administration recommended the City Council authorize the City Manager to execute a contract between the City of Durham and Global Electric Electronic Processing for the purpose of collecting, transporting, processing and marketing electronic waste collected at the City of Durham’s Convenience Center. The initial term of the contract is 3 years with an option to renew for 2 additional 2-year periods, for a total possible contract period of 7 years.

Earlier in the meeting, City Manager Bonfield asked that the City Council suspend the rules and take action on the item at the work session.

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MOTION by Council Member Schewel seconded by Mayor Pro Tempore Cole-McFadden to suspend the rules of the City Council and take action on the item was approved at 1:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

At the request of Council Member Moffitt, Assistant Director of Solid Waste Wayne Fenton addressed the disposition of the electronic waste; the viability of the market for some vendors vs. others; and the devaluation of the product decreasing significantly. He stated with the current vendor could not continue to take the electronic waste at no charge. Also, he explained the electronics recycling services agreement pricing list which had been provided in the agenda.

MOTION by Council Member Schewel seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute a contract between the City of Durham and Global Electric Electronic Processing (GEEP Global North Carolina, Inc.) for the purpose of collecting, transporting, processing and marketing electronic waste collected at the City of Durham's Convenience Center was approved at 1:47 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE SOFTWARE MAINTENANCE AGREEMENT

The staff report noted that the City and County have been using software products developed by Environmental Systems Research Institute for the geographic information system operation since 1990. The vendor's products are the foundation of the City's GIS operation; and these products are used for GIS data creation and manipulation, data access and analysis, application program and user interface development and spatial database management.

The administration recommended that the City Council authorize the City Manager to execute an agreement with Environmental Systems Research Institute, Inc. in the amount of \$98,350.00 to cover the period of one year for software maintenance service.

Council Member Moffitt asked if the cost was shared by the County.

Technology Solutions Director Kerry Goode replied the cost was shared by the County of Durham; 50/50.

SUBJECT: MAYOR'S POVERTY REDUCTION INITIATIVE PRESENTATION FROM THE JOBS TASKFORCE

To receive a presentation on the Poverty Reduction Initiative from the Jobs Taskforce.

Co-Chair Wendy Jacobs provided a Powerpoint presentation commenting on the taskforce's work thus far; the census track 10.01 and the un-employment rate of 15.6%; the Job Taskforce

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priorities being: Transportation; Holton Career & Resource Center; Office of Economic and Workforce Development; Criminal Background; and the key results and action steps for each priority.

Esther Coleman from the Office of Economic and Workforce Development noted that Holton was a satellite NC Works Career Center; stated 68 residents were assisted with center orientations and searches via the JobLink Mobile Unit on South Street; 10 ex-offenders were placed in employment with an average wage of \$8.83 per hour; and noted the types of jobs.

Former District Court Judge Craig Brown provided a public service announcement regarding second chances. The video announcement featured Brittany Broughton who worked at the Scrap Exchange, which employs ex-offenders. It was noted that CT Construction employs ex-offenders; and North Carolina protecting businesses that hire ex-offenders; with subsidies being available.

Co-Chair Jacobs stated the task force would continue information sharing with the community and provide a report back to Council in 6 months.

SUBJECT: PRESENTATION ON PROPOSED FEE REVISIONS FOR THE UNDERGROUND UTILITY PERMIT PROGRAM

To receive a presentation on the Proposed Fee Revisions for the Underground Utility Permit Program.

The staff report indicated that the Department of Public Works proposes to revise fees for Underground Utility Installations in public rights of ways. The fees are for the review, permitting, and inspections of the installation of private underground utilities and related appurtenances.

Assistant Public Works Director Tasha Johnson shared a Powerpoint presentation which referenced the costs for the existing staff resources for these functions and the costs for the additional consulting staffing resources to compensate for the large backbone installation of fiber services. She commented on the history of the private utility program; the current fee schedule; outreach to utility representatives; methodology for proposed new fee schedule; calculating the fee for permits under one mile; a representative sample of routine permit types; city staff costs; breakdown of hours per function for routine permit types for city staff; calculating the fee for permits under one mile; calculating the fee for permits over one mile; contract costs; and proposed rate schedule.

In summary it was noted based on the known variables with utility permitting and inspections, including the cost of City staff performed functions as well as the cost of contract assistance, the City believed that the fee schedule proposal was fair across the different types of utility installations. The proposal follows Council direction to recover up to 100% of the cost of the program, and can be scaled to a different cost recovery target at Council direction; and the

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system is elastic and allocates cost based on the size of the permit proportionate to the amount of work required to process and inspect it.

Mayor Bell stated he was not locked into the 100% recovery of the cost and stated his rationale.

The Mayor recognized the following speakers for comments:

John White, of the Durham Chamber of Commerce, referenced the chamber's involvement in the process; noted the chamber's financial support was due to providers such as AT&T, Duke Energy, Frontier, PSNC Energy and Time Warner Cable; noted the utilities firms have been engaged with staff; willing to compromise; however, they believe the proposed fees were excessive and inappropriate. He stated the utilities believed the recent fees just put in place were sufficient and adequate; referenced the obligations the companies have to their rate payers and shareholders in trying to ensure that the cost of business and rates remain low as possible.

Attorney Marcus Trathen, representing the North Carolina Cable Telecommunications Association, spoke to industry concerns regarding the proposal made by the City, stated the N.C. law was quite clear that the City did not have the ability to impose a tax on utilities for use of rights-of-way; referenced excerpts from the N.C. Department of Revenue; referenced quarterly distributions to the City taxes collected at the State level from all utilities located in Durham; noted the payments were an exchange for franchise rights; noted his representatives' right to use and occupy the rights of way were under state and federal law; stated the payments being remitted to the City by the state were an exchange for the rights; questioned what was the cost of administering rights-of-way in Durham; noted the total sum shown on the handout was \$20,000,000 which Durham had received; and stated the payments of fees raised serious questions and not being given credit for the \$20,000,000; and the additional proposed fees constituted a tax. He stated they had met with the City Attorney and presented their argument and encouraged the Council to seek advice from their counsel.

Bill Mcauley, representing PSNC Energy, provided a handout and spoke to the City staff analysis vs. the analysis done by the providers pertaining to how much time it would take to perform the work. He also referenced the providers proposed fee increase of 20% over current; which they felt was acceptable.

Robert Doreauk, of AT&T, referenced the City of Durham proposed permit fees compared to the Kimley-Horn contract vs. their analysis, more specifically, the installation times.

Attorney Mary Lynne Griggs, representing PSNC Energy, commented on Public Works Director Marvin Williams' presentation of January 5, 2016 on the fees; referenced permitting program developed in 2006; stated the utilities did not refuse to pay and they worked with the City; they settled and negotiated and ended up with the current fee structure; referenced Attorney Trathen comments; she stated if she was the Council she would respond to Attorney Trathen and inquire if the fees were illegal "why have the utilities/service providers not challenged them in the past"; she stated approximately 100 incorporated cities and towns in which PSNC operates pays permit fees in approximately 5%; and stated in 95% of town/cities which they provide services no fees are charged; noted in the handful of cities were they pay permit fees, Durham's current fees were

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by far the highest. Attorney Griggs stated they have not previously challenged the legality of the fees because they would prefer to incorporate, working with the municipalities where they provide services. Also, she stated the fees previously charged by Durham and other municipalities were not considered so unreasonable; and noted presently with the increases proposed by the staff the major service providers independently concluded they were outside of reasonableness and needed to be addressed. In conclusion, she stated just as they settled in the past, they have made a 20% increase offer to the City which was declined; and referenced how they derived at the increase based on information provided to them by the City; which they feel should be enough to cover the costs for the City.

Buck Yarborough, representing Time Warner Cable, noted the service providers have come to the conclusion, that the latest version proposed by the City staff represented an unrealistic; and unnecessary increase in permitting fees; and stated the group of providers either singly or in combination touch the lives of the city's constituents which are the providers customers. He stated by making it more expensive to serve the citizens; which were the providers customers, would be essentially implementing a tax increase; and would make Durham the most expensive place to do business in North Carolina.

After the comments by representatives of the service providers, discussion and/or comments were voiced by Council Members and/or the City staff as follows - it was noted that the Council did not ask the staff to pursue a settlement offer; the staff provided what was asked of them by the Council; the 20% settlement offer was made available to the Council for review; a letter dated August 24, 2015 to City Manager Bonfield from Eric Collins referencing General Statutes 160A-206(b); the process utilized by the City of Charlotte on this issue; it was asked if the City was not going to recover 100%, what cost should the taxpayers of Durham pay such that the utilities can lawfully exercise their right to use the right-of-way; approximate costs to City per month with existing program; staff was asked to provide cost figures for each month including broadband fiber; and comments were shared on the time estimates for staff to perform the work vs. information/time estimates provided by the utilities;

City Manager Bonfield stated he was uncertain that the city staff has had an opportunity to review all the documentation distributed today.

Council Member Schewel spoke in support of 100% cost recovery; and stated he was interested in hearing from his colleagues on what the percentage should be.

Council Member Moffitt reiterated that Duke Energy was one thing; because essentially all the citizens have Duke Energy; and stated when you venture into the broadband providers they would be placing 4 or possibly more networks in the same area; and if the taxpayers are paying, they would be paying for four different providers to go pass their homes.

At the request of Council Member Moffitt, Buck Yarborough stated the percent of construction costs would depend on the size of the project. He stated where they see the largest impact would be in the shorter runs.

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Council Member Moffitt also requested that he would like to receive a response from the staff on the time estimates/costs provided by the utility providers.

Mayor Bell noted the City Council would hold a closed session on the matter at the end of the meeting as requested by the City Attorney.

City Manager Bonfield also reminded the Council that the item was scheduled for public hearing on February 15th.

Council Member Moffitt requested that a response be provided from the staff on the variables provided by the utility companies prior to the February 15, 2016 City Council Meeting.

SUBJECT: RESPONSE TO RECOMMENDATIONS PRESENTED BY THE HUMAN RELATIONS COMMISSION – WATER MANAGEMENT DEPARTMENT

To receive a report on the administration's response to the Human Relations Commission Recommendations regarding the Water Management Department.

The staff report noted that on November 2, 2015, the Human Relations Commission came before the City Council to present a report titled "Recommendations for Water Management Department." The City Council received the report and referred it to the City Manager for review and response. The report contained nine recommendations or requests, most of which advocated for revisions to existing city policies and/or practice.

The management response dated January 12, 2016 to the Water Management Department recommendations was provided as requested.

DeShun Perry, of the Human Resources Department, commented on the status of the City's Diversity Council; and the racial equity training to be provided by JJA Consultants which would be rolled out to employees.

Council Member Johnson spoke in support of an employee forum; which Council Member Schewel agreed with; and asked the City Manager to consider having an employee forum.

SUBJECT: IMPLEMENTATION PROGRAM FOR PEDESTRIAN AND BICYCLE NETWORKS - STANTEC CONSULTING SERVICES, INC.

The staff report noted the City's current bicycle and pedestrian plans were adopted in 2006 and a revision to the pedestrian plan was adopted in 2011. These plans both included a prioritization method for identifying needed projects.

The Department of Transportation recommended that the City Council authorize the City Manager to execute Supplemental Agreement No. 3 to the Master Agreement for Transportation

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and Engineering On-Call Services between the City and Stantec Consulting Services, Inc. in the amount of \$125,000.00 to update the city's bicycle and pedestrian plans.

At the request of Council Member Moffitt, Assistant Transportation Director Wesley Parham provided information on the bike plan update and the intended purpose of the study.

**SUBJECT: CARVER STREET EXTENSION CONTRACT ST-257 AWARD –
TRIANGLE GRADING AND PAVING, INC.**

The staff report noted that on September 10, 2015 bids were opened for Contract ST-257 Carver Street Extension Construction. The project will construct a new extension to Carver Street from Danube Lane to the intersection of Old Oxford Highway and Hamlin Road. The lowest responsive responsible bid was submitted by Triangle Grading & Paving, Inc. of Burling, North Carolina.

The staff recommended to adopt an ordinance amending the General Capital Improvement Project Ordinance Fiscal Year 2015-16; authorize the City Manager to execute a contract for Carver Street Extension Contract ST-257 with Triangle Grading and Paving, Inc. in the amount of \$5,869,345.49; establish a contingency fund in the amount of \$586,934.55; and authorize the City Manager or his designee to execute change orders to the contract so long as the total project cost does not exceed \$6,456,280.04.

At a previous work session held on December 22, 2015, several questions were raised by Council Member Reece regarding the employment practices and safety issues of Triangle Grading and Paving, Inc.

Council Member Schewel asked the staff if they were comfortable with the reference checks for Triangle Grading and Paving;

Assistant Public Works Director Tasha Johnson replied that the staff was very comfortable with the reference checks received; noted they requested 12; and received 10.

Risk Manager Glenn Legrande spoke to the company's DART rate performance for 3 years; noted the staff was comfortable with that performance compared to the industry; stated the experience modification rate was well below; and noted satisfaction by staff with the answers received regarding the OSHA questions.

Jack Bailey, of Triangle Paving and Grading, noted that the death of two workers in 2011 changed the very culture of the company; and he commented on the company's safety committee which was established; and the hiring of two full time employees who worked directly with safety initiatives. He also addressed the concerns regarding the hiring of undocumented workers; which he stated began with I-9 form violations.

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After the comments by Mr. Bailey, Council Member Reece stated he believed that his comments at the time, unfairly tagged the Triangle Grading & Paving Company with what had occurred five years ago; and stated after much consideration, he intended to support the contract.

SUBJECT: PRESENTATION ON THE DOWNTOWN DURHAM RENTAL HOUSING SUBSIDY PROGRAM BY ENTERPRISE COMMUNITY PARTNERS, INC.

The staff report noted that on September 15, 2015, the City of Durham entered into a contract with Enterprise Community Partners, Inc. to provide consulting and technical assistance engagement services. One of the major tasks to be undertaken by Enterprise was the creation of guidelines for the proposed Downtown Durham Rental Housing Subsidy Program. The program would provide rental subsidies to owners of qualified buildings in downtown on behalf of eligible tenants in order to make affordable housing available to low-income households. The program would be funded through the City's Dedicated Funding Source.

The Department of Community Development recommended that the City Council receive a presentation from Enterprise Community Partners concerning the Downtown Durham Rental Housing Subsidy Program.

Karen Lado, of Enterprise Community Partners, presented a Powerpoint presentation on the Downtown Durham Rental Subsidy Program. The presentation referenced the following topics:

Demographic and Housing Information

- There are about 16,500 households in the City of Durham with incomes between 51-80% AMI. Census data was only available for 51-80% as a group. The number of black and white-headed households is roughly equal, about 40%, with Hispanics, Asians and other racial groups making up the balance.
- With the exception of Hispanics, households sizes tend to be small – primarily one or two persons. One in four households in this income group has children under the age of 18, but the percentage varied significantly by race and ethnic. Only 1 in 10 white-headed households contained children, versus 1 in 3 black-headed households and half of all Hispanic-headed households.
- The downtown rental market currently contains 833 units; with 380 more under construction. These units are primarily one and two-bedrooms, and rents are substantially above average rents for comparable sized properties in the City.
- Average vacancy rate downtown is around 16%, but these vacancies are concentrated in two properties (Whetstone and the Moore) with other downtown properties being at or near full occupancy as of October 2015.

Draft Program Guidelines

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Target Population

- Incomes between 60-80% of AMI
- Residency period in City of Durham – five years proposed
- Could add focus on specific employment sectors (e.g. teachers, downtown workers)

Program Requirements – Tenant requirements

- Meet program eligibility requirement and agree to program rules
- Pay rent equal to 30% of gross household income (less a utility allowance)
- Maximum period of assistance is two years – one year initially with option to renew for one year (subject to funding availability)

Program Requirements – Property requirements

- To participate in program, property owners must agree in writing to abide by payment standard and other program requirements (e.g. inspections, reporting)

Administering Agency

- Department of Community Development

Payment Standard

- Payment standard is the maximum rent that a program participant can pay for unit
- City would pay the difference between 30% of household income, less utility allowance, and this standard
- Four payment standards suggested: fair market rent; average downtown market rent; lowest downtown market rent; average citywide rent for properties with 50+ units (Other variations possible – e.g. X% of average downtown market rent)

Process

- Startup (document preparation, property recruitment, development of tenant recruitment strategy and materials)
- Marketing and tenant recruitment
- Tenant approval
- Voucher issuance
- Request for unit approval
- Lease execution
- Monthly reporting
- Lease renewal

In addition, the consultant provided the estimated cost (a sample cost to serve 50 households per year)

Additional strategies targeting 60-80% AMI households

- Rental subsidy program
- Buy affordability in existing buildings
- Develop 60-80% AMI units as part of affordable rental housing development on city-owned land

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- Redevelop DHA's Liberty Street property and surrounding publicly-controlled land to provide a range of housing options, as well as office and retail opportunities

After the presentation by the consultant, discussion; questions and/or comments were held – it was asked if you could legally give precedence to teachers, first responders; where was the location of downtown; vacancies at The Moore in West Village and Whetstone and what would be the incentives for those units to use this program; the lack of diversity at Southside bungalows; having a diversity of income in the downtown rentals; would there be a tiered system; concerns with placing persons in the least desirable places in the building; regarding the residency requirement, to consider adding alternative working for the City for 2 years.

SUBJECT: CONTRACT FOR THE PURCHASE OF BODY WORN CAMERAS FOR THE POLICE DEPARTMENT – VIEVU, LLC

The staff report noted that the City of Durham's Police Department was proposing to purchase body worn cameras to equip all sworn officers at the rank of Captain and below. The resulting audio/video files would provide evidence to accompany cases in the court system. Body camera footage would also be useful for investigations of complaints against officers. Agencies utilizing body worn cameras have also seen a reduction in the number of these complaints filed after implementation of a body worn camera program.

The administration recommended that the City Council authorize the City Manager to execute a contract in an amount not to exceed \$366,738.00 with VieVu LLC for the purchase of body worn cameras and related VieVu software and services.

Deputy Police Chief Anthony Marsh addressed the Council regarding the request to purchase 520 body cameras; noted the rounds of testing performed; when the RFP was done he stated they received 8 proposals; referenced the extensive evaluation period; and noted the officers input weighed very heavily into the decision being proposed to purchase cameras from VieVu.

Deputy Chief Marsh demonstrated the ease of use of the proposed body camera; noted there were currently 10 agencies in the State of North Carolina utilizing the proposed model; and also commented on the latest revised draft of the general order policy.

Discussion and/or comments was held on ongoing maintenance costs for cameras; full cost of the entire project slightly being over \$500,000; how asset forfeitures were utilized and guidelines on what asset forfeitures funds can be spent on; the timeline for arrival of the cameras; the general order policy for the body cameras reflecting the community values; and storage of video.

Council Members Schewel; Johnson and Reece expressed concerns about the general order policy.

Council Member Schewel stated the ability to be transparent and accountable, often competes with the ability to protect privacy; and stated he was very much interested in the ability to protect privacy.

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Council Member Johnson stated unless there was a clear policy governing the use of cameras, she would not vote to approve the contract; and Council Member Reece concurred.

Council Member Reece referenced his email he forwarded to Deputy Marsh outlining his concerns stating the primary reason that our community supports police-worn body cameras is to ensure police accountability where there are questions about the use of force by a Durham police officer.

Council Member Johnson stated her concern was transparency and the disciplinary procedure.

Deputy Chief Marsh replied that directive was codified in Rule 1 the disciplinary procedure; which they already have in another document and was well established within the organization.

The Police Department was open to the concerns raised and reminded the Council that the draft general order was not finalized.

Mayor Bell asked when would the general order come back before the Council; and City Manager Bonfield stated he would hope to have the next draft of the general order available at the February 15th City Council Meeting.

SUBJECT: PROPOSED SALE OF THE NORTH PARKING GARAGE BY UPSET BID PURSUANT TO NCGS 160A-269

At the request of Council Member Johnson, Senior Assistant City Attorney Fred Lamar referenced the legal and financial reasons for not wanting to add spaces to the parking deck and leasing the spaces back to American Tobacco. He stated the City would have to go through the normal construction design which would not help American Tobacco regarding their objectives.

Finance Director David Boyd stated the price of building the deck was challenging to arrive at because the parking deck did not make enough money for a private party to pay what it cost to construct it. He stated the approach they took was what would be the future value of all the income streams that would be received if the City owned it for the next 30 years and discount that back; and stated that is how they arrived at the purchase price.

Settling the Agenda – February 15, 2016 City Council Meeting

City Manager Bonfield announced the following items for the February 15, 2016 City Council Meeting Agenda: Consent Items 1 thru 11; 13 thru 15; 17; 30 and 31; and Public Hearings Items 21 thru 29. He stated the Council disposed of Items 12; 16 and 18 thru 20.

MOTION by Council Member Schewel seconded by Mayor Pro Tempore Cole-McFadden to approve settling the agenda for the February 15, 2016 City Council Meeting was approved at

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5:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

Closed Session – 5:54 p.m.

MOTION by Council Member Reece seconded by Mayor Pro Tempore Cole-McFadden to go into closed session for attorney-client consultation, pursuant to NCGS 143-318.11 (a)(3) was approved at 5:54 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

Open Session – 6:15 p.m.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Schewel to return to open session was approved at 6:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

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 6:15 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk