

DURHAM CITY COUNCIL WORK SESSION
Thursday, February 18, 2021 @ 1:00 p.m.
Virtual Zoom Meeting

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

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

[CALL TO ORDER]

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

Mayor Schewel acknowledged that Council Member Reece was having technology issues involving an unstable internet connection. He would do his best to participate in the meeting.

[ANNOUNCEMENTS BY COUNCIL]

There were no announcements by Council.

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

Interim City Manager Wanda Page announced her priority items:

- Item 5) FY2021-22 City Council Budget Requests - To be discussed at 2/25/21 Special City Council Meeting/Council Budget Retreat: Attachment 1 added
- Item 19) 5002 Guardian Drive Major Special Use Permit: Attachments 5 & 7 updated
- Item 22) Emergency Rental Assistance: Supplemental Item - added to agenda

MOTION by Council Member Freelon, seconded by Mayor Pro Tempore Johnson, to approve the City Manager's Priority Items at 1:02 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

The City Attorney's Office had no priority items; however, Deputy City Attorney Don O'Toole explained the upcoming quasi-judicial process.

Deputy Attorney Don O'Toole updated Council about Item 19, Special Use Permit. He explained that Item 19 required a quasi-judicial hearing and that it was Council's responsibility to not engage in discussions prior to the hearing. If any council member(s) inadvertently discussed the item, the discussions would need to be disclosed at the hearing. The applicant(s) and anyone speaking on behalf of the applicant(s) and opponent(s) were to be sworn in at the beginning of the hearing and would need to present material, competent and substantial evidence; Council then would act as both judge and jury related to the application. Council would then consider the evidence presented at the hearing and the criteria from Planning staff, then Council would judge whether there was sufficient evidence to grant the application or not.

If Council had questions, after reviewing the materials, staff would provide assistance.

City Clerk Schreiber noted that as her priority item, she requested direction from Council on the persons who were non-responsive to the Clerk's inquiry regarding attendance.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Caballero, to approve the City Clerk's Priority Item at 1:06 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

It was the consensus of Council to discuss the item at the end of the meeting.

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

Items 8, 11, 16, 22 and the Clerk's Priority Item.

Mayor Schewel asked if Item 21, FY2021-2022 Annual Action Plan Second "Needs" Public Hearing, was the extra public hearing added to the Annual Action Plan item.

Director of the Department of Community Development Reginald Johnson confirmed that Item 21 consisted of the additional hearing.

SUBJECT: BOARD OF ADJUSTMENT 2020 ANNUAL REPORT (ITEM 8/ PR 14495)

Director of City-County Planning Sara Young responded to Council's questions.

Mayor Schewel inquired about the administrative appeal held over until the BOA could meet in person; who was being affected and what was the situation in the plan.

Director Young responded that there was not consent from both sides of the appeal; the opposition did not consent to moving forward virtually; under the NCGS, it was not possible to hold the hearing.

Deputy City Attorney O'Toole confirmed Director Young's response; explained the background of the case where the city had issued a notice of violation to a property owner; the morning of the hearing, the property owner's attorney stated that they did not consent to the virtual meeting format; under State Law, when parties did not consent, then the quasi-judicial hearing would need to be postponed until in-person hearings resumed.

Mayor Schewel asked if more information could be heard; was this a dangerous situation and what was the process.

Deputy City Attorney noted that the hearing pertained to a flea market site.

Planning Director Young stated there were additional modifications made to the site that did not comply with the site plan for the flea market and that this was being appealed.

**SUBJECT: APPROVAL OF JJ HENDERSON SENIORS NEW
CONSTRUCTION AFFORDABLE HOUSING PROJECT AND
BONDS (ITEM 11/ PR 14487)**

Director of the Department of Community Development Reginald Johnson was available to answer Council's questions.

Director Johnson explained that the item consisted of a request by the Durham Housing Authority to issue tax bonds for the JJ Henderson site and was part of the city's ministerial duty as part of IRS Tax Code with the public body of the jurisdiction, whereby the approval of the bonds was necessary by City Council.

There were no financial implications for the city.

Mayor Schewel recognized a speaker to the item:

Ajax Wooley spoke to the incremental process of RAD conversions; noted Durham CANN was working cooperatively with the DHA and urged the review of relocation practices; he read from the Report about relocations.

Mayor Schewel responded that the item on the agenda was related to new construction not the renovation process.

Council Member Caballero asked if the Zoom license had been upgraded to allow for more speakers, above the limit; and asked about finding housing with DHA vouchers and what was the process at DHA.

Council Member Freeman spoke to residents being displaced from JJ Henderson and asked DHA representatives explain how this was occurring.

Mayor Pro Tempore Johnson forwarded the report to Council; and explained the background of 9 families who did not conform to the original restrictions. JJ Henderson was originally restricted until 2017 when the distinction expired. The impacted families were offered vouchers but had difficulties in finding residences. Four of the nine families were assisted with DHA Housing; at this point, the nine families had been assisted. The professional relocation company who was working with DHA was working on plan to assure this situation was avoided in the future. Vouchers allowed persons to go out to search for housing only.

Mayor Schewel noted that twenty of the units being referenced of the 80 new units, would be open to folks in public housing; this could help with displacement.

Council Member Freeman asked if the one for one match/alternative was being offered to the families.

Mayor Pro Tempore Johnson knew a one to one replacement was required by the RAD program; she was uncertain about the persons who accepted the vouchers; she would follow-up and let Council know.

Anthony Scott, CEO of the Durham Housing Authority, responded to the relocation process in terms of family size; he confirmed that relocated housing would be found appropriate for the family size as was held in JJ Henderson. As per the Report, if the issue were to occur again, JJ Henderson was the only one being renovated, in-place, and was unique as it was originally a senior site. He emphasized communication was primary.

Mr. Scott was requested to send Council contact information for the relocation company.

**SUBJECT: FY2020-21 SECOND QUARTER FINANCIAL REPORT
(ITEM 16/ PR 14490)**

Finance Director David Boyd and Assistant Director of Budget and Management Services John Allore responded to Council's questions.

Mayor Schewel inquired about the Solid Waste Fund with personnel charges were \$600,000 over budget.

Assistant Director Allore explained there were more crews out but overall they were able to manage within their means and Fund Balance.

Interim City Manager Page noted that the reason for the additional crews were directly related to the pandemic and the necessary operations changes required additional crews being sent out.

Mayor Schewel inquired about the shortfalls in the Parking and DPAC funds.

Finance Director Boyd responded that DPAC had accumulated reserves in Fund Balance being saved for future capital needs and could handle the immediate shortfall; the Parking Fund was a bigger concern, especially in 2022 cycle. He anticipated revenues would not be covering costs.

Mayor Schewel appreciated the status of CIP projects; referenced the MRF facility permitting application was completed, and asked for next steps.

Interim City Manager Page would send additional information; and that this figure represented professional and design services, not development type costs.

Mayor Schewel inquired about the Transit Fund's revenues being replaced by federal COVID-related grant funds, and \$12 million was accumulating in the Transit Fund currently.

Mayor Schewel asked for a refresher in impact fee allocations.

Assistant Director Allore noted that this represented a funding source within the CIP, was encouraged by the accelerated rate of collections this year and represented a funding source for streets, etc.

Council Member Reece inquired about Exhibit 4 on pages 13 and 14 of the report: payments made for liability claims.

Director Boyd spoke to the City's Risk Retention Fund, the city was self-insured for general liability claims up to a \$1 million per claim.

Council Member Freeman followed up on the question from General Fund for Solid Waste, was this the same for parking; and asked about the Ballpark. And, asked if this was a multi-year occurrence, what would the prognosis be. She requested a multi-year assessment of revenues and expenses.

Director Boyd responded that the shortfall in Solid Waste Fund had been accumulated in the Solid Waste fund. The Parking Fund was about to exhaust its resources and would need to be helped out. The Ballpark had sufficient funds to cover its shortfalls. Each Fund was separate and would need to be assessed and what would be the future of revenues and expenses.

Assistant Director Allore added that Section 3 of the Budget had all the major enterprise funds assessed with a multi-year component/horizon.

Mayor Schewel requested that this budget section be forwarded to Council via email.

Interim City Manager Page referenced the multi-year projections and refunding this year, the refunding made the negative impact on the Parking Fund, less negative. The multi-year projections were constantly being refined.

SUBJECT: INTERLOCAL AGREEMENT WITH DURHAM COUNTY TO SUPPORT EMERGENCY RENTAL ASSISTANCE FOR LOW INCOME HOUSEHOLDS (ITEM 22/ PR 14512)

Mayor Pro Tempore Johnson noted she had heard concerns by the community regarding the speed in which the County was processing emergency rental assistance; that there had been delays and that the funds were difficult to access.

Director of Community Development Reginald Johnson deferred to Ben Rose and Janeen Gordon of the Department of Social Services to respond to Council's questions.

Director Rose spoke to the management of CDBG and Hope Funds, both required income verification from clients; barriers existed; majority of CDBG funds had been expended and HOPE Vouchers were being signed off currently. The ERAP (Emergency Rental Assistance) Funds were coming with administrative dollars that allowed for compensation for staff and the purchase of automation software to assist with processing and access. A portal was being considered for the ERAP Funds of which Assistant Director Gordon was researching. Additional portals, hosted by non-profits, were being investigated. Chief District Court Judge Evans had put out an order to hold off on eviction hearings.

Assistant Director DSS Janeen Gordon was involved in day to day operations; worked with the objective to minimize time between application to payment. She acknowledged the fear experienced by renters in peril.

Mayor Pro Tempore Johnson asked how long it takes currently for persons to obtain funding from the point of application; and how long it took to get the first batch of funding out the door; offered sharing the funding in organizations within the community that were doing similar work; mentioned Legal Aid as an option to sending all funds to the County.

Director Johnson noted that procurement was an issue with non-profits and could potentially delay the disbursement of funds; the money was currently held by the city, the partnership with the City and DSS was established as infrastructure was being created for disbursements.

Council Member Caballero noted that persons were resistant of going to DSS; heard that DSS received \$1 million in August and that the funds were not yet spent down and had to be by the end of 2021; what was the plan to get a much larger amount of funds into the community; was self-certification possible, how to handle persons not on formal leases; the need for navigators through the rental support process; what was the length of the application and what was the plan to get \$8 million out into the community.

Director Rose noted the CDBG-CV funds were shifted aside by the HOPE Funds; concerns and navigation of DSS exist and for this reason, outreach satellite locations were being set up; DSS needed to create ease of access with the potential software packages for rental support; verification of income and leases would be necessary, the guidance for ERAP had not yet been published;

Janeen addressed the length of time and the ability to move money in seven to ten business days; this timeline was the ideal. The ability to reach individuals not formerly possible by overcoming obstacles such as refugee status, language ability, documentation status- these aspects were currently part of outreach with mobile application and a trusted navigator. Working on lease agreements that did not jeopardize the placement of the applicant.

Council Member Freeman insisted on a taskforce to be established to handle the language barriers and the documentation barriers and non-responsive issues. She questioned the operations since August, the money was there but it was not moving; and noted that with Community Partners, the funding would be used for administration. She stated the DSS system was not designed for this function of disseminating rental assistance and that the needs of the County and City were trying to address the obstacles. There needed to be support for the marginalized persons in the community.

Mayor Schewel asked for the total amount of funding received from CDBG and HOPE Funds.

Director Rose estimated CDBG funds with a \$1.1 million allocation with no administrative funds and mentioned that there was an additional allocation of HOPE Funds received, of approximately \$6 million.

Assistant Director Gordon explained the state had pulled a portion of the applications; 2700 applications received, the DSS processed 1800 applications in the amount of \$3 million; the CDBG-CV Funds were exhausted that amounted to a total of \$4 million.

Mayor Schewel inquired about the remaining 900 applications.

Assistant Director Gordon responded that DSS had processed every application that they were left with; and the remaining applications went to the State and would be funded by State funds, not County funds. She confirmed that DSS received the HOPE Funds in October 2020 and that the HOPE Funds had been exhausted at the local level as of January 31, 2021. She noted that 1800 applications were processed between November 15, 2020 and January 31, 2021, exhausting the locally available \$3 million in HOPE Funds while working within the process established by the State.

Council Member Freeman asked of the 1800 applications, how many others were not moved forward.

Assistant Director Gordon stated that 2700 were processed, not all were approved; however, 2200 were approved based on data from the State applications; approximately 500 applications were not approved for unspecified reasons. Letters were sent to the applicants letting them know if they were approved or not.

Council Member Caballero inquired about the data collected related to the fear component with the public charge issue with persons depending on immigration status; and continue questioning, if the item was approved, was there any sense of how this would be handled with DSS handling the process, what conversations had been had and what could Council tell persons.

Director Rose stated that there would not be public charge issue but it mattered in how the funding was messaged.

Director Johnson admitted that that was what staff had seen so far. He reminded Council that the HOPE Funds were managed and controlled by the State, and shared that Community Development staff had to be sensitive to were the regulations involved with the funding and complex in determining how the funds could be released efficiently and effectively. He noted that staff was researching how to conduct outreach efforts, with guidance from Treasury Department, but were devising backup plans to manage the outreach while considering language and culture.

Mayor Schewel read from the memo; referenced the city's plan to contract with one or more non-profit providers when assisting persons confronting barriers (language, education, technology), if possible the City had intended on paying for wrap around case management services with ERAP Funds; if Treasury advised that this was not an option, the City may use Dedicated Housing Funds for this purpose.

Director Johnson spoke to timeframe, outreach and urgency; outreach in letting people know about the program and setting up people to help others to navigate the process (with cost). Treasury's rules had not yet been issued.

The funding had been received without guidance/rules for the money. The money had been received but the program had not yet been formulated.

Council Member Reece appreciated how the County implemented the disbursement of funds through the HOPE Program, understood the obstacles faced at the State level and asked about the County receiving \$7 million in funds and distributing \$4 million.

Director Rose responded that Durham received a portion of the allocation and the state the other portion of \$3 million. Durham DSS had distributed its funds to exhaustion.

Council Member Reece emphasized the community was suffering and that it was essential to get funds into persons' hands as quickly as possible.

Director Johnson addressed the software system needed to manage the disbursements.

Director Rose admitted that DSS did not have the required software and would support Legal Aid in disbursing the funding; and stated that he supported whichever entity was able to distribute the rental assistance funds the quickest to residents.

Council Member Reece thanked his colleagues, DSS staff and residents for their input and feedback.

Director Johnson acknowledged that DSS reviews applications and would be able to review new applications to determine if there were duplications.

Mayor Schewel inquired about income verification by DSS and other agencies; if another agency was added to the mix, how would income verification occur at the other agency.

Assistant Director Lado stated this factor was considered between going for a third-party partner or the County; US Treasury insisted on income certification. In this case, if a person had gone through income certification already through a DSS administered program, then staff did not want those persons having to go through the process again. She stated in order to run the program, staff, required a new software system in order to process payments. On the contrary, with the HOPE Program, the State provided the software system and intake through 2-1-1; this was now missing. Any partner who worked with the City will have to build the infrastructure.

Council Member Caballero expressed concerns about the obstacles for income verification and leases. She reiterated that the criteria were established at the US Treasury level, not locally. As landlords and applicants worked through the process, it was essential for residents to access and apply for leases.

Council Member Freeman suggested using a Facebook page rather than 2-1-1 to access the rental funding. She added that the RRTF could investigate housing related to how the public could access rental funding and stated that she supported the interlocal agreement, getting the funds out as quickly as possible but there was not yet a solution of what to do in tandem with this process.

Mayor Schewel summarized that DSS record for getting funding out the door was good; and supported staff's rationale as to why the funding should be housed in DSS.

He added that it was important to work with other community partners around this process.

**SUBJECT: BOARD, COMMITTEE AND COMMISSION ATTENDANCE
REPORT - CITY CLERK PRIORITY ITEM**

City Clerk Schreiber provided the background of the item; noted that attendance reports were required for the full calendar year reported to Council in January/ February of the subsequent year and again, mid-year for January through June, reported to Council in August.

Council had established attendance guidelines in April 2020 and in response to COVID that attendance would be excused. The Virtual Meeting Guidelines stated that all board members who are unable to participate in virtual meetings would be excused from meetings without penalty until resumption of in person meetings.

Mayor Schewel appreciated the Clerk's Office staff for their efforts in outreach to the membership and continued that the members who would like to stay, can stay; however, for members that had not attended any meetings or attended one in a year and were un-responsive, those persons should not be serving.

Council Member Caballero supported reaching out to staff liaisons, chairs and vice-chairs for future communications.

Council Member Freeman suggested that the chairs and vice-chairs would be the best persons to provide up to date contact information.

Mayor Schewel made it known that if someone signed up for a board, committee or commission, that it was their responsibility to attend the meetings and abide by the attendance requirements. Those persons interested in continuing to serve, were welcome to continue their service.

Mayor Pro Tempore supported those with low to no attendance a period of time to respond to the Chairs' inquiries, if there were no responses, supported the Clerk's sending of removal letters; and expressed support for continuing the virtual meeting attendance requirements.

Council Member Reece requested the board, committee or commission chair be asked to reach out to the member and email the Clerk back with the results of the outreach.

It was the consensus of the Council, to request the chair contact the non-responsive member; if no response was heard, then tasked the Clerk to send a removal letter.

City Clerk Schreiber announced that Council had nominated Tammie E Hall to the vacancy on the Raleigh-Durham Airport Authority.

Mayor Schewel inquired about the Disposition of Item 22. Taking the prerogative of the Chair, the item will be placed on the General Business Agenda.

SETTLING THE AGENDA FOR THE MARCH 1, 2021 CITY COUNCIL MEETING

Interim City Manager Page settled the agenda for the March 1, 2021 City Council Meeting by announcing the following items on the Consent Agenda, 1 through 18; General Business Agenda Item 22; and General Business Agenda - Public Hearing Items 19 through 21.

MOTION by Council Member Reece, seconded by Council Member Freelon, to settle the City Manager's agenda for the March 1, 2021 City Council Meeting was approved at 3:06 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman, Middleton and Reece. Noes: None. Absent: None.

Being no additional items to come before Council, Mayor Schewel adjourned the meeting at 3:06 p.m.

Diana Schreiber
City Clerk