

**DURHAM CITY COUNCIL WORK SESSION**  
**Thursday, April 21, 2016 @ 1:00 p.m.**  
**2<sup>nd</sup> Floor Committee Room – 101 City Hall Plaza**

Present: Mayor Pro Tempore Cora Cole-McFadden and Council Members Eddie Davis, Jillian Johnson, Don Moffitt, Charlie Reece and Steve Schewel. Excused Absence: Mayor William V. "Bill" Bell.

Also present: City Manager Thomas J. Bonfield, City Attorney Patrick W. Baker and City Clerk D. Ann Gray.

Mayor Pro Tempore Cole-McFadden called the meeting to order welcoming all in attendance.

City Clerk Gray stated that Mayor Bell requested an excused absence from today's work session meeting.

**MOTION** by Council Member Moffitt seconded by Council Member Reece to excuse Mayor Bell from the April 21, 2016 Work Session was approved at 1:03 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Excused Absence: Mayor Bell.

Mayor Pro Tempore Cole-McFadden announced that she had received notification that a group of health professionals had cancelled their visit to the area due to the passage of House Bill 2.

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

City Manager Bonfield referenced the following:

- Agenda Item #6 – FY2016-17 Water and Sewer Rates & Fees – presentation would be provided
- Agenda Item #9 – Design and Construction Contract with Bobbitt Design for Fire Station #17 – staff had provided updated cost projections
- Supplemental Item – staff would provide Update on the RFP Process for Morgan Street Parking Garage

**MOTION** by Council Member Schewel seconded by Council Member Johnson to approve the City Manager's priority items.

The motion was approved unanimously.

City Attorney Baker requested that a closed session be held at the end of the meeting regarding attorney-client consultation in the matter of Ellis Road Apartments vs. City of Durham, et. Al; pursuant to NCGS 143.318.11(a)(3).

**MOTION** by Council Member Schewel seconded by Council Member Moffitt to approve the City Attorney's priority item.

The motion was approved unanimously.

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City Clerk Gray provided Council with an additional application from Akram Al-Turk to be considered for an appointment to the Durham Planning Commission. His application had been inadvertently omitted from the supporting information.

The Mayor Pro Tempore introduced the new Emergency Management Director, Jim Groves.

Mayor Pro Tempore Cole-McFadden announced each item on the printed agenda; and the following items were pulled for comments; further discussion and/or presentation.

**SUBJECT: MARIE MARTIN**

To receive comments from Marie Martin regarding the Durham Police Department.

Ms. Marie Martin, a citizen, spoke to an incident which occurred on December 13, 2013 involving her being struck by a car at the corner of Fayetteville and Elmira Streets; noted a member of the Durham Police Department climbed into the ambulance and retrieved her telephone from her pocket; stated the officer never obtained a statement from her; and stated to her surprise she received a copy of the police report which noted the person that hit her told the officer she was on her phone as she was crossing the street. Ms. Martin stated she was clearly in the crosswalk and noted in the police report the crosswalk was not even drawn; she referenced having surgery on her shoulder; increasing medical bills of \$60,000; and stated she lost her job due to the accident. She stated she contacted the police department about the report that was written because when it was provided to the insurance company they were relying on what was said even though she had not provided a statement; and no obvious drawing of the intersection where she was struck by the vehicle was provided.

Ms. Martin stated she filed a complaint with the professional standards division of the Durham Police Department; noted she was told there would be nothing done about the report; she inquired why the crosswalk was not drawn on the police report and the lack of a statement from her. Ms. Martin stated she was informed there was nothing she could do and the officer did not need to draw the crosswalk; which she stated she was walking in when she was struck by the vehicle. Ms. Martin stated she has lost faith in the Durham Police Department and could not understand why and how she had been tossed around.

Mayor Pro Tempore Cole-McFadden referenced documentation in the agenda stating a letter from the Chair of the Civilian Police Review addressed to Attorney Mills stating that the Civilian Police Review Board voted not to hear the appeal by Ms. Martin. The Mayor Pro Tempore requested City Attorney Baker review the matter.

City Manager Bonfield asked Ms. Martin if she was still being represented by Attorney Mills.

Ms. Martin replied no; stated he had to withdraw due to illness; noted she had spoken with Mr. Sparger and because of the way the police report was written there was not much of a chance of her being able to file a complaint with the insurance company. Also, she stated she had spoken with Ms. Rachel Green who informed her to refile the letter with Civilian Police Review Board; but she was informed that the information provided by Ms. Green to refile was inaccurate.

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Council Member Schewel informed Ms. Martin that it was tragic what had happened to her and was sorry that she had suffered these consequences because of the accident; and stated he hoped she would be able to get her job back.

The Mayor Pro Tempore thanked Ms. Martin for coming and sharing her comments; and stated City Attorney Baker would be speaking with her.

**SUBJECT: JADE BROOKS**

To receive comments from Jade Brooks regarding the new Police Department Headquarters on East Main Street.

On behalf of Jade Brooks, Chantel Proxton, a resident of Durham, stated her organization was firmly opposed to the construction of a new police headquarters on East Main Street; referenced abuse and violence of the Durham Police Department; which caused harm particularly to black and brown residents. She stated their campaign demanded an active divestment from the police; and a reinvestment into services, programs and institutions that would serve the needs of the community; as well as implementation of a citizen participatory budget like the City of Greensboro that demographically decides where funds are spent. She requested the Council on today to make a decision to cease all plans to construct a new police headquarters and consider what real safety looks like. Also, Ms. Proxton referenced their outreach activities gathering stories regarding the Durham Police Department; their petition containing over 370 signatures; and commented on dialogue from the community stating the \$81 million for a new police headquarters was a waste of taxpayers' money; and she referenced alternatives for the use of the money for the betterment of the community; and requested a response from the Council by May 16<sup>th</sup>. In closing, Ms. Proxton provided handouts to the Council referencing the process utilized by Greensboro seeking citizens' suggestions for participatory budgeting, neighborhood improvements; and a copy of the form entitled "Durham Beyond Policing Petition."

**SUBJECT: JOHN HAYWOOD AND MARY HAYWOOD**

To receive comments from John Haywood and Mary Haywood requesting the City Council vote for or against a proposed ordinance for the residents of Cornwall Road to replace, at their expense, the 30-inch wide city installed gravel street border.

John Haywood, a resident of Cornwall Road, stated he spoke at the work session on March 10<sup>th</sup> regarding sod that was plowed up by the City; stated the residents wanted to replace it; however, the City would not give them permission to do so. He stated if the residents of Cornwall Road restored their sod and irrigation, inquired if the City would or would not plow it up; also he commented on the only problem with the drainage at the street was at the top 300 feet that adjoined the Hope Valley Club; and provided the Council with photos of the area showing where water ponds over the street and over the gravel. Mr. Haywood stated they have been informed that they could not restore the sod unless they hire a contractor to install a drainage system which could cost the residents \$100,000.

Mary Haywood, a resident of Cornwall Road, stated Cornwall Road was an 850 foot long street; with two sections; a 300 foot section; which failed in 2015 due to poor drainage; noted the remaining 1500 feet of Cornwall was steep enough that gravity prevented a drainage problem; noted the City after spending much time and money to restore the 300 foot section proceeded

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without notice; warning or consultation to plow a 30 inch trench along both sides of the entire street; referenced the real tragedy of the Cornwall residents was the destruction of the look and charm of the old neighborhood with its narrow lanes boarded by vegetation; referenced the unsightly gravel borders which diminished selling prices of the homes; commented on heavy rains washing the gravel from both sides of the streets; noted the city coming out on several times to repack the gravel down; and with the next rain washing the gravel into their yards. Ms. Haywood requested that the council allow the residents of Cornwall Road, at their expense, to return their street to its former non-problem sod.

Public Works Director Marvin Williams stated he met with Mr. Haywood to go over the concerns; noted the application the staff provided on Cornwall was no difference than what they do routinely on city streets. He stated they stabilized the shoulder edge drops-offs; and to provide a safe area for vehicles to pull over because the amount of sod and irrigation that existed along Cornwall was undermining the road; stated when they started the maintenance project last year what they thought was one isolated problem with the storm water system grew into a much larger problem; which required the staff to provide a lot of storm water pipe replacement; point repairs; and actually repaving the entire section of Cornwall. He stated the department was not opposed to the residents installing some type of system in the area that would allow drainage to exist on the street; but also it would be needed to stabilize the shoulder to prevent the road from being undermined again. Mr. Williams stated the city standard would require approved plans, permit, permit fee, licensed contractors, and inspection by the City.

Mayor Pro Tempore Cole-McFadden inquired how much would it cost the residents to install a system.

Public Works Director Williams stated that would depend on the type of system they wanted to install; from the \$20,000 to \$30,000 range up to and above \$100,000. Also, Mr. Williams stated he met with the homeowners' association of Hope Valley earlier this week regarding some similar issues on Dover Road; noted he did come to an agreement that the public works staff would come back out and remove the material allowing the homeowners to put in material that was more aesthetically pleasing to them, as long as it stabilized the ditch. In addition, Mr. Williams stated he had discussions with the residents regarding some of the issues with the broadband contractors working in the neighborhood. Also, he stated Mr. and Mrs. Haywood's issue was somewhat separate from the homeowners' association matter.

For clarification, Council Member Schewel inquired if the staff was satisfied with Mr. and Mrs. Haywood and their neighbors, at their own expense, restoring the area with sod and removing the rock as long it was done in a way that would not undermine the road, stabilizing the road; and following the city's procedures.

Public Works Director Williams replied that is correct. He also stated this has occurred in other parts of the city where they have done work and it was not the way the neighborhood wanted their area to look; requiring them to come up with a solution that would fit their neighborhood; including submitting plans to the department for review.

Council Member Schewel stated the city needed to ensure the viability of the roads; treat everyone the same; and was supportive of the department's recommendation. Also, Council Member Schewel stated he did understand the resident's feelings about the matter.

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Mayor Pro Tempore thanked Mr. and Mrs. Haywood for their comments; and noted if further dialogue was needed, she asked them to please feel free to speak with the Public Works Director Marvin Williams.

**SUBJECT: JEFFREY TUCKER**

To receive comments from Jeffrey Tucker regarding police allegations of a hit-and-run incident, his truck being stolen and the procedures of the Durham Police Department.

Jeffrey Tucker, a resident of Durham, shared several occurrence regarding the negative interaction he experienced with Durham police officers; stated he filed a report with internal affairs; raised concern on not being able to submit complaint remaining anonymous; and stated the procedures for filing were flawed; referenced his truck being stolen and suspect on tape and stated the police as of today; still have not made an arrest. Also, Mr. Tucker stated he was forced off the road by two cars; and the police officers did not investigate. Mr. Tucker stated the actions of the police officers demonstrated the lack of leadership and training.

Captain Robert Gaddy of the Durham Police Department referenced his contact with Mr. Tucker about his stolen vehicle and the motor vehicle crash; stated Mr. Tucker voiced that he was satisfied with the service he had received from the police department; and his problem was with the City Manager's Office. Captain Gaddy stated, at this point, he was not certain how to address Mr. Tucker's concern.

City Manager Bonfield stated he would follow-up with Mr. Tucker regarding his concerns.

**SUBJECT: OMNISOURCE SOUTHEAST, LLC HAULER FOR WHITE GOODS FOR THE CITY OF DURHAM**

The staff reported noted that the contract would allow for the continued collection, processing and recycling of scrap metal materials at the City's Convenience Center; and recommended the City Manager be authorized to execute a the contract with OmniSource Southeast, LLC.

At the request of Council Member Schewel, Assistant Director of Solid Waste Wayne Fenton spoke to the types of scrap metal delivered to the five drop off sites; used appliances; household scrap metal items; and referenced containers at Fleet and Water Management for items no longer being able to use. Mr. Fenton also addressed the process for picking up white goods; curbside.

**SUBJECT: DURHAM WORKFORCE DEVELOPMENT BOARD ANNUAL REPORT PRESENTATION**

To receive a presentation on the Durham Workforce Development Board Annual Report.

Daniel Perry, an intern at the Office of Economic and Workforce Development, shared his positive experiences with the YES Program; his work at OEWD as an intern; and recommended the YES Program to youth who needed assistance on how to progress positively in life.

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A short video was shown by Mr. Perry featuring programs and services of the Durham Workforce Development Board and the NC Works Career Center.

OEWD Director Kevin Dick acknowledged the presence of Workforce Development Board members in attendance; contracted partners; community partners; and the OEWD staff.

Mr. Dick presented the presentation referencing accomplishments through March 2016; the Strategic Plan; addressed the improving high school graduation rates; the Durham Youth Work Internship Program; the Durham Youth Employee Succeeding Program; the Job Placement Program and Services for the Career Center; the formation of the adult provided collaborative; referenced pending grant applications submitted to the Department of Labor geared to helping those with criminal backgrounds to obtain work; and spoke to NC Works online whereby businesses can post their jobs.

Mr. Dick shared videos stating they would be used as public relations announcements; and referenced the assistance of the Public Affairs Department to provide the videos on you tube; and stated they currently have an OEWD channel on you tube.

The City Council thanked Mr. Dick for the presentation and his work with the City of Durham; and wished him well on his new job with the City of Charlotte.

**SUBJECT: FY2016-17 WATER AND SEWER RATES**

To receive a presentation on the proposed Water and Sewer Rates and Capital Facility Fees for FY2016-17; and adoption of an ordinance to change rates for water and sewer effective July 1, 2016.

Water Management Director Don Greeley shared a Powerpoint presentation commenting on the capital improvement program; rate objectives and strategies; key issues; customer consumption; proposed rates for the upcoming year; comparison of rates with other jurisdictions; and the capital facility fee increases.

Discussion was held by Council on Greensboro's average monthly water and sewer bill and a monetary settlement they received from one of their large users; and the staff explained the rationale for the sewer capital facility fees for Durham being low compared to the water capital facility fees.

Council Member Schewel requested that a written report or brief presentation be provided in the future on Durham's water safety.

Council Member Reece thanked the staff for the presentation and the work for keeping the increases level to avoid large pikes when there is need for capital improvement projects.

**SUBJECT: DESIGN AND CONSTRUCTION CONTRACT WITH BOBBITT DESIGN-BUILD FOR THE FIRE STATON #17 PROJECT**

The staff report noted that in 2013, the City of Durham's Fire Department identified the need for a new fire station facility in east Durham in order to provide proper response times in support of past and current annexation and the rapid growth of residential development near the Leesville

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Road and Doc Nichols Road intersection. To expedite the project and shorten the new facility's design and construction timeframe, the General Services Department investigated the use of design-build project delivery which was approved in 2013 for municipal use in North Carolina pursuant to General Statute Section 143-128.1A.

The General Services Department recommended the adoption of a resolution finding the use of a Design-Build project delivery method for the Fire Station #17 project was in the best interest of the City; to authorize the City Manager to negotiate and execute a Design-Build contract with Bobbitt Design-Build for preliminary design and preconstruction services for Fire Station #17 not to exceed a maximum cost of \$300,000; authorize the City Manager to negotiate and execute a guaranteed maximum price amendment to the Design-Build contract for final design and construction services not to exceed \$4,080,800; establish a project contingency for \$485,000; and authorize the City Manager to negotiate and execute change orders on the Fire Station #17.

City Manager Bonfield stated staff had identified some number changes that Council needed to be made aware of; and stated the item would be updated prior to the May 2<sup>nd</sup> Council Meeting.

Dave Delcambre, of the General Services Department, briefed the council on the purpose of the item; and identified the revised numbers as follows: the guaranteed maximum price amendment for the contract should not exceed \$2,868,600; the contingency would be \$316,800; and with total project not exceeding \$3,185,400.00.

## **SUBJECT: COMPACT NEIGHBORHOOD FUTURE LAND USE MAP UPDATE**

To receive a presentation on the Compact Neighborhood Future Land Use Map Update.

The staff report noted that the City/County Planning Department was re-evaluating the Future land Use Map to better align Compact Neighborhood Tier boundaries with the proposed Durham-Orange Light Rail Transit system. The staff memo provided project background information; summarized staff's recommendation; and the next steps.

### Project Purpose

- Update the adopted Future Land Use Map – the Future Land Use Map acts as a policy guide for future growth; Compact Neighborhoods are part of an already adopted framework
- Align land use with Durham-Orange LRT
- Respond to land use, development and transportation changes over the last 10 years
- Opportunity to re-engage with the community
- Identify issues early that ought to be addressed prior to rezoning or opening day of the light rail

Scott Whiteman, of the City/County Planning Department, presented a Powerpoint presentation on the item explaining each of the following topics in detail.

- Compact Neighborhoods and Suburban Transit Areas
- Planning for Population Growth
- What Are Compact Neighborhoods
- Why Compact Neighborhoods
- Tapering Development Intensity

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- Equitable Neighborhood Change
- Big Picture – Station Area Planning Framework
- Land Use Planning Overview
- Study Area
- Public Engagement Meetings Held during 2015
- Leigh Village: Existing Context; Proposed Changes for the Future Land Use Plan; Eastwood Park and Villa Pinea; Proposed Compact Neighborhood Tier Boundary and Key Boundary Issues
- Patterson Place: Existing Context; Proposed Changes for the Future Land Use Plan; Proposed Tier Boundary; and Key Boundary Issues
- South Square/MLK Jr: Existing Context; Proposed Changes to the Future Land Use Plan; and Proposed Tier Boundary
- Ervin Road: Existing Context; Proposed Future Land Use Map Change; University Campus; and Proposed Tier Boundary
- Alston Avenue: Existing Context; Proposed Future Land Use Map Change; Proposed Tier Boundary; and Key Boundary Issues

#### Next Steps

- Draft reports are online
- City Council Public Hearing scheduled May 16, 2016
- County Commissioners Public Hearing (August 2016)

The Council thanked Mr. Whiteman for the presentation.

#### **SUBJECT: UPDATE ON THE RFP PROCESS FOR NEW DOWNTOWN PARKING GARAGE ON MORGAN STREET**

Thomas Leathers, of the Transportation Department, provided a progress report on the RFP process for the new Downtown Morgan Street Parking garage; referenced the comprehensive parking study done in 2012 which noted new parking garage would be needed; he stated staff held urban design charrette with Planning Department in collaboration with Downtown Durham, Inc; stated the recommendation from the charrette suggested having a mixed-use facility with retail on the ground level with 450 parking spaces; commented on the feasibility study done by Kimley-Horn in December 2015 refreshing the parking study; now being able to entertain 15,000 to 20,000 square feet of commercial retail space; approximately 758 to 800 parking spaces; referenced city staff site visits; and stated the RFQ had been released for design during February 2016.

Mr. Leathers stated due to the critical parking needs of Downtown and the time constraints they were in the process of interviewing the finalist for the CMAR and design firms. He also briefed the council on two types of garage constructions, cast-in-place versus precast; and noted the administration's preference was cast-in-place construction.

There was discussion from Council regarding having affordable housing be included as part of the project. Council Member Moffitt reminded his colleagues that he inquired during the February 2016 council retreat about having residential use in the complex and asked during that time if it was feasible.

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The administration noted it did not pursue including a residential component in the RFP because the lot was too narrow to have a wrap of housing around the structure and the RFP referenced the project as a mixed-use garage.

Mr. Leathers stated they did receive one proposal which included 25 affordable units and stated it did not score competitively with the other proposals.

City Manager Bonfield stated he understood council's priority around affordable housing; and noted the parking situation downtown was getting more and more difficult to deliver.

The item will be placed on May 2, 2016 City Council Meeting agenda for further discussion.

### **Settling the Agenda – May 2, 2016 City Council Meeting**

City Manager Bonfield referenced the following items for the May 2, 2016 City Council Meeting agenda: Consent Items 1 thru 10; and General Business Agenda Items 13 and 19.

**MOTION** by Council Member Schewel seconded by Council Member Reece to approve the agenda for the May 2, 2016 City Council Meeting as stated by the City Manager was approved at 4:28 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Excused Absence: Mayor Bell.

### **Closed Session – 4:29 p.m.**

**MOTION** by Council Member Davis seconded by Council Member Moffitt to hold a closed session regarding attorney-client consultation in the matter of Ellis Road Apartments vs. City of Durham, et.al; pursuant to NCGS 143.318.11(a)(3); and to discuss matters relating to the location or expansion of industries or other businesses in the City of Durham pursuant to NCGS 143-318.11(a)(4) was approved at 4:29 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Excused Absence: Mayor Bell.

### **Open Session – 4:52 p.m.**

**MOTION** by Council Member Moffitt seconded by Council Member Reece to return to open session was approved at 4:52 p.m. by the following vote: Ayes: Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Excused Absence: Mayor Bell.

No action was taken by the Council in open session.

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There being no further business to come before the Council, the meeting was adjourned at 4:52 p.m.

D. Ann Gray, MMC, NCCMC  
City Clerk