

**DURHAM CITY COUNCIL WORK SESSION**  
**Thursday, August 8, 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, Mayor Pro Tempore Jillian Johnson and Council Members Vernetta Alston, DeDreana Freeman, Mark-Anthony Middleton and Charlie Reece. Excused Absence: Council Member Javiera Caballero.

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 colleague who was unable to attend the meeting.

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

Mayor Schewel asked for announcements by Council. There were no announcements by Council.

Mayor Schewel asked if there were priority items from the City Manager, City Attorney and City Clerk.

City Manager Bonfield announced he had two priority items: Item #19, Citizen's Matter: Jennifer Johnson, the citizen would not be appearing at the Work Session; and Director of Water Management Don Greeley was to update Council on the back billing issue.

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

The City Attorney and 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 #6 and 12. Council requested the cost per mile and average cost increase for Items 7 through 9; and requested the water billing discussion be conducted after the two scheduled presentations.

**SUBJECT: CITIZEN'S MATTER: DEBORAH FRIEDMAN (ITEM 18/ PR 13386)**

To receive comments from Deborah Friedman regarding feminism.

Ms. Friedman addressed social engineering, the hiring of Police Chief Davis, and the denial of police hires.

**SUBJECT: CITIZEN'S MATTER: CHRIS TIFFANY (ITEM 20/ PR 13388)**

To receive comments from Chris Tiffany regarding protecting informants.

Mr. Tiffany addressed concerns associated with exposing police officer behavior.

**SUBJECT: NATIONAL LEAGUE OF CITIES GRANT AWARD FOR CITIES ADDRESSING FINES AND FEES EQUITABLY (ITEM 6/ PR 13381)**

Council Member Reece inquired about the objective of the grant.

John Allore, Assistant Director of Budget and Management, explained that the city had received an opportunity to work with a group out of San Francisco while partnering with the Center for Advanced Hindsight; and to be researching city fees to determine if there were disparate impacts of fees on low-income residents and emphasized that currently staff was in an exploratory phase.

City Manager Bonfield spoke to the interface between the grant and the city's racial equity work.

**SUBJECT: AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF DURHAM AND DURHAM COUNTY FOR THE CITY TO PROVIDE RECYCLING PROCESSING AND HAUL SERVICES TO DURHAM COUNTY FOR TARGET RECYCLING MATERIALS (ITEM 12/ PR 13376)**

Jim Reingruber, Assistant Director of Solid Waste, updated Council on the recycling agreement by explaining the process had not changed much but the financial commodity prices in the recycling stream for cardboard, glass, mixed paper and contamination had dropped considerably.

Council Member Reece supported staff's attempts to educate the public about recycling and its secondary markets.

**[PRESENTATIONS]****SUBJECT: DURHAM COUNTY TRANSIT PLAN – PROPOSED APPROACH AND UPDATE (ITEM 14/ PR 13364)**

To receive the Durham County Transit Plan – Proposed Approach and Update report.

Pat Young, City-County Planning Director, explained since the transit plan encompassing the Durham-Orange Light Rail Transit Plan had been discontinued, it was necessary to update the Durham County Transit Plan and made a PowerPoint presentation. The Durham County Transit Plan provided policy guidance to allocations of the Durham County Transit Tax Fund and spoke to status and next steps.

The presentation included details on the following:

Background & Context

- Durham County Transit Plan (“Plan”) directs allocation of Durham County Transit Tax Proceeds
- Last Updated in 2017 – Joint Plan with Orange County
- Discontinuation of Durham-Orange Light Rail Transit (DOLRT) Project warrants update of plan
- Durham County is and remains lead partner, and final approver of the Plan
- Greater diversity and strength of partnerships will help deliver a more diverse range of transit projects and identify project opportunities and impediments early in the planning process
- Key funding deadlines and decisions are forthcoming, in advance of the completion of the Plan update

Proposed Plan Approach (Overview)

- Durham City-County Planning Department will be project manager and convener
  - Helps ensure alignment with Comprehensive Land Use Plan
- Plan development partners (with primary points-of-contact) are:
  - Durham County (Drew Cummings)
  - City of Durham (Bill Judge)
  - Go Triangle (Katherine Eggleston)
  - Durham-Chapel Hill-Carrboro MPO (Aaron Cain)
  - Triangle J Council of Governments (John Hodges-Copple)

Proposed Plan Approach (Detail)

- Communicate Relentlessly
- Revise Governance Agreements
- Prepare Conditions Assessment (Existing Conditions and “Pipeline” Projects and Services)
- Engage the Community
- Develop Detailed Scope

- Identify Plan Development Roles and Resources
- Plan Development

Communicate Relentlessly- Outreach

Continuous, “two-way”, and consistent communication with all partners is key to success

- Board of County Commissioners (Lead Partner)
- City Council
- DCHC MPO Board
- Go Triangle Board

Written or staff update at each Board work session meeting throughout process

Frequent check-ins for policy feedback

Early engagement on “pipeline” items

Initial briefings:

Board of County Commissioners	July 8th
Go Triangle Board	July 24th
City Council	August 8th
DCHC MPO Board	August 14th

Revise Governance Agreements

Current (Advisory) Staff Working Group (SWG) is oriented towards delivery of the LRT project: Expanded/Modified Advisory Staff Work Group will be recommended by September, 2019 (“Durham Transit Team”)

Other possible modifications to the existing transit agreements may be proposed

Prepare Conditions Assessment (Existing Conditions and Pipeline Projects and Services)

Existing Conditions Assessment

- Identifies key transit system existing conditions, including:
- Legal authority and funding
- Existing transit service
- Tradeoffs and options regarding transit services

Completed by October 1, 2019 “Pipeline” Project and Services

- Identifies existing projects and deadlines that need action prior to completion of Transit Plan update
- Examples include Commuter Rail Transit (CRT) and SPOT assessments
- Priority, high value investments that can be made in FY20 will be identified
- Recommended action steps will be developed for each item
- Completed by November 1, 2019

Engage the Community to help assess community transit priorities

Engagement is needed to help assess community transit priorities in light of the discontinuation of the LRT project

Transit plan engagement will be sought through the same process being used for Comprehensive Plan engagement (“Engage Durham”)

- Innovative approach to engagement focused on “peer-to-peer” conversations, community education and listening
  - “Existing Conditions” and “Pipeline” information will be used to frame key issues and set a common base of information for discussion
- Specialized events and outreach focused on transit users and key asset partners will be undertaken

Develop Detailed Scope and Identify Plan Development Roles & Resources

Work with Durham Transit Team partners to develop a detailed scope of work for the Transit Plan update

Each partner will have clear roles, responsibilities and deliverables

Completed by October 1, 2019

Plan Development

Will take place between November 2019 and November 2020

Completion intended to align with FY21 partner budget cycles

May involve consulting assistance to fill gaps in resources and/or competencies that staff partners do not have

Director Young stated that none of the contacts with the MPO, Durham County or GoTriangle consisted of persons of color and that efforts to diversify were underway.

Council Member Middleton addressed the public perception that since the withdrawal of the light rail project, there existed a pot of money (\$100 million +/-) that had disappeared and asked about this perception and how to address the narrative.

Director Young responded that there would be many opportunities for public engagement/feedback and that the perception would be addressed at those opportunities, with special mention of the ‘*Engage Durham*’ project with focus on key users. He expanded on the key component of equity and inclusion to be utilized with the city’s land use vision and transit plan.

Mayor Schewel requested Council’s questions.

Council Member Middleton inquired about the revised governmental agreement section of the attachments, and spoke to the greater number of diverse projects since the light rail will not be constructed.

City Manager Bonfield asked for clarification of the staffing resource to be utilized for the transit plan and who were the entities that execute and manage the contracts.

Director Young clarified the usage of transit tax monies and by which entities.

Council Member Freeman requested information about the racial equity component, and funding thereof and advocated for housing affordability for persons of color and persons with disabilities along the beltline.

Director Young confirmed the racial equity component was included in the *Engage Durham* project's outreach team, historically underserved communities and compensation of ambassadors.

Council Member Reece spoke to city resources to be utilized in the Comprehensive Plan update and other important projects in the work plan and balancing the projects with the limited departmental resources such as staffing; and spoke to the \$750,000 allocation and was confident that the City-County Planning Department could absorb the convening/facilitating and management role.

Council Member Freeman requested that under the Framework Summary that a people of color led organization and one that focused on advocating for persons with disabilities be included in the work.

Director Young introduced his partners in the audience.

**SUBJECT: URBAN AVENUE STREET CLOSURE AND DEVELOPMENT AGREEMENT (ITEM 15/ PR 13374)**

Stacey Poston, representing General Services, made the staff report with a PowerPoint presentation, asked for Council's feedback and responded to Council's questions about the possible street closing and accompanying development agreement on Urban Avenue.

Ms. Poston summarized that there were a number of stakeholders, cross-easements, plats and a development agreement involved in the project, displayed aerial views of Urban Avenue, and an architectural rendering of the development project alongside the trail system. She explained the developer's proposal, the land allocation, and compared the benefits of the estimated value of the developer benefits with that of the city's benefits.

**Executive Summary**

The City of Durham has received a preliminary street closing application from Brame Specialty Company, Incorporated ("Brame") and Akridge North Carolina ("Akridge" or "Developer"). The application requests closure of a dead-end, 934.31' portion of Urban Avenue to accommodate redevelopment of an industrial warehouse into 36,628 square feet of Class B creative office space supporting 100 full-time workers. A portion of this proposed street closing is adjacent to the proposed Durham Belt Line. The developer plans to use the land it will gain pursuant to the proposed street closure to connect to another parcel owned by Brame and to provide surface parking, which is needed for this redevelopment to meet the standards of the Unified Development Ordinance ("UDO") as well as the requirements of its financial lenders.

Accompanying the street closing application is a proposed development agreement, which contains both proffers to the City as well as requested property interests from the City. Over the past year, General Services staff, in consultation with other affected City departments, has been in ongoing discussions with Akridge to obtain a potential offer for consideration by City Council.

### Recommendation

This item is for informational purposes only and is intended to provide background and an overview of the proposed transactional deal points. Staff recommends that Council receive this information and provide feedback.

### Background

Under the proposed deal points of the development agreement and street closure, the City would receive:

- *Donated construction of 100' of the Durham Belt Line Trail*, in accordance with the conceptual design outlined in the approved Durham Belt Line Master Plan. This portion of the trail would be completed within 36 months of the agreement's execution. The estimated construction value provided by the developer is \$55,030.00. (Recent bidding by General Services reflects that the development community is able to secure bids at approximately a 30% discount from city bidding processes. So if the City built this trail segment it is estimated that the City's cost would be \$71,620.00 this case represents \$16,590.00 in construction cost savings).
- *Donated construction of 15 public parking spaces*, which would be open public parking adjacent to the Durham Belt Line Trail on City-owned property. The estimated construction value provided by the developer is \$55,030.00. Developer construction cost savings of \$16,590 for the parking spaces.
- *Additional cash proffer of \$30,860.00*, allocated as Council desires.
- *Total Estimated Valuation: \$174,100.00*

Under the proposed deal points of the development agreement and street closure, the Developer would receive:

- *1.16 acres of Urban Avenue.*
- *A 10,161 SF temporary construction easement from the City to the Developer*
- *A 2,142 SF permanent access easement*, which will allow permanent access for Developer and Duke Energy across a portion of City property
- *Total Estimated Valuation: \$172,488.04*

The benefits to the City include: donated construction of a portion of the Belt Line Trail, donated construction of public parking for Belt Line users, a cash proffer, re-use of an existing structure as recommended by the Durham Belt Line Master Plan, 90 net new jobs, and enhanced future property tax revenues.

### Issues/Analysis

*Urban Avenue: Historic & Current Overview*

*Street Closing: Land Allocation Overview*

*Developer's Proposal: Deal Points*

Under the proposed deal points of the development agreement and street closure, the City would receive:

- ***Donated construction of 100' of the Durham Belt Line Trail***
- ***Donated construction of 15 public parking spaces***
- ***Donated cash proffer of \$30,860.00***
- Other benefits could include new jobs for Durham and increased property tax revenues. The developer will address their economic impact projections at the upcoming public hearing.

Under the proposed deal points of the development agreement and street closure, the developer would receive:

- **1.16 acres of Urban Avenue.**

<b>Staff's Estimated Value of Land Conveyed to Brame/Akridge Upon Closing</b>				
<i>Land Type</i>	<i>Square Footage</i>	<i>Estimated Value Per Square Foot (PSF)</i>	<i>% Value</i>	<i>Estimated Value</i>
<i>Grade A Land (w/o easement)</i>	17,663 SF	\$5.54 PSF <sup>1</sup>	100%	\$97,853.02
<i>Grade A Land (w/ easement)</i>	3,900 SF	\$5.54 PSF <sup>1</sup>	50%	\$10,803.00
<i>Grade B Land</i>	29,259 SF	\$1.52 PSF <sup>2</sup>	100%	\$44,473.68
<b>TOTAL</b>	<b>50,822 SF or 1.17 acres<sup>3</sup></b>	--	--	\$153,129.70
1: This is an average of the PSF land values of neighboring parcels PID 105316 and 105318 from the Durham County Tax Administration. 2: This is the PSF land value of neighboring parcel PID 105318 from the Durham County Tax Administration, which is similar in characteristics. 3: The discrepancy between 1.16 and 1.17 acres is a result of rounding.				

- **A ~10,161 square foot temporary construction easement from the City,  
A ~2,142 square foot permanent access easement from the City.**

<b>Staff's Estimated Value of Permanent Access Easement</b>				
<i>Land Type</i>	<i>Square Footage</i>	<i>Estimated Value Per Square Foot (PSF)</i>	<i>% Value</i>	<i>Estimated Value</i>
<i>City Land Utilized for Permanent Access Easement</i>	2,142 SF	\$5.54 PSF <sup>1</sup>	50%	\$5,933.34
<b>TOTAL</b>	<b>2,142 SF</b>	--	--	<b>\$5,933.34</b>
1: This is an average of the PSF land values of neighboring parcels PID 105316 and 105318 from the Durham County Tax Administration.				

In addition to the background, data, and analysis of the deal points outlined in the previous section, staff has highlighted some possible decision points and discussion items for Council:

- **Public Interest**
- **Developer Performance**
- **Developer Need**
- **Durham Belt Line**

Council Member Alston inquired about accessibility of persons to use of the public parking spaces. It was confirmed that the public would have access to a number of spaces.

Mayor Pro Tempore asked for additional clarification of the construction portion and inquired for her colleague, Council Member Caballero, regarding the impact of the development on the real estate market and in this and adjacent neighborhoods upon residents of color. She continued with remarks about development around the beltline and the impact on adjacent communities.

Ms. Poston explained the city and the developer bid on portions of the project and noted the developer was able to achieve pricing benefits above and beyond those available in

the marketplace due to volume discounts. She also stated that there had been initial meetings with neighborhood members along with work by staff in equitable engagement.

Mayor Pro Tempore Johnson explained that she was not ready to vote on this item at the upcoming Council meeting until there had been more outreach and a concrete plan to ensure equitable distribution of benefits. She also indicated that the cash proffer should benefit the residents and explained she felt pressured by the timeline, as proposed by staff.

Council Member Middleton echoed his colleague's concerns.

It was confirmed that the 100 full-time workers would be employed during construction.

City Manager Bonfield noted that staff may not have been prepared to discuss the Equitable Engagement portion of the trail projects at the Work Session and stated there were two other trail projects that were higher priority with a more urgent delivery schedule.

Deputy City Manager of Operations Bo Ferguson provided the timeline for the engagement portion of the two trail projects and indicated that a design contract was coming forward on the beltline trail in the next couple of cycles, after which, the Equitable Engagement Planning Team would be activated.

Mayor Schewel understood the dilemma between the trail projects and engagement, concurred with Mayor Pro Tempore relative to her concerns and addressed the timelines of the engagement processes along the trails.

Mayor Schewel polled Council by stating that there would be other beltline projects coming along with localized impact, asked if Council was ok with this process going forward – to empower the administration to have localized equitable engagement processes without doing the full blown engagement, and wanted to make sure it was ok to move ahead with the process.

Council Member Freeman noted the purpose of the equitable engagement process was to make sure that Council was accounting for the way in which the Atlanta beltline displaced communities of color, and that a process was in place to alleviate some of this, and that it was important to account for who would be displaced and what that displacement meant moving forward.

Mayor Schewel explained impact of beltline development near commercial areas and wanted to make sure that Council was comfortable with localized processes happening prior to reaching the point of full blown equitable engagement.

Deputy Manager Ferguson requested clarification on Council's expectations for a localized process and stated there was not yet an intact methodology.

Council Member Alston summarized that staff could conduct outreach, collect information and bring it back to Council prior to the public hearing; and the way that Council would then analyze the feedback from the neighborhood would be up to Council as a policy decision, in order to solve the gap in methodology.

Mayor Schewel summarized that Council was not being asked to approve the item but rather to approve the process as reasonable.

It was the consensus of Council to pursue this course of action.

Council Member Middleton was comfortable with staff's outreach and that Council would decide if the engagement met their standards.

Mayor Pro Tempore Johnson spoke to the advantage of the larger engagement process that would provide access to a broader group of community members and wondered if staff could reach out to community organizations and engage them in conversations about this smaller project along the trail. She also noted that many properties along the beltline would be developed 'by right' and Council would not have a way to intervene for a better community deal.

Council Member Freeman concurred with the early engagement portion of the process.

Deputy Manager Ferguson stated all the considerations were central to the planning that was going into the beltline project. However, this was not a city project, staff was responding to a request by a developer; and the developer was proposing to offer the city something to advance some part of the project and was not ready to move forward with the broader effort engagement strategy for this sliver of land. He asked Council for direction.

Mayor Schewel appreciated the developer offered to build a portion of the trail and the developer needed to decide on the level of engagement with the nearby community. He continued that he did not expect the full equitable engagement plan of the future but noted that the neighborhood should be consulted. In the future, the item would return to Council with the engagement component and then Council would determine if the engagement met Council's standard.

## **SUBJECT: WATER BILLING DISCUSSION**

Director of the Department of Water Management Don Greeley spoke on behalf of the entire department, reiterated sincere apologies for concerns raised by recent back-billing applied to some customers' accounts without prior communications. He continued that his team took full responsibility and was placing back billing on hold until the processes could be assessed for accuracy. For bills already issued, staff would ensure that the accounts were flagged and going forward, staff was committed to

making adjustments and resolved to correcting the underlying issues and ensure that this did not occur again.

Director Greeley made a PowerPoint presentation and explained the back billing process.

Council Member Reece requested the presentation be distributed to Council and an explanation for AMR (Automated Meter Reading) and the background of converting from manual to AMR.

Director Greeley explained how customers were put into estimation, spoke to budgetary constraints and consequences of not putting customers into estimation.

Deputy City Manager of Operations Bo Ferguson stated that estimation was a consequence, not a choice. He explained that the manual reading of failing meters resulted in more meters going into estimation and stated there were inadequate resources within the Department to handle the numerous accounts falling into estimation.

Director Greeley updated Council that as of the end of July, there were approximately 3000 accounts in estimation (3.2% of total customer accounts) and encouraged customers with questions to call Durham One Call at 919-560-1200 and reach out via the Durham One Call app. He also stated that when accounts were flagged, that late fees were automatically suspended.

Mayor Schewel asked about extended wait times with Durham One Call pertaining to the customers' inquiries.

City Manager Bonfield indicated that Durham One Call call and wait times would be monitored and resources shifted accordingly.

Mayor Pro Tempore Johnson inquired about how customers were aware that their bills were being estimated and how to read one's personal water meter.

Deputy Director Vicki Westbrook explained that there were codes on the invoices, A for Actual and E for Estimate.

Director Greeley explained how to read home water meters.

Deputy Manager Ferguson explained staff were working to fix the meters and as meters were fixed and coming out of estimation and into actual billing, if a customer had been estimated for some time and at a level lower than their actual usage, the customer may still be surprised by the new billing balance on their monthly usage. He wanted to give Council a head's up that the scenario may occur.

Heidi Hackett, Utility Finance Manager, addressed the scenario that involved new construction related to the water account meter being transferred from the builder's

name to that of the home owner and explained how the back billed water charges were divvied up between the customers.

Council Member Reece inquired about the total dollar amount of outstanding back-billed water invoices.

Director Greeley responded that staff continued to work on the projections that involved a mixture of accounts (residential, commercial, institutional, multi-family) and would update Council at a later date.

According to Director Greeley, the back-billing process and related adjustments would be put on-hold until the circumstances were clarified.

Council Member Reece inquired about customers who had contacted the Water Department and entered into payment plans, how was the Water Department handling those accounts.

Director Greeley responded that staff would contact those customers and when necessary, would flag the account and when refunds were warranted, the customers would receive them.

Council Member Reece made remarks of his main concern, there was no way for customers to know they were in estimation without monitoring their water bills, it did not seem right that the city require repayment but understood the legal issues related to the repayment. He stated he looked forward to a fair and equitable method of resolution of the issue between the City Attorney's Office, City Manager's Office and the Water Department.

Council Member Middleton summarized that if the City was legally precluded from making the bills go away, he urged the exploration of options to make payment terms as comfortable as possible if within the purview of Council and thanked his colleague for championing the cause.

Council appreciated the update and efforts to resolve the back billing issue.

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

Durham Bicycle and Pedestrian Advisory Commission:

Arian Bevilacqua – Bicycle Commuting

Chassem Anderson – NCCU Liaison

Emily Egge – Recreation/Recreation Business

Durham Historic Preservation Commission:

April Johnson – At-Large Member/Historian

Jonathan Dayan – Regular Member/Real Estate Agent

Durham Housing Authority Board of Commissioners:  
Daniel C. Hudgins

**Settling the Agenda – August 19, 2019 City Council Meeting**

City Manager Bonfield referenced the following items for the Consent Agenda, Item 1 through 13 and General Business Agenda – Public Hearings 16 and 17.

**MOTION** by Council Member Freeman, seconded by Mayor Pro Tempore Johnson, to settle the agenda as stated by the City Manager for the August 19, 2019 City Council Meeting. Motion passed unanimously.

Being no further business to address, the Work Session was adjourned at 2:58 p.m.

Diana Schreiber, NCCMC, CMC  
City Clerk