

**DURHAM CITY COUNCIL WORK SESSION
Thursday, October 10, 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, Javiera Caballero, DeDreana Freeman, Mark-Anthony Middleton and Charlie Reece. Absent: None.

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 asked for announcements by Council.

Council Member Freeman addressed the bond and agreements being made.

Mayor Schewel indicated that all of the agreements being made were listed on the city's official website.

Council Member Freeman requested review of the current minority participation contracting goals.

Mayor Schewel stated that Council needed to discuss the proposals relative to the former police headquarters site; and taking the prerogative of the chair, directed his colleagues to review the consent agenda and then he would open discussion on the police proposal item.

It was the consensus of Council to proceed as the Mayor directed.

Council Member Reece reminded all about Early Voting sites and for more information, go to www.dcovotes.com and spoke to free bus service being offered by the Transportation Department on Election Day, Tuesday, November 5th.

Council Member Alston made her colleagues aware that she needed to depart the meeting shortly before 2 p.m. in order to attend the Local Progress' Convening and Housing Tour focused on affordable housing and strategies.

City Manager Bonfield announced his priority items:

- Item 3, Attachment #1 was replaced
- Item 4, Attachment #1 was replaced
- Added Citizen's Matters Items 27 through 30

MOTION by Council Member Freeman, seconded by Mayor Pro Tempore to accept the City Manager's Priority Items. Motion passed unanimously.

City Attorney Rehberg stated the City Attorney's Office' had a priority item to hold a closed session pursuant to NC General Statutes 143-381.11(a)(3) for attorney-client consultation concerning the handling of litigation for the case of Darryl Howard v. City of Durham, et al. 1:17-cv-477 (MDNC) and another pending litigation matter to be filed on the behalf of the City.

MOTION by Council Member Middleton, seconded by Council Member Alston, to accept the City Attorney's Priority Item. Motion passed unanimously.

Mayor Schewel read each item on the printed agenda and made the following remarks:

Item 1: Mayor Schewel requested modifications to the draft minutes:

- Sept 3 minutes: Mayor Schewel will forward remarks made at the Sept 3 Council Meeting for inclusion into the minutes
- Pg. 8 – Sept 5: Karen Lado's Report: four overall changes as a result of the work of the Bond Advisory Committee
- Pg. 11 – Sept 5: As per the Mayor's statement, "Council needed to build trust with the Police force"
- Pg. 12 – Fourth Quarter Budget Report, the Fund Balance was more than 16% of target at \$51.2 million

Item 2: Request the bio for Amanda Smith's application

Item 3: Re-advertise for more diversity in the applicant pool

Items 8 and 12: Removed for additional discussion

Relative to Item 12, Mayor Schewel requested an email from Fire: Do we anticipate a time when fire emergency services needs in this area of Durham near the Chatham County line will require all of our fire services capacity in this area?

Mayor Schewel announced it was time for Citizen's Matters in addition to the City Manager's Supplemental Items.

SUBJECT: CITIZEN'S MATTER: WILLIAM GLENN (ITEM 25/ PR 13531)

To receive comments from William Glenn regarding request for an ordinance with a \$1,000 fine for blocking route mail boxes.

Mr. Glenn expressed concerns about his mailbox being intentionally blocked by vehicles; and asked for Council's assistance.

SUBJECT: CITIZEN'S MATTER: MICHAEL REID (ITEM 26/ PR 13532)

To receive comments from Michael Reid regarding slowing down Durham or else we will need to move somewhere cheaper to live.

Mr. Reid was not in attendance at the meeting.

SUBJECT: SUPPLEMENTAL ITEM: CHRIS TIFFANY (ITEM 27/ PR 13540)

To receive comments from Chris Tiffany regarding slander and threats.

Mr. Tiffany made a PowerPoint presentation about students arrested for assault and encouraged Council's protection of confidential informants.

SUBJECT: SUPPLEMENTAL ITEM: NATALIE LEW (ITEM 28/ PR 13541)

To receive comments from Natalie Lew regarding speaking up for land for which you are part owner and protect public green space.

Ms. Lew requested the Council to speak up to protect the Odd Fellow's Club facility's land near Raleigh-Durham Airport.

SUBJECT: SUPPLEMENTAL ITEM: ASHESH CHATTERJEE (ITEM 29/ PR 13542)

To receive comments from Ashesh Chatterjee regarding artist concerns in the City of Durham.

Mr. Chatterjee addressed the arts and music scene in Durham; and expressed concern about the departure of music performance venues and encouraged tax incentives to establish performance and art spaces.

SUBJECT: SUPPLEMENTAL ITEM: JUSTIN ARGENIO (ITEM 30/ PR 13543)

To receive comments from Justin Argenio regarding arts funding.

Mr. Argenio encouraged Council's support of local artists as the city grows; and urged the city to give back to artists.

SUBJECT: PUBLIC COMMENT: MONICA BYRNE (NO ITEM NUMBER)

Ms. Byrne expressed gratitude to Council for their attention to the difficulties experienced by local artists and explained that 'an ask' would be sent to Council shortly.

SUBJECT: PUBLIC COMMENT: HEIKO RATH (NO ITEM NUMBER)

Mr. Rath urged Council to protect the Odd Fellow's tract from being converted to a quarry and spoke to potentially dangerous particulates from entering Crabtree Creek; and encouraged Council to adopt a similar statement as was made by the Raleigh City Council.

SUBJECT: 2019 DAM INSPECTION AND MAINTENANCE PROJECT – AWARD OF PROFESSIONAL ENGINEERING SERVICES CONTRACT TO SCHNABEL ENGINEERING, SOUTH PC (ITEM 8/ PR 13489)

Mayor Schewel inquired about the employment statistics of Schnabel Engineering and information regarding the firm's minority employees hiring practices, outreach and efforts in minority contracting and subcontracting.

Jerry Morrone, Department of Water Management, deferred to Tom Fitzgerald, representative of Schnabel Engineering.

Mr. Fitzgerald described his company's employment recruitment practices at NC A&T University's engineering program students as interns; and expressed interest in the City of Durham's YouthWorks Summer Internship Program.

Mayor Schewel spoke to MWBE goals and expectations of the city of its contractors.

Eric Miller, Senior Equity Assurance Specialist with the Department of Equity and Inclusion, spoke to the specialty nature of the work, admitted the State HUB database was not completely accurate and the information was cross-referenced and verified by staff.

SUBJECT: INTERLOCAL AGREEMENT WITH CHATHAM COUNTY AND THE CITY OF DURHAM FIRE DEPARTMENT FOR FIRE AND RESCUE SERVICES (ITEM 12/ PR 13500)

Mayor Schewel inquired about a time in the future that the anticipated needs at that location would require all of the city's service capacity.

Chris Iannuzzi, Deputy Fire Chief, responded that the city did not anticipate this situation and noted call volume from Chatham County was currently very low and there were additional mutual aid agreements with other providers in case of catastrophe; and in regard to future growth, if growth was trending toward additional demand, then the city could renegotiate or exit the agreement.

[PRESENTATIONS]

SUBJECT: DURHAM PERFORMING ARTS CENTER (DPAC) OVERSIGHT COMMITTEE – 2019 ANNUAL REPORT (ITEM 20/ PR 13533)

Reginald Johnson, Director of the Department of Community Development and City Liaison to the DPAC Oversight Committee introduced Keelan Brown, Chair of the DPAC Oversight Committee and Bob Klauss, General Manager of the DPAC.

Mr. Brown detailed the Committee's recommendations and improvements made at the DPAC; noted that Nederlander & PFM was in full compliance with DPAC Operating Agreement; his presentation focused on three aspects: operational agreement with Nederlander, customer experience, community engagement and reach expansion.

Mr. Bob Klauss presented highlights of the DPAC's latest season with a video; and appreciated the DPAC Oversight Committee's and Director Johnson's contributions.

Director Johnson summarized the DPAC's FY18-19 financials ending June 30, 2019 with earnings of \$2,831,937.00.

Council Member Alston departed the meeting at 1:56 p.m.

Council Member Reece recognized the program, *Next Stop Broadway*, a summer week intensive for youth and complimented the hospitality crew at the DPAC.

Council Member Middleton spoke to the *DPAC for All* Program for public school students and Durham residents; asked about demographics of participants and expressed concerns about who was benefitting from the program.

**SUBJECT: UPDATE ON THE SOUTH ELLERBE RESTORATION PROJECT
(ITEM 21/ PR 13505)**

Sandi Wilbur, Department of Public Works, provided the staff report with a PowerPoint presentation that included an update on the project, background details on nutrient sensitive waters, displayed maps, outlined project goals and community engagement, and concluded with feedback, permitting, and concept/design costs and funding. It was concluded that the project 9-acre parcel acquisition cost \$1,000,000 (complete); design, permitting, public outreach and construction administration cost \$1,685,698 (in progress); Building Demolition and UST Removal cost \$456,027 (complete); Soil removal, grading and preparation cost \$2,200,000 (in progress); wetland construction cost \$12,500,000 (to be completed).

Mayor Pro Tempore Johnson presided over the discussion of the agenda item.

Council Member Freeman inquired about how the construction would impact older construction, if the regulations were state or federal, was the creek speed/flow being tracked, asked if equitable engagement/income was being tracked in surveys and were projects currently in the CIP.

Ms. Wilbur stated she would provide maps of the nutrient tracking and water quality and a report called *State of the Streams*; and demographics were being included in future surveys.

Council Caballero appreciated the accommodation for Spanish speakers on the website and at outreach events.

Mayor Schewel inquired about the unfunded portion of the project and asked if there would be financial savings if the projects were done in tandem.

Ms. Wilbur responded that some in tandem would provide a cost savings and some could be done at a later time.

Mayor Schewel looked toward the administration for guidance.

Mayor Pro Tempore Johnson encouraged field trips at the site and urged DPS participation.

Council Member Middleton inquired about getting local waterways off the impaired list.

Ms. Wilbur responded that this was the goal but was very difficult to actualize.

Mayor Schewel resumed presiding over the meeting.

SUBJECT: DISCUSSION OF THE POLICE HEADQUARTER SITE AND ADMINISTRATION LETTER

Mayor Schewel spoke to the letter (dated October 8, 2019, written by Deputy Manager Ferguson) and addressed the administration's concern that Council gave the impression that RFP respondents could come in and change their projects as was not Council's intent at the last Council Meeting.

Mayor Schewel stated that Council retained the right to ask for whatever they wanted; asked that another letter go out asking developers to summarize their teams' diversity and equity stack and opened the discussion with Council.

Mayor Pro Tempore Johnson was unclear of what proposals were being considered, several had been received by both developers and remarked the letter that went out indicated that Council would not be entertaining substantive changes.

City Manager Bonfield deferred to Deputy City Manager for Operations Bo Ferguson.

Deputy City Manager Ferguson elaborated on the staff recommendations that indicated the proposals presented for Council's consideration were locked as of mid-August when staff advertised to both developers the last opportunity to present modifications to their proposals; stated that throughout the process, staff showed a great deal of fidelity to the RFP process that began in late Spring and reserved the right to request modifications and made it clear that was at the city's discretion not the developers. After the interviews in mid-August, staff clearly defined what the 'ask' was from both sets of developers who had the opportunity to respond with modifications- staff received the responses and those responses were the basis of the analysis that Council received at the previous Work Session. Staff presented Council the preferred proposal at the previous Work Session. Staff's recommendation was that Council was presumably comparing that to the last submissions of both firms, unaltered since mid-August.

Materials that have come in subsequently have not been considered as changes to the proposals. There have been discussions and staff had provided analysis on the discussions. No changes to the proposals have been accepted since the modifications were provided and lock-down since mid-August. Staff had not considered any changes since that time. The subsequent changes that have come to Council would put into question the credibility of the RFP process.

Council Member Middleton expressed concern about the Oct. 8th letter that directly contradicted his understanding from the last regular Council Meeting. He continued that any concerns staff had at the point about extending the date of consideration, emphasized that moment would have been the appropriate time for staff to ask for any clarification on what Council meant by 'substantive'. He had asked at the Council meeting if any substantive changes would be entertained from the developers. The response was affirmative. He exercised his vote based on the conversation and stated that with the reading of the letter, there seemed to be a direct disconnect between the will of the Council and representation made to developers in the letter.

City Manager Bonfield asked what constituted 'substantive' and remarked that the clarification could have warranted further discussion at the Council Meeting. He stated that he had met with the Mayor prior to and following the council meeting and felt that based on the Mayor's motion, that was not his intent.

After reflecting on the discussion at the meeting, the City Manager asked the Clerk to prepare the motion made by the Mayor at the Council meeting. He explained it was important to clarify the intent of the Mayor's motion and emailed it to everyone immediately after his receipt.

Council Member Middleton stated if it was important to operationalize 'substantive' it should have happened at the Council Meeting and stated that the intentions of the Council were not open to interpretation.

Mayor Schewel appreciated his colleague's comments; thought the major substantive point was regarding diversity of teams and capitalization and to make sure the administration was going to ask about that. He supported the administration's aim of not having applicants to conduct major re-writes and was open to other substantive things that would be appropriate for staff to hear about from developers and asked for other comments.

Council Member Middleton spoke to the relationship between Council and staff and stated he placed great value on staff recommendations; and that staff followed Council and asked what was the reason for expanding the consideration period and asked for the rationale in extending the date.

Mayor Schewel responded that there was a lot of information coming to Council regarding diversity of teams and capitalization and wanted to allow staff more time to consider the information.

City Manager Bonfield spoke to communications received late Friday with no opportunity to evaluate and staff had heard there were meetings between staff and developers, of which, staff had not received the content.

Council Member Middleton stated he did not recall any of his colleagues going on record stating any of the commitments made to developers.

Council Member Freeman had a clarifying question regarding the process with developers with planning and zoning cases versus developers with submitted RFPs and compared the dates of June and mid-August.

Mayor Schewel stated there was a speaker to the item.

Ken Spaulding, Attorney representing Akridge, had concerns about the process and recorded into the record the language from the Council meeting's transcript of the conversation between Council Member Middleton and Mayor Schewel; quoted Mayor Schewel's motion and supported the equal opportunity to make substantive changes.

Mayor Schewel stated that Council needed to figure out a course of action, set a timeline, make certain staff had time to vet the proposals that would be received and define substantive changes.

Mayor Schewel called on a speaker from the audience.

Zac Vuncannon, Managing Director of Fallon Company, sought to comply with directives received from Council, hoped for transparency and wanted to ensure the process continued as Council wanted.

Council Member Caballero asked Council Member Middleton what substantive changes meant to him in the email and asked for context.

Council Member Middleton explained what substantive meant to him and spoke to the operationalized definition of substantive in the staff email: mixed of uses, site layout, additional modifications to affordable housing mix, financial offer to the city would not be considered or evaluated.

Council Member Caballero acknowledged that she had met with staff for additional clarification of the additional written material offered beyond the scope of the original RFP; and stated she had taken a meeting with Akridge. She said her vote at the Council Meeting was intended to extend time for staff to review the additional materials from the developers.

Council Member Middleton reiterated that it was the express will of the Council was the directive and any deviation or interpreted deviation from that, whatever the statement, should be concerning to the Council.

Mayor Pro Tempore Johnson explained that Council could go one of two ways in terms of fairness. She indicated that she had taken a meeting with Akridge and stated that more information had been received from Akridge modifying their proposal in substantive ways, than from Fallon since Fallon had not updated their proposal; clarified her understanding was similar to Council Member Middleton's being that Council was going to give Fallon the opportunity to submit additional information because additional information had been received from Akridge; expressed concern about staff vetting the additional information while considering the current timetable. Mayor Pro Tempore summarized the options as extending the deadline to ask for final submissions, have staff vet and then come back to Council again; however, this would require additional time and would be delaying the process of actually choosing a team. The other option would be to take Deputy City Manager Ferguson's recommendation to set a cutoff after which Council not consider any more information and go with what staff had already vetted. She said that both processes were fair to the two finalists.

Mayor Pro Tempore Johnson admitted that Council gave the impression at the Council Meeting that the developers could present more information and that Council could consider that information from both developers. She asked City Manager Bonfield about the timeline and any concerns he had with an extension.

City Manager Bonfield expressed concern about the overall process, referenced the additional information floating around much of which had not been received nor vetted by staff; he stated it was necessary to capture the information and evaluate it for Council. In the minds of staff, the preview to the recommendation with the strengths and rationale for selecting the proposal was explained to Council, and to go back and say to anyone in the process, now that you know the grading process you can now submit a proposal to match, would result in a never ending process; and spoke to adhering to the integrity of the process.

City Manager Bonfield admitted that Akridge was not selected as the recommended developer.

Deputy City Manager Ferguson reiterated the staff obligation to all of the respondents in the process and referred to over 10 teams who responded to the RFQ and four teams to the RFP. He stated he stood behind all communications, opportunities to interact with all the teams and believed that staff provided an equal opportunity to both finalists an equal opportunity in the process. Staff remained committed to being fair to both parties in the process notwithstanding

the fact that staff had made a recommendation to Council to choose one of the finalists. He welcomed any questions or discussions of how staff had corresponded with either of the two teams or any of the other teams in the process. He felt strongly that staff had given both parties the opportunities that staff said they were going to give them and in some cases, showed flexibility when the process was not followed as prescribed. Referenced elements in the process that changed that staff did not anticipate and Mr. Spaulding had referenced one of them. Deputy City Manager Ferguson spoke to the public record request for the final two proposals and it was not in the staff's best interest to release them, however, in consultation with the City Attorney's Office and with both of the respondents, staff felt a necessity to release those. Staff gave the developers the opportunity to respond to the City Attorney's Office in the process if their counsel felt that the city was misinterpreting the NC General Statutes. Releasing the documents was not something that staff wanted to do and did not believe that to do so was a constructive part of the process but insisted staff was compelled to follow the law and did so. Staff worked closely with both teams to make certain that all information released was done so in accordance to the public records law.

Deputy City Manager Ferguson confirmed that the public record request was not from one of the two finalists; he continued that once staff was compelled to release the information publically, staff had a tightly prescribed window with which staff allowed them after the interview process, to submit changes their proposals in two very specific areas. Staff felt that was in Council's best interest. Both proposals were excellent and at the time staff decided to reopen the process, it was with absolutely no preferences that had been discussed or considered in the process. Staff felt it had the opportunity while the competition phase of the process was still open, while staff had not come to Council with any analysis or proposal to give each finalist a chance to improve their proposals. Both the finalists chose to do so. One of the firms chose to do so after the deadline but the proposal was still accepted and analyzed. Speaking for the staff team, the primary reason why staff did not recommend substantive changes was because staff has presented Council with significant analysis of both proposals based on the work Council asked staff to do and Council has had a significant public discussion based on what was liked/not about the analysis. This information now in the public realm, was clearly to the advantage of someone who would have not had previously had access to this information. As the City Manager described it, it's the answer key, it's where we end up at the end of a competitive process where staff made a recommendation to Council, which staff has done. It does not mean that Council has to agree with staff's recommendation but it is very valuable information to know that weeks of analysis conducted on both proposals was now available in public. Staff felt it was fair for both teams to see that analysis and come to Council to say they disagreed with staff about certain parts of the analysis. But it was unfair to come back and say, staff didn't like this so we'll change it. Staff believed the competition part of the process had closed.

Deputy City Manager Ferguson stated he made the recommendation without any particular desire reflective of the outcome of the process being that both proposals were strong. Staff does run multiple competitive processes in a year. Rules were only changed when staff was compelled to do so. Explained that there would be many more competitive processes, but perhaps not at the large scale as this one and referenced 103 South Driver. The public scrutinized how staff handled processes. When staff recommended a process step to Council, it was to defend the credibility of decisions moving forward. He added that he regretted giving any impression that staff did not intend to follow the will of Council. Staff allocated significant time and effort to understand the will of the Council and it was clear according to Council Member Middleton that staff failed to do so. He stated publically that it was not an intentional effort on the part of staff to subvert the will of Council. Conversations with the Manager and Mayor were had to interpret what had happened with Council and these discussions informed

the email that had been written. In the email, it was not the intention of staff to rewrite the will of the Council, and he sincerely regretted this occurring and apologized.

City Manager Bonfield appreciated Deputy City Manager's remarks; and had expected to receive and evaluate the information floating around, after the Monday night Council Meeting, there were conversations that gave the impression the developers were going to be allowed to submit complete new proposals. He expressed his concerns about this because he did not think that this was the idea and recommended the email communication be sent to the two developers on Tuesday, following the Monday night Council meeting. If there was disagreement with the email, then discussion could be had at the subsequent Work Session.

Mayor Schewel invited public comment.

Nicole Thompson, President/CEO of Downtown Durham Incorporated, her board was interested in the development of this parcel and have watched with great interest in the proposals; both were strong proposals. Expressed concern about the process, other developers were watching and were concerned how they would work with the city and move forward; and supported issuing a stop dead date, define substantive changes, move forward with that and allow all communication to be conducted with staff for vetting and presenting to Council at the November 4th Council Meeting. She urged clarity in the RFP process for this project and future ones.

Council Member Middleton appreciated Deputy City Manager's apology and stated that everything said today at the Work Session should have been stated at the preceding Council Meeting when the term *substantive changes* had been raised.

Mayor Schewel made remarks by stated that the normal RFP process had been undercut by the way the Council had been approached by the developers who had a chance to see each other's proposals; indicated that it was not the developers' faults that this was the case due to the Freedom of Information Request from the Coalition for Affordable Housing and Transit who wanted to look at the affordable housing numbers in both proposals; appreciated hearing from his colleagues about the motion; suggested that over the next eight days (date set of October 18th), that the Council would accept any substantive changes and that those changes are recommended, and that Council would ask staff to evaluate the changes during that period of time and added that any substantive changes that were major changes, the kinds of changes that were, for example, substituted commercial for residential, I'm going to count that very heavily against anybody who makes those kinds of proposals. Anyone who comes in with substantive changes that was reasonable within the period of time of October 18th and November 4th, for us to have the opportunity for staff to vet them, to get staff memo together and inform Council, then those changes would be considered reasonable and something to consider. His proposal would be to bring in any substantive change and that the entire Council would consider what that means. It was the intent of his motion that these be things that staff had the time and opportunity to vet. He said the main substantive point that he was making was around the diversity of team and capital stack and welcomed comments.

Council Member Freeman was concerned about the way in which open meeting and the process had worked that made staff look un-credible and had supported conducting the public hearing at the regular Council Meeting on Monday night. It was concerning to move the date and to give the illusion to submit anything they would like, this undercut the RFP process. When staff made a recommendation, how Council moved forward undermining or supporting staff, in this case, staff made a substantive supportive very open like you've given enough time and effort for Akridge to make changes. Allowing two more weeks just perpetuates the problem.

Council Member Reece asked for clarification by Council Member Freeman as a path forward by asking should the Council instead adopt the posture that the administration adopted in its Tuesday afternoon email to the developers.

Council Member Freeman responded affirmatively.

Council Member Caballero summarized that Council had two proposals.

Mayor Schewel confirmed this fact that there were two proposals.

Council Member Middleton supported the Mayor's proposal and had prepared to debate both proposals. He stated the Tuesday email did not capture the understanding from Council on Monday night.

Council Member Reece appreciated the Mayor's proposal and shared Council Member Freeman's concerns raised in respect to the process; it was not a recipe for success to allow both parties to make the kind of changes that the Mayor's path forward would allow. If this was allowed it may happen that staff may come back to Council stating that there was not enough time to vet the developer's revisions by November 4th.

Council Member Reece continued that after reading the staff email from Tuesday, it made a lot of sense as a path forward and should have listened to the exchange between the Mayor and Council Member Middleton; the email from staff was a better recipe for success.

Mayor Schewel appreciate his colleagues' remarks with a caveat; it was clear from listening to Mayor Pro Tempore and Council Member Middleton that the intention expressed on Monday night was the intention to allow substantive changes and concurred that this should be the overriding consideration regardless of the burden it imposed on staff. If Council chose to give staff more time, that was an option. He stated that he did not believe that this imperiled future RFPs.

Council Member Freeman recognized that the process undermined future RFPs going forward; and that it was a clear slap in the face of developers to show one project to another developer, due to the public record request; expressed concerns about how Akridge has positioned themselves within the process, working to undermine the process at the expense of the City.

Mayor Pro Tempore Johnson stated that she did not have a solution aside from the two proposals on the table and requested that in future RFPs there be a stipulation that prevented developers from giving information directly to Council members and required information to go to staff directly. She said that Council has said two different things to the developers, the RFP had a deadline and then now give us more information and it was up to Council to figure out which process was less damaging.

Mayor Schewel concurred and stated it was up to Council to not meet with people associated with RFPs.

Council Member Middleton encouraged staff to do better moving forward.

Council Member Caballero supported the Mayor's proposal and adding a stipulation to RFPs that Council not communicate with developers involved with RFP processes.

Mayor Pro Tempore Johnson supported the Mayor's proposal; admitted it was a mistake to take a meeting with one of the developers and encouraged stricter standards on pending RFPs. Preferred to make a decision on the proposals already vetted by staff but since Council has agreed to allow for additional information, she was supportive of the process moving forward.

Mayor Schewel restated the motion to ask the administration to send another letter to the developers and say the Council discussed this in the Work Session and decided the intent of the Council's decision on Monday night as expressed to the public, was to allow any substantive changes. Therefore, Council will allow any substantive changes, they must be same dates, close of business on October 18th. It is the understanding of the Council that these substantive changes be ones that can be vetted by staff, presented to Council in a staff memo and ready for the November 4th meeting. Any substantive changes moving forward would have to meet this requirement.

It was by the majority affirmation of the Council that Council proceed as proposed by the Mayor.

Council Member Freeman asked about the stipulations laid out at the beginning of the process in May or so, did something change.

City Manager Bonfield asked for clarification of Council Member Freeman's question and stated the RFP discouraged Council Members from meeting with developers and to add a stipulation designed to prevent Council Members from meeting with developers during the RFP process would take a vote of Council.

Council Member Reece stated that after the recommendation was shared by staff with the Council, Council members could then meet with developers.

Council Member Middleton stated for the record, "I oppose, I trust me, I don't want to codify circumscribing who I can and can't meet with I think, you know, elections have consequences which we should be able to judge govern ourselves accordingly. And also, with all this happening, I don't see any causal link between anything I've done in causing this. When I came Monday night I was prepared to debate the merits of each proposal and vote that night. I don't see any causal linkage between meeting with developers and us extending this date, as far as I'm concerned. I do not support anything that would circumscribe us as grown folk on this Council deciding who we can and can't meet with."

City Clerk Schreiber stated that Council had decided to re-advertise the Environmental Affairs Board vacancy to seek more diversity in the applicant pool; and nominated Bronwyn Charlton and Brandt W. Smith to the Durham City-County Appearance Commission.

Settling the Agenda – October 21, 2019 City Council Meeting

City Manager Bonfield announced the agenda for the October 21, 2019 City Council Meeting for the following items: Consent Agenda items 1 and 2, 4 through 19; and General Business Agenda - Public Hearing Items 22-24.

MOTION by Council Member Middleton, seconded by Council Member Caballero, to settle the Agenda. Motion passed unanimously.

Council Member Freeman departed the meeting at 3:55 p.m.

Enter Closed Session – 3:55 p.m

MOTION by Council Member Middleton, seconded by Council Member Caballero, to enter closed session. Motion approved unanimously.

Returned to Open Session – 4:24 p.m.

MOTION by Council Member Reece, seconded by Mayor Pro Tempore Johnson to return to open session. Motion approved unanimously.

No action was taken in open session.

Being no further business to address, the Work Session was adjourned at 4:25 p.m.

Diana Schreiber, NCCMC, CMC
City Clerk