

DURHAM CITY COUNCIL WORK SESSION
Thursday, January 9, 2020 @ 1:00 p.m.
2nd Floor Committee Room – 101 City Hall Plaza

The Durham City Council held a Work Session on the above date and time in the City Council Committee Room located at 101 City Hall Plaza with the following members present: Mayor Stephen Schewel, Mayor Pro Tempore Jillian Johnson and Council Members Vernetta Alston, Javiera Caballero, DeDreana Freeman, Mark-Anthony Middleton and Council Member Reece. Absent: None.

Also present: City Manager Tom Bonfield, City Attorney Kimberly Rehberg and City Clerk Diana Schreiber.

Mayor Schewel called the meeting to order and welcomed all in attendance.

Mayor Schewel announced that there was a ceremonial item at the Work Session.

John Stinson of Technology Solutions announced that \$2000 was raised by the Seven Stars Organization to present to the Alzheimer's Association of Eastern Carolina Chapter. Bertha Johnson, Director of Budget and Management Services, made remarks.

Jay Reinstein, representing the National Board of Directors of the Alzheimer's Association, accepted the donation and spoke to his own experience with the diagnosis of Younger Onset Alzheimer's. Mr. Reinstein explained that various city departments were donating a total of \$3,300 to the Association and spoke to his fund-raising cohort, the JayWalkers.

Mayor Schewel asked if there were any announcements by Council. There were no announcements.

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

City Manager Bonfield stated that Council would be updated on Item 13) Design-Build Services Amendment with LeChase Construction Services, LLC for the City Hall HVAC and Electrical Renovations Project and would be hearing how the project would impact the Mayor's and Council's Suite.

No motion was necessary on the City Manager's priority item.

City Attorney Rehberg introduced new Assistant City Attorney Anna Davis who will specialize in Employment Law; and announced the City Attorney's Office was fully staffed.

Assistant Attorney Davis made brief introductory remarks.

City Clerk Schreiber had no priority items.

Mayor Schewel read the items on the printed agenda. The following items were removed for discussion: Items 13, and 14.

SUBJECT: CITIZEN'S MATTER: CHRIS TIFFANY – (ITEM 18/ PR 13726)

Mr. Tiffany addressed hostile and maligned treatment toward the poor along and racial profiling.

SUBJECT: PUBLIC COMMENT SPEAKER: ELLEN PLESS – NO ITEM #

Ms. Pless requested Council and staff's assistance in the process of her neighborhood in obtaining a NPO (Neighborhood Protection Overlay).

SUBJECT: PUBLIC COMMENT SPEAKER: LILLY LYONS – NO ITEM #

Ms. Lyons requested assistance with the heating system in her home and expressed concerns about the noise the system was making.

Mayor Schewel explained to Ms. Lyons that a staff member would contact her to attend to her concerns.

SUBJECT: PUBLIC COMMENT SPEAKER: HEIKO RATH – NO ITEM #

Mr. Rath spoke to the private quarry being constructed with high fencing along the perimeter to be located on public land near the RDU Airport; requested Council file an *amicus* brief to appeal the lawsuit, adopt official resolution stating that Durham was opposed to the quarry and instruct RDU not to install nine-foot tall, chain link/barbed wire security fencing as intended.

Mayor Schewel responded that he would be in contact with Mr. Hutchinson.

[ITEMS REMOVED FOR DISCUSSION]

Mayor Schewel announced that Council would address the pulled items, beginning with Item 13.

SUBJECT: DESIGN- BUILD SERVICES AMENDMENT WITH LECHASE CONSTRUCTION SERVICES, LLC FOR THE CITY HALL HVAC AND ELECTRICAL RENOVATIONS PROJECT (ITEM 13/ PR 13718)

Donna Maskill, Senior Construction Project Manager in General Services, summarized the HVAC project that was going to impact the City Attorney's and Council's Suites; history of project, overall scope, anticipated energy savings, and construction schedule.

Ms. Maskill explained the building was constructed in 1978 and noted the contract was designated to LeChase Construction Services LLC for the design-build contract for building automation; all floors in City Hall would be impacted to some degree. The project would impact the City Council's Offices, starting on June 16, 2020:

- Overhead work
- New Ceiling tiles and LED Lighting
- HVAC Digital Controls, Ductwork, Piping
- New Exhaust Fan
- New Carpet in the Mayor's Office
- Staff would relocate to the Community Development Offices on Rigsbee Street

Ms. Maskill clarified the construction on the other floors of City Hall and detailed the upgrades to the cooling equipment on the roof. The expenditures were expected to amount to \$5,199,909.

**SUBJECT: CONTRACT ST-303 PAVEMENT PRESERVATION PROJECT 2020
(ITEM 14/ PR 13714)**

Tasha Johnson, Assistant Director of Public Works, made the staff report.

Mayor Schewel inquired about the difference between micro and cape seal re-surfacing; and what was the rationale for on-site inspectors.

Assistant Director Johnson clarified that the cape seal was more structured and explained that on-site inspectors were necessary to handle real time decision-making in the field.

Shane Parker, representing Slurry Pavers, responded to questions regarding the company's employment statistics pertaining to diversity and what efforts were being taken to diversity its workforce; emphasized his company conducted ongoing training programs and that the product was very specialized.

Mayor Schewel mentioned the city's YouthWorks Summer Internship Program focused toward high school students. Mr. Parker responded that he was interested in getting more information regarding the internship program from city staff.

[PRESENTATIONS]

**SUBJECT: WILLARD STREET APARTMENTS PHASE I AND II UPDATE
(ITEM 15/ PR 13710)**

Karen Lado, Assistant Director of Strategy, provided the staff report on the item. The 12/17/19 memo from Reginald Johnson, Director of the Department of Community Development to City Manager Bonfield pertaining to the Update on the Willard Street Apartments Phases I and II follows:

Executive Summary

On August 9, 2018, the North Carolina Housing Finance Agency announced the allocation of 2018 9% Low Income Housing Tax Credits (LIHTC), which included an award to phase I of the Willard Street Apartments. The development will include 82 units of affordable rental housing for household earning 60% or below the area median income, ground floor commercial space and structured parking. The real estate and financial closing occurred in July of 2019 along with the groundbreaking to celebrate the development of affordable housing in the City's downtown core.

The purpose of this report is to provide a construction update on the Willard Street Apartments phase I and share next steps for the phase II development effort and the submittal of a 2020 LIHTC preliminary application for 9% tax credits.

Recommendation

The Community Development Department recommends that City Council receive the Willard Street Apartments update.

BackgroundPhase 1

Construction began on phase I in July of 2019 with a seventeen-month construction schedule or an established completion date of December 31, 2020. Construction is currently on schedule to meet the December 31, 2020 placed in service date as required by the North Carolina Housing Finance Agency. To date, the majority of the site work has been completed, including grading and public infrastructure. Substantial amounts of mass and trench rock were removed as part of the site work and infrastructure improvements. The slab for the first level of parking on Side A (faces Willard Street) has been completed, along with the cast-in-place walls for that level. Bracing has been put in place for the walls to be backfilled and structural supports have been erected to prepare for the pouring of the second level of parking. Over the next ninety days, the second level parking slab will be poured along with the footings for Side B (faces Jackson Street). Framing for the residential units is expected to begin on Side A in late January. See attached pictures.

Phase 2

In January of 2019, as a back-up plan to the 2019 9% LIHTC application submitted by the Durham Housing Authority (DHA), the Joint Venture (JV) (DHIC and Self Help Ventures Fund) submitted a 2019 LIHTC application for phase 2 of Willard Street Apartments. The agreement between the City, DHA and the JV in the submittal of two separate applications was that upon the release of the individual site scores in April 2019, the applicant with the lowest site score would remove their application from consideration for low income housing tax credits. This would prevent the two entities from competing against each other and allow the City to support one application. Additionally, if both applicants were to receive the same site score, the JV would remove their application from consideration with DHA submitting a final application in May of 2019. When the final site scores were released in April of 2019, both sites

received perfect scores and as agreed upon, the JV did not submit a final LIHTC application in May of 2019 and DHA moved forward with a final LIHTC application. Unfortunately, when the tax credit awards were announced in August of 2019, DHA did not receive an allocation. This left the Durham community without a 2019 allocation of credits.

As 9% LIHTC applications are extremely competitive, only those that get a perfect site score during the preliminary application phase have a realistic chance of receiving an award of tax credits during the full application phase. It is not uncommon for the scoring of full applications to lead to numerous projects with perfect or near-perfect scores based on the point system used by the North Carolina Housing Finance Agency.

One of the key variables in competing for a funding award is the amount of tax credits requested per unit. To be successful, applicants must propose a credit amount that is within a narrow range of the average of applications in that particular year, which can be difficult to predict. In 2019, DHA's credit per unit request was slightly below that narrow range, resulting in the loss of a point that cost them the possibility of an award. When scores are tied, the agency relies on tie-breakers to make award allocations. In 2020, these tie-breakers will include the poverty rate of the census tract the development is in (lower is better for scoring), community's recent past history receiving 9% LIHTC awards (fewer awards is better), and other factors as needed through six defined tie-breakers.

To increase the odds of a Durham application receiving an allocation of tax credits, staff has been working to develop multiple projects aligned with City priorities for the 2020 LIHTC 9% preliminary application due on January 24, 2020. Multiple applications mean that City has multiple chances at putting forward a winning proposal, including a competitive credit per unit request and/or a project that will score well on the tie breakers. DHA is preparing to submit two preliminary applications for separate sites at Liberty Street. In addition, staff recommends that the JV submit a third application for phase 2 of the Willard Street Apartments, which will be known as Ashton Place Apartments. Staff also recommends that both entities see the process through to the final application process and if awarded an allocation of 9% tax credits, the City provide its support to the application that receives an award. It should be noted that the Durham community is not guaranteed that it will receive an award, so the submittal of three competitive applications, increases the communities chance to receive an allocation of tax credits in 2020.

As part of the LIHTC application process, developers must demonstrate that they have site control of the parcel they are proposing to develop. For the 2019 LIHTC application process, the City entered into an Option Contract for the purchase of the Willard Street phase 2 site with the JV that expires in September 2020. The Option Contract includes language that if the JV did not submit a final 9% LIHTC application, then the City could, with proper notification, terminate the Option Contract. It is the JV's opinion this language may not meet the site control requirement of the 2020 LIHTC process and result in the JV's application being disqualified. Language was also included in the

Option Contract that would allow the City Manager to amend the contract and staff, upon review by the City Attorney's office, has provided an amendment to the original contract for the City Manager's approval and signature. The revised Option Contract will meet the North Carolina Housing Finance Agency's requirements of required site control along with the submittal of the 2020 preliminary 9% LIHTC application.

Issues and Analysis

Assuming competitive tax credit applications are submitted, Durham often is awarded one tax credit project, but as 2019 showed, even competitive applications may lose out given the number of strong applications submitted each year. Allowing both DHA and the JV to compete increases the community's chance for an award, but potentially prevents one of the applicants from receiving an award. If the JV were not awarded an allocation of tax credits, the City and the JV would continue to discuss alternative concepts for the Willard Street phase II site and return to City Council by December of 2020 for additional direction and/or approval of a phase II concept. If DHA is not awarded an allocation of tax credits, DHA would need to reassess how to continue to move the downtown redevelopment effort, which could include converting the unsuccessful 9% LIHTC project into a 4% LIHTC project, which would require additional subsidy.

Alternatives

City Council could direct staff not to move forward with the submittal of the phase II 9% LIHTC application for Willard Street. This would allow DHA to be the only entity that the City would support in the submittal of a LIHTC application.

Financial Impact

If both entities were to submit a 9% LIHTC application and the JV received the allocation of tax credits, the subsidy request from the JV to the City is estimated at approximately \$1,000,000 - \$1,500,000, with a formal specific request to be made and approved by City Council in advance of the May 2020 full application deadline. If DHA received a 9% tax credit application, the City does not anticipate a need for City subsidy for the project. If DHA does not receive an allocation and proposes to move forward with a 4% LIHTC application for the project to stay on schedule with the Downtown Development Plan, their request to the City is assumed to be similar to the request for J.J. Henderson new construction (\$3,000,000).

Equal Business Opportunity Summary

Not applicable.

Attachments

Construction Pictures

Mayor Schewel inquired about DHA applying for credit preliminary application due in January 2020 and asked if the application was on track, considering the stress DHA had been under recently.

Assistant Director Lado stated she had no new information; stated Laurel Street was taking the lead on preparing and submitting the application and that Laurel was not involved in the work at MacDougald Terrace; and stated the 4% were both in, of which, one was a preliminary.

Mayor Schewel offered assistance in getting the applications submitted in a timely manner.

SUBJECT: UNPAVED ROADS (ITEM 16/ PR 13667)

Tasha Johnson, Assistant Director of Public Works, presented the staff report, displayed maps and addressed the following:

Presentation Objectives

1. Project Overview
2. Review of Study Findings
3. Review Recommendations
4. Q/A

Project Overview

Updated 2010 Unpaved Road Inventory, condition ratings and estimated paving cost data prepared by Kimley-Horn and Associates and developed a weighted system to prioritize paving of the unpaved roads.

Develop unified Unpaved Roads Asset Management Plan to include expenditure plan that is sensitive to the City's priorities.

Develop an easily adaptable GIS Dashboard tool to manage the unpaved roads program.

Key Findings of Unpaved Roads

Good baseline of useful data and information

In general, 174 roads were in good condition with ample stone, stable, only minor drainage issues.

Three different road-base options and three different pavement options were considered applicable for roads in study for total of nine pavement design options (with diagram).

Unit cost estimates ranged between \$23 and 57.00/square yard.

The 22 feet paved surface width was set as the standard where practical.

Key Points

Objective Measures

Traffic generators emphasized

Easy to adapt as follows:

Modify point values

Key Points, continued:

- Add or delete land uses
- Reflect Census data

Streets were assigned points that ranged from 0 to 345, utilizing 10 attributes.

Difference in cost between Recommended Standard (\$12.2 million) versus Petition Street Standard (\$70+ million over 10 years).

Study Recommendations: condition the existing base and use two-inch plant mix surface course on the roads.

The plan would pave the roads in priority order over a 10-year period.

- The total cost for paving all the roads in recommended option is \$12.2 million*, or about \$1.2 million/year*.

- This is the least-cost option for paving these gravel roads, with no improvements to storm drainage ditches, curb and gutter, driveway improvements, shoulder work, and no extensive grading.

- No water/sanitary sewer line extension costs have been included in the study.

*50% contingency added for unexpected project challenges

Highlighted Briggs Avenue, Belt and Liberty Streets.

Anthony Roper, SEPI Consultants, spoke to the engineering study of the unpaved roads, objectives, methodology, cost estimates and outcomes.

Council discussed the item; asked about paving structures and drainage of stormwater, maintenance schedule of roadways, level of service/life cycle expectations,

Council Member Caballero disclosed that she resided adjacent to a gravel road.

Council Member Alston addressed the more regular maintenance schedule of the roadways and how that would reduce the life cycle of a road.

Assistant Director Johnson responded that it would not reduce the life cycle, the city would have a more frequent presence and would not have to come back for years.

Council Member Freeman asked if staff was planning on coming back with a ditch/drainage plan and asked where the stormwater would drain.

Assistant Director Johnson responded that ditches would be continually maintained by Street Maintenance staff and added the software was applicable only to the unpaved roads.

Mayor Pro Tempore Johnson asked about next steps and timeline to move forward.

Assistant Director Johnson clarified the process with the elements of moving forward with a CIP (Capital Improvement Plan) Request and asked if Council was supportive of the direction.

Mayor Pro Tempore Johnson was supportive of the direction.

Mayor Schewel inquired about individuals who did not want their roads paved, what was the city's position and asked about Briggs Avenue paving and maintenance schedule.

There would be outreach conducted and if there was opposition, any concerns would be brought back to staff for the concerns to be addressed.

Mr. Roper responded to the maintenance of Briggs Avenue and impact that the business was making on the road structure wear-and-tear and the neighborhood.

City Manager Bonfield made remarks related to the consideration of a racial equity lens associated with the prioritization of road improvements.

Mayor Schewel requested a hand vote. It was the unanimous consent of the Council to move forward with the presented approach.

City Clerk Schreiber announced that Council had nominated Darius J. Whitney as the Black/African American Male and Erin N. Carson as Black/African-American Female to the Human Relations Commission.

Settling the January 21, 2020 City Council Agenda

City Manager Bonfield announced the items for the January 21, 2020 City Council Agenda: Consent Agenda Items 1 through 14 and General Business Agenda – Public Hearing Item 17.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to settle the City Manager's agenda for the January 21, 2020 City Council Meeting as stated by City Manager Bonfield was approved at 2:27 p.m. Motion passed unanimously.

There being no further business to come before Council, the Work Session was adjourned at 2:28 p.m.

Diana Schreiber, CMC
City Clerk

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