

**DURHAM, NORTH CAROLINA  
MONDAY, JUNE 20, 2011  
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Thomas J. Bonfield, City Attorney Patrick Baker, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the pledge of allegiance led by Council Member Clement.

Mayor Bell commented on his attendance at the opening of the American Dance Festival. At that time, he presented Charles Reinhart with a key to the city and proclaimed June 9, 2001 as Charles Reinhart Day. To make that official, the mayor presented Mr. Reinhart tonight with that proclamation.

Council Member Woodard read a proclamation recognizing the contributions of Charles Reinhart.

Charles Reinhart thanked everyone for their support.

Council Member Clement thanked the Durham Housing Authority and everyone involved with the successful housing conference held on June 15th.

Council Member Clement requested an update on the ban the box matter—background investigation policy.

City Manager Bonfield stated an update will be provided to Council before the July 21, 2011 Work Session resumes.

Mayor Bell reported he did have a conversation with Mayor Nutter of Philadelphia and would share that information at the appropriate time.

Mayor Bell asked for priority items by the City Manager, City Attorney and City Clerk. City Manager Bonfield asked that General Business Agenda Item #49 be discussed prior to Agenda Item #38 and stated Agenda Item #50 [Street Repairs and Repaving Contract Amendment #1] was added as a Supplemental Item.

**MOTION** by Council Member Clement seconded by Council Member Brown to accept the City

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Manager's priority items was approved at 7:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

There were no priority items by the City Attorney.

City Clerk Gray provided Council with ballots for appointments to the Durham Cultural Advisory Board and Homeless Services Advisory Committee.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Items 14, 15, 23 and 30 were pulled from the Consent Agenda.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve the Consent Agenda as amended was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve City Council minutes for the May 5, 2011 City Council Work Session, May 16, 2011 City Council Meeting and May 19, 2011 City Council Work Session was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM CONVENTION CENTER AUTHORITY - REAPPOINTMENT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to reappoint Rosemarie Atkin Kitchin to the Durham Convention Center Authority with the term to expire on July 31, 2014 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DURHAM CULTURAL ADVISORY BOARD - REAPPOINTMENTS**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to reappoint Anne Micheaux Akwari, Matthew Coppedge, Laura Treat Harvey and Marc S. Lee to the Durham Cultural Advisory Board with the terms to expire on June 30, 2013 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: WORKFORCE DEVELOPMENT BOARD - REAPPOINTMENT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to reappoint Steven L. Williams to the Workforce Development Board to represent Private Sector as recommended by the Durham Chamber of Commerce with the term to expire on June 30, 2013 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: STREET ACCEPTANCES – HOLMAN HOMES SUBDIVISION**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to accept the streets as listed for maintenance by the City of Durham was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Holman Homes Subdivision

- 1) Blacknall Street – from the centerline of Morning Glory Avenue north to the centerline of Taylor Street (807’), and
- 2) Eastway Avenue – from the centerline of Morning Glory Avenue north to the centerline of Taylor Street (825’), and
- 3) Plum Street – from the centerline of Blacknall Street east then south to the centerline of Morning Glory Avenue (968’), and
- 4) Franklin Street – from the centerline of Holman Street east to the centerline of Blacknall Street (296’), and
- 5) McNeil Lane – from the centerline of Blacknall Street east through the cul-de-sac (559’).

**SUBJECT: GRANT PROJECT ORDINANCE AMENDMENT FOR COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME FY10 ACTUAL PROGRAM INCOME**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to accept the U.S. Department of Housing and Urban Development Community Development Block Group (CDBG) FY 2009-2010 Grant by executing the grant documents;

To adopt the U.S. Department of Housing and Urban Development Community Development Block Group (CDBG) FY 2009-2010 Grant Project Ordinance Superseding Ordinance #13860;

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To authorize the City Manager to accept the U.S. Department of Housing and Urban Development HOME Consortium Program FY 2009-2010 Grant by executing the grant documents; and

To adopt the U.S. Department of Housing and Urban Development HOME Consortium Program FY 2009-2010 Grant Project Ordinance Superseding Ordinance #13790 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #s 14133 and 14134**

**SUBJECT: CONTRACT AMENDMENT WITH GENERAL MANAGEMENT SOLUTIONS, INC. TO PROVIDE WORKFORCE INVESTMENT ACT ON-THE-JOB TRAINING SERVICES FOR ADULTS AND LAID-OFF WORKERS**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute the amendment to the WIA contract with General Management Solutions Inc. by increasing the amount of the existing contract by \$90,000.00 for a total contract amount not to exceed \$915,000.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT WITH COMMUNITY PARTNERSHIPS, INC. TO PROVIDE WORKFORCE INVESTMENT ACT YOUTH FRAMEWORK SERVICES FROM JULY 1, 2010 – JUNE 30, 2012**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract amendment with CPI to extend uninterrupted youth framework services from July 1, 2011 through June 30, 2012 and increase the amount of the contract by \$300,000.00 for a total contract amount not to exceed \$525,000.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT WITH ACHIEVEMENT ACADEMY OF DURHAM TO PROVIDE WORKFORCE INVESTMENT ACT YOUTH PROGRAM ELEMENTS SERVICES FROM JULY 1, 2010 – JUNE 30, 2012**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract amendment with Achievement Academy of Durham to provide extended uninterrupted youth program elements services from July 1, 2011

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through June 30, 2012 and increase the amount of the contract by \$69,045.00 for a total contract amount not to exceed \$138,089.52 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: ELEVATOR MAINTENANCE SERVICES CONTRACT - SOUTHERN ELEVATOR COMPANY, INC.**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a contract with Southern Elevator Company, Inc. to inspect, maintain and repair and/or service City elevators for two years in an amount not to exceed \$92,730.66;

To establish a project contingency in the amount of \$9,273.06;

To authorize the City Manager to negotiate and execute change orders on the contract provided the total cost does not exceed the amount budgeted for elevator services plus the project contingency; and

To authorize the City Manager to execute contract extensions for an additional two years of service after the initial two year term of the contract at \$47,255.16 per year provided all contract requirements have been met prior to allowing an extension was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: RADIO OPERATIONS BUILDING - IBI GROUP OF NORTH CAROLINA, PC PROFESSIONAL SERVICES CONTRACT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute the IBI Group of North Carolina, PC Professional Services Contract in an amount not to exceed \$147,305.00;

To establish a design contingency in the amount of \$15,000.00; and

To authorize the City Manager to negotiate and execute change orders to the IBI Group of North Carolina, PC Professional Services Contract, provided the total cost does not exceed \$162,305.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: PROFESSIONAL SERVICES AGREEMENT FOR THE DURHAM PARKS AND RECREATION OPERATIONS FACILITY - RATIO ARCHITECTS, INC.**

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a professional services agreement with Ratio Architects, Inc. for the Durham Parks and Recreation Operations Facility in amount not to exceed \$159,100.00;

To establish a design contingency in the amount of \$16,000.00; and

To authorize the City Manager to negotiate and execute amendments to Ratio Architects, Inc. Professional Services Contract provided the total cost does not exceed \$175,100.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: INTERLOCAL AGREEMENT FOR JOINT USE OF RECREATION FACILITIES - DURHAM PUBLIC SCHOOLS**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute a Interlocal Agreement between the City of Durham and the Durham Public Schools on the Joint Use of Facilities was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: LICENSE AGREEMENT WITH HRH OF NC, LLC FOR PRIVATE FIBER OPTIC CABLE WITHIN PUBLIC RIGHT-OF-WAY**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to enter into a license agreement with HRH of NC, LLC., for private fiber optic cable within University Drive right-of-way was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT NO. 1 – WS-81, 2010 WATER AND SEWER IMPROVEMENTS – PARK CONSTRUCTION OF NORTH CAROLINA, INC.**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute contract Amendment No. 1 for WS-81, 2010 Water and Sewer Improvements in the amount of \$1,032,250.00 increasing the total contract to \$3,392,661.51 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: DATA BACKUP AND RECOVERY SOLUTIONS - ACUMEN I.T., LLC**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to execute an agreement with Acumen I.T., LLC, to provide a comprehensive data backup and recovery solution in an amount not to exceed \$1,164,556.00 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: GRANT RESOLUTION AND CAPITAL PROJECT ORDINANCE FOR TWO SIDEWALK PROJECTS (BARBEE ROAD AND DATA ADMINISTRATION BUILDING) - NORTH CAROLINA DEPARTMENT OF TRANSPORTATION (NCDOT)**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt a Grant Resolution Authorizing the City Manager to execute a grant agreement with North Carolina Department of Transportation (NCDOT), in the amount of \$31,520.00 for two sidewalk projects; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal Year 2010-11, as amended, the same being Ordinance #14025, for the purpose of appropriating federal funds was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9775**  
**Ordinance #14135**

**SUBJECT: DECISION PROCESS FOR DURHAM TRANSIT SERVICE CHANGES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve the Durham Transit Service Change Approval Process was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: DATA BUS REPOWER GRANT (FEDERAL TRANSIT ADMINISTRATION EARMARK)**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to receive the Federal Transit Administration 5309 earmark grant allocation to the City in the amount of \$740,769.00; and

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To adopt the Grant Project Ordinance to repower 16 DATA buses was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14136**

**SUBJECT: ORDINANCE AMENDING CHAPTER 70, ARTICLE VII, CROSS CONNECTION CONTROL, OF THE CODE OF ORDINANCES OF THE CITY OF DURHAM**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Amending Chapter 70 Article VII, Cross Connection Control, of the Code of Ordinances of the City of Durham, to meet State requirements was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14137**

**SUBJECT: HOMELESS SERVICES ADVISORY COMMITTEE - APPOINTMENTS**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to appoint the following citizens to the newly established Homeless Services Advisory Committee was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Rev. Warren L. Herndon representing "Faith Community" - term expires June 30, 2013  
Stephen Hopkins representing "Former Homeless Person" - term expires June 30, 2013  
Rev. Chris Tuttle representing "Non-profit Organization" - term expires June 30, 2012

**SUBJECT: CONVENTION CENTER PHASE II PROJECT: INCREASED PROJECT CONTINGENCY (CHANGE ORDER TO AMENDMENT NO. 2-K TO THE SKANSKA USA BUILDING (CMAR) CONTRACT)**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to increase the project contingency on the Amendment 2-K to the CMAR contract with Skanska USA Building in the amount of \$150,000.00; and

To authorize the City Manager to negotiate and execute change orders on the Amendment 2-K to the CMAR contract with Skanska, provided the total project cost does not exceed the amount budgeted for construction phase services plus the project contingency was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: PIGGYBACK PURCHASE – INDUCTIVELY COUPLED PLASMA MASS SPECTROPHOTOMETER, ICPMS – LABORATORY INSTRUMENT – PERKINELMER**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the City Manager to enter into a contract with PerkinElmer in the amount of \$143,596.59, to purchase the laboratory instrument, Inductively Coupled Plasma Mass Spectrometer, ICPMS was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

*The City Council disposed of the following agenda items at the June 9, 2011 Work Session:*

**9. HOME Agreements between the City of Durham and Metropolitan Housing and CDC, Inc.**

To authorize the expenditure of up to \$450,000.00 in HOME CHDO funds to support the development of nine affordable housing units at Franklin Village; and

To authorize the City Manager to execute a HOME Investment Partnership Agreement, the CHDO Agreement and the associated loan documents with Metropolitan Housing and CDC, Inc. in the amount of \$450,000.00 to support the Franklin Village Development.

*(This item was approved at the 06-09-11 Work Session with a vote of 5/0)*

**10. Modifications of Loan Terms and Loan Repayment Period, Durham Housing Authority-Edgemont Elms Apartments**

To authorize the City Manager to execute the Modification Agreement for the Durham Housing Authority to defer loan repayments until January 1, 2014, with a term of ten (10) years at 2% interest.

*(This item was approved at the 06-09-11 Work Session with a vote of 5/0)*

**11. HOME Investment Partnership Agreement and HOME CHDO Grant Agreement between the City of Durham and Builders of Hope, Inc. for the Rehabilitation of Twelve Properties in Southwest Central Durham**

To authorize the expenditure of up to \$180,000.00 in FY 09-10 HOME funds; and

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To authorize the City Manager to execute a HOME CHDO Grant Agreement and a HOME Investment Partnership Agreement and related documents with Builders of Hope, Inc. in the amount of \$180,000.00 to rehabilitate or replace twelve properties in Southwest Central Durham.

*(This item was approved at the 06-09-11 Work Session with a vote of 5/0)*

**12. HOME Investment Partnership Agreement and HOME CHDO Grant Agreement between the City of Durham and Builders of Hope, Inc. for the Acquisition and Renovation of Four Properties in Southside**

To authorize the expenditure of up to \$211,000.00 in FY 10-11 HOME funds; and

To authorize the City Manager to execute a HOME CHDO Grant Agreement, a HOME Investment Partnership Agreement and related documents with Builders of Hope, Inc. in the amount of \$211,000.00 for acquisition and renovation of affordable housing in Southside.

*(This item was approved at the 06-09-11 Work Session with a vote of 5/0)*

**13. HOME Agreements between the City of Durham and Housing for New Hope, Inc.**

To authorize the expenditure of up to \$211,250.00 in HOME funds to support the renovation of a ten unit apartment building at 1103 E. Oak Drive; and

To authorize the City Manager to execute a HOME Investment Partnership Agreement and the associated documents with Housing for New Hope, Inc. in the amount of \$211,250.00.

*(This item was approved at the 06-09-11 Work Session with a vote of 5/0)*

**32. FY 2011 Make IT Durham Campaign Presentation**

To receive a presentation from the Durham Chamber of Commerce on the FY 2011 Make IT Durham Campaign.

*(A presentation was received at the 06-09-11 Work Session)*

**40. Victoria Peterson**

To receive comments from Victoria Peterson regarding 751 South.

*(Comments were received at the 06-09-11 Work Session)*

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**41. Sandra Davis**

To receive comments from Sandra Davis regarding housing conditions at Lynn Haven Apartment Complex.

*(Comments were received at the 06-09-11 Work Session)*

**42. Stephen Hopkins**

To receive comments from Stephen Hopkins regarding the Ten-Year Plan to End Homelessness in Durham.

*(Comments were received at the 06-09-11 Work Session)*

**43. Stone Hill Estates, Homeowners Association**

To receive comments from Berma Norris regarding three storm water ponds located in Stone Hill Estates.

*(Citizen did not appear at the 06-09-11 Work Session)*

**44. Stone Hill Estates, Homeowners Association**

To receive comments from Denise Williams regarding street resurfacing.

*(Citizen did not appear at the 06-09-11 Work Session)*

**47. Amendment No. 1 – Contract for Professional Services for Drainage System Rerouting in the Vicinity of University Drive and Chapel Hill Boulevard**

To authorize the City Manager to execute Amendment No. 1 – Contract for Professional Services for Drainage System Rerouting in the Vicinity of University Drive and Chapel Hill Boulevard in the amount of \$146,575.00.

*(This item was approved at the 06-09-11 Work Session with a vote of 5/0)*

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: FISCAL YEAR 2010-11 OPERATING BUDGET AMENDMENT**

Jim Reingruber, of the Budget and Management Services Office, stated this is the final budget ordinance amendment for FY 2011 and its purpose is to properly align the ordinance with the City's General Ledger.

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt an Ordinance Amending the FY2010-11 City of Durham Budget Ordinance (Ordinance #14040); and

To repeal the FY 2010-11 Financial Plan for Durham Performing Arts Capital Reserve Fund (Resolution #9729) for the purpose of adding this fund to the FY 2010-11 City of Durham Budget Ordinance was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14138**

**SUBJECT: FISCAL YEAR 2011-12 BUDGET AND 2012-2017 CAPITAL IMPROVEMENT PLAN (CIP)**

Assistant Budget Director John Allore made comments on this item. He stated the public hearing for the budget was held on June 6, 2011 and the final budget will be posted June 21st.

To adopt the FY2011-12 City of Durham Budget Ordinance, Capital Improvement Plan Ordinances and Other Related Ordinances:

**a) Non-City Agency Contracts and Management Agreements**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute Non-City Agency contracts and Management Agreements as listed; and to make amendments to the Non-City Agency contracts that do not increase the contract amount was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**FY 12 NON-CITY AGENCY CONTRACT AND MANAGEMENT AGREEMENTS**

<b>Agencies</b>	<b>Proposed Funding</b>
The Peoples Channel//Durham Community Media	20,000
Carolina Theatre	603,179
Durham Arts Council	615,296
Lyon Park	181,000
St. Joseph's Historic Foundation	292,000
<b>Total</b>	<b>\$1,711,475</b>

**b) Capital Project Ordinances**

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**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham General Capital Improvements Projects Ordinance Fiscal Year 2011-12 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14139**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham Water and Wastewater Capital Improvements Project Ordinance Fiscal Year 2011-12 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14140**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham Stormwater Capital Improvements Project Ordinance Fiscal Year 2011-12 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14141**

**c) Grant Project Ordinances**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham Employment and Training FY2011-13 Grant Project Ordinance was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14142**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham and NC Department of Natural Resources Northeast Central Durham Livability Initiative FY2011-12 Grant Project Ordinance was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14143**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham Grant Project Ordinance Fiscal Year 2011-12 Transportation Planning Grant Project was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro

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Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard.  
Noes: None. Absent: None.

**Ordinance #14144**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham FY 2011-12 (FY 2012) 5303 Metropolitan Transit Planning Grant Project Ordinance was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard.  
Noes: None. Absent: None.

**Ordinance #14145**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham Grant Project Ordinance Fiscal Year 2011-12 Transit Planning and Capital Grant was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard.  
Noes: None. Absent: None.

**Ordinance #14146**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham Grant Project Ordinance Fiscal Year 2010-11 Transit Planning and Capital Grant Superseding Ordinance #14076 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14147**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham and U.S. Department of Justice Federal Asset Forfeiture Funds Grant Project Ordinance Fiscal Year 2011-12 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14148**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham and State of North Carolina Controlled Substance Abuse Funds Grant Project Ordinance Fiscal Year 2011-12 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14149**

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**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham and Federal Task Team Initiatives Fiscal Year 2011 Grant Project Ordinance was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14150**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham and U.S. Department of Justice Fiscal Year 2011 Bulletproof Vest Partnership Grant Project Ordinance was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14151**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the Executive Office of the President, Office of National Drug Control Policy, 2011 High Intensity Drug Trafficking Areas (HIDTA) Grant Project Ordinance was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14152**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham and the United States Marshals Service, 2012 Fugitive Apprehension Task Force Agreement Grant Project Ordinance was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14153**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham and U.S. Department of Justice Office of Justice Programs, Bureau of Justice Assistance Fiscal Year 2011 Local Solicitation Edward Byrne Memorial Justice Assistance Grant (JAG) Project Ordinance was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14154**

**d) Financial Plans for Internal Service Funds Resolution**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the resolution establishing Financial Plans for Internal Service Funds for Fiscal Year 2011-12 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore

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Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9776**

**e) Budget Ordinance**

**MOTION** by Council Member Woodard seconded by Mayor Pro Tempore Cole-McFadden to adopt the City of Durham Budget Ordinance for Fiscal Year 2011-12 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14155**

**[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]**

**SUBJECT: COMPREHENSIVE PLAN AMENDMENT – NC 54 OFFICE (A1100002) – HORVATH ASSOCIATES, PA – NORTH SIDE OF N.C. HIGHWAY 54, WEST OF FAYETTEVILLE ROAD NEAR ROLLINGWOOD DRIVE, EAST OF SOUTHPOINT DRIVE**

To conduct a public hearing to receive public comments on the NC 54 Office (A1100002) Plan Amendment; and

To adopt a Resolution to change the Land Use designation on the Future Land Use Map of the Durham Comprehensive Plan from Low Density Residential (4 DU/Ac. or Less) to Office.

Recommendations: The Staff recommends approval, based on the request being justified and meeting the four criteria for plan amendments. Planning Commission recommended approval, based on information provided in the staff report, the justification, and meeting the four criteria for plan amendments on a 13-0 vote on April 12, 2011.

City/County Planning Director Steve Medlin certified that proper notification has been carried out in accordance with the General Statutes and the Unified Development Ordinance provisions and affidavits are part of the case file. He briefed Council on the request by Horvath Associates to change the Future Land Use Map Designation from low density residential to Office on the north side of N. C. Highway 54 near Rollingwood Drive and east of Southpark Drive. He reported the request satisfies all four criteria for plan amendments and the Planning Commission recommended approval of this request on April 12, 2011.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt a Resolution to change the Land Use designation on the Future Land Use Map of the

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Durham Comprehensive Plan from Low Density Residential (4 DU/Ac. or Less) to Office was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Resolution #9777**

**SUBJECT: ZONING MAP CHANGE – NC 54 OFFICE (Z1100002) – TIM SIVERS,  
HORVATH ASSOCIATES - 326 NC 54 HIGHWAY**

To conduct a public hearing to receive public comments on the zoning map change for NC 54 Office (Z1100002);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1100002 out of Residential Suburban-20 (RS-20) and placing same in and establishing same as Office Institutional with a development plan (OI(D)); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, should the plan amendment be approved, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Determination: Staff determines that this request is consistent with the Comprehensive Plan, should the plan amendment be approved, and other adopted policies and ordinances.

Planning Commission Recommendation and Vote: Approval, 13 – 0 on April 12, 2011. The Planning Commission finds that the ordinance request is not consistent with the adopted Comprehensive Plan. However, should the plan amendment be approved, the request would be consistent with the Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

[The site is located at 326 NC 54 Highway, west of Rollingwood Drive and east of Southpark Drive. PIN: 0718-02-77-2025]

City/County Planning Director Steve Medlin certified that proper notification has been carried out in accordance with the General Statutes and the Unified Development Ordinance provisions and affidavits are part of the case file. He briefed Council on the zoning map change request that

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would change the zoning designation at 326 N.C. 54 Highway from residential suburban - 20 to office institution with a development plan. He summarized committed elements to include total square footage of the building at 15,500 square feet, graphic commitments--two building envelopes and one parking envelope; general location of a stormwater BMP and a stream buffer; text commitments include traffic generation limitations, transportation improvements, a ten-foot asphalt trail along the frontage of the site and design commitments. He stated the plan amendment just recently approved is consistent with the Comprehensive Plan, all other adopted policies and ordinances and the Planning Commission recommended approval of this request on April 12, 2011.

Mayor Bell opened the public hearing.

Ron Horvath, representing the applicant--Ticon, stated this zoning request from residential to O&I would scale down the buildings from two-story office to the west to one-story and there would be a hip roof design on the building. He referenced at the Planning Commission meeting in April a request was made to provide a bus stop shelter. Since their investigation of the area, the applicant would be committing to the following committed elements that were given to the Planning Department for review: 1) prior to the issuance of final building CO, the developer would construct a bus shelter for the existing bus stop at 5322 Highgate Drive conforming to DATA and TTA standards and specifications; and 2) the developer would commit to using all proposed plant materials that are native species to this area in North Carolina.

James Cheek stated he was not against development and progress, but there has been a water problem in the neighborhood from a previous development by Ticon--water drainage from the Highgate development across Highway 54. He referenced that he went to the City and was told to see the builder--Ticon and they indicated to him that was not their problem since they were across the street and had built a water basin to catch the water. He reported he spent \$13,000 out of his own pocket to redo his drainage and questioned what Ticon is proposing would not be enough to carry the water downstream and wanted guarantees that he would not experience the same problem and come out of his pocket for expenses.

Michele Mitchell, representing her parents home, had the following concerns/questions: the turning lane--would there be any addition to an existing lane or would it be elongated where it starts at the property; 2) would the City add a sidewalk; 3) expressed noise concerns; 4) would their property be vulnerable to water runoff and would the project complement the neighborhood with the traffic flow as well as foot traffic.

City/County Planning Director Steve Medlin responded to questions raised relative to stormwater runoff. He noted this is not a site plan, but a zoning request that does not have any functional designs for the stormwater system. For any site plan, the applicant would have to meet the current stormwater requirements which requires that the site be designed in such a way that any stormwater can be contained and released from the site so there is no additional impact on adjacent property owners--which does not mean that stormwater will not crossover the property line or that water will not cross properties. He noted stormwater system designs would come at a later phase, but referenced in the development plan to capture stormwater, the developer is proposing a stormwater pond to the rear of the two buildings.

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Relative to road improvements concerns--Mr. Medlin noted the applicant is looking for a full functional driveway access to this property subject to the appropriate warrants and approvals from NCDOT since this is a state road. The applicant is required to dedicate an additional 25 feet of right of way and make all necessary road improvements including potential widening for a turn lane coming into the site which would require additional pavement. Regarding the sidewalk issue, the applicant would be responsible for the installation of sidewalks in front of this site according to the ordinance. Regarding noise concerns, he pointed out the existing site is zoned RS-20 which does not have any buffering requirements, but as an O-I site, there is a requirement for some kind of opacity buffer which is reflected in the development plan.

Mayor Bell asked Mr. Cheek did he understand the proposed solution that the water issue would be addressed during the site plan phase.

James Cheek replied yes, but wanted guarantees if there is an issue the applicant would correct it and that it would not fall on him.

City/County Planning Director Steve Medlin briefed Council on the state law requirements under riparian law. Mr. Medlin noted if the site is not constructed according to the approved site plan or it fails, it is the responsibility of the property owner and the City has due recourse through enforcement measures to insure that the property is brought up to standard which is handled through the Public Works Department - Stormwater Division. He reported if property is damaged, then it becomes a civil action between the two property owners wherein he can apply for relief from the court system for damages.

Ron Horvath, representing the applicant, commented on the three meetings with the neighborhood. He noted Mr. Cheek brought his issue up at the first meeting and after his site visit to Highgate across the street--the system is functioning in the pre- and post-design of storm events. He felt that some major events and some additional development occurred that increased the runoff. He explained how the stormwater from this site would be discharged/released, referenced that the turn lane would be extended so that the driveway movement is far away from the residents, noted a ten-foot sidewalk would be installed as part of the American Tobacco Trail and 30-foot additional buffer plantings along the residential side to minimize the noise, but would not eliminate it. He stated he could not give a guarantee, because the best that they can do is what is designed and hopefully it is built properly and maintained properly. Mr. Horvath indicated that Ticon built part of the properties at Highgate--the section over the last 20 years.

Council Member Ali asked Mr. Cheek did Ticon provide any support or give him any relief.

James Cheek replied he did not receive any relief from Ticon.

Ron Horvath, representing the applicant, noted part of their research indicated that there were some major storm events that occurred which exceeded the design capacity. He stated the system was designed at that time for a 10-year or 25-year storm event and the developer was in compliance with what the City required. Mr. Horvath indicated that the design for the proposed system would be more than ten years and the developer would be looking at all things upstream

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and downstream for storm events to determine the impact.

Council Member Ali asked the developer would there have been any impact to Mr. Cheek's property if the system was designed for a 25-year storm.

Ron Horvath replied I think it would have based upon the storm events at that time.

Mayor Bell asked staff questions regarding the process relating to the site plan. He asked if the developer is required to put in all protections prior to construction of the building.

City/County Planning Director Steve Medlin explained typically stormwater improvements are done in two phases. At the time of initial construction, the developer would put in temporary sedimentation and erosion control measures that would serve as temporary stormwater measures while at the same time they would construct the infrastructure inclusive of all utility lines and stormwater facilities. He stated the ordinance requires that they have stormwater facilities constructed and inspected prior to the issuance of the CO before the building could be occupied.

Mayor Bell asked staff will Mr. Cheek have adequate protection before the actual construction of the facility begins.

Steve Medlin stated the applicant is required to put in basins and silk fence to direct any stormwater runoff to an appropriate point on site to make sure that it is being contained to the maximum extent possible.

Mayor Bell expressed concern that the property owner feels that somehow he would be endangered by this development.

City/County Planning Director Steve Medlin stated it is almost impossible to design storm water features and to install them prior to the actual construction of the site.

Ron Horvath, representing the applicant, stated the soil and erosion control a few years back under the UDO went from a 10-year storm design to 25 that is covering the vast majority of the storm events that occur and they would have to contain stormwater and treat it during construction so the measures are there and if they are asked to do it for a 50-year storm it is not a big difference--the vast majority is 2, 10 and 25-year storm. Also, he stated if the proposed project damages him [Mr. Cheek] they have to make him whole and make him happy, but it's got to be a real problem.

Mayor Bell asked the applicant what would be the difference if the design is for a 25- or 50-year storm event.

Ron Horvath indicated it would not add anything.

Mayor Bell asked the applicant if they would have a problem with a 50-year storm design vs. a 25 year storm design.

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Ron Horvath, replied for the pond to pass the 50 no, they would have to pass the 100-year storm. He stated he will keep Mr. Cheek and Ms. Mitchell advised as this project goes through the process to site plan.

James Cheek stated his harm is not their harm, commented that he had to come out of his pocket with some fixes and requested some assurances that he would not have to go through litigation because the plan did not work. He stated he needed some assurances and someone to step up to say they will take care of it, if it comes to that point and handle it in writing.

Ron Horvath, representing the applicant, commented on the work experience of Mr. McGhee. He stated if there is something that they are doing on this site as far as stormwater, damaging adjacent property--Ms. Mitchell [parents' property] or Mr. Cheek, they will get it resolved and corrected not at his expense.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Woodard seconded by Council Member Brown to receive public comments on the zoning map change for NC 54 Office (Z1100002);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1100002 out of Residential Suburban-20 (RS-20) and placing same in and establishing same as Office Institutional with a development plan (OI(D)); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, should the plan amendment be approved, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14156**

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT - COMMERCIAL INFILL DISTRICT (TC1000006)**

To conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Amendment – Commercial Infill District (TC1100006); and

To adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 1, General; Article 4, Zoning Districts; Article 5, Use Regulations; Article 6, District Intensity Standards; Article 9, Landscaping and Buffering; Article 10, Off-Street Parking and Loading; and article 16, Definitions.

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Recommendation: Approval.

Planning Commission Recommendation: Approval, 11-0 at the February 8, 2011 meeting.

Sara Young of the City/County Planning Department, briefed Council on the text amendment that would amend the Unified Development Ordinance to create a new commercial zoning district --commercial infill--to be applied in the urban and compact neighborhood tiers. She noted the request from the stakeholders of the West Chapel Hill Street area would address three zoning impediments for the redevelopment of that corridor--requirements for large setbacks, large buffers and large quantities of off-street parking. She noted staff has worked with the community through several public workshops to develop the proposed regulations, reported the proposed text amendment maintains uses similar to other commercial districts, but addresses the community's major concerns by reducing setback and buffer requirements; creating appropriate buffer alternatives; reducing amount of required parking and allowing the on-street parking credit to be used in the Urban Tier. She stated the Planning Commission recommended approval of this request on February 8, 2011 and this request will be discussed by the Durham County Board of Commissioners on June 27, 2011.

Mayor Bell opened the public hearing.

Robert Gillespie, representing the Southwest Central Durham Quality of Life Project's Economic Development Committee, gave a power point presentation highlighting the following: W. Chapel Hill Street: A Historic Commercial District, A community vision for West Chapel Hill Street, The Problem--high vacancy rate, several unmet community needs, businesses are underutilized by commuters, historic buildings are non-conforming; CG/CN Zoning Places Barriers to revitalization--high parking requirements, despite on-street and city-owned public parking; building setbacks and buffers are prohibitively large, conforming to CG or CN standards destroy the historic feel of the district, several pedestrian oriented commercial districts in the urban tier face these problems; a brief history of this proposal--1988 City sponsored revitalization plan, 2005 QOL begins work in SWCD, 2007 charrette process, 2008-2009 streetscape design meetings; fall 2008 QOL becomes aware of zoning issues, spring 2009 QOL approaches planning for help, fall 2009 City Manager initiates re-zoning study; CI Zoning is the product of community-wide involvement--May 2010 workshop had approximately 40 participants, two fall 2010 workshops presented the CI proposal to the public, QOL has done outreach to neighborhoods and business owners, CI zoning was approved unanimously by the Planning Commission; and CI zoning is supported by the surrounding neighborhoods.

Hilary Ensminger asked ADA Coordinator Stacey Poston to read her letter that addressed the issues of buffer and opacity. She requested that the text amendment be amended as recommended by the Planning Commission on February 8, 2001 to reflect a compromise or increase the opacity of the required landscape buffer to the level used in a Commercial Neighborhood District [CN] against a residential district.

Sara Young, of the City/County Planning Department, commented on the staff review requested by the Planning Commission and discussed the buffer alternatives included in the proposed text--solid opaque hedge and solid masonry wall. She gave an overview of the .2 opacity buffer.

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Hilary Ensminger raised concerns with homes in the area being next to parking lots/commercial development which could lead to illegal activity coming back to the neighborhood. She asked that opacity be increased to 40 percent.

Sara Young, of the City/County Planning Department, explained if the opacity goes back to 40 percent it would not reduce buffer opacity which is one of the requests made by the neighborhood.

Robert Gillespie stated the residents of Exum Street [800 and 900 block] have supported this rezoning.

Council Member Woodard stated it was critical to support a reasonable amount of commercial development in this stretch which is a vital link between downtown and other businesses on West Chapel Hill Street and Duke University. Also, he spoke in support of staff's recommendation which provides a compromise and a measure of protection to the residents.

Mayor Bell closed the public hearing.

Council Member Brown commented on the support from the residents and commercial businesses in favor of staff's recommendation.

**MOTION** by Council Member Brown seconded by Council Member Woodard to receive public comments on the Unified Development Ordinance (UDO) Text Amendment – Commercial Infill District (TC1100006); and

To adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 1, General; Article 4, Zoning Districts; Article 5, Use Regulations; Article 6, District Intensity Standards; Article 9, Landscaping and Buffering; Article 10, Off-Street Parking and Loading; and article 16, Definitions was approved at 8:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14157**

**SUBJECT: ZONING MAP CHANGE –WEST CHAPEL HILL STREET  
COMMERCIAL INFILL DISTRICT (Z1000011)**

To conduct a public hearing to receive public comments on the zoning map change proposal for West Chapel Hill Street Commercial Infill District (Z1000011);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1000011 out of Commercial General (CG) and Commercial Neighborhood (CN) and placing same in and establishing same as Commercial Infill (CI); and

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To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Determination: Staff determines that this request is consistent with the Comprehensive Plan and other adopted policies and ordinances, should the accompanying text amendment be approved.

Planning Commission Recommendation and Vote: Approval, 11 – 0 on February 8, 2011. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

[The site is located North and south of West Chapel Hill Street, west of South Buchanan Boulevard. PINs: 0821-06-47-1622, -1681, -2719, -3524, -3680, -3840, -4640, -4691, -4972 (partial), -5556, -5709, -5952 (partial), -6611, -6662, -6865, -7622, -7888, -8624, -8667, -8687, -8855, -9607, -9687, -9827, -9887, -07-57-0627, -0647, -0667, -0698, -0861, -0989]

City/County Planning Director Steve Medlin certified that proper notification has been carried out in accordance with the general statutes and the Unified Development Ordinance provisions and affidavits are part of the case file. He briefed Council on the zoning map change that would change the zoning designation of 6.38 acres to the new CI District. He gave a breakdown of 31 parcels to include 29 parcels zoned as commercial general, 2 as commercial neighborhood and the requested zoning designation is commercial infill. He stated the request is consistent with the Comprehensive Plan and the Planning Commission recommended approval of this request on February 8, 2011.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1000011 out of Commercial General (CG) and Commercial Neighborhood (CN) and placing same in and establishing same as Commercial Infill (CI); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in

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light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14158**

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE (UDO) TEXT AMENDMENT - SRP UTILITIES (TC1100005)**

To conduct a public hearing to receive public comments on the Unified Development Ordinance (UDO) Text Amendment - SRP Utilities (TC1100005); and

To adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 5, Use Regulations.

City/County Planning Director Steve Medlin verified that all notice requirements have been made in accordance with the General Statutes and Unified Development Ordinance requirements and affidavits are part of the case file. He briefed Council on the text amendment submitted by Duke Energy that would amend the UDO to delete the provision that prohibits major public utilities in the Science Research Park District except as accessory uses. He stated the Planning Commission and the Durham County Board of Commissioners recommended approval of this request.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 5, Use Regulations was approved at 8:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14159**

**SUBJECT: CARDINAL OAKS VOLUNTARY ANNEXATION PETITION**

To receive citizens' comments concerning the annexation of the Voluntary Annexation Area -- FY2011-01 Cardinal Oaks;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area [Cardinal Oaks] in accordance with N.C. General Statutes 160A-31-- effective from and after June 30, 2011; and

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To authorize the City Manager to enter into a half base contract with the Redwood Volunteer Fire Department.

Robin Bibby, of the Budget and Management Services Office, made comments on this item.

Mayor Bell opened the public hearing.

Adam Harris expressed a concern that the drawings sent to him illustrated the entrance to this property would be through his neighbor's yard. He stated if his neighbor's yard is annexed-- it adds considerable weight in deluding his ability to protest the zoning change. He asked for clarification on what area is being annexed and stated the proposed development would increase traffic flow.

Robin Bibby, of the Budget and Management Services Office, referenced the context map which shows a narrow egress to Cheek Road between two existing parcels.

City/County Planning Director Steve Medlin stated there is a separate rezoning request going through the process in which the applicant has requested an up-zoning of the property which is not before Council tonight. When that item comes forward to Council because it is a rezoning or zoning map change, a protest petition could be filed provided it meets the standards of the General Statutes and UDO.

Mayor Bell outlined the purpose of this item.

Adam Ashbaugh, representing the owner, stated the annexation request is from a single owner who voluntarily requested the property to be annexed into the City and noted the issues Mr. Harris raised would be addressed at the time of the rezoning.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Clement seconded by Council Member Brown to receive citizens' comments concerning the annexation of the Voluntary Annexation Area --FY2011-01 Cardinal Oaks;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area [Cardinal Oaks] in accordance with N.C. General Statutes 160A-31-- effective from and after June 30, 2011; and

To authorize the City Manager to enter into a half base contract with the Redwood Volunteer Fire Department was approved at 8:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14161**

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**SUBJECT: ZONING MAP CHANGE - CARDINAL OAKS INITIAL (Z1000014A)**

To conduct a public hearing to receive public comments on the initial zoning map change for Cardinal Oaks Initial (Z1000014A);

To adopt an Ordinance Amending the Unified Development Ordinance to establish Residential Rural (RR) zoning for the property described in the attached staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials.

City/County Planning Director Steve Medlin certified that all proper notification has been made in accordance with the General Statutes and UDO and affidavits are part of the case file. He briefed Council on the initial zoning for the property just annexed which would take the 46.86 acres located south of Cheek Road from its current rural residential zoning district and translating it into the City at the same zoning designation. He reported there is no difference in uses or regulations between the two jurisdictions, staff is recommending approval of this request and the Planning Commission, by a prior resolution adopted in 2005, has recommended approval.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to adopt an Ordinance Amending the Unified Development Ordinance to establish Residential Rural (RR) zoning for the property described in the staff report; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest given that this reflects the zoning of the property in the County and in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:40 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: ANNEXATION OF STREET SEGMENTS ADJACENT TO CITY LIMITS**

To conduct a public hearing to receive public comments on the Annexation of Street Segments Adjacent to City Limits; and

To adopt an Ordinance Annexing three street segments that are directly contiguous to City limits into the City of Durham effective June 30, 2011.

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Engineering and Stormwater Manager Ed Venable stated this is an annexation of three street segments [existing right-of-ways] currently maintained by NCDOT. He reported this request is in response to the presentation made at a previous Work Session.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

**MOTION** by Council Member Ali seconded by Council Member Woodard to adopt an ordinance annexing three street segments that are directly contiguous to city limits into the City of Durham effective June 30, 2011 was approved at 8:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**Ordinance #14160**

**[SUPPLEMENTAL ITEM]**

**SUBJECT: CONTRACT AMENDMENT NO. 1 - CONTRACT ST-250, 2011 STREET REPAIRS AND REPAVING - BARNHILL CONTRACTING COMPANY**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to authorize the city manager to execute contract Amendment No. 1 for ST-250, 2011 Street Repairs and Resurfacing with Barnhill Contracting Company in the amount of \$1,350,000.00; increasing the total contract to \$5,416,252.20 was approved at 8:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: FY12 CONTRACT FOR SERVICES WITH DOWNTOWN DURHAM, INC.**

Victoria Peterson requested information concerning the names and how many new businesses have moved to downtown Durham. She urged Council to expand this program to include other areas of Durham as well as other organizations.

It was indicated that staff will provide Ms. Peterson with information requested.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute the FY12 funding agreement with Downtown Durham, Inc. to operate economic development programs for the City in an amount not to exceed \$148,048.00 was approved at 8:46 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**June 20, 2011**

**SUBJECT: AMENDMENT TO FY11 CONTRACT FOR SERVICES WITH DOWNTOWN DURHAM, INC.**

Victoria Peterson asked staff to explain the purpose of this item and to share with other businesses how they could contact DDI for additional information.

Economic and Workforce Development Director Kevin Dick provided background information on this item. He stated this contract amendment would be for the continued administration of the signage grant program approved in the May 17, 2010 Economic Development Financial Assistance Policy for Job Creation and Capital Investment. He reported Downtown Durham Inc. [DDI] has administered the program for FY 2011 and 21 businesses have received grants and provided information on how to contact DDI.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Ali to authorize the City Manager to execute the FY 11 contract amendment for services between the City of Durham and Downtown Durham, Inc. by adding \$35,000.00 to increase the total value to an amount not to exceed \$224,298.00 was approved at 8:48 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: MEMORANDUM OF UNDERSTANDING FOR THE NORTH PARKING GARAGE AT AMERICAN TOBACCO CAMPUS**

Victoria Peterson asked what parking deck is this item referencing, requested information on revenue generated from the parking deck, expressed a concern with cars parking on the grass during Durham Bulls baseball games and suggested that a new parking deck be built near City Hall.

Transportation Manager Mark Ahrendsen stated this agenda item refers to the North Parking Garage on Pettigrew Street.

It was indicated that staff would provide additional information requested by Ms. Peterson.

**MOTION** by Council Member Woodard seconded by Council Member Ali to authorize the City Manager to execute the Memorandum of Understanding (MOU) for the North Parking Garage at American Tobacco Campus between the City of Durham and American Campus, LLC (American Campus); and

To negotiate a new lease agreement and parking management agreement consistent with the terms of the MOU was approved at 8:53 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**June 20, 2011**

**SUBJECT: UTILITY EXTENSION AGREEMENT WITH LANDQUEST LEGACY OF NORTH CAROLINA, LLC TO SERVE CARDINAL OAKS**

**MOTION** by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to enter into a water and sewer extension agreement with Landquest Legacy of North Carolina, LLC., to serve Cardinal Oaks was approved at 8:54 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: DURHAM CULTURAL ADVISORY BOARD - APPOINTMENTS**

To appoint citizens to fill two (2) vacancies on the Durham Cultural Advisory Board with the terms to expire on June 30, 2013.

City Clerk Gray announced City Council appointed Renee Leverty and S. Celeste Toombs to the Durham Cultural Advisory Board with terms expiring on June 30, 2013. She reported Renee Leverty received seven votes and S. Celeste Toombs received four votes by ballot.

**SUBJECT: HOMELESS SERVICES ADVISORY COMMITTEE - APPOINTMENT**

To appoint a citizen to fill one (1) vacancy on the newly established Homeless Services Advisory Committee to represent Corporate or Private Sector Business with the term to expire on June 30, 2012.

City Clerk Gray announced Kaaren Johanson received three votes, John Bowman, received three votes and Joyce Payne received one vote.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to appoint Kaaren Johanson to the Homeless Services Advisory Committee representing Corporate Sector Business with the term to expire on June 30, 2012 was approved at 8:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Mayor Pro Tempore Cole-McFadden reminded everyone to attend the Jeanne Lucas Luncheon on Saturday, June 25, 2011 at noon at the Radisson and announced the following meetings will be held in Durham: NCBEMO Conference in July and the Human Development Committee in September.

**June 20, 2011**

There being no further business to come before the City Council, the meeting was adjourned at 8:59 p.m.

Linda E. Bratcher, CMC  
Deputy City Clerk

D. Ann Gray, MMC  
City Clerk