

DURHAM CITY COUNCIL WORK SESSION
Thursday, January 21, 2021 @ 1:00 p.m.
Virtual Zoom Meeting

The Durham City Council held a virtual Work Session on the above date and time with the following members present: Mayor Steve Schewel, Mayor Pro Tempore Jillian Johnson and Council Members Javiera Caballero, DeDreana Freeman, Mark-Anthony Middleton and Charlie Reece. Excused Absences: None.

Also present: Interim City Manager Wanda Page, City Attorney Kim Rehberg and City Clerk Diana Schreiber.

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

[ANNOUNCEMENTS BY COUNCIL]

Council Member Reece spoke about vaccinations in Durham; Durham County Health Department opened up an on-line scheduling portal at www.dcopublichealth.org, Vaccine Update Screen contains the link for Group 1 (health care workers, residents and staff and long-term nursing centers) and Group 2 (individuals aged 65 and over).

Until vaccinated, residents were encouraged to continue wearing masks, wash hands and remain socially distanced.

Mayor Schewel announced that he would be getting vaccinated on January 22, 2021 and was excited to get vaccinated; spoke to the Continuum of Care for Homeless residents and Durham was ranked as 10th most effective in the country and voiced appreciation for the Department of Community Development staff for their efforts; and announced the retirement of Assistant Finance Director Keith Herrmann after 18 years with the City of Durham's Finance Department and spoke to Keith's contributions to the Residents Financial Report and the Brown Bag Lunch Book Group.

Mr. Herrmann responded that he appreciated the Mayor for making him feel better about himself by the Mayor's kind words.

[PRIORITY ITEMS FROM THE CITY MANAGER, CITY ATTORNEY AND CITY CLERK]

Interim City Manager Wanda Page announced her priority items:

Item 10, Emergency Equipment Rental for Snow Hill Road Lift Station- Project Warp Speed. Council is requested to suspend the rules in order to vote on the item. Attachments 2-4 were added.

Item 13, Issuance of Request for Proposals for Participation in Duke Energy Green Source Advantage Program by the City of Durham and/or Durham County. Presentation item.

Council is requested to suspend the rules in order to vote on the item.

Item 14, Contract for Executive Search Services - City Manager Search. Motion and Attachments were updated, Attachments 2 and 3 were added.

Item 16, Petition Process. Presentation Item.

MOTION by Council Member Freelon, seconded by Mayor Pro Tempore Johnson, to accept the City Manager's Priority Items was approved at 1:13 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absences: None.

The City Attorney had no priority items.

The City Clerk announced one priority item:

Item 6, Participatory Budgeting Steering Committee - Appointments. It was requested that the item be returned to the City Clerk's Office for re-advertising for an additional two weeks.

Mayor Pro Tempore Johnson explained the rationale for the extension of time to allow previous members of PB to re-apply to the Committee for the upcoming cycle.

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson, to approve the City Clerk's Priority Item was approved at 1:15 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absences: None.

[ADMINISTRATIVE CONSENT ITEMS]

Mayor Schewel read the items on the printed agenda and the following items were pulled for additional information and/or discussion:

Item 6, Participatory Budgeting Steering Committee - Appointments. Referred back to the City Clerk's Office.

Item 10, Emergency Equipment Rental for Snow Hill Road Lift Station - Project Warp Speed.

MOTION by Council Member Freeman, seconded by Council Member Caballero, to suspend the rules in order to vote. Motion was approved at 1:18 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absences: None.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Freeman, to authorize the City Manager to execute a contract with Xylem Dewatering Solutions, Inc.

for the Snow Hill Road Lift Station Rental Agreement in the amount of \$260,000 was approved at 1:18 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absences: None.

Mayor Schewel continued reading the items off the printed agenda:

Item 13, Issuance of Request for Proposals for Participation in Duke Energy Green Source Advantage Program by the City of Durham and/or Durham County.

Presentation item.

Item 14, Contract for Executive Search Services - City Manager Search. Council Member Middleton pulled the item for discussion.

Item 16, Petition Process. Presentation item.

Council Member Reece announced that the Biden Administration had enacted a 100 Day Moratorium on deportations; this action has allowed Pastor Jose Chicas to relocate to his family and home in Raleigh after residing in sanctuary for three years and seven months in Durham's School for Conversion.

Council Member Caballero shared Pastor Chicas had been in sanctuary for three and a half years.

**SUBJECT: CONTRACT FOR EXECUTIVE SEARCH SERVICES
(ITEM 14/ PR #14429)**

Council Member Middleton inquired if there was a contingency clause in the Executive Search contract from Human Resources Director Regina Youngblood and Human Resources Manager, Talent Management and Acquisition Jim O'Donnell.

Council Member Middleton inquired about the consequences of hiring internally on the contractual agreement with the executive search vendor.

Mr. O'Donnell noted that there was a general 'out clause' within the contract.

City Attorney Rehberg noted that Attorney Anna Davis would be handling the employment contract, typically there was a no-fault, graduated clause and would confer with Attorney Davis about the matter.

Mr. O'Donnell explained the three phases of the search process with each phase being charged at its conclusion a third of the total fee by the vendor:

1. Initiate the search process;
2. Provide slate of candidates; and
2. Complete the search/hiring of candidate.

Council Member Freeman referred the City Attorney's Office to Section 5, page 1; and urged narrowing down the language and following up with Council.

[PRESENTATIONS]

SUBJECT: ISSUANCE OF REQUEST FOR PROPOSALS FOR PARTICIPATION IN DUKE ENERGY GREEN SOURCE ADVANTAGE PROGRAM BY THE CITY OF DURHAM AND/OR DURHAM COUNTY (ITEM 13/ PR 14440)

Paul Cameron, Sustainability and Energy Analyst in General Services, presented the staff report on Duke Energy Green Source Advantage Program; he introduced his team: Angela Freeman and Wendy Fleener/Duke Energy; and displayed a PowerPoint presentation.

Program would allow the city to work toward the goals of 50% greenhouse gas reduction and renewable energy goals. City would select a solar developer of choice; receive renewable energy credits toward the city's goals; and would pay a premium or receive a credit.

Benefits of the program. GSA program is best available option to make significant strides toward the City's renewable energy goals.

1. Move the city 28% closer to 100% renewable energy
2. Place Durham as a leader in municipal renewable energy procurement in NC
3. Support public health and economic benefits for the region
4. Produce enough electricity to power 4,729 homes annually
5. Equate to removing 3,803 passenger vehicles from the road, annually.

Milestones and Next Steps.

1. Request for information issued (Oct. 1, 2020)
2. Five responses from solar developers received (Nov. 5, 2020)
3. GSA presentation to City Council at Work Session (Jan. 21, 2021)
4. Council action to approve issuing a request for proposal for a solar developer (Feb. 1, 2021)
5. Request for proposal issued (pending Council approval) (Feb. 2, 2021)
6. Solar developer selected (March 2021)
7. Council approval of contract (April 2021)
8. Solar farm would be operational (Calendar Year 2023)

Mayor Schewel inquired about the County's approval of the timetable.

Mr. Cameron noted there was a time constraint within the program and that perhaps someone else had claimed the available megawatts and urged the approval of the item; explained the County's approval timeline.

Wendy Fleener, representing Duke Energy, spoke to the acceptance process into the program and noted it was a limited capacity program with carve-outs from HB589.

Ms. Fleener noted that there were other entities in the state who were interested in the program; and explained the megawatt rate would depend on the costs negotiated with the developer and the city directly.

The probable locations of the solar facility could be located in Alamance, Orange, Davie and Davidson counties, not in Durham County.

Two Durham firms who responded to the RFP were Carolina Solar and Cypress Creek Renewables.

It was, depending on circumstances, possible that Durham could obtain subsidies depending on the national political situation and with restructuring of the contract.

Council Member Middleton inquired about costs fluctuating and referenced the 'Why Participate' slide.

Angela Strickland, program analyst, noted the caveat was based on indicative pricing, not specific to a RFP and stated she did not anticipate wild fluctuations but that the figures would not be exact numbers as listed.

Mr. Cameron responded to the Why Participate slide; explaining that the total energy the city used in BTUs and the output of the potential general solar array through GSA would move the city 35% towards the 80% renewable energy goal and a smaller amount toward the 100% renewable energy goal.

Mayor Schewel suggested that in lieu of applying with speed, asked Council to consider suspending the rules and voting on the item at the Work Session.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Freelon, to suspend the rules in order to vote. The motion passed at 1:57 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absences: None.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to grant approval for the City to issue a Request for Proposals for potential participation in the Duke Energy Green Source Advantage Program; and

To evaluate the possibility that the City collaborate with Durham County to both enter into the Duke Energy Green Source Advantage Program in a joint solar project. Motion passed at 1:58 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absences: None.

SUBJECT: PETITION PROCESS (ITEM 16/ PR 14436)

Robert Joyner, Public Works, projected a PowerPoint presentation on the petition process and to request Council to provide guidance on policy direction.

Mr. Joyner explained the Petition Process for Infrastructure Improvements and noted the Public Works Department was the central point of contact. A flowchart was presented that explained how things worked from the original petition process to putting the process in place for construction. Ordering the improvement did not guarantee the project to happen. Once Council ordered the improvement(s) to be made, projects are placed in the city's CIP process to compete for funding. Funding is needed for design, construction easements, ROW acquisition, utility relocation and for inspections and construction.

History of assessment rates was summarized. Mr. Joyner explained two processes/options:

Option 1- No Subsidy

All ordered improvements shall be assessed at full cost recovery of installed improvements. Each situation would be accountable to its particular issues and costs. Pro/Con: More control by the city over costs/expenditures. Owners would be responsible for all costs.

Mayor Schewel inquired about people with means being able to access the system.

Option 2- Partial Subsidy

All ordered improvements shall be made at a percentage established by City Council based on the type of improvement. Critical infrastructure (water/sewer) could be established at a lower cost recovery as this infrastructure is often both necessary and is needed in more areas to ensure equitable access to city provide water/sewer. Non-critical improvements could be set at higher rates as these improvements are not mandatory by any local or state laws. Affordability can be established by a percent of cost recovery. If this method is pursued, staff has suggested cost percentages.

Street infrastructure with water/sewer/curb-gutter/ or ribbon pavement - full cost recovery.

Water/Sewer infrastructure only- 75% cost recovery with 25% subsidy

Sidewalks- no changes in cost recovery, is dependent on the Durham Walks Priority Plan

Mr. Joyner summarized that staff was requesting direction from Council on policy, intended uses of the program and guidance of what types of costs should be recovered. He compared construction cost recovery (current model) with true full cost recovery. The true full cost recovery would include consultant design costs, consultant inspection costs, real estate purchases and construction costs to formulate a final assessment rate. Note: the recovery model can vary significantly due to land and consultant costs.

Council Member Freeman asked about inconsistent costs from year to year.

Mr. Joyner noted that once a rate was established under the current plan, that was the cost the individual paid. He spoke to the percentage price or a rate model; and compared 100% cost recovery model with the subsidy/secondary model with a partial subsidy.

Mayor Schewel inquired about updating costs for linear feet of sidewalk construction.

Mr. Joyner responded that all rates were set by Council, including rates for sidewalk construction.

Mayor Schewel asked for more clarity regarding the true cost recovery versus recovery of construction costs.

Mr. Joyner addressed consultant and inspection costs were higher than real estate/land transactions, staff could see 15% construction costs were things not captured under construction cost recovery that the city would have to pay for. Land costs (common easements) would include encroachments onto private property for grading purposes. Temporary construction easements, ROW acquisition and permanent easements were part of the added costs for improvements.

Mayor Schewel inquired about the no subsidy option (full cost recovery) versus the current system; he remarked that persons with more money and access to the city, were able to jump in front of other programs on the CIP list.

Mr. Joyner noted that some folks with direct access to financial resources were able to mitigate costs and pool resources more effectively; the rate models did not disturb these persons.

Mayor Schewel inquired that if full cost recovery was enacted, would this still be the case.

Mr. Joyner indicated that full cost recovery construction model resulted in no subsidies being available to any one, which deterred equal access to all.

Mayor Pro Tempore Johnson spoke to two problems with the current method: city being held responsible for paying large amounts out of the General Fund for inflated costs of projects approved by previous Councils combined with the inability to re-assess people for the increased costs; and there was a lack of understanding of the petition process that reinforced a tension between individuals and the city. She asked how could communication about the process be shared with interested parties and if it was possible to emphasize the improvements were not guaranteed.

Mr. Joyner admitted the timelines were difficult to convey and explanation of the budget's complexities was also difficult to explain. He suggested that providing timelines

for improvements could be conveyed and communicated more effectively. However, projecting the city's budget eight years into the future was difficult to do. He also stated there were two different rate models dependent on residency inside or outside of the city's limits.

Council Member Middleton focused on the fact that improvements were necessary and reflected quality of life measures and asked if there was a classification for emergency response versus those projects submitted as petitions.

Mr. Joyner confirmed staff considered improvements that were required for quality of life or public safety emergencies, these improvements had enabling act authority and were coordinated through the City Manager's Office. For individuals confronting such emergencies, the projects would trigger enabling act authority and would jump over CIP project sequencing.

Bo Ferguson, Deputy City Manager of Operations, elaborated on the intentionality of addressing needs of projects' safety concerns/priorities on the CIP. He also noted that equity was considered in project order.

Council Member Middleton mentioned that residents did not feel that they had the attention from Public Works at the neighborhood level. He asked if there was a way to move up sidewalk projects by paying the \$35.00/linear foot. Additionally, he spoke to historical inequities and systemic racism in certain neighborhoods and noted it would seem that full cost recovery did not take into account everyone who did not have the same opportunity to accumulate resources. He favored the partial subsidy in that it was more reflective of the equity point of view.

Mr. Joyner admitted that projects could be moved up the line with commitment of payment of \$35.00/linear foot.

Council Member Caballero supported the partial subsidy option for access to water and sewer infrastructure; and full cost recovery for sidewalks, paving and curb/gutter.

Council Member Freeman requested additional information regarding jumping the line on the CIP List with payment of \$35/linear foot.

Mr. Joyner responded that the petition process was conducted outside of the Durham Walks Plan. With the petition process, Council determined if a project should be added to the CIP List knowing that a significant amount of funding was coming from the petitioner.

Council Member Freeman supported Option 2 as the best way forward.

Mayor Pro Tempore Johnson was leaning toward Option 1 with full cost recovery but wanted to ensure subsidies be provided for water projects located within the city's

corporate limits; and supported full cost recovery for water projects outside of the corporate limits.

Mr. Joyner responded that there were two rate structures currently that reflected if a parcel was located inside and outside of the city's corporate limits.

Mayor Schewel mentioned that persons with means should be categorized under Option 1, full cost recovery and wanted to ensure an equitable decision.

Council Member Freelon noted he was leaning toward Option 2 due to equity concerns.

Council Member Freeman associated the discussion to the affordable housing conversation and circumstances that cause homeowners to sell their homes.

Marvin Williams, Public Works Director, indicated that staff did not have a preference aside from a clear policy directive to forward to residents (residents in various stages of petition processing). He reiterated the timeline/gap between the time the petition was accepted to actual construction.

Council Member Reece reflected on streets with sidewalks in the state of Oregon with curb and gutter and being so equipped, since the property was located within the city limits. He stated that residents receive more of these amenities when the city subsidizes the services.

Mayor Schewel requested two straw polls. The first straw poll determined that all of Council, with exception to the Mayor, preferred Option 2 with the caveat that subsidies applied to residents within the city's limits, not outside them. Properties outside the city limits would be required to pay for full cost recovery unless the properties were being annexed into the city.

Mayor Schewel posited the second straw poll- when the city was covering costs, did Council want to use only the cost of construction or full cost recovery including total consultant design costs, consultant inspection costs, real estate purchases and construction costs. The straw vote determined that six Council Members supported full cost recovery and one did not vote.

Public Works Director Williams confirmed the cluster of old petitioned projects located outside of the corporate limits had been already brought forward for Council's decision-making and that none were left in the queue.

City Clerk Schreiber announced Council's nominations to the following boards, committees and commissions:

1. Affordable Housing Implementation Committee - representing the category of DHA Resident: Laura Betye;
2. Durham Open Space and Trails - representing the category of At-Large: Shakira R Campbell;

3. Planning Commission Appointment: Anthony M Sease;
4. Housing Appeals Board representing the category of Homeownership: Chanel Chambers; and
5. Participatory Budgeting Appointments: Item returned to the City Clerk's Office for re-advertising.

SETTLING THE AGENDA - CITY COUNCIL MEETING ON FEBRUARY 1, 2021

Interim City Manager Page announced the items for the February 1, 2021 City Council Agenda: Consent Agenda Items 1 through 5, 7 through 9, 11, 12 and 14 through 16; General Business Agenda - Public Hearings Items 17 through 20.

MOTION by Council Member Freeman, seconded by Council Member Freelon, to accept and settle the City Manager's agenda for the February 1, 2021 City Council Meeting as stated by Interim City Manager Page, was approved at 3:18 p.m. Motion passed unanimously.

Being no further business to come before Council, the meeting adjourned at 3:19 p.m.

Diana Schreiber, NCCMC, CMC
City Clerk