

DURHAM CITY COUNCIL WORK SESSION
Thursday, January 23, 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 and Mark-Anthony Middleton. Absent: Council Member Charlie Reece.

Also present: Deputy City Manager Wanda Page, 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 Council Member Reece had requested an excused absence.

MOTION by Council Member Middleton, seconded by Council Member Caballero, to excuse Council Member Reece. Motion passed unanimously.

Mayor Schewel asked if there were any announcements by Council.

Council Member Freeman spoke to the Youth Ambassador Program and urged applicants to sign up. She stated the goal was for 1000 youth to participate in the program. Host employment sites were needed.

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

Deputy City Manager Wanda Page stated she had a Priority Item, Agenda Item #11, Amendment to Ordinance #14379 Establishing a Schedule of Non-Consensual Towing Fees for Police-Initiated Tows, asked that the item be referred back to the Administration.

MOTION by Council Member Middleton, seconded by Council Member Caballero, to accept the Deputy City Manager's priority item. Motion passed unanimously.

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

Mayor Schewel read the items on the printed agenda. The following items were removed for discussion and/or remarks: Items 3, 4, 5 and 13.

It was the consensus of the Council to readvertise the following items: Agenda Item 1. Durham Bicycle and Pedestrian Advisory Commission – Appointment and Agenda Item 2. Durham Performing Arts Center Oversight Committee – Appointments.

Mayor Schewel announced it was time for Citizen's Matters.

SUBJECT: CITIZEN'S MATTER: CRYSTAL DREISBACK (ITEM 14/ PR 13745)

Ms. Dreisback commented on the proposed ten-cent fee legislation for single-use bags and information about Boomerang Bag which would provide free and equitable access to re-usable bags city-wide; stated she was representing an organization called Don't Waste Durham and advocated for creating less waste.

Mayor Schewel appreciated and understood the urgent nature of her remarks.

SUBJECT: CITIZEN'S MATTER: CHRIS TIFFANY (ITEM 15/ PR 13746)

Mr. Tiffany spoke regarding community conversations without obstructions, social barriers, gated or gatekeepers; and expressed continued concern about his treatment by police.

SUBJECT: CITIZEN'S MATTER: TANYA MEYER (ITEM 16/ PR 13747)

Ms. Meyer spoke to a dangerous intersection at Route 751 and Great Egret Way where increased speeds and traffic patterns were causing unsafe conditions. She requested a study to look at a three-way stop or traffic circle.

SUBJECT: CITIZEN'S MATTER: JEAN SPOONER (ITEM 13748)

Comments were received by Ms. Spooner regarding a request for the Durham City Council to protect Umstead State Park and adjacent public properties owned by the City of Durham.

Mayor Schewel stated the City of Durham would not intervene in a Wake County matter without being requested to do so by the Wake County Commissioners.

Mayor Schewel announced there were speakers for Public Comment.

SUBJECT: PUBLIC COMMENT SPEAKERS ON MCDOUGALD TERRACE

Mayor Schewel welcomed all in attendance and stated that each person interested in speaking were instructed to sign-up on the sign-up sheet. The following individuals spoke in regard to the relocation of families from McDougald Terrace to local hotels:

Muffin Hudson – addressed the psychological impacts of confinement of children in hotel rooms.

Ashley Canady – spoke to the issues associated with living in hotel rooms, urged Council to live in McDougald Terrace and requested support.

Rafiq Zaidi – addressed a concern about adolescent girls being stalked by pedophiles at hotels and wanted to alert Police about the situation.

Jontae Dunston – explained children were in danger at hotels due to the lack security.

Deborah Friedman – expressed concerns about the relationship between Council and the poorest communities.

Elizabeth Ellis – asked that humanity be placed over politics.

Larry Hunter – had requested a transfer from McDougald Terrace and stated he had not seen any improvements being made and no date had been given to return to their homes.

Jackie Wagstaff – spoke to the role of the Council liaison to the McDougald Terrace Board and that the conditions at McDougald Terrace should have been known and improvements made.

LaSeanda Ormond – explained her children were exhausted due to the conditions at the hotel and were missing school; and explained her bathroom plumbing repairs had not yet been made.

Lutrenda Sumpter – resident of Morrenne Road and had been combatting black mold, maggots and plumbing; and expressed concerns about not receiving rent receipts from property managers.

Laura Betye – thanked all for locating residents at the Millennium Hotel. She spoke to health conditions of the guests, stated mental health professionals were in action, donations were being received, admitted there were no cooking facilities and breakfasts were being served to children, bus monitors were available along with after school help.

Aharon Thompson – spoke to relocating to North Carolina from Florida and his experiences with his fiance's labor. He stated his two children were taken from him in that he was criminalized.

Mayor Schewel encouraged the speaker to reach out to the him for consultation.

Tara Parrish – spoke to the housing crisis at the DHA community at Hoover Road that included mold, sewage, structural and plumbing problems; and addressed the management of the complex by Anthony Scott, DHA Executive Director.

There were no more speakers to the concern.

Mayor Schewel asked for Council's comments.

Council Member Alston reiterated the troubling nature of the situation, stated the evacuation was necessary due to the circumstances, and was committed to making resources available to DHA. She asked about what security was being provided to protect children.

Mr. Foster, DHA Facilities Manager, responded to Council's questions. He would follow-up with Anthony Scott for questions he could not answer.

Q: Are police patrolling the hotel sites?

Security force existed at McDougald Terrace. He stated he would take the question to Mr. Scott.

Q: Programming from DPR or YMCA has been added to the managing of the hotels?

Concern about families going into hotels for extended stays. Boys & Girls Club and DPR were partnering with youth activities. Audience members expressed opposition to this remark.

Q: Were there arrangements for a commercial kitchen?

Information was forthcoming from DHA.

Q: What is the status of residents at the Days Inn?

Information was forthcoming from DHA.

Q: Was it possible or an option for persons with vouchers to relocate elsewhere?

Information was forthcoming from DHA.

Q: What was Mr. Foster's position and his duties?

He stated he was responsible for the day to day management of the facilities. He noted that CO inspections had been completed and gas appliances were being checked.

Q: Was there an update from McDougald Terrace apartments?

DHA was coordinating with contractors, looking at timelines, and the plan was in the process of being finalized. Acknowledged the residents' frustration and wanted the residents to return to their homes and that a DHA response was forthcoming.

Mayor Pro Tempore Johnson requested Executive Director Scott to come to the Council and County meetings to update the community and stated that city resources would be deployed to assist in remedying the problems.

Q: Does DHA look at a shared engagement strategy with the city and was outreach being conducted with the residents? What was the plan to deal with pedophiles and adolescents at the hotels? Was there daily DHA update?

Mr. Foster agreed and would seek a change the culture; and noted he would contact the resident who spoke about her plumbing.

There were daily DHA updates in the form of emails and text messages and interested parties could go to the DHA website to get connected.

Mr. Foster clarified the statuses of inspections, stated Mr. Scott conducted daily news conferences and daily phone calls with the media.

Council Member Middleton explained that there was not enough money to do what needed to be done for public housing, that turnover in elections was no guarantee of a change of circumstance; and admitted it was necessary to get more security at hotels. He stated that according to federal standards, failing test scores did not equate with 'life threatening' and insisted that the city did not have enough funding to address a near century of systemic racism at the public housing complexes.

It was the consensus of Council to place the McDougald Terrace item on upcoming Council agendas.

Mayor Schewel appreciated everyone attending the meeting; for residents with specific concerns for example, abuse of a child, call 911; if you feel your apartment was not being fixed up, contact Mr. Foster; relative to conditions of living in hotels, everything was being done as a community, led by the DHA, to ensure the apartments were safe before residents returned. He explained the inspection process with the private and public inspections with special mention to stoves, hot water heater and heater venting and mold. City and County housing inspectors needed to sign off on occupancy prior to residents being allowed to return. No date has been provided by DHA with the move in date.

Council Member Freeman urged the entire community to step up along with the DHA Board.

Afy Byrd – spoke to Section 8 Housing Programs, stated DHA did not pay the landlords for her home being in abatement, explained she did not collect food stamps and asked Council to help her.

Mayor Schewel encouraged Ms. Byrd to contact his office for an appointment.

Mary Winn Wiggley – specified the issue was a breakdown in communication and that DHA was failing to communicate expectations, milestones, asked who's accountable, what the risks were and how to move forward; and stated that a project manager was needed to improve communication.

Mayor Schewel stated DHA was bringing on a project manager and reiterated that DHA provided daily updates.

[ITEMS REMOVED FOR DISCUSSION]

SUBJECT: COMMUNITY SAFETY TASK FORCE BYLAWS (ITEM 3/ 13744)

Mayor Schewel discussed the remuneration clause in the bylaws; and asked if the bylaws could be amended by the group with Council's approval.

Attorney Rehberg responded that since these were city and county appointed boards, it was implicit that Council could amend the bylaws.

Mayor Schewel referenced page 3 of the bylaws of the joint board that would need to be approved by Durham Public Schools and the Durham County Board of Commissioners.

The taskforce was time limited being set at 18 months with a possible expansion of six months and without the need of returning to Council for permission.

SUBJECT: GRANT CONTRACT WITH LEGAL AID OF NORTH CAROLINA (LANC) TO PROVIDE LEGAL REPRESENTATION TO CITY OF DURHAM RESIDENTS FACING EVICTION (ITEM 4/ PR 13742)

Reginald Johnson, Director of the Department of Community Development, introduced the item consisting of the eviction diversion contract with Legal Aid. Staff included in the presentation was Melva Henry (CD staff) and Peter Gilbert of Legal Aid.

The PowerPoint presentation consisted of the following:

- Overview of contract with Legal Aid
- Chart of Durham County Eviction Filings and Judgments
- Performance Targets in Contract
- Performance Results through Nov. 2019 non-DHA and DHA
- Client Demographics – pie charts by ethnicity & household income, bar chart by zip code

To follow is a memo from Director Johnson to City Manager Bonfield regarding the Legal Aid contract:

Date: January 23, 2020
To: Thomas J. Bonfield, City Manager
Through: Keith Chadwell, Deputy City Manager
From: Reginald J. Johnson, Director, Department of Community Development
Subject: Grant Contract between Legal Aid of North Carolina (LANC) and the City of Durham in the Amount of \$500,000 in Dedicated Housing Funds to Provide Legal Representation to City of Durham Residents Facing Eviction

Executive Summary

In the FY 2018-19 budget, the City Council authorized funding to Legal Aid of North Carolina (LANC) in the amount of \$200,000 for an eviction diversion pilot program to provide legal representation to qualified low-income Durham residents currently facing eviction. Under the terms of the contract, Legal Aid committed to serving 420 clients, with the goal of preserving tenancy for at least 50% of those clients and enabling another 20% to move out without an eviction judgement. Through the end of November, LANC has opened 583 eviction diversion cases, and closed 439 cases. Of the cases closed, almost 70% (309), resulted in tenancy being preserved. Overall, 79% of clients served did not receive an eviction judgement, although some of these clients may have moved out as a result of a negotiated agreement.

At the direction of City Council, the Community Development Department increased funding for the second year of the eviction diversion program to \$500,000, to provide additional legal representation for twice as many projected qualified low-income Durham residents facing eviction. The new contract for calendar year 2020 will enable LANC to engage four attorneys, a paralegal and an outreach coordinator to engage in legal representation. With this funding, LANC will be able to serve over 840 clients facing eviction, with the goal of preserving tenancy for at least 60% of the households served. In addition, LANC will work with representatives of Community Development Department and the Durham Homelessness Continuum of Care to identify and support high-risk tenants with a history of homelessness.

Recommendation

The Community Development Department recommends that the City Council authorize the City Manager to execute a contract with Legal Aid of North Carolina in the amount of \$500,000 in FY 19-20 Dedicated Housing Funds to provide legal representation to City of Durham residents who are facing eviction; and to receive a presentation from Community Development staff concerning the results of the first year of the Eviction Diversion program.

Background

Legal Aid of North Carolina (LANC) is a statewide, nonprofit law firm that provides free legal services in civil matters to low-income people in order to ensure equal access to justice and to remove legal barriers to economic opportunity. LANC, in partnership with the Duke Civil Justice Clinic, launched an Eviction Diversion Program to provide legal assistance to low income households facing eviction in Durham. The goal of the Eviction Diversion Program is to help clients avoid eviction judgments, which could prevent them from finding adequate, habitable, and affordable housing elsewhere, and when possible, to enable clients to remain in their current homes.

During FY19-20, the City committed to providing \$200,000 to LANC to fund eviction diversion, through a contract that began on January 1, 2019 and ended on December 31, 2019. Under the terms of this contract, Legal Aid committed to serving 420 clients, with the goal of preserving tenancy for at least 50% of those clients and enabling another 20% to move out without an eviction judgement. Through the end of November 2019, LANC has opened 583 eviction diversion cases and closed 439 cases. Of the cases closed, almost 70% (309) resulted in tenancy being preserved. Overall, 79% of clients served did not receive an eviction judgement, although some of these clients may have moved out as a result of a negotiated agreement.

To date, the most common solutions that have been negotiated with landlords are “pay and stay” arrangements and “move-out” agreements. In a pay and stay arrangement, the landlord agrees

to a continuance of the case pending dismissal and the tenant agrees to pay a negotiated amount of back rent, usually less than the landlords' original demand, by a certain date. In a move-out agreement, the tenant agrees to voluntarily move by a certain date and the landlord will then dismiss the case against the tenant. Even though a move-out agreement does not preserve the tenancy, it allows the tenant to avoid an eviction judgment.

During the FY19-20 departmental budget presentations, the City Council requested an increase in funding for eviction diversion from \$200,000 to \$500,000 per year, with the goal of doubling the number of households being served. LANC has agreed to match the City funds with \$140,000 in additional resources to be used for the Eviction Diversion program. Both the City and private funds will be used to cover the cost of six attorney positions, two paralegals, a community outreach coordinator, and office space. With this funding, LANC will be able to serve over 840 clients facing eviction, with the goal of preserving tenancy for at least 60% of the households served and enabling others to negotiate a move-out date with no eviction judgment.

In addition, LANC will work with representatives of Community Development Department and the Durham Homelessness Continuum of Care (CoC) to identify and support tenants with a history of homelessness. This will include identifying clients with a history of homelessness up front, engaging CoC service providers as appropriate, and participating in CoC-led discussions to proactively address the challenges of at risk tenants before an eviction filing occurs.

Issues and Analysis

Use of LANC to provide legal representation for City of Durham residents who are facing the prospect of being evicted from their homes will assist the City in meeting its neighborhood stabilization goals. Specifically, LANC will use City and matching funds to provide legal representation for qualified City of Durham residents facing eviction. The funds will also be used for outreach on eviction diversion, with the goal of increasing the number and sources of referrals and engaging clients who are earlier in the eviction process. To be eligible for LANC assistance in general, applicants must have a household income below 125% of the federal poverty threshold, or household income below 187.5% of the federal poverty threshold and meet a specific asset test.

The proposed contract, at Section 5, includes a rollover provision that authorizes the City Manager to execute necessary contract amendments to rollover unexpended Project Funds. Because the invoices for the services are sent to the City after the work has been performed, unexpended Project Funds are often apparent only after the term of a contract. In order to facilitate seamless services without delay, this provision allows the City to rollover unexpended Project Funds so long as the services being provided (1) are being provided by the Contractor—LANC, in this case—and (2) are the same services provided under this proposed contract.

Alternatives

The City Council could elect not to continue LANC's contract and increase the requested funding for the LANC Eviction Diversion Program. If the program does not receive City funding, the program will not be able to continue to operate.

Financial Impact

Dedicated Housing funds in the amount of \$500,000 are budgeted and available for this project and the MUNIS codes are 1940D014-728600-DFSA2.

Equal Business Opportunity Summary

This is a grant and was not reviewed by the Equity & Inclusion Department for compliance with the Ordinance to Promote Equal Business Opportunities in City Contracting.

Mayor Schewel inquired about the Duke’s Civil Justice Clinic and were there any statistics from that organization; and inquired about DHA eviction filings.

Mr. Gilbert responded that the partnership was active on daily basis and they accepted clients not eligible for Legal Aid and would confirm the current poverty line threshold; and addressed filing statistics and judgments granted.

Mayor Schewel asked if the providing attorneys had resulted in deterrence of eviction filings by landlords.

Mr. Gilbert stated that the right to counsel according to statistics had reduced the number of evictions in other cities and considered litigation as a last resort.

Mayor Pro Tempore Johnson inquired about triage methods.

There was a change in the program this year, Mr. Gilbert responded. Barrier reduction was an objective. Cases opened and closed were compared and prioritized certain groups of tenants in public housing, especially those clients in the continuum of care program. It was a goal to open and close over 900 cases next year.

Council Member Freeman appreciated Mr. Gilbert’s passion and it was clear his engagement was making an impact; and supported Director Johnson’s efforts on the continuum of care programming.

Referencing the presentation, it was clarified that the ‘2018’ date equated to July 1, 2018 through June 30, 2019.

Council appreciated and thanked Mr. Gilbert for his eviction diversion efforts and commitment to Durham.

SUBJECT: SHARED ACTIVE TRANSPORTATION REPORT AND ORDINANCE REVISION (ITEM 5/ PR 13740)

Evan Tenenbaum, Transportation, provided the staff report and gave the following presentation:

Outline of Presentation:

- Overview of Program
- SAT Stats
- Note on the Data
- Key Numbers
- Frequently Visited Locations
- Numbers of Vehicles

Equity Compliance

Operator Compliance – Sept 10 thru Dec 12

Operator Compliance – Fleet Maximums

Maps: detailed scooter availability, combined scooter trip volume & Network Flow
June through Sept 2019

Ordinance Revisions & Engagement Overview

Permittee Feedback

Stakeholder Feedback

Durham Scooter Survey Results

31% of respondents had ridden a scooter before

Main uses – social travels, recreation, commuting

Replaced walking, tax or ride-sharing

Usage of Lime, Spin are evenly split

68% have not experienced any mechanical problems

Typical issue: un/locking scooters, broken parts, use/navigation of app

76% never wear helmets while riding

Reasons for not riding: safety concerns, not appealing, not needed

Dislike scooters because: riders not following rules of road, blockage of
sidewalks, riding on sidewalks.

Revisions to the program proposed

Modification of Division 2 of Article V of Chapter 66

Modify Article VII of Chapter 50

Modify Fee Schedule

Improvements: marked scooter corrals, general reference document, continue
rider education from companies and the city.

Council Member Freeman inquired about how the equity compliance component was developed and asked about the demographics of the scooter ridership.

Bill Judge, Deputy Director of Transportation, spoke to how to increase the equity component in accordance with the 2018 ordinance, addressed the displacement of other types of transportation and explained it was difficult to track demographics but that it was possible to track census tracts. He stated he would get the 'unbanked' scooter information for Council.

Will Burns, Director of Governmental Partnerships with SPIN, introduced his colleagues and explained equity measures provided by the scooter company. He spoke to his company's deployment and access program for low-income riders. A discount of 50% was available to those with a code to unlock the scooters.

Council Member Alston inquired about the process of how to document users who were low-income and how to make it easier for riders.

Council Member Caballero inquired about the retention of documents. Mr. Burns responded that the documents were used for verification only.

Mayor Schewel inquired about demographic data.

Mr. Burns noted that his company has conducted surveys of riders in other cities, confirmed the survey could be offered in Durham and that the volunteer survey was a snapshot of ridership.

It was requested that staff pursue the survey of riders in Durham.

Mayor Pro Tem Johnson read questions submitted by Council Member Reece:

1. How did the proposed fees for operators compare with other cities in NC with programs?

Charlotte, NC utilized a parking flexible fee where riders were charged to park their vehicles on sidewalks. Raleigh, NC utilized an annual fee.

2. What ideas were being considered regarding scooter parking? Specifically, given the parking surplus in Downtown, could the City reclaim a single street parking space per block or so for scooter parking?

ParkDurham was willing to discuss the conversion but revenue regeneration would have to be considered.

Mayor Pro Tempore Johnson spoke to the equity piece and wanting to build in structural pieces of the program to promote use by lower-income riders, summarized the survey's results and emphasized the need to recoup administrative costs when setting fees.

Mr. Judge explained staff's rationale about fees.

Mayor Schewel supported disrupting the ascendancy of the car and admitted scooters accomplished this feat by representing alternate vehicles.

SUBJECT: PARTICIPATORY BUDGETING (PB) AGREEMENT TO FUND TECHNOLOGY FOR DURHAM PUBLIC SCHOOLS (ITEM 13/ PR 13741)

Kerry Goode, Director of TS, responded to Council's questions.

Mayor Schewel remarked that he would not be voting for future PB authorizations for the usage of city funds for expenditures for supplies for Durham Public Schools.

Andrew Holland, Budget and Management, stated that NCCU was currently conducting the evaluation of the PB's first year/cycle and that the report would be available February 7th and would present the report at the Feb. 27th Budget Retreat.

There were no nominations for boards, committees and commissions.

Mayor Schewel announced that the 'McDougald Terrace Comments' would be added to the regular City County Agenda as its own item.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Middleton, to add 'McDougald Terrace Comments' as a recurring item to the Monday night's meeting agendas until such time as all McDougald Terrace residents are back in their homes. Motion passed unanimously.

Settling the February 3, 2020 City Council Agenda

Deputy City Manager Page announced the items for the February 3, 2020 City Council Agenda: Consent Agenda Items #3 through 10, 12 and 13 with a Supplemental Item to include McDougald Terrace Comments.

MOTION by Council Member Caballero, seconded by Council Member Alston, to settle the City Manager's agenda for the February 3, 2020 City Council Meeting as stated by Deputy City Manager Page was approved at 3:55 p.m. Motion passed unanimously.

Council Member Middleton inquired about the terminology, 'Other Matters' on the regular Council Meeting agenda.

There being no further business to come before Council, the Work Session was adjourned at 3:56 p.m.

Diana Schreiber, CMC
City Clerk