

DURHAM CITY COUNCIL WORK SESSION
Thursday, July 25, 2019 @ 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 Steve Schewel and Council Members Vernetta Alston, Javiera Caballero, Mark-Anthony Middleton and Charlie Reece. Excused Absences: Mayor Pro Tempore Jillian Johnson and Council Member DeDreana Freeman.

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

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

Mayor Schewel requested excused absences for his colleagues who were unable to attend the meeting.

MOTION by Council Member Reece, seconded by Council Member Middleton, to excuse Mayor Pro Tempore Johnson and Council Member Freeman from the meeting. Motion passed unanimously.

Mayor Schewel asked for announcements by Council.

Mayor Schewel presented the City of Durham's 'Senior Services Ambassador Pin' to Ms. Barbara Lofton, an active advocate for senior citizens in Durham.

Ms. Lofton expressed her appreciation for the honor.

Mayor Schewel asked for Priority Items from the City Manager, City Attorney and City Clerk.

City Manager Bonfield announced his priority items by requesting that Items 18 and 25 through 29, all professional services contracts, be voted on at the meeting. He explained that there was a pending state law coming into effect as of August 1 and thereupon, requested that the contracts be approved at the Work Session.

Fred Lamar, Senior Assistant City Attorney, provided the rationale for the request to approve the contracts at the Work Session by referencing Session Law 2019-92, indemnification provisions in construction and professional services contracts.

MOTION by Council Member Middleton, seconded by Council Member Reece, to approve the City Manager's priority items. Motion passed unanimously.

The City Attorney requested a priority item to hold a closed session pursuant to NC General Statutes 143-318.11(a)(3) for attorney-client consultation concerning further handling and/or settlement of presented claim in the wake of mediation.

MOTION by Council Member Caballero, seconded by Council Member Alston, to accept the City Attorney's priority item. Motion passed unanimously.

The City Clerk had no priority items.

Mayor Schewel read the Work Session Agenda Items on the printed agenda and pulled the following items for further comment and/or discussion: Items #2, 11, 13, 14, 18, 20, and 25 through 29.

Taking the prerogative of the Chair, Mayor Schewel read each of the City Manager's priority items into the record, requested the rules be suspended and conducted a vote on the following five items:

**SUBJECT: NEW HOPE CREEK AND LITTLE CREEK WATERSHED
IMPROVEMENT PLAN – SP -2019-01 (ITEM 25/ PR 13333)**

MOTION by Council Member Middleton, seconded by Council Member Alston, to suspend the rules was approved at 1:13 p.m. Motion passed unanimously.

MOTION by Council Member Middleton, seconded by Council Member Alston, to authorize the City Manager to execute the Contract for New Hope Creek & Little Creek Watershed Improvement Plan - SP-2019-01 with AECOM Technical Services of North Carolina, Incorporated in the amount of \$1,772,449.00;

To establish a contingency fund in the amount of \$132,934.00; and

To authorize the City Manager to negotiate change orders provided that the cost of all change orders and the contract does not exceed the total project cost of \$1,905,383.00 was approved at 1:13 p.m. by the following vote: Ayes: Mayor Schewel and Council Members Alston, Caballero, Middleton and Reece. Noes: None. Excused Absences: Mayor Pro Tempore Johnson and Council Member Freeman.

**SUBJECT: CONTRACT AMENDMENT TO CONTRACT SW-47D WITH KIMLEY
HORN AND ASSOCIATES, INC. FOR PROFESSIONAL SERVICES
FOR REAL ESTATE ACQUISITIONS AND ADDITIONAL DESIGN
SERVICES FOR SW-47D, MORRENE ROAD BIKE AND PEDESTRIAN
PROJECT (ITEM 26/ PR 13334)**

MOTION by Council Member Alston, seconded by Council Member Middleton, to suspend the rules was approved at 1:14 p.m. Motion passed unanimously.

MOTION by Council Member Alston, seconded by Council Member Middleton, to authorize the City Manager to execute Contract Amendment No.1 for SW-47D, Morreene Road Bike and Pedestrian Improvements (TIP# C-4928) with Kimley-Horn and Associates, Inc. in the amount of \$474,566.39; and

To authorize change orders to the contract so long as the total contract does not exceed \$1,316,727.89 was approved at 1:14 p.m. by the following vote: Ayes: Mayor Schewel and Council Members Alston, Caballero, Middleton and Reece. Noes: None. Excused Absences: Mayor Pro Tempore Johnson and Council Member Freeman.

SUBJECT: CONTRACT AMENDMENT TO CONTRACT SW-46D WITH RAMEY KEMP & ASSOCIATES, INC. FOR PROFESSIONAL SERVICES FOR REAL ESTATE ACQUISITIONS AND ADDITIONAL DESIGN SERVICES (ITEM 27/ PR 13335)

MOTION by Council Member Alston, seconded by Council Member Middleton, to suspend the rules was approved at 1:14 p.m. Motion passed unanimously.

MOTION by Council Member Middleton, seconded by Council Member Alston, to authorize the City Manager to execute Contract Amendment No. 1 for SW-46D, Hillandale Road Bike and Pedestrian Improvements with Ramey Kemp & Associates, Inc., in the amount of \$193,435.63; and

To authorize amendments to the contract so long as the total contract does not exceed \$650,558.40 was approved at 1:14 p.m. by the following vote: Ayes: Mayor Schewel and Council Members Alston, Caballero, Middleton and Reece. Noes: None. Excused Absences: Mayor Pro Tempore Johnson and Council Member Freeman.

SUBJECT: CONTRACT AMENDMENT TO CONTRACT SW-51D WITH JOHN DAVENPORT ENGINEERING, INC. FOR PROFESSIONAL SERVICES FOR ADDITIONAL DESIGN SERVICES FOR SW-51D, NC 54 SIDEWALK FACILITIES PROJECT (ITEM 28/ PR 13336)

MOTION by Council Member Alston, seconded by Council Member Middleton, to suspend the rules was approved at 1:15 p.m. Motion passed unanimously.

MOTION by Council Member Alston, seconded by Council Member Middleton, to authorize the City Manager to execute Contract Amendment No. 1 for SW-51D, NC 54 Sidewalk Facilities (TIP# EB-5708) with John Davenport Engineering, Inc. in the amount of \$17,791.17; and

To authorize amendments to the contract so long as the total contract does not exceed \$111,960.31 was approved at 1:15 p.m. by the following vote: Ayes: Mayor Schewel

and Council Members Alston, Caballero, Middleton and Reece. Noes: None. Excused Absences: Mayor Pro Tempore Johnson and Council Member Freeman.

SUBJECT: CONTRACT ST-300C REQUEST FOR QUALIFICATIONS FOR UTILITY LOCATE SERVICES (ITEM 29/ PR 13338)

MOTION by Council Member Middleton, seconded by Council Member Alston, to suspend the rules was approved at 1:15 p.m. Motion passed unanimously.

MOTION by Council Member Caballero, seconded by Council Member Middleton, to authorize the City Manager to execute a services contract for ST-300C Request for Qualifications (RFQ) for Utility Locate Services with Ma Engineering Consultants, Inc. in the amount not to exceed \$360,000.00 was approved at 1:15 p.m. by the following vote: Ayes: Mayor Schewel and Council Members Alston, Caballero, Middleton and Reece. Noes: None. Excused Absences: Mayor Pro Tempore Johnson and Council Member Freeman.

After suspending the rules and approving the above items, Mayor Schewel continued reading of the remainder of the agenda into the record.

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

SUBJECT: CITIZEN'S MATTER: CASIM NOBLE (ITEM 40/ PR 13361)

To receive comments from Casim Noble regarding a petition for shooting by County residents into the Swanns Mill Development (city jurisdiction).

Mr. Noble made a PowerPoint presentation regarding gunfire that was emanating from Durham County into the city's residential neighborhood.

Council Member Reece had met with Mr. Noble and other community members at a community meeting that referenced this concern and included city and county law enforcement. Council Member Reece acknowledged the jurisdictional issue involved with the predicament, spoke to efforts by the Durham County Sheriff Department and noted that formerly shooting had been allowed in the county area, prior to annexation.

Mayor Schewel requested the resident maintain his communication channel with Council Member Reece about the concern.

SUBJECT: CITIZEN'S MATTER: CHRIS TIFFANY (ITEM 41/ PR 13362)

To receive comments from Chris Tiffany regarding expunctions.

Mr. Tiffany requested the city work with the county to expunge innocent persons' records; and spoke to incidents between himself, others, police officers and prosecutors.

**SUBJECT: DURHAM WORKERS' RIGHTS COMMISSION – APPOINTMENT
(ITEM 2/ PR 13330)**

Council Member Reece made his colleagues aware that one of the candidates, Earl Bradley, was the son of a current member of the Commission and asked the City Attorney if there was an impediment of having a son and mother serving on the same volunteer board.

The City Attorney did not interpret a conflict.

**SUBJECT: CITY OF DURHAM GODURHAM TRANSIT ADVERTISING POLICY
(ITEM 11/ PR 13354)**

Pierre Osei-Owusu, representing the Transportation Department and DATA Bus, provided the staff report.

Mayor Schewel inquired how the advertising policy would be enforced.

Mayor Schewel inquired with the City Attorney about protections of commercial speech and related prohibitions in the realm of political and religious speech.

City Attorney Rehberg requested additional opportunity to research the prohibitions related to speech.

Director of Transportation Bill Judge noted the item was not time-sensitive and could be referred back to the administration without consequence.

Mayor Schewel encouraged Council Member Reece to provide his thoughts to staff.

After additional discussion, it was the consensus of Council to refer the item back to the administration.

**SUBJECT: ORDINANCE TO REGULATE ACTIVITY ON WATER SUPPLY
PROTECTION PROPERTY OWNED BY THE CITY (ITEM 13/ PR 13343)**

Sydney Miller, Water Resources Planning Manager, provided the staff report.

Council Member Reece inquired from where the list of prohibitive activities came and asked for the rationale about the list of activities being detrimental to water quality.

Manager Miller confided that the prohibited activities were detrimental to public safety.

Don Greeley, Director of Water Management, explained the signage was to limit access to the city property in and around the lakes, noted there were safety concerns about individuals going onto city property, explained the signage discouraged trespassing and clarified in writing the prohibited activities.

Council Member Reece expressed concerns about redundancy of the signage and spoke to the additional list of prohibited activities aside from the no trespassing signage.

Mayor Schewel supported the redundancy of the language on the signage in that the signage spelled out what exactly was prohibited and asked Council to give the department leeway in writing their own language on the trespassing signage.

Deputy Attorney O'Toole explained he worked with staff on the signage and noted the verbiage reflected the signage as was currently utilized at city parks.

Mayor Schewel summarized that Council would be approving the ability to have a sign like the one presented as an exemplar.

Deputy Attorney O'Toole confirmed this fact.

SUBJECT: CONTRACT FOR MANAGEMENT SUPPORT SERVICES FOR THE TRIANGLE WATER SUPPLY PARTNERSHIP (ITEM 14/ PR 13345)

Mayor Schewel inquired about the contract with Triangle Council of Governments, explaining the employment statistics lacked diversity. He continued that since there was no representation by Triangle J at the meeting, he urged a conversation in another forum.

Mayor Schewel stated that the lack of diversity was a concern since Triangle J was an agency that ought to be setting the pace in diverse hiring practices.

SUBJECT: DESIGN SERVICES WITH TIMMONS GROUP, INC. FOR THE SIDEWALK GAPS III PROJECT (ITEM 18/ PR 13358)

Mayor Schewel expressed a similar concern about the Timmons Group contract as was expressed in Item 14.

Paul Trapp, Director of Infrastructure Services for the Timmons Group, addressed his firm's employment practices and outreach efforts.

Mayor Schewel expressed the City's interest in encouraging and promoting diverse employment from contractors, noted that there was one African-American out of forty-one employees and asked about the company's efforts in hiring minority employees.

Mr. Trapp expressed a commitment to diverse his company's hiring and growth practices; stated for the record, his company consisted of 630 employees with 12% overall minority employment and the Raleigh Office consisted of 110 employees, of which, 11% were minorities. He stated that his company actively recruited minorities but in the Engineering profession it was difficult.

Mr. Trapp explained that his company tried to focus advocacy on middle/high school level STEM program students. He continued explaining that recruitment occurred at the university level and would include NC Central University this Fall with special mention of NCCU's environmental and computer science programs.

Mayor Schewel inquired about the company's participation with the city's Youthworks program.

Mr. Trapp explained his company was not an active participant in the Youthworks program but was interested in hearing more about the program and spoke to the company's current internship program that involved actively recruiting in the fall for subsequent summer participation.

Mayor Schewel asked Mr. Trapp to connect with the Office of Economic and Workforce Development about Youthworks.

Council Member Middleton asked about the nature of the company's relationship with NC A&T University and how long had the relationship been in existence.

Mr. Trapp responded that his company's relationship with NC A&T had been in existence for quite a while and added that his company had an on-call contract with NC A&T University for engineering services. Mr. Trapp indicated that many of the minority employees were hired from the NC A&T.

MOTION by Council Member Caballero, seconded by Council Member Middleton, to suspend the rules. Motion passed unanimously.

MOTION by Council Member Middleton, seconded by Council Member Caballero, to authorize the City Manager to execute a design contract with Timmons Group, Inc. for the Sidewalk Gaps III project up to the amount of \$88,000.00;

To establish a contingency fund for the contract in the amount of \$17,600.00; and

To authorize the City Manager to negotiate and execute amendments to the design contract provided the total contract cost does not exceed \$105,600.00 was approved at 1:54 p.m. by the following vote: Ayes: Mayor Schewel and Council Members Alston,

Caballero, Middleton and Reece. Noes: None. Excused Absences: Mayor Pro Tempore Johnson and Council Member Freeman.

**SUBJECT: GOVERNMENT ALLIANCE ON RACE AND EQUITY (GARE)
IMPLEMENTATION AND INNOVATION FUND GRANT TO FURTHER
EQUITABLE COMMUNITY ENGAGEMENT (ITEM 20/ PR 13315)**

James Davis, Human Relations Manager in Neighborhood Improvement Services, was available to answer Council's questions.

Mayor Schewel appreciated the geography versus project approach to the item and asked in reference to the beltline, how would the geographical approach work.

Manager Davis responded that the beltline spanned a few different neighborhoods and that portions of the beltline would involve engagement with the adjacent communities. He also explained how mapping was accomplished with DataWorks.

Mayor Schewel inquired about other infrastructure needs impacting on the communities.

Manager Davis confirmed that Transportation and General Services projects' impacts would be considered in the overall program.

City Clerk Schreiber announced that Council had nominated Earl Bradley to the Durham Workers' Rights Commission.

Settling the Agenda – June 17, 2019 City Council Meeting

City Manager Bonfield referenced the following items for the Consent Agenda, Item 1 through 10, 12 through 17, 19 through 24 along with 30 and 31; General Business Agenda – Public Hearings included Items 32 through 39.

MOTION by Council Member Caballero, seconded by Council Member Reece, to settle the agenda as stated by the City Manager for the August 5, 2019 City Council Meeting. Motion passed unanimously.

Council Entered Closed Session – 1:59 p.m.

MOTION by Council Member Alston, seconded by Council Member Reece, to enter closed session pursuant to NC General Statutes 143-318.11(a)(3) for attorney-client consultation concerning further handling and/or settlement of presented claim in the wake of mediation. Motion passed unanimously.

Council Returned to Open Session – 2:29 p.m.

MOTION by Council Member Alston, seconded by Council Member Caballero, to return to open session. Motion passed unanimously.

No action was taken in open session.

Mayor Schewel announced that due to the City Attorney's job performance already being assessed, City Attorney Rehberg would not be re-assessed at this time. However, the City Manager and City Clerk would be initially assessed in August and then with a follow-up assessment on or before the September 5th Work Session.

The dates would be confirmed in the next few weeks.

Being no further business to address, the Work Session was adjourned at 2:31 p.m.

Diana Schreiber, NCCMC, CMC
City Clerk