

DURHAM CITY COUNCIL WORK SESSION
Thursday, February 18, 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 Baker and City Clerk D. Ann Gray.

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

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

Council Member Johnson stated at the previous work session, she was asked to revise the Resolution in Support of the Right of Non-Tenure Track Faculty at Duke University to Form a Labor Union and Bargain Collectively; and noted changes had been made and would like the Council to consider it for adoption.

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

City Manager Bonfield referenced the following priority items:

- Agenda Item #9 – Resolution Supporting the Upper Neuse River Basin Association Monitoring and Modeling for the Re-Examination of the Falls Lake Stage II Goals at the Proposed Level – presentation would be provided
- Agenda Item #18 – Durham Sports Commission Inter-local Agreement – supplemental item added
- Agenda Item #19 – Contract Amendment with Republic Parking Systems for Parking Management Services – item referred from February 15th City Council Meeting
- Agenda Item #20 – Ordinance Amending City Code Section 70-17 Payment of Frontage Charges – supplemental item added

Upon a motion made and properly seconded, the City Manager’s items were accepted by the City Council.

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

After the Mayor announced each item on the printed agenda, the following items were pulled for further discussion and/or comments:

SUBJECT: TRANS PERRY

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To receive a follow-up from Trans Perry on the costs associated with replacing and remounting a speed hump at 610 Carroll Street.

Mr. Trans Perry addressed the Council stating that at the November 5th work session, he was requested to provide additional documentation regarding his request for reimbursement for replacing and remounting a speed hump at 610 Carroll Street. He requested to be reimbursed \$9,000.00; which represented his time and invoices for person he hired to remove the speed hump and replacement.

For the benefit of newly elected Council Members Johnson and Reece, Robert Joyner, of the Public Works Department, provided the history of the item.

City Manager Bonfield noted he had offered reimbursement to Mr. Perry in the amount of \$1,500.00; which was consistent with a prior speed hump situation on James Street.

Council Member Schewel spoke in support of the staff's recommendation; however, he also stated Mr. Perry built a driveway exactly where a speed hump was located.

At the request of the Mayor Pro Tempore, City Attorney Baker stated that his office did review the matter and was supportive of the administration's position; and stated Mr. Perry was making a claim against the City. He stated theoretically there was some flexibility for reimbursement; however, when settling a claim it could be used in similar future situations where persons would have an expectation on something that had been done.

It was noted that Mr. Perry's direct costs were \$5,951.77; and on-half of that was \$2,975.89.

Mayor Bell recommended that Mr. Perry be reimbursed \$2,975.89.

Council Member Moffitt stated he was concerned about setting a precedent regarding the City's willingness to reimburse people because they do not like the location of the infrastructure.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Schewel to suspend the rules of the City Council and take action on the item was approved at 1:30 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 Davis to reimburse Mr. Trans Perry \$2,975.89 was approved at 1:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis and Johnson. Noes: Council Members Moffitt, Reece and Schewel. Absent: None.

SUBJECT: JAMES CHAVIS

To receive comments from James Chavis regarding racial profiling.

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Mr. James Chavis addressed the Council stating that he had been recently racially profiled by a Durham Police Officer; and briefed the Council on what had occurred. He requested that a meeting be held with the officers; the City Manager and the Mayor to discuss the matter.

Mayor Bell stated he did not have a problem with a meeting; and asked prior to holding a meeting he would like to know the names of the officers.

SUBJECT: IAN KLEINFELD

To receive comments from Ian Kleinfeld regarding the speed tables/humps policy.

Mr. Ian Kleinfeld requested that the current speed hump policy revert to the previous policy of six miles per hour or over; stated that the process was confusion; and raised concern with the amount of time it takes to have speed humps installed. He asked that policy be revised to be more streamlined; more responsive; and encouraged the City to look for alternatives less expensive than speed bumps.

Assistant Director of Transportation Wesley Parham stated in this particular case, the street failed to meet the criteria for speed humps based on the required percentile both under the current and old policy. He referenced their department re-evaluating a street no sooner than two years later to see if there were significant changes.

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

Council Member Johnson stated she had provided a revised Resolution to the Council for their consideration; and stated individuals were present to speak.

Mayor Bell recognized the following citizens who spoke in support of the Resolution: Matteo Gilebbi; Christopher Shreve; and M. J. Sharp.

Mayor Bell thanked Council Member Johnson for making the revisions to the Resolution; thanked the speakers for their comments; however, he felt additional revisions were needed; and read the following statement:

City unions are perfectly legal in North Carolina and we have them in Durham; however, we know that local governments are prohibited from collectively bargaining with City unions. I mention this only because some may question how we can address in a resolution, the issue of collective bargaining with Duke University and our own employees are not permitted to engage in collective bargaining. I don't think Duke University is under any legal prohibition from collectively bargaining with any of its applicable unions and I again reiterate my support for workers, in general and specifically at Duke University, being able to form unions to collectively bargain with their employers.

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As individuals, we are free to act and speak and act as we please and the consequences of our actions become our individual consequences. As individual city council persons I do not think that we lose any of the individual privileges we had prior to becoming elected city council persons, but in certain situations as city council members, our actions or privileges may take on added significance or consequences, but again that continues to be our choice as individuals and as individual city council persons.

However when we as a city council come together as a council and formally adopt a resolution, that resolution becomes the position of the city council, not individual council positions and with it all of the consequences for the city council and the ramifications for who the resolution is adopted and to whom it is directed.

Resolutions adopted by the city council, in my opinion, should be supported as much as possible by fact and not by hearsay or innuendo. This is especially true when we as a council are taking positions for issues or organizations of which we have no control as a city council, but or more or less are lending our moral support to an issue. I consider this to be the case of this resolution, where we are lending our moral support to workers at Duke University who want to organize for the purpose of collectively bargaining.

In conclusion, the Mayor stated it is not clear to him whom the resolution is being directed or what happens with the resolution if it is adopted by the city council.

Mayor Bell distributed to Council an edited Resolution; outlining his recommendations.

After discussion by the Council, they were hopeful that a Resolution that all members could support could be reviewed at the March 10th Work Session.

SUBJECT: DURHAM PERFORMING ARTS CENTER OVERSIGHT COMMITTEE

To appoint Mary Ann Black to the Durham Performing Arts Center Oversight Committee as a Mayor's Appointee representing Community Relations with the term to expire March 1, 2017.

At the request of Council Member Moffitt, City Attorney Baker noted the appointment was a Mayor's appointee and referenced the membership of the board.

**SUBJECT: U-3308 NC 55 (ALSTON AVENUE) WIDENING SUPPLEMENTAL
TRANSPORTATION IMPROVEMENT PROGRAM – NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION**

The staff recommended that the City Manager be authorized to execute the U-3308 NC (Alston Avenue) Supplemental Transportation improvement Program Agreement with the N. C. Department of Transportation.

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Council Member Schewel referenced NCDOT's agreement to stripe for the bicycle lanes; etc. until the traffic reached 20,000 per day; and after which NCDOT could ask the City to restripe and pay the cost.

Ellen Beckman, of the Transportation Department, stated the 2013 vehicle counts were at 19,000; and they were counted every two years. She referenced the East End Connector being under construction; with both of the projects opening within a year of each other; and she felt the East End traffic would have an impact on the Alston Avenue traffic.

SUBJECT: MASTER AGREEMENTS FOR TRANSPORTATION AND ENGINEERING ON-CALL SERVICES

The administration recommended that the City Manager be authorized to execute master agreements for Transportation and Engineering On-Call Services with the following firms: 1) AECOM Technical Services of North Carolina, Inc.; 2) Gannett Fleming, Inc.; 3) John Davenport Engineering, Incorporated; 4) Kimley-Horn and Associates, Inc.; 5) VHB Engineering NC, P.C; 6) Parsons Brinckerhoff, Inc.; 7) Renaissance Planning Group, Inc.; 8) Ramey Kemp & Associates, Inc.; 9) Stantec Consulting Services Inc.; 10) Stewart Inc.; 11) A. Morton Thomas and Associates, Inc.; 12) SEPI Engineering & Construction, Inc.; 13) Timmons Group, Inc. and 14) Baseline Mobility Group, Inc.;

Execute master agreements for Data Collection On-Call Services with the following firms: 1) John Davenport Engineering, Incorporated; 2) VHB Engineering NC, P.C.; 3) Ramey Kemp & Associates, Inc.; 4) Quality Counts, LLC; 5) Gannett Fleming, Inc.; 6) Baseline Mobility Group, Inc.; 7) A. Morton Thomas and Associates, Inc.; and,

Execute supplemental agreements pursuant to the executed master agreements for (a) Transportation and Engineering On-Call Services and (b) Data Collection On-Call Services so long as the supplemental agreements do not exceed \$100,000 for any single project.

Mayor Pro Tempore Cole-McFadden asked if all of the vendors being recommended were equal opportunity employers.

A staff representative from the Transportation Department stated they were; and referenced the workforce statistics provided as documentation.

Council Member Johnson stated there were no MSDBE goals set for each of the companies; and inquired if they would be set in the future.

The staff representative stated the contracts were different; and there were no goals set for projects using federal funds.

Mayor Pro Tempore Cole-McFadden and Council Member Moffitt requested information regarding the On-Call Master Agreements for Transportation and Engineering. They raised the following questions; and asked the staff to provide a response prior to the March 7th City Council Meeting:

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- Why do the On Call Master Agreements not have MWBE goals
- How do the contracts comply with the City's Small Local Business Ordinance
- How many small local firms are qualified for these contracts
- How do MWBE or SLBE firms obtain work through the process
- Is there any way to modify the list to favor MSDBE, WSDBE or locally owned business

SUBJECT: DURHAM SPORTS COMMISSION INTERLOCAL AGREEMENT

The staff report noted discussion had taken place for several years between the City of Durham, Durham County, The Greater Durham Chamber of Commerce, and the Durham Convention and Visitors Bureau regarding the establishment of a Durham Sports Commission.

The administration recommended that the City Council approve the inter-local agreement between the City of Durham, Durham County, and the Durham Convention and Visitors to establish and fund a Durham Sports Commission.

At the request of Council Member Moffitt, City Manager Bonfield briefed the Council on the commission's draft budget; which had been provided to Council.

Council Member Schewel reminded his colleagues and the public that the money from this was coming from taxes on new hotel beds forthcoming.

SUBJECT: NETWORK HUT LICENSE AGREEMENT BETWEEN THE CITY OF DURHAM AND GOOGLE FIBER NORTH CAROLINA, LLC.

The staff report noted that Google Fiber North Carolina, LLC proposes to install and maintain a fiber optic network with the City limits. On May 19, 2014, City Council authorized the City Manager to execute a Network Hut License Agreement with Google for the construction and housing of network equipment huts to be located on various sites owned by the City of Durham.

The General Services Department recommended that the City Council authorize the City Manager to execute Network Hut License Agreements with Google Fiber North Carolina, LLC for construction and housing of network equipment huts to be located on real property owned by the City of Durham; and authorize the Mayor to execute any easements necessary to allow access for utility services providers to the improvements within the license areas.

At the request of Council Member Moffitt, David Fleischer, of the General Services Department, commented on the vigorous landscaping being required during the site plan process.

SUBJECT: REVISION TO CITY CODE SECTION 70-129 – ECONOMIC DEVELOPMENT DISTRICT CHANGES

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The staff report indicated that currently, the Eno Economic Development District in Orange County, NC was eligible for the extension of City of Durham utilities if a voluntary annexation petition is received and approved by City Council. In certain circumstances, however, the City may wish to extend utilities to properties in this zone without requiring annexation. Under the current Chapter 70 – Utilities of City of Durham Code of Ordinances, utilities may be extended without annexation only to properties that fall within the limited exceptions already provided. The City Manager’s Office directed the Public Works Department to bring this issue before City Council for consideration of a code revision that will give City Council flexibility in extending utilities to properties within an established economic development district with or without annexation.

The staff recommended that an ordinance be adopted amending certain parts of Section 70-129 of the Durham City Code of Ordinances for the Economic Development District Changes.

At the request of Council Member Johnson, Robert Joyner, of the Public Works Department, referenced that in certain cases the Council could use its discretion under the rules whereby the Council may not want to annex, but may want to provide utility service.

SUBJECT: CONTRACT AMENDMENT WITH REPUBLIC PARKING SYSTEMS FOR PARKING MANAGEMENT SERVICES

The staff report noted that during the City Council Work Session on Thursday, August 6, 2015, a request for information was generated from Mayor Pro Tempore Cole-McFadden in regards to Jeaneen Nunn-Thomas regarding removing the parking company from the contractors; and city staff was asked to provide an analysis of the operations cost comparisons, including an assessment of employee benefit levels and compensation provided by the contractor in comparison with City of Durham employee levels.

The administration recommended that the City Manager execute an amendment to the parking systems management services contract with Republic Parking Systems, Inc. modifying the scope of services resulting in a reduction of the original contract amount by of \$88,117.42 for a revised total contract amount not to exceed \$5,423,955.84.

City Manager Bonfield stated last year Mayor Pro Tempore Cole-McFadden inquired if it would be better to have the employees who worked in the parking garages to be city employees instead of Republic employees; and noted that the analysis was provided.

SUBJECT: ORDINANCE AMENDING CITY CODE SECTION 70-17 – PAYMENT OF FRONTAGE CHARGES

The staff report referenced that Section 70-17(b) of the City of Durham’s Code of Ordinances states that as a condition precedent to connecting a property to a water or sewer main, a “frontage charge shall apply to all frontage of the property on abutting streets which has not been previously assessed or paid for by the property owner regardless of whether or not such water

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main or sewer main, or both, have yet been installed abutting all frontage of the property.” The code allows for exemptions when certain criteria are met, but based on various objections voiced over the years and the identification of potential inequities by staff, the City Manager’s Office has directed the Public Works Department to bring this issue before City Council for consideration of a code revision. The proposed code revisions will be presented in two phases. The first phase consists of several technical changes to the verbiage of the code and the simplest changes to implement. The second phase, to be presented at a later date, will address more substantial changes, such as monetary charges including minimum and maximum fees, as well as how and when reimbursements are made to developers for certain infrastructure.

Council Member Johnson inquired if the amendment would allow the waiver of frontage fees in areas where a decision was made that utility would not be built.

Robert Joyner, of the Public Works Department, provided a brief history on the process of frontage charges; and commented on un-opened right-of-ways.

SUBJECT: RESOLUTION SUPPORTING THE UPPER NEUSE RIVER BASIN ASSOCIATION MONITORING AND MODELING FOR THE RE-EXAMINATION OF THE FALLS LAKE STAGE II GOALS AT THE PROPOSED FUNDING LEVEL

The staff report indicated that at the January 27, 2016 meeting of the Board of Directors of the UNRBA, a revenue increase was proposed to continue to work on the second step in re-examination of the Falls Lake Nutrient Management Strategy goals, field monitoring and analysis. The Board approved a revenue increase from \$896,300 in FY2016 to \$978,800 in FY2017. The City of Durham contribution would increase from \$197,028.63 in FY2016 to \$214,259.03 in FY2017.

The administration recommended that the City Council adopt the resolution supporting UNRBA FY2017 funding level of \$978,800, with a City of Durham contribution of \$214,259.03.

Michelle Woolfolk, of the Public Work Department, provided a Powerpoint presentation on the item commenting on the following:

- Cooperating through UNRBA benefits Durham
- Steps to a Re-examination of Falls Lake (Stage II)
- FY2016 Proposed Funding Level by Jurisdiction
- Funding Levels for FY2017
- Simplified Timeline for monitoring, analysis, and regulatory options evaluation
- Continued support for UNRBA efforts toward re-examination

The Council thanked Ms. Woolfolk for the presentation.

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SUBJECT: PRESENTATION ON THE DESIGN DEVELOPMENT PROGRESS FOR THE POLICE HEADQUARTERS PROJECT

The staff report indicated that at the September 24, 2015 City Council Work Session, staff and City consultants, O'Brien Atkins Associates P.A. (O'Brien Atkins) and Lend Lease (US) Construction (Lend Lease), (the Project team) presented the Project team's preferred site concept for the Police Headquarters Project (the Project). Council gave the Project team direction to proceed with developing design of the preferred scheme. Also, at the previous August 20, 2015 Work Session, Council gave the Project team direction to increase the project budget subject to program reductions being included in the design. An updated budget summary for the project was also provided.

It was noted that over the past four months, the Project team completed the Schematic Design Phase, and currently the Design Development Phase is 30% complete. O'Brien Atkins has developed two expressions of the Police Headquarters building for Council consideration. Both schemes share the same footprint and massing which is fixed for the upcoming Site Plan submission.

The two schemes build upon the design objectives established through input from the community, City Council, and City staff. Both schemes enliven Main Street with a texture of street trees and sidewalk amenities such as planters and benches. These pedestrian elements are juxtaposed alongside transparency of glass storefront and building materials such as stone or granite. The building form at the corner of Main Street and Elizabeth Street is an all glass civic atrium creating an open engaging public interaction space for the community and building users with meeting and gathering spaces. At Main Street and Hood Street, a vibrant façade of transparent glass completes a pedestrian friendly experience along the street frontage. Both designs respond to the fabric of the local community and context in terms of building height, proportion of building elements, similar use of materials and textures. Differences between the schemes can be described as follows:

- Scheme A is a formal, orderly, and clear yet rhythmic translation of the local neighboring context and the building program represented in a palette of grey brick, stone, metal panel and clear glass.
- Scheme B is an abstracted interpretation of the local context and the building program represented in a palette of red brick, stone, and clear glass.

It was noted that the steering committee preferred Scheme A because the formal modern language felt more appropriate for civic architecture and would provide a timeless building.

The General Services Department recommended that City Council receive a presentation on the Design Development progress and two scheme options for the new Police Headquarters Complex.

A Powerpoint presentation was shared with the Council by O'Brien Atkins on the site location; guiding design principles; program space and budget reductions; and a visual fly over was provided for Schemes A & B; with Scheme A being preferred by the consultant.

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After discussion and comments, the Council supported Scheme A for the new police headquarters complex.

Assistant General Services Director Jina Propst noted the next steps in the process as follows:

Direction on Exterior Concept A or B	February 18
LEED Charrette	February 19
Site Plan Submission	March 1
Completion of Design Development Phase	March 14
50% Construction Documents	May 9
Completion of Construction Documents Phase	August 9
Demolition/Abatement/Environmental Work	Spring/Summer 2016
Bidding/Construction Begins	Fall/Winter 2016
Construction Completion	Summer 2018

The Council thanked the staff and the consultant for the report.

Settling the Agenda – March 7, 2016 City Council Meeting

Deputy City Manager Wanda Page announced the following items for the March 7th City Council agenda: Consent Items 1 and 2; 4 thru 10; Items 18 thru 20. General Business Agenda Items 3 & 12; and Public Hearings Items 13 and 14.

MOTION by Council Member Moffitt seconded by Council Member Schewel to approve the agenda for March 7, 2016 City Council Meeting as stated by Deputy City Manager Page was approved at 3:35 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.

There being no further business to come before the Council, the meeting was adjourned at 3:35 p.m.

D. Ann Gray, MMC, NCCMC
City Clerk