

**DURHAM CITY COUNCIL WORK SESSION**  
**Thursday, May 24, 2012 – 1:00 p.m.**  
**Committee Room – 2<sup>nd</sup> Floor – City Hall**

**Present: Mayor William V. “Bill” Bell, Mayor Pro Tempore Cora Cole-McFadden and Council Members Eugene Brown, Steve Schewel and Mike Woodard. Excused Absence: Council Member Diane Catotti. Absent: Council Member Howard Clement III.**

**Also present: City Manager Thomas Bonfield, City Attorney Patrick Baker and City Clerk D. Ann Gray.**

The meeting was called to order by Mayor Bell.

**Subject: Excuse Council Member Catotti**

**Motion** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to excuse Council Member Catotti from the May 24<sup>th</sup> work session meeting.

The motion was approved by a vote of 5/0.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk.

City Manager Bonfield referenced the following:

- Agenda Item #21 – Durham Workforce Development Board Annual Report Presentation at 1:15 p.m.
- Agenda Item #26 – Public Hearing on Modifications to Housing Code Ordinance and Removal of Trash and Undergrowth from Property Ordinance (presentation will be provided)

The city manager’s items were accepted by the council.

There were no priority items from the City Attorney and City Clerk.

After Mayor Bell read each item on the printed agenda, the following items were pulled for comments/discussion and/or council action.

**Subject: Acceptance of Zhuzhou, Hunan Province, China As A Sister City**

To accept Zhuzhou, Hunan Province, China as a Sister City to the City of Durham.

The New Cities Committee of Sister Cities of Durham, Inc. is asking the Durham City Council to approve the application of the City of Zhuzhou, Hunan Province, China to be a Sister City with Durham, North Carolina. The New Cities Committee and Board of Sister Cities of Durham, Inc.

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has unanimously approved the proposal for Zhuzhou, Hunan Province, China to become a new Sister City for the City of Durham.

Zhuzhou City has an urban population of approximately 1.5 million and a population of approximately 2 million spread across its five rural counties. It is located in south central China as one of the “Triangle Cities” of Hunan Province. It is a high-tech city with over 100 technological inventions in China. There are several top ranked universities and vocational colleges within one hour drive of Zhuzhou, including Xiangya School of Medicine which is one of the top medical schools in China originally established by American missionaries from Yale University.

Council Member Woodard thanked Sister Cities of Durham for their work on establishing a sister city in China.

Mayor Bell made comments on his recent trip to Zhuzhou, Hunan Province, China and provided handouts to the council regarding the new sister city.

Also, several members of the Sister City Committee in attendance were recognized by Council.

**Subject: Harriet Whitehead**

To receive comments from Harriet Whitehead regarding an appeal by the Occupy Durham Committee to End Corporate Personhood.

Harriet Whitehead asked the council to endorse the Resolution to support an amendment to the U. S. Constitution to End Corporate Personhood to Reverse the “Citizens United” Supreme Court Decision, and to Restore Fair Elections to the People.”

Council took action on this request later in the meeting.

**Subject: Ralph McKinney**

To receive comments from Ralph McKinney regarding citizens’ safety.

Ralph McKinney addressed the council regarding citizens’ safety and their rights.

**Subject: John “Giovanni” Tarantino**

To receive comments from John “Giovanni” Tarantino regarding a birthday tribute.

John Tarantino provided a song selection acknowledging the City Manager’s birthday.

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**Subject: Oliver Leary**

To receive comments from Oliver Leary regarding “Oliver Leary vs. the City of Durham and Nicholas M. Cloninger.”

Oliver Leary made comments and provided a written statement pertaining to Oliver Leary vs. The City of Durham and Nicholas M. Cloninger (11 CDV 0053301). His request dealt with subpoenas that were issued by him requesting certain city staff to appear in court to respond to an answer questions pertaining to emails that were sent to him. Mr. Leary noted elected citizens are elected to promote the interest of the citizenry. He noted our system of government is designed to petition and confront the elected officials when justice and equal protection of citizens are being abridged by city employees hired to “serve and protect”, the police.

Mr. Leary thanked the council for allowing him to speak.

**Subject: Contract SR-54 with Bushhog America for Utility Easement Maintenance, Mowing and Hand Cutting**

To authorize the City Manager to execute the SR-54 Utility Easement Maintenance, Mowing and Hand Cutting contract with Bushhog America, Inc; and

To negotiate, approve and execute change orders to the contract, so long as the total contract cost does not exceed \$1,739,620.00.

The Department of Water Management received bids for mowing, maintenance and hand cutting services in existing water and sewer easements. The firm Bushhog America, Inc. was selected based on their qualifications and responsiveness at a bid price of \$1,739,620 over the three-year contract.

The following is a summary of bids received on March 20, 2012:

- TruGreen LandCare, LLC      \$1,539,300.25
- Bushhog America, Inc.      \$1,739,620.00 (lowest responsive bidder)

Water Management Director Don Greeley noted TruGreen Landcare was deemed non-responsive for failing to provide the required amount of past experience with similar-type projects requested by the bid documents. It was noted that the department’s bid process required that bidders submit in their bids experience on at least three projects similar in scope and cost to the project proposed. City staff calls to TruGreen references confirmed past projects were dissimilar to the intended work.

Mayor Bell asked between the two bids what was the difference in the contract price.

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Water Management Director Don Greeley said \$200,000 over three years.

Mayor Pro Tempore Cole-McFadden asked what was the pre-bid estimate for this contract.

Water Management Director Don Greeley replied \$1.8 million.

Justin Martin, representing TruGreen LandCare, said an addendum was issued to the original bid highlighting reference specifications and said he guessed what they interpreted in the addendum was incorrect. He noted the four references they submitted and work that was done as follows: 1) Raleigh-Durham Airport which they maintained for 10 years and included over 30 million square feet of bush-hogging; annual hand clearing and cutting/lawn maintenance; etc; and said RDU's annual spend was over one million dollars; 2) the Governor's Club and the work exceeded over \$400,000 per year; contract was comprised of private hand cutting and bush-hogging as well as landscape maintenance; 3) Briar Creek HOA primarily landscape maintenance and bush-hogging; and annual spend exceeded \$400,000; and 4) Carolina Preserve a Del Webb Community an annual spend exceeded \$750,000; and during the development stage extensive bush-hogging on lots.

Mr. Martin also commented on TruGreen Land Care's background and noted their specialty is commercial landscaped management/municipal landscape management; easement management; and said throughout the country they do maintain numerous public utility easements; roadside easements; and highway easements. He stated they did not include those in their references and they must have interpreted the requirements incorrectly. He said they felt it was best to provide four large local references that they felt exceeded the scope which was asked for. Mr. Martin also commented on their performance bond and their estimate for manpower needed to get the job done. Mr. Martin stated they wanted to come today and give the council more information about their company and felt they had the expertise to handle the job.

Dominic Desiderio, Branch Manager of TruGreen Land Care, (Raleigh-Durham Area) – referenced the job performance bond and receiving approval from their leadership team. He noted their company has the capability to perform the work that is being requested.

At the request of the City Manager, Water Management Director Don Greeley commented on the steps which staff took to conclude that TruGreen was not a qualified bidder other than the four reference checks.

The City Council asked the administration to view the additional references and work provided by Mr. Martin regarding his company.

Council Member Brown raised a question regarding the performance bond for Bushhog and TruGreen.

Water Management Director Don Greeley replied the performance bonds are the same and meet the city's requirements.

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**Subject: Durham Workforce Development Board Annual Report Presentation**

To receive a presentation on the 2011-12 Annual Report from the Durham Workforce Development Board.

A power point presentation was provided as stipulated under the Durham Workforce Development inter-local agreement. The report primarily was presented in the format of video, and was accompanied by key highlights, statistics, plans and challenges facing workforce development efforts in Durham over the past year. Also, the 2012-2014 Durham Workforce Development Board Strategic Plan was shared with the council.

Discussion was held by council on age of youth participants; JobLink locations and process they use; ex-offenders employed with city; criminal justice resource center; and the milestone culinary program as it relates to job placements.

**Subject: Ordinance to Change Water and Sewer Engineering Connection Fees**

To adopt an Ordinance to Change Water and Sewer Engineering Connection Fees in order to amend the City's fee schedule by modifying Park 15-118, to incorporate different fees for initial and annual testing of backflow devices required by the Cross-Connection Control Ordinance and by modifying Park 13B-109, to update fees for certain services to better recover actual costs.

The Department of Water Management proposes increasing the water and sewer engineering connection fees and adopting an additional plan review for backflow prevention devices. The proposed plan review fee for backflow prevention devices will help cover some of the costs of implementing the City's Cross-Connection Control program which protects the City's potable water from contamination through back siphonage or other potential hazards. The proposed increases for connection fees are necessary to cover the increasing costs of materials and labor used to provide new water and sewer service to customers.

Council Member Woodard raised a concern regarding some of the fees having significant increases.

Water Management Director Don Greeley responded noting the increase also contributes to installing new automatic read meters.

**Subject: Third Quarter Financial Report**

To receive a presentation on the Third Quarter Financial Report.

The administration presented the Third Quarter Financial Report for FY 2011-12. This report is based on nine months of financial information.

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Finance Director David Boyd presented a power point presentation and summarized activity in the following key areas:

- General and Debt Services Fund Budget-to-Actual Summary and Year End Projections by Department
- Property Taxes
- Sales Taxes
- Utility Franchise Taxes
- Other Revenues
- Water and Sewer Operating Fund
- Water and Sewer Capital Facility Fee Fund
- Storm Water Management Fund
- Parking Facilities Fund
- Solid Waste Disposal Fund
- Ballpark Fund
- Transit Operations Fund
- Performing Arts Center
- DPAC Repair and Maintenance Fund

**Subject: Modification to Housing Code Ordinance and Removal of Trash and Undergrowth from Property Ordinance**

To conduct a public hearing to receive public comments on the Proposed Modifications to the Housing Code Ordinance and Removal of Trash and Undergrowth from Property Ordinance;

To adopt an Ordinance Amending the Minimum Housing Code; and

To adopt an Ordinance Amending Chapter 26, Article VI of the Durham City Code Captioned Removal of Trash and Undergrowth from Property.

The Neighborhood Improvement Services Department through its Code Enforcement Division is responsible for the enforcement of the City's Minimum Housing Code and related ordinances. The code and the related ordinances set and govern minimum standards for structures and physical environment as well as promote safety and livability.

The department proposes modifications to the Minimum Housing Code to support and strengthen the ordinance and the enforcement thereof. A key part of the department's review strategy in the revision was to engage citizens and city employees. The department established an Ad Hoc Revision team, an interdepartmental team and received input from neighborhood groups. The department was charged with modifying the code to meet new changes in State Codes, new State Statutes and making the code user friendly.

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Rick Hester, of Neighborhood Improvement Services, presented a power point presentation summarizing the proposed modifications to the Minimum Housing Code and the ordinance pertaining to Removal of Trash and Undergrowth from Property.

Council Members raised questions on various modifications being proposed which staff answered.

The City Council will hold a public hearing on the proposed modifications at its June 4, 2012 City Council Meeting.

**Subject: Resolution of the Durham City Council to Support an Amendment to the U. S. Constitution to End Corporate Personhood, to Reverse the “Citizens United” Supreme Court Decision, and to Restore Fair Elections to the People**

**Motion** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to suspend the rules of the City Council and take action on the above mentioned subject was approved at 3:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Schewel and Woodard. Excused Absence: Council Member Catotti. Absent: Council Member Howard Clement.

**Motion** by Council Member Woodard seconded by Council Member Schewel to adopt a Resolution of the Durham City Council to Support an Amendment to the U. S. Constitution to End Corporate Personhood, to Reverse the “Citizens United” Supreme Court Decision, and to Restore Fair Elections to the People was approved at 3:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Schewel and Woodard. Excused Absence: Council Member Catotti. Absent: Council Member Howard Clement.

**Resolution #9817**

At this time, City Clerk Gray announced the ballot results for the following boards/committees:

Environmental Affairs Board; Durham Open Space & Trails Commission; Durham Planning Commission; Durham Board of Adjustment; Durham Cultural Advisory Board; and Human Relations Commission.

**Settling Agenda – June 4, 2012 City Council Meeting**

City Manager Bonfield announced the following items for the June 4, 2012 Meeting: Consent Agenda Items 1-18 & 20 through 22 and General Business Agenda/Public Hearings Items 23 through 29.

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**Motion** by Council Member Woodard seconded by Council Member Mayor Pro Tempore Cole-McFadden to settle the agenda for the June 4, 2012 City Council Meeting as stated by the City Manager was approved at 3:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Schewel and Woodard. Noes: None. Excused Absence: Council Member Catotti. Absent: Council Member Howard Clement III.

**Closed Session – 3:26 p.m.**

**Motion** by Council Member Woodard seconded by Council Member Schewel to hold a closed session to discuss matters relating to the location or expansion of industries or other businesses in the City of Durham, pursuant to G. S. 143-318.11(a)(4).

The motion was approved by a vote of 5/0 at 3:26. p.m.

**Open Session – 4:28 p.m.**

**Motion** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to return to open session.

The motion was approved by a vote of 5/0 at 4:28 p.m.

No action was taken in open session.

There being no further business to come before the Council, the meeting was adjourned at 4:28 p.m.

D. Ann Gray, MMC  
City Clerk