

DURHAM CITY COUNCIL WORK SESSION
Thursday, May 20, 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: City Manager Wanda Page, City Attorney Kim Rehberg and City Clerk Diana Schreiber.

[CALL TO ORDER]

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

Mayor Schewel announced his colleague Council Member Middleton would be departing the meeting early to officiate a funeral for an individual killed by gun violence in Durham.

City Attorney Rehberg advised the Mayor that the motion to grant an excused absence could be announced at Council Member Middleton's departure.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Freeman requested a resolution related to the Critical Race Theory Bill circulating in the State House.

Mayor Schewel encouraged the drafting of a letter for which Council could sign.

Council Member Freeman stated she would be working with Senator Murdock on the document.

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

City Manager Page requested the following priority items:

Item 45) US Department of Transportation - Federal Aviation Administration Program Airport Coronavirus Response Grant Program. This is a Supplemental Item that needed approval and execution by June 1, 2021. Requested Council's action on the item.

Item 46) US Department of Transportation – Federal Aviation Administration Airport Coronavirus Response Grant Program Airport Concessions Addendum. This is another Supplemental Item requiring Council's approval.

Item 12) Amend the FY2020-21 Budget. Additional information had been provided in accordance to Council's requests- Attachment #3.

Item 28) FY20-21 Third Quarter Financial Report. Presentation expected on the item.

Item 30) Development Agreement with Lambert Development Hunt Street. Presentation expected on the item.

Item 43) Citizen's Matters. Hillary Ensminger. Item added to the agenda.

City Manager Page introduced two FUSE Fellows, Leila Pederson and Dr. Dwayne Campbell to Council.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to accept the City Manager's Priority Items was passed at 1:08 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.

Council welcomed the FUSE Fellows to the City of Durham.

City Attorney Rehberg and Clerk Schreiber had no priority items.

Mayor Schewel read the printed agenda and requested Council's desire to pull various items.

Council discussed the following items:

Item 2) Citizens Advisory Committee –Appointments. Council Member Reece spoke to the balloting of the vacancies.

Item 4) Durham Open Space & Trails Commission – Appointment. Mayor Schewel asked for confirmation of residency of the candidate with a Chapel Hill address. It was confirmed the address fell within the boundaries of Durham as a Ward 3 resident.

Item 8) Human Relations Commission – Appointments. Mayor Pro Tempore Johnson inquired about the change in appointing candidates based only on race and not gender. It was discussed how to manage equal gender representation without the previous system. Council Member Freelon addressed the HRC's interpretation of the bylaws that no one gender can represent over 51% of the HRC membership and to consider this limit when re-advertising. The revision allowed for gender non-conforming applicants from not applying within the binary restriction. Mayor Pro-Tempore Johnson requested a bylaw change to reflect this new selection process. Council Member Freelon agreed to work with the HRC to codify the process.

Item 11) Neighborhood Improvement Services (NIS) Lien Process Performance Audit dated April 2021. Item requested to be pulled for discussion.

Item 16) Lead Hazard Control, Application Intake and Eligibility Screening Services Contract with the Partnership Effort for the Advancement of Children's Health (PEACH). The item was requested to be pulled for discussion.

Item 19) Interlocal Agreement with Durham County for Consolidation of ACCESS Services. Mayor Schewel requested a future update from staff on the item.

Item 29) Resolution Approving the Application to the LGC for the Issuance of Water and Sewer Utility System Revenue Bonds. The item was pulled for discussion.

Item 33) Contract ST-317C Utility Locate Services. The item was pulled for discussion.

Item 44) Creation and Implementation of a Program to Support Achieving Vaccine Equity. Supplemental Item added to agenda.

Presentation Items were Items 28, 20, 38 and 40.

Supplemental Items were Items 44, 45 and 46. A vote was being requested on Items 45 and 46.

Taking the prerogative of the Chair, Mayor Schewel requested that Item 44 be the next item addressed.

SUBJECT: CREATION AND IMPLEMENTATION OF A PROGRAM TO SUPPORT ACHIEVING VACCINE EQUITY (ITEM 44/ PR 14700)

Mayor Schewel noted the background of the item and shared that Council Member Middleton had accomplished additional research.

Council Member Middleton addressed the recommended vendor, emphasized the need to vaccinate persons of color and address disparities, mentioned his conversations with Durham County Commissioner Burns; and spoke to important concerns about the vaccination program under emergency circumstances along with taxpayer budgeting.

Council Member Freeman addressed emergency procedures and urged the investment in the local community. She favored using a local organization not Curamericas Global.

Mayor Pro Tempore Johnson was supportive of Council Member Middleton's efforts to solicit support of the County Commissioners and for expeditiousness, avoiding the RFP process.

Mayor Schewel explained that of the \$650,000, that \$600,000 would be spent with local community organizations.

MOTION by Mayor Pro Tempore Johnson, seconded by Council Member Reece, to suspend the rules and vote at 1:36 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Middleton and Reece. Noes: None. Absent: None. Council Member Freeman did not vote.

City Attorney Rehberg spoke to operating under NC General Session Law 2020-3, the Remote Meeting Statute, she stated that when a Council Member did not vote yea or nay, there was one less vote on the item.

MOTION by Council Member Caballero, seconded by Council Member Middleton to approve the contract with Curamericas Global at 1:36 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Middleton and Reece. Noes: None. Absent: None. Council Member Freeman did not vote.

Council Member Middleton departed the meeting at 1:39 p.m.

MOTION by Council Member Freeman, seconded by Council Member Caballero, to give Council Member Middleton an excused absence for the remainder of the meeting at 1:40 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman and Reece. Noes: None. Absent: Council Member Middleton.

SUBJECT: CITIZEN'S MATTERS: HILLARY ENSMINGER (ITEM 43/ PR 14693)

Ms. Ensminger spoke to a request to include an item into the budget, addressing assistant technology for persons with visual and other disabilities. She referenced a federal mandate that local governments provide accessible content on their websites.

She made suggestion as how to address the oversight of ADA web content and design.

Mayor Schewel appreciate Ms. Ensminger's comments and referenced staff's response in the agenda.

SUBJECT: US DEPARTMENT OF TRANSPORTATION – FEDERAL AVIATION ADMINISTRATION AIRPORT CORONAVIRUS RESPONSE GRANT PROGRAM (GRANT OFFER 3-37-0056-054-2021) (ITEM 45/ PR 14697)

Mayor Schewel introduced the item.

MOTION by Mayor Pro-Tempore Johnson, seconded by Council Member Reece, to suspend the rules to vote was approved at 1:50 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman and Reece. Noes: None. Absent: Council Member Middleton.

MOTION by Council Member Freeman, seconded by Council Member Freelon, to authorize the City Manager to execute the associated grant agreement was approved at 1:51 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman and Reece. Noes: None. Absent: Council Member Middleton.

SUBJECT: US DEPARTMENT OF TRANSPORTATION – FEDERAL AVIATION ADMINISTRATION AIRPORT CORONAVIRUS RESPONSE GRANT PROGRAM – AIRPORT CONCESSIONS ADDENDUM (GRANT OFFER 3-37-0056-055-2021) (ITEM 46/ PR 14699)

MOTION by Council Member Freeman, seconded by Mayor Pro-Tempore Johnson, to suspend the rules to vote and to authorize the City Manager to execute the Concessions Relief Addendum was approved at 1:51 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman and Reece. Noes: None. Absent: Council Member Middleton.

[ITEMS PULLED FOR ADDITIONAL DISCUSSION]

SUBJECT: NEIGHBORHOOD IMPROVEMENT SERVICES (NIS) LIEN PROCESS PERFORMANCE AUDIT DATED APRIL 2021. (ITEM 11/ PR 14661)

Director of Audit Services Dr. Germaine Brewington addressed Council's questions.

Council Member Reece inquired about the problems with the foreclosure process that the audit had identified.

Director Brewington summarized there were two issues that resulted in the drop in foreclosures: the criteria to determine foreclosures was insufficient- a policy had to be developed and the impact of COVID-19.

Emily Desiderio, Deputy Finance Director, confirmed that a foreclosure could be diverted/pulled back when the fines and fees were paid off by the property owner.

Finance Director David Boyd addressed various foreclosure tools for outstanding NIS liens and enforcement efforts; and urged moving forward with developing a policy containing consistent criteria to be applied to executing foreclosures.

Assistant Director Faith Gardner of NIS addressed the collaboration with the Finance Department; and noted that the policy would guard against launching foreclosures against low-income residents who were living in their properties.

SUBJECT: LEAD HAZARD CONTROL, APPLICATION INTAKE AND ELIGIBILITY SCREENING SERVICES CONTRACT WITH THE PARTNERSHIP EFFORT FOR THE ADVANCEMENT OF CHILDREN'S HEALTH (PEACH) (ITEM 16/ PR 14689)

Director of the Department of Community Development Reginald Johnson responded to the timeline of facilitating the lead contracts to coming before Council.

Council Member Reece inquired about when marketing and intake would begin.

Director Johnson deferred to Project Manager Neisha Reynolds to respond; but added that all of the programs needed to come before Council for decision making prior to them being completed and ready to go.

Ms. Reynolds noted that as soon as the contracts were executed they marketing/outreach portion to occur.

SUBJECT: NEWMAN STREET WATERLINE CONSTRUCTION CONTRACT AWARD (ITEM 24/ PR 14652)

Don Greeley, Director of Water Management, addressed Council.

Mayor Schewel stated there was a speaker to the item.

Isaac Woods, resident, expressed concerns about a lack of water, fire service/protection and pavement on Ardmore Drive; and looked forward to the Council for their support.

Water Management Director Don Greeley addressed the Newman Street Waterline Project and potential construction plans along Fayetteville Street.

SUBJECT: RESOLUTION APPROVING THE APPLICATION OF THE LOCAL GOVERNMENT COMMISSION FOR THE ISSUANCE OF WATER AND SEWER UTILITY SYSTEM REVENUE BONDS (ITEM 29/ PR 14678)

Emily Desiderio, Deputy Finance Director, responded to the Mayor's question about the rationale behind utilizing the interest only financing option, up front, on \$300,000,000 of bond financing.

Deputy Director Desiderio explained that the method allowed the city to pay interest only on funds being used, better aligning spending with borrowing. The goal was to align spending with borrowing and that the process served as the best option.

SUBJECT: CONTRACT ST-317C UTILITY LOCATE SERVICES (ITEM 33/ PR 14651)

Council Member Reece addressed his questions regarding the locate service contract and asked if the vendor was new and directed his questions to Tasha Johnson, Assistant Director Public Works.

Assistant Director Johnson responded that this was a repeated use vendor, that not many vendors bid on the work.

Council Member Reece inquired about gas breaches.

Assistant Director Johnson explained that the vendor was locating utilities for city enterprises of water/sewer/stormwater; and that other private utilities used their own vendors for their own infrastructure.

Council Member Reece spoke in support of the septic to sewer program.

[PRESENTATIONS]

SUBJECT: FY2020-21 THIRD QUARTER FINANCIAL REPORT (ITEM 28/ PR 14667)

Finance Director David Boyd and Interim Budget and Management Director John Allore presented the staff report.

Finance Director Boyd explained that the General Fund takeaway that the fund was doing better than expected and compared to what was determined at the second quarter.

He summarized General Fund expenditures and revenues resulted in an overall positive budget variance of \$15,580,483; summarized property and sales tax collections and stated more overall total revenue was collected in this fiscal cycle as compared to the last.

As per figures on the 2021 EOY Projected Fund Balance of \$58,353,963 which amounted to a surplus of \$23,641,960 beyond the 16.7% target level. Enterprise

funds of water & sewer were tracking as expected with an overall budget positive variance of \$7,594,927. Transit, Solid Waste, and Parking funds were summarized. Other enterprise funds were presented consisting of the Ballpark, DPAC, Inspections and Stormwater funds.

Council appreciated that fact the revenues had maintained themselves.

Interim Budget Director John Allore addressed the usage of Fund Balance above the 16.7% threshold.

Mayor Schewel inquired about transit operations and revenues and the impact of grant revenues on the variance.

**SUBJECT: DEVELOPMENT AGREEMENT WITH LAMBERT
DEVELOPMENT HUNT STREET II LLC (ITEM 30/ PR 14644)**

Robin Parrish, General Services Department/Real Estate Division, introduced the item; and noted the presentation would be given by Jeremy Anderson of CJT and Ben Kuhn of Lambert Development.

Mayor Schewel summarized that the item involved easements and an agreement between a private developer and the City.

Mr. Kuhn of Lambert Development presented a PowerPoint titled *The Vega, 214 Hunt Street*; provided the site conditions, surroundings and then detailed the agreement. The easement request was explained: a permanent fire separation easement and temporary construction easement; project was a 7-story building (2 stories for parking, 5 stories for residential) with 57 residential units (condos) priced at \$600,000+ and 5672 sf of commercial space. Collaborative outreach was conducted by the development team and summarized the Lambert Development contributions to the site.

Mayor Schewel spoke to expanding the developer's affordable housing fund contribution from \$1000 to \$5000.

Council Member Reece asked why the developers were asking for more land than what they had bought; and asked about the temporary construction easement related to the wetlands and would it require being re-built.

Jeremy Anderson of CJT addressed glazing and the building façade; and noted that the siteplan had been approved by the city with setbacks. He explained the plans for the stormwater facilities along with the current retention BMPs.

Council Member Freeman addressed the youth in the area with a skatepark and was there an awareness of the skatepark to potential buyers.

Ms. Parrish responded to the criteria involved in a development plan and potentially buying out a developer to preserve open space.

Bo Ferguson, Deputy City Manager, explained when Council and developers meet and did not want staff to represent comparisons of open space versus the analysis of the potential transaction. An analysis of the property had not been conducted since the space did not belong to the City.

Tom Dawson, Assistant Parks and Recreation Director, explained that the Durham Central Park was publically owned and that the city had a lease with Durham Central Park Incorporated to manage the skatepark and the Farmers Market.

Mr. Kuhn noted that the property was a former metallurgy site and that it was contaminated; and that additional conversation would be had regarding affordable housing fund and DPS contributions.

Mayor Pro Tempore Johnson spoke to marketing efforts to include the type of neighborhood as an energetic, inclusive, community gathering space; favored a larger contribution for the affordable housing fund akin to the Foster Building and a deal that brought more public benefit/value to the city.

Council Member Freelon asked about the response of the developers if the city said 'no'.

Mr. Anderson noted that the project could be built smaller and that there would not be any reason to come to the city.

Stacey Poston, representing General Services, provided a point of clarification on the site plan that was contingent on securing the easements by Council's approval.

Council Member Caballero supported a higher proffer for the affordable housing fund and noted there had been a lot of engagement with the skatepark supporters; and encouraged the developers to inform purchasers that they were moving into the urban core.

Mr. Kuhn agreed to include this information into the marketing materials.

Mayor Schewel called for a break for Closed Captioning from 3:24 p.m. – 3:30 p.m.

**SUBJECT: GREATER TRIANGLE COMMUTER RAIL (GTCR) STUDY
UPDATE (ITEM 38/ PR 14628)**

Jay Heikes, Senior Transportation Planner of GoTriangle, made a PowerPoint presentation titled *Greater Triangle Commuter Rail Feasibility Study Update*. Additional presenter was Elise Beilen, a member of the consulting team with an update on community outreach. In the next 25 years, Durham County was expected to grow by 100,000, the larger three county region was expected to grow by more than 600,000.

The presentation included:

Job Access in Durham – car v transit
County Transit Plan Investments – bus, bus rapid transit and commuter rail (map)
What Are We studying? Access from West Durham to Clayton thru RTP.
Map of potential route
What did we learn from previous studies?
What are we working on now? Rail Analysis, Opportunity Analysis & Engagement
Downtown Durham Engineering Analysis
Affordable Housing Analysis (draft)
Access Analysis showing key neighborhoods that could be linked to top job hubs
Agreements – starting early with railroads
Agreements – incremental & transparent approach
What happens at the end of the study? Decision to undertake engineering, final design, construction, including FTA and NEPA processes
Public Engagement Overview- raise awareness, obtain public feedback, coordinate regionally.
Round I Engagement Results
Equity & Inclusion
Adapting to COVID-19: in-person, virtual outreach
Methods and Materials for Outreach: email campaign, social media, paper survey, video, press releases, brochures
Web & Social Media
Race/Ethnicity of survey participants
Household Income: Corridor Counties
Geographic Participation: municipalities
Major Take-Aways: benefits v. concerns

Council appreciated the presentation and the incorporation of feedback.

Council Member Reece inquired about the specific agreement between GoTriangle and Norfolk Southern, had it been finalized; asked about the

indemnification requirements by the railroad onto the commuter rail; and inquired about ridership fares.

Mr. Heikes responded that the first agreement for rail network modeling had been signed. He would consult with his legal team about the indemnification concern.

Mayor Schewel spoke to the availability of fare-capping and appreciated that the threshold issue of indemnification was already being addressed.

Mr. Heikes noted that the decision had not yet been made regarding fare-capping.

Mayor Pro Tempore Johnson inquired about timeline and commitment to the commuter rail project.

Mr. Heikes noted that the schedule has been relatively set until the end of the year; and estimated engineering/design would be driven through early 2022.

Council complimented the GoTriangle staff.

City Clerk Schreiber announced the results of the Council balloting for boards, committees, commissions and taskforces:

Citizen's Advisory Committee- Appointments:

Levon Barnes, Dr. Monique Holsey-Hyman and Brian W. Langloss had been nominated for re-appointment; three remaining seats are to be re-advertised.

Durham Board of Adjustment- Appointments:

Ian Kipp and Chad Meadows were nominated for re-appointment.

Durham Open Space and Trails Commission- Appointment:

It was the consensus of Council to re-advertise the Ward 3 vacancy.

Durham Planning Commission- Appointments:

Erin M. Durkin has been nominated to be re-appointed; and Bruce N Harrod, nominated for appointment.

Durham Sports Commission- Appointment:

Dan W. Hill, III; re-applying; has been nominated for re-appointment.

Housing Appeals Board – Appointment for the category of At-Large Alternate Member:

Elizabeth A. Hustedt was nominated for the At-Large Alternate seat.

Mayor’s Council for Women- Appointments:

Kershemia Ramirez- re-applying; nominated for the Civil Rights/Justice Sector seat.

Nana Asante-Smith- re-applying; nominated for the Public Safety Sector seat.

Ingrid Pol – nominated for the Ward 2 seat.

Anita A. Daniels-Kenny; nominated for the Ward 3 seat.

Participatory Budgeting Steering Committee – Appointment:

Jenn Frye; re-applying; nominated for the At-Large seat.

Human Relations Commission – Appointments (Per the current bylaws, genders shall be equally represented but neither by more than 53%.) Current composition is 50% female and 50% male. There are five vacancies.

Erin N. Carson- re-applying; nominated for African American Person seat.

C. Dewayne Hinnant- nominated for African American Person seat

Darius J Whitney- re-applying; nominated for African American Person seat.

Christina L Crosby – re-applying; nominated for Caucasian/Non-Hispanic Person seat.

Jeffrey R King – re-applying; nominated for Caucasian/Non-Hispanic Person seat.

It was the request of Council to place the news release information on the HRC ballot to assist Council in determining how many and which type persons to select.

City Manager Page requested additional direction from Council pertaining to Item 30 (Development Agreement with Lambert Development Hunt Street LLC) regarding asking the developer for additional information; it was confirmed to place the item on GBA.

SETTLING THE AGENDA FOR THE JUNE 7, 2021 CITY COUNCIL MEETING

City Manager Page settled the agenda for the June 7, 2021 City Council Meeting by announcing the following items on the Consent Agenda Items 1 through 29 and 31 through 37; General Business Agenda Item 30; and General Business Agenda - Public Hearings, Items 39 through 42.

MOTION by Council Member Freelon, seconded by Council Member Reece, to settle the City Manager's agenda for the June 7, 2021 City Council Meeting was approved at 4:23 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Caballero, Freelon, Freeman and Reece. Noes: None. Absent: Council Member Middleton.

Mayor Schewel reminded the Council that the Budget Work Sessions were scheduled for the following week.

Being no additional items to come before Council, Mayor Schewel adjourned the meeting at 4:24 p.m.

Diana Schreiber, NCCMC, CMC
City Clerk