

**DURHAM, NORTH CAROLINA
MONDAY, NOVEMBER 15, 2004
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 Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: Interim City Manager Patrick Baker, City Attorney Henry Blinder, 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 Pro Tempore Cole-McFadden congratulated students who graduated from the Neighborhood College on Saturday, November 13, 2004 and thanked City and County staff for their involvement in this program. Also, she expressed congratulations to graduates of TROSA and made comments on the groundbreaking ceremony for the Backyard Compost Demonstration Center.

Council Member Best made comments on his ability to serve this city.

Council Member Clement also made comments on the Neighborhood College session that dealt with economic analysis of DATA and its impact on the Durham community.

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

Interim City Manager Baker asked that Consent Agenda Items 1 A -- the voluntary annexation petition for Erwin Oaks (Preserve at Erwin Trace) and 11 [Water and Sewer Extension Agreement for Erwin Trace] be deferred until the County has had an opportunity to act on placing a reservation on the plat for Erwin Oaks (Preserve at Erwin Trace). Relative to GBA #37, he requested that the public hearing for a) Holloway Property/Fountain Street and f) Summer Meadow Phase 5 voluntary annexation petitions be continued to the December 6, 2004 City Council Meeting without further advertising. Also, he provided additional handouts for GBA Items 16 [Lease Agreement – Central Medical Park, LLC] and 29 [Proposed Synthetic Fixed Rate Refinancing].

MOTION by Council Member Clement seconded by Council Member Catotti to approve the City Manager's priority items was approved at 7:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

There were no priority items from the City Attorney.

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City Clerk Gray swore in Michael William Shiflett as a member of the Durham Housing Appeals Board.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. **[NO ITEMS WERE PULLED]**

MOTION by Council Member Clement seconded by Council Member Stith to approve the Consent Agenda was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: VOLUNTARY ANNEXATION PETITION RECEIVED BY AUGUST 1, 2004

MOTION by Council Member Clement seconded by Council Member Stith to adopt a resolution scheduling a public hearing for Monday, December 6, 2004 to receive citizen comments concerning voluntary petition for the following property to be annexed with a recommended effective date of December 31, 2004 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

a) FY2005-06Treyburn Village

Resolution #9177

Note: The voluntary annexation petition for Erwin Oaks (Preserve at Erwin Trace) was deferred until the County has had an opportunity to act on placing a reservation on the plat.

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Clement seconded by Council Member Stith to approve minutes for the October 18, 2004 regular City Council Meeting; and

To approve City Council action taken at the October 7, 2004 City Council Work Session was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: APPOINTMENTS TO THE DURHAM CONVENTION & VISITORS BUREAU/TOURISM DEVELOPMENT AUTHORITY

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MOTION by Council Member Clement seconded by Council Member Stith to reappoint John W. Mallard, Jr. (Mayor's Appointee) to the Durham Convention and Visitors Bureau/Tourism Development Authority representing "Major Employees" - term expiring October 31, 2005; and

To reappoint E'Vonne Coleman to the Durham Convention and Visitors Bureau/Tourism Development Authority representing "Visitor Features & Entertainment" – term expiring October 31, 2007 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CABLE TV ADVISORY BOARD – RECEIPT AND ACCEPTANCE OF AN APPLICATION

MOTION by Council Member Clement seconded by Council Member Stith to receive and accept an application for a citizen to fill one (1) vacancy on the Cable TV Advisory Board with a term expiring on October 31, 2006 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: BIDS- JANITORIAL CONTRACT FOR POLICE HEADQUARTERS - NORTH CAROLINA SERVICES CO., INC.

MOTION by Council Member Clement seconded by Council Member Stith to accept the bid from North Carolina Services Co., Inc., in the amount of \$140,874 for providing janitorial services at the Durham Police Department Headquarters Building (24 months);

To authorize the City Manager to enter into a contract with North Carolina Services Co., Inc. in the amount of \$140,874 for providing janitorial services at the Durham Police Department Headquarters Building (24 months); and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSE OF A 40 FOOT WIDE SEGMENT EXTENDING 509.9 LINEAR FEET OF VICTORY BOULEVARD (SC04-12)

MOTION by Council Member Clement seconded by Council Member Stith to adopt a resolution to set a public hearing on the proposed closing of a 40 foot wide segment extending 509.9 linear feet of Victory Boulevard for December 6, 2004 was approved at 7:15 p.m. by the

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following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9178

SUBJECT: STREET CLOSING – SET HEARING ON THE CLOSING OF 195.16 LINEAR FEET OF MOTORCOACH WAY (SC04-25)

MOTION by Council Member Clement seconded by Council Member Stith to adopt a resolution to set a public hearing on the proposed closing of 195.16 linear feet of Motorcoach Way for December 6, 2004 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9179

SUBJECT: MAJOR SITE PLAN – WRIGHT TOUCH CHILDREN’S ACADEMY (D04-279)

MOTION by Council Member Clement seconded by Council Member Stith to approve a major site plan for “Wright Touch Children’s Academy”, submitted by Sam Hodges, Jr., A.I.A. on behalf of Perry and Vanessa Jenkins, for a 1,552 square foot addition to an existing day care facility on a 0.459 acre site zoned R-20 and F/J-B, including a 50% buffer reduction along the eastern property line and a 20% buffer reduction along the western property line, located at 310 Sir Gawain Way on the north side of Sir Gawain Way, and east of Rollingwood Drive, PIN 0718-02-77-8145 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: WATER AND SEWER EXTENSION AGREEMENT WITH CROSLAND DEVELOPMENT CORPORATION

To authorize the City Manager to enter into a Water & Sewer Extension Agreement with Crosland Development Corporation to serve Preserve at Erwin Trace, Tax Map 456-01-005, PIN 0801-03-12-7186.

Note: The item was deferred until the County has had an opportunity to act on placing a reservation on the plat for Erwin Oaks (Preserve at Erwin Trace).

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING PETITIONED IMPROVEMENT - WATER MAIN ON HIDEAWAY LANE

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MOTION by Council Member Clement seconded by Council Member Stith to accept a Certificate of Sufficiency from the Manager of Engineering for the following petition; and

To adopt a resolution setting a public hearing for December 6, 2004 to consider ordering the Water Main on Hideaway Lane from Kendridge Drive East to East Property Line PIN # 0814-02-98-6355 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: SETTING PUBLIC HEARINGS FOR THE CONFIRMATION OF ASSESSMENT ROLLS

MOTION by Council Member Clement seconded by Council Member Stith to adopt resolutions setting public hearings for December 6, 2004 for the following assessment rolls was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Water Main on Cook Road from Juliette Drive to Harmony Road and Harmony Road from Cook Road to West Property Line Tax Map 518-5-27; and

Water Main on Northbury Circle from Atterbury Lane to End of Cul-de-sac; and

Sewer Main on Northbury Circle from Atterbury Lane to the End of the Cul-de-sac.

SUBJECT: RIGHT OF ENTRY AGREEMENT WITH SELF HELP COMMUNITY DEVELOPMENT CORPORATION - PARCEL ID 108616, 108617, 108618, 108619, 108620, 108621, 108622, 108623, 108624, 108625(WHITCOMB ST. PROPERTY)

MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute, and make changes to a right of entry agreement prior to execution, with Self Help Community Development Corporation, regarding the terms under which Self-Help and its consultants may enter the City-Owned Property on Whitcomb Street to carry out surveys, Inspections, Planning and Design related to its proposed purchase and development of the property was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: PROPOSED REPAYMENT TERMS FOR EDGEMONT ELMS LIMITED PARTNERSHIP LOAN

The repayment terms for the Edgemont Elms Limited Partnership Loan as proposed and in accordance with the original, executed promissory note; and

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To authorize the City Manager to execute the amended note and other applicable loan documents, and make changes to the documents that does not increase or lessen amount or extend the term beyond July 1, 2009.

Note: This item was referred back to the Administration.

**SUBJECT: LAPPAS + HAVENER CONTRACT AMENDMENT FOR
CONSTRUCTION ADMINISTRATION - C.M. HERNDON PARK**

MOTION by Council Member Clement seconded by Council Member Stith to approve the resolution exempting C.M. Herndon Park from G.S. 143-64.31;

To authorize the City Manager to negotiate and execute an agreement to amend the original contract with Lappas + Havener, PA (which is approved at \$162,500) for C.M. Herndon Park with an increase in compensation to \$174,800 with a \$9,600 increase in construction administration fees; and

To authorize the City Manager to negotiate and execute change orders on the C.M. Herndon Park project as necessary as long as the total compensation is not increased by more than 10% was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9180

**SUBJECT: INTERLOCAL AGREEMENT – DURHAM CITY-COUNTY
APPEARANCE COMMISSION**

MOTION by Council Member Clement seconded by Council Member Stith to approve the Interlocal Agreement for the Durham City-County Appearance Commission was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM – ORANGE RESOLUTION TO COOPERATE ON THE
REVIEW OF CERTAIN PLANNING MATTERS**

MOTION by Council Member Clement seconded by Council Member Stith to adopt the Resolution to Cooperate on the Review of Certain Planning Matters was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9181

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SUBJECT: MUNICIPAL AGREEMENT FOR MAKING CERTAIN STREET AND HIGHWAY IMPROVEMENTS INCLUDING THE CONSTRUCTION OF SIDEWALKS ON NC 98 (HOLLOWAY ST.) FROM EAST OF US 70 BYPASS TO EAST OF JUNCTION ROAD UNDER PROJECT U-4010 – N. C. DEPARTMENT OF TRANSPORTATION (NCDOT)

MOTION by Council Member Clement seconded by Council Member Stith to adopt a resolution authorizing the City Manager to execute a Municipal Agreement for Project U-4010 to make certain street and highway improvements on NC 98 (Holloway St) from east of US 70 Bypass to east of Junction Rd which includes the provision for the construction of sidewalks in the project area;

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount in the agreement and the modifications are consistent with the general intent of the existing version of the agreement approved by the City Council; and

To authorize the expenditure of an estimated available \$26,293 from the City's Federal and State Match Capital Project Ordinance was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9182

SUBJECT: MUNICIPAL AGREEMENT FOR MAKING CERTAIN STREET AND HIGHWAY IMPROVEMENTS ON NC 54 FROM SR 1999 (DAVIS DRIVE) TO SR 1959 (SOUTH MIAMI BOULEVARD) UNDER PROJECT R-2904 – N. C. DEPARTMENT OF TRANSPORTATION (NCDOT)

MOTION by Council Member Clement seconded by Council Member Stith to adopt a resolution authorizing the City Manager to enter into a Municipal Agreement with the NCDOT for Project R-2904 to make certain street and highway improvements on NC 54 from SR 1999 (Davis Drive) to SR 1959 (South Miami Boulevard) which includes the provision for the construction of sidewalks in the project area;

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement and the modifications are consistent with the general intent of the existing version of the agreement approved by the City Council; and

To authorize the expenditure of an estimated available \$16,301 from the City's Federal and State Match Capital Project Ordinance was approved at 7:15 p.m. by the following vote: Ayes:

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Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None.
Absent: None.

Resolution #9183

SUBJECT: MUNICIPAL AGREEMENT TO MAKE CERTAIN HIGHWAY IMPROVEMENTS ALONG US 15-501 AND GARRETT ROAD UNDER PROJECTS U-4009 AND B-3450 – N. C. DEPARTMENT OF TRANSPORTATION (NCDOT)

MOTION by Council Member Clement seconded by Council Member Stith to adopt a resolution authorizing the City Manager to execute a Municipal Agreement with the NCDOT for Projects U-4009 and B-3450 which consist of relocating a Service Road (SR 1126) near US 15-501-Garrett Road intersection, replacing Bridge No. 217 over New Hope Creek and Bridge No. 122 over Sandy Creek and approaches on Garrett Road (SR 1116), adding an additional southbound left-turn lane on US 15-501 at Garrett Rd., and constructing new sidewalks along Garrett Road;

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount in the agreement, and the modifications are consistent with the general intent of the existing version of the agreement approved by the City Council; and

To authorize the expenditure of an estimated \$57,000 from the City's Federal and State Match Capital Project Ordinance was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9184

SUBJECT: NCDOT PEDESTRIAN PLANNING GRANT RESOLUTION, MUNICIPAL AGREEMENT AND GRANT PROJECT ORDINANCE

MOTION by Council Member Clement seconded by Council Member Stith to adopt a resolution approving the Pedestrian Plan Study;

To authorize the City Manager to execute a municipal agreement with NCDOT for the NCDOT Pedestrian Planning Grant of \$37,500;

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount in the agreement, and the modifications are consistent with the general intent of the existing version of the agreement approved by the City Council; and

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To adopt the City of Durham Pedestrian Planning Grant Project Ordinance in the amount of \$37,500 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9185
Ordinance #13029

SUBJECT: MUNICIPAL AGREEMENT FOR PEDESTRIAN INTERSECTION IMPROVEMENTS FOR NC 751/NC 54 AND GARRETT ROAD/NC 751 INTERSECTIONS UNDER PROJECT 9.8059086 – N. C. DEPARTMENT OF TRANSPORTATION (NCDOT)

MOTION by Council Member Clement seconded by Council Member Stith to adopt a resolution authorizing the City Manager to enter into an agreement with the NCDOT for the construction of concrete sidewalks, handicap ramps, crosswalk pavement markings, pedestrian signals, concrete refuge islands, and other related components to improve pedestrian accessibility at the NC 751/NC 54 and Garrett Road/NC 751 intersections;

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the version of the agreement approved by the City Council;

To adopt an ordinance amending the General Capital Improvement Project Ordinance, Fiscal Year 2004-05, as amended, the same being Ordinance #12972 by increasing Project 3, Federal and State Match Projects by \$109,640 for the purpose of pedestrian intersection improvements for NC 751/NC 54 and Garrett Road/NC 751 intersections to be funded by the NCDOT Small Urban Project and Roadway Enhancement Program funds; and

To authorize the expenditure of an estimated \$70,360 in funds from the City's Transportation Federal and State Match Capital Project Ordinance was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9186
Ordinance #13030

SUBJECT: SOLID WASTE MANAGEMENT FY 2004-05 BUDGET AMENDMENTS

MOTION by Council Member Clement seconded by Council Member Stith to approve financing of three replacements yard waste vehicles destroyed in a fire utilizing COPS;

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To adopt the reimbursement resolution to allow the City to recover its expenses related to the replacement of yard waste vehicles until COPS financing is obtained; and

To adopt an Ordinance Amending the 2004-05 City of Durham Budget Ordinance, the same being Ordinance 12961 was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9187
Ordinance #13031

SUBJECT: CLEAN CITY TEAM REPORT

To receive a presentation from the Clean City Team concerning beautification efforts.

Note: This item was deferred to the November 18, 2004 Work Session.

SUBJECT: WILLIAM SMALL

To receive comments from William Small requesting permission to bow and arrow hunt on private residences only consisting of 5 acres or more within the city limits with written permission of the land owner.

Note: This citizen did not appear at the 11-4-04 Work Session.

SUBJECT: TIM HOCK PROPERTIES, LLC

MOTION by Council Member Clement seconded by Council Member Stith to receive comments from Tim Hock requesting that his development project be exempted from the Downtown Design Ordinance until such time that he is allowed to abide by the law, as the ordinance provides; i.e. pay a fee and to make this same opportunity available to other developers was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: REVEREND JOHNNY LEAK

To receive comments from Reverend Johnny Leak requesting to change the name of a street in the Braggtown Community.

Note: This item was referred back to the Administration.

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SUBJECT: FRANCISCAS AKINS

MOTION by Council Member Clement seconded by Council Member Stith to receive comments from Franciscas Akins regarding his vehicle being towed and to request a refund of the towing fees was approved at 7:15 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA]

SUBJECT: CONTRACTS

Alan DeLisle, Manager of Economic Development, made comments on the contract awarded to Basile Baumann Prost & Associates to do an economic impact analysis for West Village.

Based on staff's evaluation and the process, Mayor Bell spoke in support of the contract being awarded to the low bidder—Basile Baumann Prost & Associates.

Council Member Brown made comments in favor of the contract being awarded to Michael Luger of the University of North Carolina at Chapel Hill since he is a local candidate with a strong track record of working with other cities in North Carolina.

MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute contracts on the list; and

To authorize the City Manager to make changes to the contracts on the list before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:21 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Catotti, Clement and Stith. Noes: Council Member Brown. Absent: None.

Contractor	Contract Description	Dept	CT Amount
Manfred Bowden	Basketball Official	P&R	\$1,300.00
Ricky Daye	Basketball Official	P&R	\$1,300.00
Gerald Haskins	Basketball Official	P&R	\$1,300.00
Christopher Smith	Basketball Official	P&R	\$1,300.00
Allen Clayton	Basketball Official	P&R	\$1,300.00
Van Clark	Basketball Official	P&R	\$1,300.00
Roy Williams	Basketball Official	P&R	\$1,300.00
Bonnie Daye	Basketball Official	P&R	\$1,300.00
Timothy Pittman	Basketball Official	P&R	\$1,300.00
Waldo Rogers	Basketball Official	P&R	\$2,500.00
Joseph Daye	Basketball Official	P&R	\$1,300.00

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Robert Gabriel	Basketball Official	P&R	\$1,300.00
Stephen Gilmore	Basketball Official	P&R	\$1,500.00
David Johnson	Basketball Official	P&R	\$1,500.00
William Britt	Basketball Official	P&R	\$1,500.00
Andre Webb	Basketball Official	P&R	\$1,500.00
Raymond Alston	Basketball Official	P&R	\$1,500.00
Mitchell Whitfield	Basketball Official	P&R	\$1,500.00
Jeffrey Norris	Basketball Official	P&R	\$1,500.00
Steven Barnes	Basketball Official	P&R	\$1,500.00
Milton Tabron	Basketball Official	P&R	\$1,500.00
Joseph Palmer	Basketball Official	P&R	\$1,500.00
Johnnie Fisher	Basketball Official	P&R	\$1,500.00
Melvin Woodruff	Basketball Official	P&R	\$1,500.00
Marti Smith	Basketball Official	P&R	\$1,500.00
James Broadnax	Basketball Official	P&R	\$1,500.00
Mark Webb	Basketball Official	P&R	\$1,500.00
Stephen Gilmore	Baseball Official	P&R	\$1,500.00
Economics Research Associates	Analysis of West Village II Project ProForma	OEED	\$18,000.00
Basile Baumann Prost & Associates	Economic Impact Analysis of West Village II Rehab	OEED	\$18,011.00

SUBJECT: BOND ISSUANCE FOR HOUSING AUTHORITY OF THE CITY OF DURHAM – MAGNOLIA POINT

To approve the staff’s recommendation to deny the request that the City of Durham support the Magnolia Point Project.

Finance Director Ken Pennoyer reported that the Durham Housing Authority is requesting that the City Council waive the Subsidized Housing Location Policy for the Magnolia Point Project and to adopt a resolution that would allow the Mayor to approve the tax exempt financing. He noted staff’s recommendation is to deny the request to waive the policy for this project.

Attorney Kenneth Spaulding, representing the applicant, noted the applicant is seeking an exception to the City’s Housing Location Policy for the Magnolia Point project and the proposal is a part of the overall Master Plan of the Villages of Independence which includes 699 residential units out of which 260 units will be rental of apartment homes, 439 homes for sale, 180 of 260 units will be allocated for working families making up to \$42,000 per household. Attorney Spaulding noted the proposed site will have beautiful landscaping, quality construction, uniform appearance, a swimming pool facility, exercise room, clubhouse and other recreational amenities. Also, he urged Council to support this project because it could go to another city or county.

George Stanziale, representing the applicant, gave a power point presentation highlighting the project design, a market rate comparison project such as Southpoint Crossing and Falls Pointe;

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the Master Plan for Independence Park; site plan and Magnolia Point images, maps and facts. He noted the market rate and affordable housing units are integrated within this project, there would be no liability to the administration, no responsibilities to the City of Durham and DHA will receive 1% of the face value of the bond into their budget with no liability or responsibilities for implementation of the project.

Mary Nash Rusher, Bond Counsel for DHA, noted she was present to answer questions on how this proposal impacts the Authority and bond process.

Mayor Bell asked staff questions that were answered concerning total number of units, development plan and policy.

Attorney Ken Spaulding noted there are a total of 260 units and the applicant would be lowering the non-market rates to 156 instead of 180.

City/County Planning Director Frank Duke noted the development plan previously approved for the project did indicate multi-family in this area, but no mention of this project or units being subsidized.

Mayor Bell expressed concern with the market rate units being isolated from the non-market units and asked the developer if anything has been done to address this issue.

Brad Parker, of The NRP Group, noted all the bond finance units have to be situated on the same site. He noted the tax credit buildings and market rate buildings would look the same and you will not be able to tell the difference between the two sites.

Trevorlyn Haddock, of 115 Geranium Street, voiced concerns with this project. She expressed late notification, market value, and school impact concerns and discussed break-ins that have occurred at Summer Meadows.

J. Carter, of 103 Geranium Street, expressed concerns with the short notification, over saturation of affordable housing in one geographical region and the issue of social justice.

Gail Hudson, of 4002 Lillington Drive, noted it's not right or fair to saturate areas in a way that allows low income individuals to live in one area.

Curtis Johnson, of 403 Weeping Willow Drive, noted he is opposed to subsidized housing being in one location.

Darlene Haught, of 4106 Lillington Drive, urged Council to uphold policy that has been put in place.

Ethel Breeze, of 2963 Carolyn Drive, noted subsidized housing should be spread around Durham to be fair to neighbors, businesses, community and those residents who live in subsidized

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housing. She asked the developer to forget the bonds and tax credits but allow a percentage of this housing to be set aside with the regular 260 units for affordable housing.

Alan Scott, of The NRP Group, noted this is not a rent subsidy public housing development, but a mechanism for financing under favorable terms to allow the developer to build a better product.

Mayor Pro Tempore Cole-McFadden expressed concern with the issue of fairness, waiving the policy and the notification process.

Council Member Stith made comments on the Housing Location Policy and asked staff to compare Oxford Manor to what's being proposed.

Housing Director Mike Barros provided Council with an analysis for this project discussing the high quality of construction, materials, amenities, the tenant base and rents that will attract people with jobs to this development.

City/County Planning Director Frank Duke noted there is language in the policy that deals with each individual project on a case-by-case basis. Also, he made comments noting that Council added to the definition of subsidized housing projects seeking tax exempt bond financing.

Council Member Brown noted he supports this project due to the high quality of homes that will be built, the amenities and because it's an opportunity for Durham.

Council Member Catotti spoke in support of waiving the policy for this project because it will be a mixed-income development where affordable and market rate units will be located side-by-side, quality of construction, amenities and the developer's track record.

Council Member Clement noted the policy that was adopted several years ago addresses the issue of subsidized housing and this issue deals with affordable housing.

Council held discussion on inclusionary housing, significant rents, housing policy, amenities, concentration of subsidized units--census tract; and the low income tax credit program.

Alan Scott, the owner, agreed to reduce the market rate units to 156.

City/County Planning Director Frank Duke noted the landscaping, design of building, the number of units and the amenities are not committed due to a lack of a development or site plan.

City Attorney Blinder noted the motion should read: to adopt a resolution with conditions represented tonight and the Planning Director should incorporate that into the letter that the Mayor sends to DHA.

MOTION by Council Member Clement seconded by Council Member Brown to adopt the resolution authorizing the Mayor to Approve the Issuance of not to exceed \$11,800,000 Housing Authority of the City of Durham Multifamily Housing Revenue Bonds for the Magnolia Project subject to the following conditions noted by the developer was approved at 8:33 p.m. by the

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following vote: Ayes: Mayor Bell and Council Members Best, Brown, Catotti, Clement and Stith. Noes: Mayor Pro Tempore Cole-McFadden. Absent: None.

1. The applicant agreed to reduce the number of non-market rate units from 180 to 156
2. The applicant will provide quality landscaping; provide quality construction; uniform appearance; and amenities [pool; clubhouse; exercise room and other recreational amenities].

Resolution #9188

SUBJECT: BEER AND WINE LICENSES

Finance Director Ken Pennoyer made comments on this item.

Council Member Clement asked the administration to provide listing of establishments by PAC Districts in the future.

Council Member Best disclosed that he works for Bennett Pointe Grill and Restaurant.

MOTION by Council Member Stith seconded by Council Member Brown to approve local beer and wine privilege licenses for the listed establishments was approved at 8:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Stith. Noes: Council Member Clement. Absent: None.

Status	Acct Name	Physical Address	Type
Renewal	Quality Mart #43	2007 Presidential Dr	Convenience
Renewal	Kerr Drug	710 Fayetteville St	Convenience
Renewal	La Fondita	2000 Avondale Dr, Ste D	Restaurant
Renewal	Kroger #314	3117 Shannon Rd	Grocery
Renewal	Kroger #332	3457 Hillsborough Rd	Grocery
Renewal	Kroger #366	1802 N Point Dr	Grocery
Renewal	Wilco #191	803 E Geer St	Convenience
Renewal	Wilco #195	1400 Miami Blvd	Convenience
Renewal	Lowe's Food Store Inc # 426	1233 University Dr	Grocery
Renewal	Lowe's Food Store Inc #443	207 Holloway St	Grocery
Renewal	On the Run 21-06432	106 Hwy 54	Convenience
Renewal	Tripps	918 W Club Blvd	Restaurant
Renewal	Fuddrucker's Restaurant #301	1809 Martin Luther King Pkwy	Restaurant
Renewal	Tops Texaco #6	2110 N Roxboro Rd	Convenience
Renewal	Tops Texaco Mart #8	1016 W Main St	Convenience
Renewal	Tops Texaco #7	921 N Miami Blvd	Convenience
Renewal	Tops Texaco #14	6007 Farrington Rd	Convenience

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Renewal	Blue Express - Duke University	LSRC B110 Lasalle St Ext	Restaurant
Renewal	Applebee's Neighborhood Grill	3400 Westgate Dr	Restaurant
Renewal	Triangle D Food Mart #4	403 W Trinity Ave	Convenience
Renewal	Canal Street Grocery	508 Canal St	Grocery
Renewal	Durham Bulls Athletic Park	409 Blackwell St	Restaurant
Renewal	McDougald Terrace Supermarket	832 Ridgeway Ave	Grocery
Renewal	Toreros Mexican Restaurant	800 W Main St	Restaurant
Renewal	Upper Crust Entertainment	117 W Main St	Club
Renewal	El Rodeo Mexican Restaurant	905 W Main St	Restaurant
Renewal	Ruby Tuesday 2760	1058 W Club Blvd	Restaurant
Renewal	Durham Marriott at Civic Center	201 Foster St	Restaurant
Renewal	Hills Market #2	201 E Geer St	Convenience
Renewal	Down Under Pub	802 W Main St	Club
Renewal	TNT Convenient Mart	500 E Main St	Convenience
Renewal	Satisfaction Restaurant & Bar	905 W Main St Ste 37	Restaurant
Renewal	Handi Mart	1003 Fayetteville St	Convenience
Renewal	Carolina Theatre of Durham Inc	309 W Morgan St	Restaurant
Renewal	Esquire Lounge	704 Rigsbee Ave	Club
Renewal	Yamato Japanese Seafood	1058 W Club Blvd	Restaurant
Renewal	Talk of the Town	108 E Main St	Restaurant
Renewal	Coleman's	1006 E Pettigrew St	Restaurant
Renewal	Town Deli Grocery #1	801 N Alston Ave	Convenience
Renewal	Shooters II	827 W Morgan St	Club
Renewal	Taverna Nikos	905 W Main St	Restaurant
Renewal	New Evans Mini Mart	710 S Alston Ave	Convenience
Renewal	Buy Quick Food Mart #2	1204 Worth St	Convenience
Renewal	Visions	711 Rigsbee Ave	Club
Renewal	In and Out Food Mart	911 Fayetteville St	Convenience
Renewal	American Legion Post #7	406 E Trinity Ave	Club
Renewal	James Joyce Irish Pub	912 W Main St	Club
Renewal	Caroco #1	702 N Alston Ave	Convenience
Renewal	University Market	1108 W Chapel Hill St	Convenience
Renewal	Bekee Food Store & Grill	1302 Fay St	Restaurant
Renewal	M&M Mini Mart #2	614 Lakeland St	Convenience
Renewal	Edge (The)	108 Morris St	Club
Renewal	Another Thyme	109 N Gregson St	Restaurant
Renewal	Innovations Café	1300 Morreene Rd	Restaurant
Renewal	Teasers Palace	315 W Main St	Club
Renewal	Town Deli Grocery #2	1432 E Lawson St	Convenience
Renewal	Wyndham Garden Hotel	4620 S Miami Blvd	Restaurant
Renewal	M&M Mini Mart	2128 Angier Ave	Convenience
Renewal	Quality Mart #34	5203 S Miami Blvd	Convenience

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Renewal	El Toro Club	608 S Hoover Rd	Restaurant
Renewal	Quick Mart	5021 Wake Forest Hwy	Convenience
Renewal	Lighthouse Food Mart #101	2944 Holloway St	Convenience
Renewal	La Plaza Latina	3801 Wake Forest Hwy Ste 118	Restaurant
Renewal	Hilltop Food Mart	204 N Hardee St	Convenience
Renewal	Ankad Mini Mart	2929 Angier Ave	Convenience
Renewal	Tommy's Mini Mart	1701 S Miami Blvd	Convenience
Renewal	Tommy's Mini Mart	1805 S Miami Blvd	Convenience
Renewal	Crossings at Grove Park	4023 Old Wake Forest Hwy	Restaurant
Renewal	Lakeshore Golf Course	4621 Lumley Rd	Restaurant
Renewal	Cozart's Fruit & Produce	2717 Cheek Rd	Convenience
Renewal	Holloway Street Food Mart	1026 Holloway St	Convenience
Renewal	Tienda El Compadre	1700 Holloway St	Convenience
Renewal	Chino Latino Restaurant	2900 Holloway St	Restaurant
Renewal	Kwik Stop Food Mart	1600 Holloway St	Convenience
Renewal	Marriott Hotel –RTP	4700 Guardian Dr	Restaurant
Renewal	Village Bowling Lanes	330 Hardee St	Restaurant
Renewal	Italian Pizzeria & Restaurant	3500 N Roxboro Rd	Restaurant
Renewal	Bowling Exxon Service	4530 Roxboro Rd	Convenience
Renewal	R&W Stop & Shop	3310 Dearborn Dr	Convenience
Renewal	I-85 Amoco	2108 Avondale Dr	Convenience
Renewal	Upchurch Drugs	5112 N Roxboro Rd	Convenience
Renewal	Hong Kong Super Buffet Inc	307 Foushee St	Restaurant
Renewal	A&P Mini Mart	1709 Glenn School Rd	Convenience
Renewal	Las Palmas Mexican Restaurant	3814 N Duke St	Restaurant
Renewal	King's Red & White Supermarket	305 E Club Blvd	Convenience
Renewal	Town & Country Food Mart	1423 E Club Blvd	Convenience
Renewal	Mi Pequeno Honduras	2201 N Roxboro Rd	Restaurant
Renewal	Classic Foods Services	1716 Camden Ave	Convenience
Renewal	BP Convenience Center	2211 N Roxboro Rd	Convenience
Renewal	North Durham Citgo	4535 N Roxboro Rd	Convenience
Renewal	U Save Food Mart	1907 Cheek Rd	Convenience
Renewal	One Hop Food Mart	370 Old Oxford Hwy	Convenience
Renewal	Smokers Express #3477	4604 N Roxboro Rd	Convenience
Renewal	Papa's Grill	1821 Hillandale Rd	Restaurant
Renewal	Kim Son Restaurant	2425 Guess Rd	Restaurant
Renewal	Wellspring Grocery	621 Broad St	Convenience
Renewal	Bamboo House Restaurant	3600 N Duke St	Restaurant
Renewal	Magnolia Grill	1002 Ninth St	Restaurant
Renewal	Shanghai Restaurant	3433 Hillsborough Rd	Restaurant

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Renewal	Joyland BP	2406 Holloway St	Convenience
Renewal	Café Parizade	2200 W Main St	Restaurant
Renewal	West Campus BP	2432 Erwin Rd	Convenience
Renewal	Fast Food Mart #3	2106 Broad St	Convenience
Renewal	Homestead BP	2918 Guess Rd	Convenience
Renewal	Tommy's Mini Mart	1832 Cole Mill Rd	Convenience
Renewal	Boulevard BP	2685 Chapel Hill Blvd	Convenience
Renewal	West Durham BP	1922 W Main St	Convenience
Renewal	Uncle Harry's General Store	1917 Yearby Ave	Convenience
Renewal	One Hop Food Mart	2021 Guess Rd	Convenience
Renewal	Hope Valley BP	4148 Old Chapel Hill Rd	Convenience
Renewal	Hong Kong Chinese Restaurant	3003 Guess Rd	Restaurant
Renewal	Italian Pizzeria & Restaurant	3823 Guess Rd	Restaurant
Renewal	Sam's Quick Shop Inc	1605 Erwin Rd	Convenience
Renewal	Blue Corn Café	716 B Ninth St	Restaurant
Renewal	Umstead Road BP	5109 Guess Rd	Convenience
Renewal	Bennett Point Grill	4625 Hillsborough Rd	Restaurant
Renewal	George's Garage	737 Ninth St	Restaurant
Renewal	Bull City Grill	2530 Erwin Rd	Restaurant
Renewal	Millennium Hotel, Durham	2800 Campus Walk Ave	Restaurant
Renewal	Wade's Texaco	1911 Guess Rd	Convenience
Renewal	Stop N Go	2526 Erwin Rd	Convenience
Renewal	Elmo's Diner	776 Ninth St	Restaurant
Renewal	Country Store	4630 Hillsborough Rd	Grocery
Renewal	Bethesda BP	1529 S Miami Blvd	Convenience
Renewal	Croasdaile BP	1815 Hillandale Rd	Convenience
Renewal	Duke Street BP	3804 N Duke St	Convenience
Renewal	Eno BP	5292 N Roxboro Rd	Convenience
Renewal	Bragtown BP	3101 N Roxboro Rd	Convenience
Renewal	Triangle BP	5202 S Miami Blvd	Convenience
Renewal	BP Lowes Grove	2317 E NC Hwy 54	Convenience
Renewal	Westside BP	3511 Hillsborough Rd	Convenience
Renewal	Mike's Stop N Go	3446 Hillsborough Rd	Convenience
Renewal	Outback Steakhouse	3500 Mt Moriah Rd	Restaurant
Renewal	Metro Express Market & Grill	2500 Erwin Rd	Restaurant
Renewal	Cattleman's the Italian Garden	3211 Hillsborough Rd	Restaurant
Renewal	El Corral Mexican Restaurant	1821 Hillandale Rd	Restaurant

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Renewal	Hillandale Golf Course	1600 Hillandale Rd	Restaurant
Renewal	El Cuscatleco Restaurant	4212 Garrett Rd	Restaurant
Renewal	Pizza Palace of Durham	2002 Hillsborough Rd	Restaurant
Renewal	BP East Campus	805 Broad St	Convenience
Renewal	Freeway BP	308 S Alston Ave	Convenience
Renewal	New Dragon Inn	3823 Guess Rd	Restaurant
Renewal	Garrett Road BP	4525 Chapel Hill Blvd	Convenience
Renewal	Durham Pizza Restaurant	4707 Hillsborough Rd	Restaurant
Renewal	Tosca Ristorante Italiano	604 W Morgan St	Restaurant
Renewal	Latin Entertainment	3169 Hillsborough Rd	Club
Renewal	Charlie's Pub & Grille	758 Ninth St	Restaurant
Renewal	Washington Duke Inn & Golf Course	3001 Cameron Blvd	Restaurant
Renewal	Hills Open Air Market	712 S Alston Ave	Convenience
Renewal	Lakewood Mini Mart	1925 Chapel Hill Rd	Convenience
Renewal	Foster's Market	2694 Chapel Hill Blvd	Grocery
Renewal	West 94th Street Pub	4711 Hope Valley Rd	Club
Renewal	Zafa Temple Grenadier Club #176	2312 S Alston Ave	Club
Renewal	Piper's Deli	3219 Chapel Hill Rd	Restaurant
Renewal	Fast Food Mart #2	2947 Chapel Hill Rd	Convenience
Renewal	TAJ Mart Amoco	101 E Cornwallis Rd	Convenience
Renewal	Saladelia Café	4201 University Dr	Restaurant
Renewal	Bull City Lodge #317	2311 S Alston Ave	Club
Renewal	Spartacus of Durham Inc	4139 Chapel Hill Blvd	Restaurant
Renewal	Nana's Restaurant	2514 University Dr	Restaurant
Renewal	Panda Inn Chinese Restaurant	4600 Chapel Hill Blvd	Restaurant
Renewal	Parkview Mini Mart	433 Pilot St	Convenience
Renewal	China Palace Restaurant	5210 Garrett Rd	Restaurant
Renewal	Neo China Restaurant	4015 University Dr	Restaurant
Renewal	Walkers Grocery	1003 1/2 Morehead Ave	Grocery
Renewal	Yamazushi Japanese Restaurant	4711 Hope Valley Rd	Restaurant
Renewal	Amf Durham 64	4508 Chapel Hill Blvd	Restaurant
Renewal	Golf Center	4343 Garrett Rd	Convenience
Renewal	Stop N Go	114 W Enterprise St	Convenience
Renewal	El Rodeo Mexican Restaurant	4215 University Dr	Restaurant
Renewal	Tristar Amoco Food Shop	2900 Chapel Hill Blvd	Convenience

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Renewal	Sitar India Palace	3117 D Shannon Rd	Restaurant
Renewal	Ricks Diner	4015 University Dr	Restaurant
Renewal	Pulcinella Italian Restaurant	4711 Hope Valley Rd	Restaurant
Renewal	Blue Nile Ethiopian Cuisine	2000 Chapel Hill Rd #4	Restaurant
Renewal	Academy Quick Stop	3006 Academy Rd	Convenience
Renewal	China Buffet	3720 Mayfair St	Restaurant
Renewal	Morehead Mini Mart	1601 Morehead Ave	Convenience
Renewal	Town N Country #3	3700 Fayetteville St	Convenience
Renewal	Town N Country #7	3101 University Dr	Convenience
Renewal	Holloway Service Store	1505 Holloway Ave	Convenience
Renewal	Four Square Restaurant	2701 Chapel Hill Rd	Restaurant
Renewal	Doyle's Sports Bar	3219 Chapel Hill Rd	Restaurant
Renewal	Buy Quick Food Mart #5	103 W Cornwallis Rd	Convenience
Renewal	Evans Food Mart	2500 Fayetteville St	Convenience
Renewal	Mayflower Seafood Restaurant	3742 Chapel Hill Blvd	Restaurant
Renewal	Alliance Hospitality(2004&2005)	3600 Mt Moriah Rd	Restaurant
Renewal	Bull City Riders MC	1311 S Roxboro St	Club
Renewal	Bandido's Mexican Café	4711 Hope Valley Rd	Restaurant
Renewal	Eastern Lights	4215 University Dr Ste 2	Restaurant
Renewal	Toreros IV Mexican Restaurant	4125 Chapel Hill blvd	Restaurant
Renewal	Kurama Japanese Seafood Steakhouse	3644 Chapel Hill Blvd	Restaurant
Renewal	Duke University	Corner of Science Dr & 751	Restaurant
Renewal	R David Thomas Center	One Science Dr	Restaurant
Renewal	Armadillo Grill	Bryan Center , Rm 35	Restaurant
Renewal	Duke University Museum of Art	Trinity Buchanan Blvd	Restaurant
Renewal	Kroger #337	5116 N Roxboro Rd	Convenience
Renewal	Treyburn Country Club	One Old Trail Dr	Restaurant
Renewal	Willow Haven Country Club	253 Country Club Dr	Restaurant
Renewal	Hawthorn Suites Management Corp	300 Meredith Dr	Restaurant
Renewal	China Express	2223 Hwy 54	Restaurant
Renewal	Sal's Pizza	2223 Hwy 54	Restaurant
Renewal	China One Restaurant	4325 Hwy 55	Restaurant
Renewal	Oh Brian's	4818 NC Hwy 55	Restaurant
Renewal	Kroger #331	202 W NC Hwy 54	Convenience
Renewal	Arnies Place Billiards Bar and Grill	1728 Carpenter Fletcher Rd	Restaurant
Renewal	Pasta Bella	105 NC 54 W Ste 261	Restaurant

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Renewal	Ray's Elbow Room/Pandas	4206 Apex Hwy	Club
Renewal	Park Diner	5410 Hwy 55	Restaurant
Renewal	Orient Garden	202 W Hwy 54 Ste 401	Restaurant
Renewal	Ruby Tuesday 3185	210 W NC Hwy 54	Restaurant
Renewal	Bombay Grille	2223 E Hwy 54	Restaurant
Renewal	Montas International Lounge	2223 E Hwy 54	Club
Renewal	Woodcroft Swim & Tennis Club	1203 Woodcroft Pkwy	Club
Renewal	Shiki Sushi Japanese Restaurant	207 W NC Hwy 54	Restaurant
Renewal	Rudino's Pizza & Grinders	4911 Central Park Ln	Restaurant
Renewal	El Dorado Mexican Restaurant	4900 Hwy 55	Restaurant
Renewal	Fortune Garden Thai	5410 NC Hwy 55 East	Restaurant
Renewal	Residence Inn By Marriott #236	201 Residence Blvd	Restaurant
Renewal	Jamaica Jamaica Restaurant	4853 S Hwy 55	Restaurant
Renewal	Hope Valley Country Club	3803 Dover Rd	Restaurant
Renewal	Durham Elks Lodge #568	2670 Chapel Hill Blvd	Club
Renewal	Food Lion #747	3500 N Roxboro Rd	Grocery
Renewal	Food Lion #150	4215 University Dr	Grocery
Renewal	Food Lion #1343	2000 Chapel Hill Rd	Grocery
Renewal	Food Lion #234	2400 Holloway St	Grocery
Renewal	Food Lion #420	3808 Guess Rd	Grocery
Renewal	Food Lion #885	1908 Meredith Dr	Grocery
Renewal	Food Lion #939	4621 Hillsborough Rd	Grocery
Renewal	Food Lion #274	4711 Hope Valley Rd	Grocery
Renewal	Food Lion #1099	2930 W Main St	Grocery
Renewal	Food Lion #729	3729 Wake Forest Rd	Grocery
Renewal	Food Lion #57	5279 N Roxboro Rd	Grocery
Renewal	Harris Teeter #114	3823 Guess Rd	Grocery
Renewal	Harris Teeter #140	237 E NC Hwy 54	Grocery
Renewal	Harris Teeter #172	1817 Martin Luther King Pkwy	Grocery
Renewal	Harris Teeter #111	1720 Guess Rd	Grocery
Renewal	CVS Pharmacy #4444	3300 Guess Rd	Convenience
Renewal	Winn Dixie Store #925	401 E Lakewood Ave	Grocery
Renewal	Winn Dixie Store #915	2000 Avondale Dr	Grocery
Renewal	Red Lobster Restaurant #210	4416 Chapel Hill Blvd	Restaurant
Renewal	Joy Foods #466	2109 Roxboro Rd	Convenience
Renewal	Eckerd Drugs #1030	1505 Broad St	Convenience
Renewal	Eckerd Drugs #1100	200 N Lasalle St	Convenience
Renewal	Eckerd Drugs #2847	3725 Wake Forest Rd	Convenience

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Renewal	Eckerd Drugs #3534	101 Woodcroft Pkwy	Convenience
Renewal	Eckerd Drugs #8551	4719 Apex Hwy	Convenience
Renewal	Eckerd Drugs #8554	1311 NC Hwy 54	Convenience
Renewal	Eckerd Drugs #8555	3798 Guess Rd	Convenience
Renewal	Lone Star Steakhouse	3630 Chapel Hill Blvd	Restaurant
Renewal	Pizza Hut	2107 E Hwy 54	Restaurant
Renewal	Hilton Hotel Durham	3800 Hillsborough Rd	Restaurant
Renewal	Chuck E Cheese's	3724 Mayfair St	Restaurant
Renewal	Chili's Hamburger Grill	4600 Durham Chapel Hill Blvd	Restaurant
Renewal	Romano's Macroni Grill	4020 Chapel Hill Blvd	Restaurant
Renewal	On The Border Mexican Café	4600 Chapel Hill Blvd	Restaurant
Renewal	Circle K Store #8627	100 Woodcroft Pkwy	Convenience
Renewal	Circle K Store #8222	3801 N Duke St	Convenience
Renewal	Circle K Store #8201	1103 S Miami Blvd	Convenience
Renewal	World Market (2005)	1515 North Point Dr Ste 125	Grocery
Renewal	Costco Wholesale	1510 N Point Dr	Grocery
Renewal	Buy Quick Food Mart	1603 S Alston Ave	Convenience
Renewal	Ye Old Tavern	5504 Chapel Hill Blvd	Club
Renewal	Champs Americana Restaurant	8030 Renaissance Pkwy Ste 885	Restaurant
Renewal	Don Cecilios Mexican Grill & Cantina	5279 N Roxboro Rd	Restaurant
Renewal	Pao Lim Asian Bistro	2505 Chapel Hill Blvd	Restaurant
Renewal	Nordstrom Restaurant	6910 Fayetteville Rd	Restaurant
Renewal	California Pizza Kitchen	6910 Fayetteville Rd	Restaurant
Renewal	Savory Fare	908 W Main St	Convenience
Renewal	Corner Pocket	5234 Roxboro Rd	Restaurant
Renewal	Comfort Suites Hotel	5219 Page Rd	Restaurant
Renewal	Firebirds Rocky Mountain Grill	8030 Renaissance Pkwy	Restaurant
Renewal	Community Store	106 S Cuthrie Ave	Convenience
Renewal	Cross Creek BP	3834 Guess Rd	Convenience
Renewal	Devine's Restaurant(2004&2005)	904 W Main St	Restaurant
Renewal	Croasdaile Country Club	3800 Farm Gate Ave	Restaurant
Renewal	Buy and Go Food Mart 3	4161 Chapel Hill Rd	Convenience
Renewal	Circle K Store #5356	1401 S Miami Blvd	Convenience
Renewal	Kanki House of Steak Durham	3504 Mt Moriah Rd	Restaurant

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Renewal	Milestones Meeting	1058 W Club Blvd	Restaurant
Renewal	Double Tree Guest Suites	2515 Meridian Pkwy	Restaurant
Renewal	Maggiano's	8030 Renaissance Pkwy Ste890	Restaurant
Renewal	Exxon Food Shop #13	4401 N Roxboro Rd	Convenience
Renewal	Exxon Food Shop #16	4706 Apex Hwy	Convenience
Renewal	Texaco Food Mart #21	3875 Hillsborough Rd	Convenience
Renewal	Exxon Food Shop #23	100 Latta Rd	Convenience
Renewal	Eckerd Drugs #8552	5319 Roxboro Rd	Convenience
Renewal	Lighthouse Food Mart #104	5300 N Roxboro Rd	Convenience
Renewal	Sage & Swift Gourmet Catering	2505 Whilden Dr	Catering
Renewal	Rudino's Pizza & Grinders	1515 N Point Dr Ste 108	Restaurant
Renewal	Pizza Village	2105 Avondale Dr	Restaurant
Renewal	Trin Bago Caribbean Restaurant	826 Fayetteville St	Restaurant
Renewal	Joe & Jo's Downtown	427 W Main St	Restaurant
Renewal	Mi Barrio Mexican Restaurant	5023 Wake Forest Hwy	Restaurant
Renewal	Carniceria Toledo Butcher Shop	2223 E Hwy 54 Ste G&F	Convenience
Renewal	Durham Food Mart	407 Old Oxford Hwy	Convenience
Renewal	Tandoor Indian Restaurant	5410 Hwy 55 Ste 1	Restaurant
Renewal	Fuji Japanese Restaurant	4900 Hwy 55	Restaurant
Renewal	Bull City Supermarket	1109 E Main St	Grocery
Renewal	Bluz Eatery & Spirits	4310 S Miami Blvd	Restaurant
Renewal	Shop N Go Food Mart	4640 Hillsborough Rd	Convenience
Renewal	Frank & Stein	6702 Fayetteville Rd	Restaurant
Renewal	Parkwood Convenience	5100 Revere Rd	Convenience
Renewal	Durham Courtyard By Marriott	1815 Front St	Restaurant
Renewal	Torero's Mexican Restaurant	748 Ninth St	Restaurant
Renewal	Selam Convenience Store	106 Morris St	Convenience
Renewal	Hampton Inn & Suites	6121 Farrington Rd	Restaurant
Renewal	Aramark	205 W Union Bldg	Restaurant
Renewal	Al's Food Mart	2905 Hillsborough	Convenience
Renewal	Kroger #381	3825 S Roxboro St	Grocery
Renewal	Kangaroo Express #104	4835 Hope Valley Rd	Convenience
Renewal	Kangaroo Express #838	2503 NC Hwy 55 & Riddle Rd	Convenience
Renewal	Smokers Express #863	3793 Guess Rd	Convenience
Renewal	Zip Mart #3088	4830 Hope Valley Rd	Convenience
Renewal	Zip Mart #3091	3705 N Duke St	Convenience
Renewal	Kangaroo Express #3093	3223 NC Hwy 55	Convenience
Renewal	Etna #3161	3301 Guess Rd	Convenience

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Renewal	Etna #3162	2301 Holloway St	Convenience
Renewal	Etna #3163	2322 Hwy 55	Convenience
Renewal	On the Run 20-02055	3321 Apex Hwy	Convenience
Renewal	Kangaroo Express #3442	3406 Hwy 70 E & Page Rd	Convenience
Renewal	Homewood Suites Hotel	4603 Central Park Dr	Restaurant
Renewal	Q Shack	2510 University Dr	Restaurant
Renewal	Big Bowl	8030Renaissance Pkwy	Restaurant
Renewal	On the Run 22-18976	1914 Sedwick Rd Bldg 600	Convenience
Renewal	Restaurant & Taqueria Mexicana	2501 University Dr #C	Restaurant
Renewal	Italian Café	3550 N Roxboro Rd	Restaurant
Renewal	Buy Quick Food Mart	419 S Briggs Ave	Convenience
Renewal	Dales Indian Cuisine	811 Ninth St Space 150	Restaurant
Renewal	China Inn	2701 Hillsborough Rd	Restaurant
Renewal	MK's House of Jazz	118 W Main St	Club
Renewal	Don Becerra	2301 N Roxboro Rd	Convenience
Renewal	Kangaroo #3489	7840 Leonardo Dr	Convenience
Renewal	Somewhere Else Sports Bar & Billiards	2825 N Roxboro Rd	Restaurant
Renewal	Pizza Hut	2105 Sherron Rd	Restaurant
Renewal	Crown Central Petroleum	1007 N Miami Blvd	Convenience
Renewal	Bakus Tapas & Wine Bar and 9	746 & 744B Ninth St	Restaurant
Renewal	Manbites Dog Theater	703 Foster St	Restaurant
Renewal	United Eagle Village Food Mart	3011 Fayetteville ST	Convenience
Renewal	J&M Country Store LLC	3112 N Roxboro Rd	Grocery
Renewal	Bon Vivant Catering	3642 Shannon Rd, Ste 1	Restaurant
Renewal	Carolina Food Mart	1002 N Alston Ave	Convenience
Renewal	Toreros Mexican Restaurant II	3808 Guess Rd Ste 1	Restaurant
Renewal	Rose Mart #205	5108 Wake Forest Hwy	Convenience
Renewal	Last Chance	5830 Guess Rd	Club
Renewal	China House	3808G Guess Rd	Restaurant
Renewal	Circle K Store #6312	109 W NC Hwy 54	Convenience
Renewal	Circle K Store #6330	3308 NC Hwy 55	Convenience
Renewal	Tsunami Sushi & Noodles	6118B Farrington Rd	Restaurant
Renewal	Camilla's Italian Restaurant	1317 Bramble Dr	Restaurant
Renewal	Texas Roadhouse	1809 North Point Dr	Restaurant
Renewal	Restaurant Los Amigos	2016 Guess Rd	Restaurant
Renewal	Gregory's of Durham	1058 W Club Blvd	Restaurant

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Renewal	Rockfish Seafood Grill	8030 Renaissance Pkwy	Restaurant
Renewal	Esposito's Italian Eatery	4201 University Dr	Restaurant
Renewal	PF Changs	6801 Fayetteville Rd	Restaurant
Renewal	Café Verde	2200 W Main St	Restaurant
Renewal	Handi Foods	518 E Trinity Ave	Convenience
Renewal	Peek A Boo Bar and Grill	754 Ninth St	Restaurant
Renewal	Sunshine Amoco	601 W Chapel Hill St	Convenience
Renewal	M&M #4	801 N Mangum St	Convenience
Renewal	Lakewood Amoco	218 Lakewood Dr	Convenience
Renewal	North Durham Mobil	5100 Guess Rd	Convenience
Renewal	Pops	810 W Peabody St	Club
Renewal	Tienda Salvadorena Kimberly	3117 A Guess Rd	Restaurant
Renewal	Puebla Express Coffee Shop	2721 Guess Rd	Restaurant
Renewal	El Guanaco Restaurant	1002 1/2 E Geer St	Restaurant
Renewal	Fowlers	112 S Duke St	Grocery
Renewal	Bali Hali Mongolian Grill	811 Ninth St	Restaurant
New	Town & Country #8(2004&2005)	4701 Hillsborough Rd	Convenience
New	La Regia Mexican Restaurant (2004&2005)	2601 Apex Hwy	Restaurant
New	Cinelli's Restaurant Pizzeria (2004&2005)	4015 University Dr Ste K	Restaurant
New	World Market (2004&2005)	6807 Fayetteville Rd Ste 114	Grocery
New	Sirens Lounge (2004&2005)	1803 W Markham Ave	Restaurant
New	Ali Grocery (2004&2005)	501 N Driver St	Convenience
New	Ted's Montana Grill (2004&2005)	6911 Fayetteville Rd Ste 102	Restaurant
New	Moe's Southwest Grill (2004&2005)	6807 Fayetteville Rd Ste 122	Restaurant
New	Forest Hills Family Fare #255(2004&2005)	1251 University Dr	Convenience
New	Target T1872 (2004&2005)	4037 Chapel Hill Blvd	Grocery
New	Rockwood Family Fare #402 (2004&2005)	2000 James Street	Convenience
New	City Beverage (2004&2005)	4810 Hope Valley Rd Ste 101	Restaurant
New	Blue Mesa (2004&2005)	5311 S Miami Blvd Ste A	Restaurant
New	Grayson' s Café (2004&2005)	2300 Chapel Hill Rd	Restaurant
New	West End Tavern (2005)	1647 Cole Mill Rd	Restaurant
New	Gran Sabana Restaurant [2004&2005]	4853 Hwy 55	Restaurant

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New	Food Lion #2589	121 Sherron Rd	Grocery
New	Varsity Ale House	3019 Auto Dr	Restaurant
New	Chili's Hamburger Grill	6917 Fayetteville Rd	Restaurant
New	Jose Jr Records	2202 Avondale Ave	Convenience
New	Food Lion #2593	3022 Fayetteville St	Grocery
New	Zipmart 3101	2229 NC Hwy 54 East	Convenience
New	Thai Tana Restaurant	5410 F Hwy 55	Restaurant
New	Uptown Club & Entertainment	335 W Main ST	Club
New	Ricks Diner (2004&2005)	4711 Hope Valley Rd	Restaurant
New	Partick's Seasonal Cuisine	4201 N Roxboro Rd	Restaurant
New	Wellons Village Family Fare #447- (2004&2005)	921 N Miami Blvd	Convenience
New	Durham Fine Wine	3615 Witherspoon Blvd Ste 105	Convenience
New	Federal Lounge (2004&2005)	914 W Main St	Club
New	Sam's Club 4831	4005 Chapel Hill Blvd	Grocery
New	O'Charley's	4010 Durham Chapel Hill Blvd	Restaurant
New	Honduras Restaurant & Bar	1121 University Dr	Restaurant
New	Quik Mini Mart	2820 Cheek Rd	Convenience
New	Chamas Churrascaria	905 W Main St, Ste 115	Restaurant
New	Da Tonino	1644 Cole Mill Rd	Restaurant
New	Hills Market	201 E Geer St	Grocery
New	Pop A Top (2004&2005)	220 Chandler Rd	Club
New	Wingstop Restaurant	1839 Martin Luther King Jr Pkwy	Restaurant

SUBJECT: PROPOSED THREE-YEAR LEASE AGREEMENT BETWEEN THE CITY OF DURHAM AND THE CENTRAL MEDICAL PARK, LLC

City Attorney Blinder disclosed that the wording for the estoppel certificate is still being finalized and may not be the same as printed in the staff report.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to authorize the City Manager to execute the Lease Agreement with Central Medical Park, LLC;

To authorize the City Manager to execute one or more estoppel certificates with respect to the lease of Suite 301A in Central Medical Park; and

To authorize the City Manager to make changes to the Lease provided such changes do not change the intent of this agenda memo was approved at 8:39 p.m. by the following vote: Ayes:

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Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: SUPPLEMENTAL AGREEMENT WITH MARTIN ALEXIOU BRYSON (MAB) FOR TRANSPORTATION PLANNING & DESIGN SERVICES

MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute the Supplement Agreement with Martin Alexiou Bryson for transportation planning & design services, not to exceed \$50,000 during the multi-year time period from November 2004 to September 2006; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount in the agreement, and the modifications are consistent with the general intent of the existing version of the agreement approved by the City Council was approved at 8:40 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: PROPOSED SYNTHETIC FIXED RATE REFINANCING AND SPECIAL ASSESSMENT COLLECTIONS - PARKER POE ADAMS & BERNSTEIN L.L.P. - THE BANKS LAW FIRM, P.A. – PUBLIC FINANCIAL MANAGEMENT (PFM) – RICE FINANCIAL PRODUCT COMPANY (RFPC)

Finance Director Ken Pennoyer briefed Council on the staff report.

Council Member Catotti noted she is not comfortable with the potential risk of the proposed swap and will be voting against this item.

Council Member Stith spoke in support of this item noting the City has a potential to save \$8 million.

Council Member Best expressed concern with this item noting there is a different way to save money. He noted he would like to see a lock box initiative placed in the contract.

Finance Director Ken Pennoyer noted the policy includes a requirement that 50 percent of savings be placed in a reserve during the first half of the swap arrangement.

Council Member Brown asked the administration to review moving from a 20-year amortization to a 15-year one in terms of overall savings.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive a presentation on the Proposed Synthetic Fixed Rate Refinancing;

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To adopt a “Resolution of the City Council of the City of Durham, North Carolina, Authorizing an Interest Rate Exchange Agreement Policy and the Negotiation of an Interest Rate Exchange Agreement with Respect to Certain City General Obligation Bonds and Providing for Certain Other Related Matters Thereto”;

To adopt an Interest Rate Exchange Agreement Policy Statement;

To direct the Finance Officer to file an application with the Local Government Commission for the approval of the swap agreement and payment of the required fees to the Local Government Commission;

To retain Parker Poe Adams & Bernstein L.L.P., Raleigh, North Carolina, and The Banks Law Firm, P.A., Research Triangle Park, North Carolina as co-special counsel and retain PFM as financial advisor with respect to the RFPC Swap; and

To negotiate a swap contract with RFPC for Council approval was approved at 8:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Clement and Stith. Noes: Council Members Best, Brown and Catotti. Absent: None.

Resolution #9189

City of Durham, North Carolina

**Attachment I
Interest Rate Exchange Agreements**

Introduction

The City of Durham, North Carolina (“City”) has determined to compile in a single written instrument the policies and practices to be used in connection with the City procurement of and entering into interest rate swap agreements (also known as interest rate exchange agreements) and related transactions. For such purpose, the City staff has reviewed the relevant policy adopted for the State of North Carolina and has consulted the Local Government Commission and the City’s financial advisor and bond counsel. Specific legislative authorization for these agreements and transactions exists in G.S. Chapter 159, Article 13, §§ 159-193 to 200, inclusive, as enacted by Chapter 388, Session Laws of 2003 (“State Statute”).

This policy will govern the use by the City of interest rate exchange agreements. An “Interest Rate Swap Agreement” or “Interest Rate Exchange Agreement” is a written contract entered into in connection with the issuance of debt obligations for the City or in connection with City debt already outstanding with a counterparty to provide for an exchange of payments based upon fixed and/or variable interest rates. The failure by the City to comply with any provision or condition of this policy will not invalidate or impair any Interest Rate Exchange Agreement. Prior to entering into any interest rate swap agreement, the City council will pass a resolution authorizing the same.

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The City maintains the right to modify this policy and make exceptions to certain guidelines at any time to the extent that the execution of an Interest Rate Swap Agreement achieves one or many of the goals outlined below.

I. Conditions Under Which Interest Rate Swap Agreements May Be Entered Into

A. Purposes

Interest Rate Swap Agreements may be used for the following purposes:

1. To achieve significant savings as compared to a product available in the bond market. Savings gained by executing an interest rate swap agreement shall be calculated after adjusting for a) applicable fees, including takedown, remarketing fees and credit enhancement fees and b) call options that may be available on the bonds. Examples may include synthetic fixed rate debt and synthetic variable rate debt. Alternatively, significant savings are deemed to occur if the use of derivatives helps to achieve fixed or variable rate diversification of a particular bond offering.
2. To enhance investment returns within prudent risk guidelines.
3. To prudently hedge risk in the context of a particular financing or the overall asset/liability management of the City. Examples may include buying interest rate caps and entering into delayed start swaps.
4. To incur variable rate exposure within prudent guidelines.
5. To achieve enhanced flexibility in meeting overall financial objectives than available in conventional markets. An example may include the sale to a counterparty of an option to require the City to issue or incur particular obligations to retire other obligations (swaption) with an upfront payment to the City.
6. To optimize capital structure, including schedule of debt service payments and/or fixed vs. variable rate allocations.

B. Permitted Instruments

The City may expressly utilize the following financial products on a current or forward basis, after identifying the objective(s) to be realized and assessing the attendant risks:

1. Interest rate swaps, including fixed, floating and/or basis swaps.
2. Interest rate caps/floors/collars.
3. Options, including swaptions, caps, floors, collars and/or cancellation or index based features.

The permitted instruments outlined above are not intended to relate to various interest rate hedging products. They are not intended to encompass other derivative products that the City may consider.

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C. Legality

The City will abide in all respects with the provisions of G.S. Chapter 159, Article 13 as may be amended from time to time. In addition, the City must receive an opinion acceptable to the market from a nationally recognized bond counsel law firm that the interest rate swap agreement is a legal, valid and binding obligation of the City and entering into the transaction complies with applicable law.

D. Speculation

Interest rate swap agreements will not be used for speculative purposes. Associated risks will be prudent risks that are appropriate for the City to take.

E. Independent Financial Advisor

The City will retain an experienced, independent financial advisor prior to entering into an Interest Rate Swap Agreement. Duties of the financial advisor will include advice with respect to the structure, terms and provisions of any proposed interest rate exchange transaction and provision of an opinion to the City that any interest rate swap agreement approved by the City provides fair market value to the City as of the date of its execution. In appropriate circumstances, the Local Government Commission may serve as financial advisor for these purposes.

II. Contract Solicitation and Procurement Methods

The City will procure interest rate swap agreements by either competitive bidding or through negotiations with one or more counterparties. The City, with the advice of the Local Government Commission if necessary, will determine which parties are qualified and may participate in a competitive or negotiated transaction. When the City wishes to achieve diversification of counterparty exposure in a competitively bid transaction, the City may allow a firm or firms not submitting the bid that produces the lowest cost to match the lowest bid and be awarded up to a specified percentage of the notional amount of the interest rate swap agreement. In addition, to encourage competition, the City may allow bidders to match the winning bid up to a specified amount of the notional amount as long as their bid is no greater than a specified spread from the winning bidder. The parameters for the bid will be disclosed in writing to all potential bidders.

Notwithstanding the competitive parameters outlined above, the City may procure interest rate swap agreements by negotiated methods in the following situations:

1. The City makes a determination that, due to the size or complexity of a particular swap, a negotiated transaction would result in the most favorable pricing and terms. The City will use an independent financial advisory firm and/or the Local Government Commission to assist in the price negotiations in the development of terms and in risk assessment.
2. The City makes a determination, in light of the facts and circumstances, that doing so will promote its interests by encouraging and rewarding innovation.

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3. If procured through negotiation, the City shall obtain an independent opinion from its financial advisor that the terms and conditions of the interest rate swap agreement reflect a fair market value of such agreement as of the date of its execution.

III. Counterparty Selection Criteria

The City will structure swap agreements to protect itself from credit deterioration, including the use of a credit support annex or other forms of credit enhancement to secure counterparty performance. Such protection shall include any terms and conditions which at the City's sole discretion are necessary or in the City's best interest.

The City shall attempt to do business with highly rated counterparties (or an entity which unconditionally guarantees the payment obligations of a counterparty) in which the long-term ratings at the date of execution are at least "Aa3" or "AA-" by one or more Nationally Recognized Statistical Ratings Organizations ("NRSRO") and no less than "A2" or "A" by one or more NRSRO. For counterparties that do not meet this minimum ratings threshold, the Agency should seek credit enhancement in the form of:

1. Credit guarantee through insurance or contingent swap counterparty providing support;
2. Collateral; and
3. Ratings downgrade triggers.

In addition, the counterparty or guarantor must have minimum capitalization of at least the initial notional amount of the swap and must have a demonstrated record of successfully executing swap transactions as well as creating and implementing innovative ideas in the swap market. The City shall be authorized to enter into interest rate swap transactions only with qualified swap counterparties.

If after entering into an agreement the ratings of the counterparty are downgraded by any one of the rating agencies below the ratings required by this policy, then the agreement shall be subject to termination unless a) the counterparty provides either a substitute guarantor or assigns the agreement, in either case, to a party that is acceptable to the City that meets the rating criteria or b) the counterparty (or guarantor) collateralizes the interest rate swap agreement in accordance with the criteria set forth in this policy and the interest rate swap agreement.

IV. Form and Content of Interest Rate Swap Agreements

To the extent possible, the interest rate swap agreements entered into by the City will contain the terms and conditions set forth in the International Swap and Derivatives Association, Inc. ("ISDA") Master Agreement, including any schedules and confirmation. The schedule will be modified to reflect specific legal requirements and business terms desired by the City.

A. Terms and Notional Amount of Swap Agreement

The City shall determine the appropriate term for an interest rate swap agreement on a case-by-case basis. In connection with the issuance or carrying of bonds, the term of the swap agreement between the City and a qualified swap provider shall not extend beyond the final maturity date of existing debt of the City of a specific project, or in the case of a refunding transaction, beyond the final maturity of the refunding bonds. At no time shall the total net notional amount of all swaps exceed the total amount of the outstanding bonds. For purposes of calculating net

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exposure, credit shall be given to any fixed versus variable rate swaps that offset for a specific project or bond transaction. For variable rate transactions, credit may also be given for any assets that are used to hedge a transaction as long as in the City's judgment such assets are reasonably expected to remain in place on a conterminous basis with the swap.

Terms and conditions of any swap shall be negotiated by the City in the best interests of the City subject to the provisions of the State Statute and the guidelines set forth. The swaps between the City and each counterparty shall include payment, term, security, collateral, default, remedy, termination, and other terms, conditions and provisions as the City, in consultation with its legal counsel and financial advisor deems necessary or desirable.

Subject to the provisions contained herein, the City's swap documentation and terms should include the following:

1. Downgrade provisions triggering termination shall in no event be worse than those affecting the counterparty.
2. Governing law for swaps will be New York, but should reflect North Carolina authorization provisions.
3. Collateral thresholds should be set on a sliding scale reflective of credit ratings (See *Provisions for Collateralization*).
4. Eligible thresholds should be limited to Treasuries, Federal Agencies and any other securities which in the City's sole discretion shall be deemed reasonable and creditworthy.
5. Termination value should be set by "market quotation" methodology, when the City deems appropriate.
6. The City shall only agree to an Additional Termination Event for the City to the extent that the City's underlying ratings falls below "Baa", "BBB" and "BBB" from Moody's, Standard & Poor's and Fitch, respectively and no form of credit support rating of "A3" from Moody's or "A-" from Standard & Poor's and Fitch or greater is in place.

B. Termination Provisions

All swap transaction shall contain provisions granting the City the right to optionally terminate the agreement at its market value at any time. The City will also consider embedding optionality including provisions that permit the City to assign its rights and obligations under the interest rate swap agreement. In general, except in the event of the counterparty's ratings being downgraded below the ratings required by this policy (*See Counterparty Selection Criteria*) the counterparty will not have the right to assign or optionally terminate an agreement.

C. Events of Default

Events of default of a counterparty will include the following:

1. Failure to make payments when due,

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2. Material breach of representations and warranties,
3. Illegality,
4. Failure to comply with downgrade provisions, and
5. Failure to comply with any other provisions of the agreement after a specified notice period.

The City will incorporate into any swap contract the right to terminate the agreement upon an event of default by the counterparty. Such right may be conditioned on the consent of a third party such as the Local Government Commission and any person providing credit enhancement or liquidity in any related transaction. Upon such termination, the counterparty will be the “defaulting party” for purposes of calculating the termination payment owed.

V. *Swap Analysis and Risk Exposure Associated with Interest Rate Swap Agreements*

A. *Evaluation of Interest Rate Swap Agreements*

Before entering into an interest rate swap agreement, the City will evaluate all the benefits and risks inherent in the transaction. Such an evaluation will include the following:

1. The identification of the proposed benefit and potential risks, which shall include, but not necessarily limited to, those risks outlined herein.
2. Independent analysis of potential savings from proposed transaction.
3. Fixed versus variable rate and swap exposure on a project and per counterparty basis before and after the proposed transaction.

In addition, in evaluating a particular transaction involving the use of interest rate swap agreements, the City will review and discuss with the Local Government Commission the long-term implications associated with entering into interest rate swap agreements, including costs of borrowing, historical interest rate trends, variable rate capacity, credit enhancement capacity, opportunities to refund related debt obligations and other similar considerations.

B. *Evaluation of Swap Risks*

Risks to be evaluated would include:

1. Counterparty Risk – The risk of a payment default on a swap by an issuer’s counterparty.
2. Termination Risk – The risk that a swap has a negative value and the issuer owes a “breakage” fee if the contract has to be liquidated.
3. Rollover Risk – The risk that an issuer can not secure a cost-effective renewal of a letter or line of credit or; the risk of a failed remarketing or auction with respect to any variable rate bonds associated with a swap.
4. Basis Risk – A mismatch between the rate on an issuer’s underlying bonds and the swap (e.g., a tax-exempt VRDO issue which trades at 70% of LBOR while the issuer only receives 67% of LIBOR under the swap).

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5. Tax Event Risk – The risk that the spread between taxable and tax-exempt rates will change as a result of changes in income tax laws or other conditions.
6. Amortization Risk – The risk that the amortization with the swap will not be fully integrated with the amortization of the underlying bonds.

C. Provisions for Collateralization

The City will endeavor to diversify its exposure to counterparties. To that end, before entering into a transaction, the City will determine its exposure to the relevant counterparty or counterparties and determine how the proposed transaction would affect the exposure.

Should the rating of the counterparty, or if secured, the entity unconditionally guaranteeing its payment obligations not satisfy the requirements of the *Counterparty Selection Criteria*, then the obligations of the counterparty will be fully and continuously collateralized by direct obligations of, or obligations the principal and interest on which are guaranteed by, the United States of America and such collateral will be deposited with the City or an agent thereof. In the case of an interest rate swap agreement, such collateral posted by the counterparty will have a net market value of at least 102% of the net market value of the agreement to the City. Other provisions are as follows:

1. Threshold amounts for collateralization shall be determined by the City on a case-by-case basis. The City will determine the reasonable threshold limits for the initial deposit and for increments of collateral posting thereafter.
2. Collateral shall be deposited with a third party trustee, or counterparty (in a segregated account), mutually agreed upon between the City and the counterparty.
3. A list of acceptable securities that may be posted as collateral and the valuation of such collateral will be determined and mutually agreed upon during negotiation of swap agreement with each swap counterparty.
4. The market value of the collateral shall be determined on at least a monthly basis, or more frequently if the City determines it is in the City's best interest given the specific collateral security.
5. The City shall determine on a case-by-case basis whether other forms of credit enhancement are more beneficial to the City.

VI. Limitations on Termination Exposure

In order to diversify the City's counterparty risk, and to limit the City's credit exposure to one counterparty, limits will be established for each counterparty based upon both credit rating of the counterparty as well as the relative level of risk associated with each existing and projected swap transaction. The following guidelines provide general termination exposure guidelines with respect to whether the City should enter into an additional transaction with an existing counterparty. The City may make exceptions to these guidelines at any time to the extent that the execution of a swap achieves one or many of the financial goals of the City.

Such guidelines set forth will also not mandate or otherwise force automatic termination by the City or the counterparty. Such provisions will only act as guidelines in making a determination

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as to whether or not a transaction should be executed given certain levels of existing and projected net termination exposure to a specific counterparty. The calculation of net termination exposure per counterparty will take into consideration multiple transactions, some of which may offset the overall exposure to the City.

Under this approach, the City will set limits on individual counterparty exposure based on existing as well as new or proposed transactions. The sum of the **current market value** and the **projected exposure** shall constitute the maximum net termination exposure. For outstanding transactions, current exposure will be based on the market value as of a recently completed swap valuation report provided by the City's swap advisor. Projected exposure shall be calculated based on the swap's potential termination value taking into account possible adverse changes in interest rates as implied by historical or projected measures of potential rate changes applied over the remaining term of the swap. For purposes of this calculation, the City shall include all existing and projected transactions of an individual counterparty and all transactions will be analyzed in aggregate such that the maximum exposure will be additive.

The exposure thresholds, which will be reviewed periodically to ensure that they remain appropriate, will also be tied to credit ratings of the counterparties and whether or not collateral has been posted. If a counterparty has more than one rating, the lowest rating will govern for purposes of calculating the level of exposure. If contingent swap counterparty or swap insurance is used to provide financial support for the primary counterparty, the rating of the support entity shall be used. A summary table is provided below:

Credit Ratings	Maximum Collateralized Exposure	Maximum Uncollateralized Exposure	Maximum Total Termination Exposure
AAA	Not applicable	[\$150 million]	[\$150 million]
AA Category	[\$75 million]	[\$75 million]	[\$150 million]
Below AA	[\$75 million]	–	[\$75 million]

If the exposure limit is exceeded by a counterparty, the City shall conduct a review of the exposure limit per counterparty. The City, in consultation with its Financial Advisor, shall evaluate appropriate strategies to mitigate this exposure.

VII. Standards for Procurement of Credit Facilities

The selection of the provider of the credit enhancement or liquidity facility in connection with an Interest Rate Swap Agreement will be based on the following criteria:

1. Credit rating
2. Capacity of the provider
3. Ability of provider to make required payments
4. Duration of the agreement relative to the duration of the Interest Rate Swap Agreement
5. Terms of the agreement, including termination events

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6. Trading value of the provider's facility
7. Prior experience with provider
8. Cost, relative to other proposals and potential savings versus unenhanced obligations
9. Overall exposure of the City to the provider
10. Overall exposure of market to provider
11. Ability to accept terms and condition proposed

The procurement of any liquidity and credit enhancement facilities will be in compliance with applicable State law.

VIII. Ongoing Management

The City will seek to maximize the benefits and minimize the risks it carries by actively managing its swap program. This will entail continuous monitoring of market conditions, in conjunction with the swap counterparty, for emergent opportunities and risks. Active management may require modifications of existing positions including:

1. Early termination
2. Shortening or lengthening the term
3. Sale or purchase of options
4. Application of basis swaps

Proposed modifications must be consistent with the policies outlined herein, as well as further the goals of the swap program.

IX. Monitoring

The City will monitor its use of interest rate swap agreements as follows:

1. After each interest rate swap agreement has been completed, staff will prepare a description of the contract, including a summary of its terms and conditions, the notional amount, rates, maturity and other provisions thereof.
2. On each payment date, staff will determine any amounts which were required to be paid and received, and that the amounts were paid and received.
3. Staff will annually determine that each counterparty is in compliance with its rating requirements, or more frequently when information is available that could negatively affect the counterparty's ratings.
4. If a counterparty is no longer in compliance with its rating requirements, staff will determine that it is in compliance with the downgrade provisions (See *Counterparty Selection Criteria*).

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5. Staff will annually determine all material changes in connection with existing swap agreements or new swap agreements entered into by the City since the last annual examination.
6. Staff will track, at least annually, the market value of each of the City's interest rate swap agreements.
7. For swap transactions entered into to generate debt service savings, the City will calculate on an annual basis the actual debt service requirements versus the projected debt service on the swap transaction at the original time of execution. Such a calculation shall include the determination of the cumulative actual savings versus the projected savings at the time a swap is executed.
8. Staff will determine, at least semiannually, that all posted collateral, if required, has a net market value of at least 102% of the net market value of the agreement to the City (See *Provisions for Collateralization*).
9. During the first half of the term of the Interest Rate Swap Agreement, 50% of any realized cash flow savings generated from the transaction will be placed in a reserve account to be used to off-set any potential cash flow losses over the life of the transaction. During the second half of the term of the swap agreement, the appropriate level of the reserve will be determined on an annual basis.

X. Reporting

The City will reflect the use of interest rate swap agreements on its financial statements in accordance with generally accepted accounting principles.

SUBJECT: SPECIAL ASSESSMENT COLLECTIONS

To receive a report on the Special Assessment Collections.

Finance Director Ken Pennoyer made comments on this item.

Mayor Bell noted he asked the administration to provide a monthly report at the work session outlining 30, 60, 90 days or greater delinquent assessments.

Mr. Pennoyer noted staff is working on an agent report and one of the problems is that the payment terms are annual.

Joseph Collie with Concerned Citizens for an Accountable Government noted the need to raise property values and property taxes in the shadow of the waste of public funds by some bad investments, non-collection of delinquent accounts from many affluent citizens are seriously eroding public faith in the way the City has been and is being run. He expressed concern with the City increasing taxes to payoff bad investments, uncollected taxes, loans and assessments. He asked questions relative to bad debt, City's outside auditing firm controls/recommendations,

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the result from audits of all City departments, audit on City funds provided to UDI, CDC; the membership and actions of the Audit Services Oversight Committee.

Mayor Bell made comments on the openness of the Audit Services Oversight Committee.

Charlotte Woods, of CCAG, expressed concern with the amount of money due to the City and nothing has been done to collect funds. She noted the auditing firm, Cherry Bekart and Holland, mentioned the accounts receivable water and sewer assessment in a letter to the Mayor dated October 19, 2001 and in a memo dated June 30, 2002 spoke to the growing balance of such receivables. She made comments on the balloon payment due from the DHA, the collection rate for property taxes, what other local municipalities are doing relative to collection of delinquent assessments and the audit requested in June 2004 [handout provided]. She requested information on the oversight the City has in place or intends to put in place to ensure equitable accountability, justification of the effectiveness of expenditure outcomes and collection of debts.

Mayor Bell noted he was not the Mayor in October 2001 but would look into the letter from the auditing firm.

A representative from the Concerned Citizens for Accountable Government urged Council to put a policy in place for the collection of outstanding debt.

Mayor Bell noted the County collects the taxes for both the City and County and the administration has been charged with putting a plan in place for collection of assessments.

Finance Director Ken Pennoyer reported on the collection rate of 96.7%, factors contributing to the inflated numbers printed in the newspaper of 2.2 million which is today at \$1.3 million and the management letter which pertained to a recommendation of assessment write-offs. He noted the administration is using the debt set-off program to collect assessments.

Council Member Stith made comments on staff bringing forward a proactive and aggressive policy.

Finance Director Ken Pennoyer informed Council that he would bring back a policy and amendment to the inter-local for foreclosure procedures and special assessments for Council's approval.

Council Member Best made comments on a procedure for accounts more than 60 years old.

Council Member Clement requested regular reports on seeking reimbursement of unpaid assessments.

Interim City Manager Baker noted the delinquent assessment report will be added to the November 18, 2004 Work Session agenda as a Supplemental Item.

Council Member Brown asked the administration to review collection rate models throughout North Carolina.

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MOTION by Council Member Clement seconded by Council Member Stith to receive a report on the Special Assessment Collections was approved at 9:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON REIGALWOOD ROAD

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Stith seconded by Council Member Clement to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Reigalwood Road from North Property Line of tax Map 808-1-57 to End of Cul-de-sac was approved at 9:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON ONELUSKA DRIVE

Due to an objection, Lee Murphy, Engineering Manager, requested Council to confirm the assessment roll except for the John P. and Catherine E. Maynard properties, continue the public hearing for that assessment without further advertising and to refer that assessment to the January 6, 2005 City Council Work Session for further consideration.

MOTION by Council Member Stith seconded by Council Member Brown to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Oneluska Drive from Shocoree Drive to end of 60' R/W, except for the John P. and Catherine E. Maynard properties to be referred to the January 6, 2005 City Council Work Session for further consideration [public hearing continued without further advertising] was approved at 9:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON SPARGER ROAD

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

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Sparger Road from Howe Street to the North Property Line of Tax Map 764-14-1 was approved at 9:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON RIDDLE ROAD

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

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Riddle Road from East Property Line Tax Map 557-3-6 to West Property Line Tax Map 566-2-26 was approved at 9:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON SO-HI DRIVE

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

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on So-Hi Drive from Eastwood Drive to North Property Line of Tax Map 555-3-30A was approved at 9:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - WATER MAIN ON ARDEN LANE

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

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive public comments; and

To adopt a resolution confirming the assessment roll for Water Main on Arden Lane from Rolling Pines Avenue to East Property Line of Tax Map 646-8-1 was approved at 9:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - WATER MAIN ON VALMET DRIVE

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive public comments; and

To adopt a resolution confirming the assessment roll for Water Main on Valmet Drive from Freeman Road to Daniel Road was approved at 9:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: RECEIPT OF PUBLIC COMMENT AND ADOPTION OF ORDINANCES REGARDING VOLUNTARY ANNEXATION PETITIONS RECEIVED BY AUGUST 1, 2004

a) FY2004-16 Holloway Property/Fountain Street

To receive citizens' comments for the Holloway Property/Fountain Street voluntary annexation;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area for Holloway Property/Fountain Street in accordance with N.C. General Statutes 160A-31 effective from and after December 31, 2004 ; and

To authorize the City Manager to pay the debt service of the Redwood VFD.

Budget Director Julie Brenman noted the property owner to-date has not submitted an updated certificate of title. She urged Council to continue the public hearing without further advertising to the December 6, 2004 City Council Meeting.

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Mayor Bell opened the public hearing.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to continue the public hearing without further advertising to the December 6, 2004 City Council Meeting was approved at 9:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

b) FY2004-21 Ravenstone Subdivision - Bethesda VFD

Budget Director Julie Brenman made comments on this item noting under the current and requested zoning the property would produce a net positive cash flow.

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

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive citizens' comments for the Ravenstone Subdivision voluntary annexation;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area for Ravenstone Subdivision in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2004 ; and

To authorize the City Manager to pay the debt service of the Bethesda VFD was approved at 9:36 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #13032

c) FY2004-25 Ridgecrest Baptist Church

Budget Director Julie Brenman made comments on this item noting under the current zoning the property would produce a negative cash flow and staff's recommendation is to deny this annexation request.

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

MOTION by Council Member Clement seconded by Council Member Catotti to receive citizens' comments for the Ridgecrest Baptist Church voluntary annexation;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area for Ridgecrest Baptist Church in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2004; and

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To authorize the City Manager to modify an existing half-base contract with the Lebanon VFD to provide supplemental fire protection services over a five-year period for the Voluntary Annexation Area, under the same terms and conditions as services are provided to other areas in such contracts **FAILED** at 9:37 p.m. with the following vote: Ayes: None. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

d) FY2005-01 Vestavia Hills – Redwood VFD

Budget Director Julie Brenman made comments on this item noting under the current and requested zoning the property would produce a net positive cash flow.

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

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive citizens' comments for the Vestavia Hills voluntary annexation;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area for Vestavia Hills in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2004 ; and

To authorize the City Manager to pay the debt service of the Redwood VFD was approved at 9:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #13033

e) FY2005-04 Mandalay Ridge - Bethesda VFD

Budget Director Julie Brenman made comments on this item noting under the current and requested zoning, the property would produce a net positive cash flow.

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

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to receive citizens' comments for the Mandalay Ridge voluntary annexation;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area for Mandalay Ridge in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2004 ; and

To authorize the City Manager to pay the debt service of the Bethesda VFD was approved at 9:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

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Ordinance #13034

f) FY2005-05 Summer Meadow Phase 5

To receive citizens' comments for the Summer Meadow Phase 5 voluntary annexation;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area for Summer Meadow Phase 5 in accordance with N.C. General Statutes 160A-31 effective from and after December 31, 2004 ; and

To authorize the City Manager to pay the debt service of the Lebanon VFD.

Budget Director Julie Brenman made comments on this item urging Council to continue the public hearing without further advertising to the December 6, 2004 City Council Meeting.

Mayor Bell opened the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to continue the public hearing without further advertising to the December 6, 2004 City Council Meeting was approved at 9:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

g) FY2005-07 Treyburn I-9

To receive citizens' comments for the Treyburn I-9 voluntary annexation;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area for Treyburn I-9 in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2004 ; and

To authorize the City Manager to modify an existing half-base contract with the Bahama and Lebanon VFDs to provide supplemental fire protection services over a five-year period for the Voluntary Annexation Area, under the same terms and conditions as services are provided to other areas in such contracts. Bahama will provide primary response, Lebanon will provide secondary response.

Note: The annexation for Treyburn I-9 was withdrawn from the agenda at the request of the petitioner.

h) FY2005-09 Quail Creek - Bethesda VFD

Budget Director Julie Brenman made comments on this item noting under the current and requested zoning, the property would produce a net positive cash flow.

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

MOTION by Council Member Clement seconded by Council Member Stith to receive citizens' comments for the Quail Creek voluntary annexation;

To adopt "An Ordinance Annexing to the City of Durham" the Voluntary Annexation Area for Quail Creek in accordance with N.C. General Statutes 160A-58 effective from and after December 31, 2004 ; and

To authorize the City Manager to pay the debt service of the Bethesda VFD was approved at 9:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #13035

SUBJECT: HISTORIC LANDMARK DESIGNATIONS (LD04-02, LD04-03, LD04-04, LD04-05 AND LD04-06

City/County Planning Director Frank Duke make comments on this item.

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

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to receive public comment on designating the William and Margaret Lynch House (112 West Lynch Street), the Dr. Hickman and Ethel Ray House (117 West Lynch Street), the Mabel and G. Frank Warner House (119 West Lynch Street), the Temple Building (302 West Main Street) and the former First National Bank Building (123 West Main Street); and

To adopt an ordinance providing for the Designation of the William and Mary Lynch House as a City of Durham Historic Landmark under the Durham Zoning Code, Section 5.6.5; and

To adopt an ordinance providing for the Designation of the Dr. Hickman and Ethel Ray House as a City of Durham Historic Landmark under the Durham Zoning Code, Section 5.6.5; and

To adopt an ordinance providing for the Designation of the Mable and G. Frank Warner House as a City of Durham Historic Landmark under the Durham Zoning Code, Section 5.6.5; and

To adopt an ordinance providing for the Designation of the Temple Building as a City of Durham Historic Landmark under the Durham Zoning Code, Section 5.6.5; and

To adopt an ordinance providing for the Designation of the former Nations Bank Building as a City of Durham Historic Landmark under the Durham Zoning Code, Section 5.6.5 was approved

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at 9:41 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #s 13036, 13037, 13038, 13039 and 13040

**SUBJECT: REZONING MATTER CASE (P03-38) - NC 55/ALEXANDER – 55
ALEXANDER ASSOCIATES, LLC – SOUTHEAST CORNER OF NC 55
AND T.W. ALEXANDER DRIVE, WEST OF S. ALSTON AVENUE AND
THE RAIL CORRIDOR**

To receive public comment on rezoning Case P03-38 (NC 55/Alexander); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-38 out of RD, I-2, NC; F/J-B and placing same in and establishing same as RM-8(D), GC(D), OI-2(D); F/J-B.

Planning Department Recommendation: Approval
Zoning Committee Recommendation and Vote: Denial - (12-0)

City/County Planning Director Frank Duke briefed Council on the staff report highlighting committed elements on page 2. He noted proposal is consistent with the NC 54/I-40 Corridor Study, made comments on road capacity and school impacts. Mr. Duke noted staff is recommending approval and the Planning Commission voted to deny this request.

Mayor Bell opened the public hearing.

Council held discussion on sewage treatment plant.

Proponent

Patrick Byker, representing the applicant, spoke in support of this rezoning request providing Council with a development plan. He outlined the following reasons why Council should support this project: 1) widening of NC 55, right-of-way improvements should alleviate negative traffic impacts at the site, 2) housing/mixed-use development close to major employers in RTP, 3) stormwater retention demonstration project 4) support from the Research Triangle Foundation and major neighboring employers and urged Council to support this rezoning request.

No one spoke in opposition to this rezoning.

Mayor Pro Tempore Cole-McFadden asked the applicant how the number of drive-thru facilities will be addressed.

Patrick Byker, representing the applicant, noted drive-thru facilities have been taken off the development plan and will be considered on a case-by-case basis by the Development Review Board.

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Council Member Brown noted there are not enough bike racks (19).

Patrick Byker, representing the applicant, noted the applicant will review the bike rack issue as they develop the project.

Mayor Bell expressed concern about the upkeep/lack of water in detention ponds in the community after developers build them. He made comments on putting in place standards to make sure they are aesthetically pleasing.

Dr. Wang, representing the applicant, made comments on the design of the detention pond for this project.

City/County Planning Director Frank Duke noted he will work with the Storm Water Division who handles this issue.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Stith seconded by Council Member Best to receive public comment on rezoning Case P03-38 (NC 55/Alexander); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in rezoning Case P03-38 out of RD, I-2, NC; F/J-B and placing same in and establishing same as RM-8(D), GC(D), OI-2(D); F/J-B was approved at 10:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[SUPPLEMENTAL ITEMS]

SUBJECT: RESCHEDULING REGULAR CITY COUNCIL WORK SESSION

MOTION by Council Member Clement seconded by Council Member Best to adopt an Ordinance Rescheduling the Regular City Council Work Session Meeting from Thursday, December 23, 2004 to Tuesday, December 21, 2004 was approved at 10:01 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Clement. Noes: Council Member Stith. Absent: None.

Ordinance #13041

Mayor Pro Tempore Cole-McFadden welcomed NCCU students attending the meeting.

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There being no further business to come before the City Council, the meeting was adjourned at 10:02 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk