

**DURHAM, NORTH CAROLINA  
TUESDAY, SEPTEMBER 3, 2013  
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 William V. Bell, Mayor Pro Tempore Cora Cole-McFadden and Council Members Eugene Brown, Diane Catotti, Don Moffitt and Steve Schewel. Absent: Council Member Howard Clement, III

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

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

City Clerk Gray swore in the 2013-14 Durham Youth Commission.

Mayor Bell read a proclamation designating September 22-27, 2013 as Constitution Week presented to Fran Ferrell, Regent General Davie Chapter, Daughters of the American Revolution who made comments.

**SUBJECT: Salary Increase for Council Employees – City Manager, City Attorney and City Clerk**

Mayor Bell announced that performance evaluations for the City Manager, City Attorney and City Clerk were concluded today. During the deliberations, he announced that Council agreed to grant a 2 percent salary increase to the City Attorney and City Clerk and 8.1 percent salary increase to the City Manager, effective July 1, 2013.

**MOTION** by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to approve the salary increase for the following Council employees effective July 1, 2013 was approved at 7:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

City Manager - 8.1 Percent Salary Increase  
City Attorney - 2 Percent Salary Increase  
City Clerk - 2 Percent Salary Increase

Mayor Pro Tempore Cole-McFadden congratulated Mrs. Nellie Royster for being recognized during the Eastern Star District Meeting for her good work throughout Durham and surrounding communities.

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

City Manager Bonfield referenced several agenda items relating to Del Webb III. For legal reasons, he asked that GBA Item #27 [Consolidated Annexation Item – Del Webb III] be heard prior to agenda Items 23 [Comprehensive Plan Amendment – Del Webb Carolina Arbors] and 24 [Zoning Map Change – Del Webb Carolina Arbors].

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to accept the City Manager’s priority item was approved at 7:21 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

There were no priority items by the City Attorney.

City Clerk Gray informed Council that the protest petition filed against GBA Item#22 [Zoning Map Change Kent Corner 2] has been ruled invalid due to withdrawal of signatures.

Mayor Bell explained that the Consent Agenda is approved with a single motion and items pulled from that agenda by any citizen or council member will be discussed at the end of the agenda. No items were pulled from the Consent Agenda.

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to approve the Consent Agenda was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**[CONSENT AGENDA]**

**SUBJECT: Approval of City Council Minutes**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to approve City Council minutes for the July 25, 2013 City Council Work Session and August 5, 2013 City Council Meeting was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**SUBJECT: Equal Business Opportunity Program Advisory Committee - Appointment**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to appoint Cheryl Thomas to the Equal Business Opportunity Program Advisory Committee representing a Non SDBE Professional Services Firm Owner with the term to expire on April 1, 2015 was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

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**SUBJECT: Durham Bicycle and Pedestrian Advisory Commission - Appointments**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to appoint Mary Ross to the Durham Bicycle and Pedestrian Advisory Commission representing Bicycle Commuting and Nicole Heller to represent Recreation/Recreation Business with the terms to expire on August 31, 2016 was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**SUBJECT: Durham Historic Preservation Commission - Appointments**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to reappoint Jennifer Martin Mitchell representing Historian to the Durham Historic Preservation Commission and Micah Kordsmeier is representing a Developer/Builder with the terms to expire on September 1, 2016 was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**SUBJECT: Street Acceptances – Weston Downs – Phase I - Treyburn – Stagville - Phase 3, Part 3 - Bivins Residential**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to accept the streets as listed for maintenance by the City of Durham was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

Weston Downs – Phase I

- 1) Weston Downs Drive – from the east curb line of Pope Road east to the end of Phase I construction @ STA 21+30 (740') and
- 2) Wesleywood Drive – from the centerline of Weston Downs Drive north through the cul-de-sac (625') and
- 3) Marena Place – from the centerline of Weston Downs Drive south to the end of Phase I construction @ STA 10+00 (186') and
- 4) Marena Place – from the centerline of Weston Downs Drive north to the end of Phase I construction @ STA 13+00 (114').

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Treyburn – Stagville - Phase 3, Part 3

- 1) Trillium Court – from the centerline of Loblolly Drive southeast around the circle to the centerline of Trillium Court (503’) and
- 2) Tulip Tree Court – from the centerline of Loblolly Drive east and around the circle to the centerline of Tulip Tree Court (582’) and
- 3) Persimmon Court – from the end of existing construction east and around the circle to the centerline of Persimmon Court (680’).

Bivins Residential

- 1) Redfern Way – from the centerline of Bivins Street north to and including the hammerhead tee (465’).

**SUBJECT: FY 2013-14 CIP Budget Amendment Request for CIP Ordinance # 14464**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to adopt an ordinance amending the General Capital Improvement Project Ordinance, Fiscal Year 2013-2014, as amended, the same is being Ordinance #14464 for the purpose of adding funding in the amount of \$641,729.00 to various capital projects was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**Ordinance #14493**

**SUBJECT: Contract Extension for AmeriNational Community Services, Inc. (ACS) for Mortgage Loan Servicing**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to authorize the City Manager to execute the ACS agreement by three (3) months followed by no more than three (3) automatic thirty-day (30) extensions, if needed, which may extend the Contract through January 30, 2014; and

To authorize the expenditure of an amount not to exceed \$72,000.00 beyond the original agreement amount of \$502,000.00 was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

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**SUBJECT: City-County Radio System Service Agreement Renewal with Motorola, Inc.**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to authorize the City Manager to execute the Radio System Service Agreement with Motorola, Inc. in the amount of \$300,026.15 for FY2014 and to renew the Agreement for FY 2015 and FY 2016, subject to annual appropriations was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**SUBJECT: Acceptance of Grants from the Carolina Panther's Charities and the National Recreation and Parks Association**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to authorize the City Manager to accept the 2014 Carolina Panthers Charities Grant by executing any associated grant documents;

To adopt the 2014 Carolina Panthers Charities Grant Project Ordinance in the amount of \$3,094.00;

To authorize the City Manager to accept the 2014 National Park and Recreation Association Arthritis Intervention grant by executing any associated grant documents; and

To adopt the 2014 National Park and Recreation Association Arthritis Intervention Grant Project Ordinance in the amount of \$4,000.00 was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**Ordinance #s 14494 and 14495**

**SUBJECT: City Code Revision Regarding Infrastructure Acceptance**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to adopt an ordinance deleting the existing sections of Chapter 62, Article II, Division 3 of the Durham City Code and replacing them in their entirety was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**Ordinance #14496**

**SUBJECT: Interlocal Cooperation Agreement between the County of Durham and the City of Durham Regarding Construction of Pavement in Main, Queen and Dillard Streets – Human Services Facility**

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**MOTION** by Council Member Moffitt seconded by Council Member Catotti to authorize the City Manager to enter into an Interlocal Cooperation Agreement with Durham County for the construction of pavement on Main, Queen and Dillard Streets (Human Services Facility) was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**SUBJECT: City Code Revision Regarding Reimbursement of Costs for Infrastructure**

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to adopt an ordinance modifying Chapter 70, Article III, Division 2, Section 70-108 of the City of Durham Code of Ordinances was approved at 7:23 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**Ordinance #14497**

**The City Council disposed of the following agenda items at the August 22, 2013 Work Session:**

**7. Deer Bow Hunting Ordinance**

*(This item was referred back to the Administration – City Manager’s Office)*

To adopt an Ordinance Amending the Code of Ordinances to Permit Bow Hunting of Deer within City Limits in Accordance with State and Local Regulations.

**8. Raleigh-Durham International Airport - Federal Aviation Administration (FAA) Grant Offer for Terminal 1 Aircraft Apron Rehabilitation – Construction Phase 1**

*(This item was approved at the 08-22-13 Work Session with a vote of 5/0)*

To accept the Federal Aviation Administration Grant Offer in an amount of \$3,297,834.00 for Terminal 1 Aircraft Apron Rehabilitation – Construction Phase 1, Project No. 3-37-0056-043-2013;

To authorize the City Manager to execute the Grant Agreement; and

To authorize the City Attorney to give assurances with respect thereto.

**16. Update on North Carolina Ecosystem Enhancement Program Stream Restorations in Durham**

*(A presentation was received on the 08-22-13 Work Session)*

To receive a presentation on the NC Ecosystem Enhancement Program Stream Restorations in Durham.

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**28. Scott Barndt**  
*(Citizen did not appear at the 08-22-13 Work Session)*

To receive comments from Scott Barndt regarding solicitation and housing for the elderly.

**29. Joe Collins**  
*(Comments were received at the 08-22-13 Work Session)*

To receive comments from Joe Collins regarding demolition at 207 E. Club Boulevard.

**30. Partners Against Crime (PAC) One**  
*(Comments were received at the 08-22-13 Work Session)*

To receive comments from Vivian McCoy and Dave Rush regarding unpaved streets (45) in District One.

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

**SUBJECT: Confirmation of Assessment Roll for Water Main on Ed Cook Road**

To conduct a public hearing to receive comments on the Confirmation of the Assessment Roll for a Water Main on Ed Cook Road; and

To adopt a Resolution Confirming the Assessment Roll for Water Main on Ed Cook Road from Hickory Nut Drive to the South Property Line of PIN 0739-02-79-0975.

Nathan McHenry, of the Public Works Department, briefed Council on the staff report for the confirmation of the assessment roll for a water main on Ed Cook Road.

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

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt a Resolution Confirming the Assessment Roll for Water Main on Ed Cook Road from Hickory Nut Drive to the South Property Line of PIN 0739-02-79-0975 was approved at 7:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**SUBJECT: Confirmation of Assessment Roll for Water Main on Ardmore Drive**

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To conduct a public hearing to receive comments on the Confirmation of the Assessment Roll for a Water Main on Ardmore Drive; and

To adopt a Resolution Confirming the Assessment Roll for a Water Main on Ardmore Drive from Cook Road to the West property Line of PIN 0820-18-41-3473.

Nathan McHenry, of the Public Works Department, briefed Council on the staff report for the confirmation of the assessment roll for a water main on Ardmore Drive.

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

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Moffitt to adopt a Resolution Confirming the Assessment Roll for a Water Main on Ardmore Drive from Cook Road to the West property Line of PIN 0820-18-41-3473 was approved at 7:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**SUBJECT: Confirmation of Assessment Rolls for Water Main in the Valley Springs Road Area**

To conduct a public hearing to receive comments on the Confirmation of Assessment Rolls for Water Main in the Valley Springs Road area; and

To adopt a resolution confirming each of the following assessment rolls:

Water Main on Valley Springs Road from Rose of Sharon Road to Rivermont Road and Rivermont Road from Valley Springs Road West to the West Property Line of PIN 0813-01-19-7523; and

Water Main on Valley Springs Road from Rivermont Road North, then West to include PIN 0814-03-10-7214, Rose Road from Valley Springs Road to the North Property Line of PIN 0813-01-19-9957 and Forrestdale Road from Valley Springs Road to the end of the cul-de-sac.

Due to objections, Nathan McHenry of the Public Works Department asked Council to adopt the resolution confirming the assessment rolls listed below except for the Forrester, R & K Real Estate and Browning properties, continue to the public hearing for these assessments without further advertising and refer these assessments to the October 21, 2013 City Council Meeting for further consideration.

Mayor Bell opened the public hearing. There being no further objection, the Mayor closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Moffitt to

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adopt a resolution confirming each of the following assessment rolls listed below except for the Forrester, R & K Real Estate and Browning properties, continue to the public hearing for these assessments without further advertising and refer these assessments to the October 21, 2013 City Council Meeting for further consideration was approved at 7:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

Water Main on Valley Springs Road from Rose of Sharon Road to Rivermont Road and Rivermont Road from Valley Springs Road West to the West Property Line of PIN 0813-01-19-7523; and

Water Main on Valley Springs Road from Rivermont Road North, then West to include PIN 0814-03-10-7214, Rose Road from Valley Springs Road to the North Property Line of PIN 0813-01-19-9957 and Forrestdale Road from Valley Springs Road to the end of the cul-de-sac.

**SUBJECT: Mini Assessment Roll for Sewer Main on Angier Avenue and Cortez Drive**

To conduct a public hearing to receive comments on Confirmation of the Mini Assessment Roll for Sewer Main on Angier Avenue and Cortez Drive;

To find that the properties of William J. Colclough and Janet C. Tyndall Heirs, identified as 1015 Cortez Drive, PIN 0840-03-34-3409 and 1011 Cortez Drive, PIN 0840-10-45-4150, have not benefited from the sewer main improvement at this time and to relieve the assessments in the amounts of \$4,678.85 and \$7,402.50 respectively, with the provision that the applicable sewer frontage charge will be due and payable at the prevailing rate should either property connect to City sewer (in accordance with City policy);

To find that the property of Artexie M. Painter Heirs, identified as 1007 Cortez Drive, PIN 0840-03-34-4978, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$2,373.50 (in accordance with City policy); and

To find that the property of Artexie M. Painter Heirs, identified as 0 Cortez Drive, PIN 0840-03-35-8257, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$6,380.25, with the provision that the applicable sewer frontage charge will be due and payable at the prevailing rate should the property connect to City sewer (in accordance with City policy).

Nathan McHenry, of the Public Works Department, briefed Council on the staff report for the confirmation of the mini assessment roll for a sewer main on Angier Avenue and Cortez Drive. He reported this item was continued from a previous public hearing and asked Council to approve the item as printed on the agenda.

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

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to find that the properties of William J. Colclough and Janet C. Tyndall Heirs, identified as 1015 Cortez Drive, PIN 0840-03-34-3409 and 1011 Cortez Drive, PIN 0840-10-45-4150, have not benefited from the sewer main improvement at this time and to relieve the assessments in the amounts of \$4,678.85 and \$7,402.50 respectively, with the provision that the applicable sewer frontage charge will be due and payable at the prevailing rate should either property connect to City sewer (in accordance with City policy);

To find that the property of Artexie M. Painter Heirs, identified as 1007 Cortez Drive, PIN 0840-03-34-4978, has benefited from the sewer main improvement and to confirm the assessment in the amount of \$2,373.50 (in accordance with City policy); and

To find that the property of Artexie M. Painter Heirs, identified as 0 Cortez Drive, PIN 0840-03-35-8257, has not benefited from the sewer main improvement at this time and to relieve the assessment in the amount of \$6,380.25, with the provision that the applicable sewer frontage charge will be due and payable at the prevailing rate should the property connect to City sewer (in accordance with City policy) was approved at 7:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**SUBJECT: Comprehensive Plan Amendment, Kent Corner (A1200017)**

To conduct a public hearing to receive comments on the Kent Corner (A1200017) Plan Amendment; and

To adopt a Resolution to Change the Future Land Use from Medium Density Residential to Commercial.

Recommendations: The Staff recommends approval based on the justification and proposed land use designation meeting the four criteria for plan amendments.

Planning Commission recommended approval, based on information provided in the staff report, the applicant's justification, information heard at the public hearing, and meeting the criteria for plan amendments, 12-0, on July 9, 2013.

Aaron Cain, of the City/County Planning Department, briefed Council on the comprehensive plan amendment for Kent Corner. He stated the applicant, Chapel Hill Street Development LLC, is proposing to amend the future land use map to change the future land use designation from medium density residential to commercial, located north of Jackson Street, south of West Chapel Hill Street, east of Kent Street and west of Carroll Street. He stated that staff determined this request meets the four criteria for plan amendments and is recommending approval of this request. He stated the Planning Commission recommended approval at its July 9, 2013 meeting.

Mayor Bell opened the public hearing.

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Barry Yeoman spoke in support of this plan amendment. He stated when Self-Help completes this project there will be affordable housing, jobs, retail and street life on W. Chapel Hill Street.

No one spoke against this plan amendment.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to receive comments on the Kent Corner (A1200017) Plan Amendment; and

To adopt a Resolution to Change the Future Land Use from Medium Density Residential to Commercial was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Schewel. Noes: None. Abstention: Council Member Moffitt. Absent: Council Member Clement.

**Resolution #9871**

**SUBJECT: Zoning Map Change-Kent Corner 2 (Z1300007)**

To conduct a public hearing to receive comments on the zoning map change for Kent Corner 2 (Z1300007);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1300007 out of Commercial Infill (CI) and Residential Urban-5(2) (RU-5(2)) and placing same in and establishing same as Commercial General with a development plan (CG(D)) and Commercial Infill with a development plan (CI(D)); and

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

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

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

Planning Commission Recommendation and Vote: Approval, 12 – 0 on July 9, 2013. The Planning Commission finds that the ordinance request is not consistent with the adopted Comprehensive Plan. However, should the plan amendment be approved, the request would be consistent with the Comprehensive Plan. The Commission believes the request is reasonable and

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in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

Note: Invalid protest petition filed against this zoning map change due to withdrawal of signatures.

Patrick Young, of the City/County Planning Department, certified that all public hearings items on the agenda tonight from the City/County Planning Department have been properly advertised in accordance with law and affidavits are on file with the department. He stated that this request is the companion to the comprehensive plan amendment just approved by Council. He stated the applicant, Chapel Hill Street Development, LLC, is requesting to change the zoning designation of 2.7 acres of property located at the corner of Kent Street and West Chapel Hill Street from commercial in-fill and residential urban 5(2) to commercial general with a development plan and commercial in-fill with a development plan. He reported the request proposes 50,000 square feet of non-residential development and there are a number of commitments associated with the development plan including provisions for transit facilities, increased buffers, including two masonry wall segments and two wood fence segments, lighting, signage standards above the ordinance requirements, maximum height commitments, limitations on allowable uses and commitments regarding the replacement of dumpsters. He stated that staff determined that this request is consistent with the Comprehensive Plan and other adopted policies and ordinances. He stated the Planning Commission recommended approval at its July 9, 2013 meeting.

Mayor Bell opened the public hearing.

### **Proponents**

Tucker Bartlett, representing Self-Help, gave an overview of minor changes that were provided to Council as listed:

The first involves Text Commitment #6 as listed on the Sheet DP-O in your packet. We have increased the minimum distance of light poles from residential property lines to 50 feet. We also added the words "EXCEEDING 5' IN HEIGHT" in the description of light pole locations in both the 2<sup>nd</sup> and 3<sup>rd</sup> sentences.

The second involves Design Commitment #1[d] on that same page. We have added the words "AND BE LOCATED WITHIN THE MIDDLE THIRD OF THE FAÇADE" at the end of the second sentence.

The third involves adding an area of the site adjacent to the Anthony property to the "NO DUMPSTER ZONE" shown on Sheet DP-2, and finally

The fourth is a clarification on the "Development Plan Notes" on the that same sheet to remove the words "NO" and "SHALL BE PROHIBITED" from the list of prohibited uses in the CG[D] and CI[D] Districts as they could be interpreted as a "double negative".

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Mr. Bartlett made comments about the process that resulted in this plan and thanked the community for their work on this project.

Alisa Johnson, representing the Quality of Life Project, made comments about neighborhoods as well as groups that have committed themselves to the economic revitalization of West Chapel Hill Street. She stated this project is a wonderful first step, and the proposed commercial space would bring new goods and services to the surrounding neighborhoods, invite new customers to established businesses and provide open space for community gatherings. Also, she made comments about Self-Help's reputation for building affordable housing.

Larissa Oryshkevich, representing the Kent Corner Task Force, made comments about the meetings that have taken place regarding West Chapel Hill Street and their work with Self-Help. She stated they support this project and Self-Help has reassured them with a letter that they will make provisions to be a friendly neighbor to upcoming and new businesses in the area by making parking available on West Chapel Hill Street.

Geoff Durham, representing Downtown Durham, Inc., stated that DDI at their board meeting in August unanimously endorsed the Kent Corner project. He stated that Kent Corner would be an important project in the continual transformation of our downtown and urged Council to support this request.

Nick Johnson, representing the West Chapel Hill Street Merchants Alliance, spoke in support of this project and thanked Self-Help for their community engagement.

Frank Stasio, representing Durham Central Market, made comments about how pleased they are to be a part of this economic development project. He stated the board is already exploring creative ways to ensure affordability for low wealth families so that everyone can enjoy the health benefits of locally produced whole natural foods and urged Council to approve this project.

Selina Mack, representing Durham Community Land Trustees, stated that they are excited about the Kent Corner project and provided Council and the City Clerk with a resolution entitled Board Resolution to Support a Zoning Map Change for the Kent Corner 2 Project by the Chapel Hill Street Development, LLC dated July 8, 2013.

David Anthony made comments in support of the Kent Corner 2 zoning map change.

Hillary Konig spoke in favor of the zoning map change and the community engagement process.

### **Opponent**

Marshal Williams spoke against this zoning map change expressing concern that there is no neighborhood center in the area for students to participate in afterschool activities and studies.

Mayor Bell closed the public hearing.

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Michael Corts, representing Self-Help, stated the community center that Mr. Williams referenced is the West End Community Center that was closed in the Spring 2012 due to a lack of funding.

Michael Palmer, representing Self-Help, noted the Lyon Park Recreation Center is available for afterschool activities and studies.

Mayor Pro Tempore Cole-McFadden asked Michael Palmer to work with the Emily K. center regarding space for afterschool activities and studies for the students in the area because of the closing of the West End Community Center.

Michael Palmer noted since the closing of the West End Center children were referred to other programs and stated that he would follow up to see if there is a demand in the area and where they could route those children.

Due to a conflict of interest, City Attorney Baker stated that Council Member Moffitt was excused from voting on both items relating to Kent Corner 2.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive comments on the zoning map change for Kent Corner 2 (Z1300007);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1300007 out of Commercial Infill (CI) and Residential Urban-5(2) (RU-5(2)) and placing same in and establishing same as Commercial General with a development plan (CG(D)) and Commercial Infill with a development plan (CI(D)); and

To adopt as support for its action on the proposed zoning map change the determinations that, should the plan amendment be approved, the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 7:56 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti and Schewel. Noes: None. Abstention: Council Member Moffitt. Absent: Council Member Clement.

**Ordinance #14498**

**SUBJECT: Consolidated Annexation Item - Del Webb III**

To conduct a public hearing to receive comments on the consolidated annexation of Del Webb III;

To adopt an Ordinance Annexing Del Webb III into the City of Durham effective September 30, 2013;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Residential (RR) zoning for the property; and

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To adopt as support for its action on the proposed zoning map change the determination that the action is not consistent with the Comprehensive Plan, but is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Patrick Young, of the City/County Planning Department, briefed Council on the staff report. He stated this item involves a voluntary annexation petition for approximately 18 acres. He reported that the Budget and Management Services Department performed a fiscal impact analysis, which determined that this project would have net revenues that exceed the estimated expenditures to serve the area following annexation. Pursuant to state law, he stated that the City Council would be required to apply an initial zoning designation of rural residential to property and staff recommended approval of this item based on consistency with adopted policies and ordinances.

Mayor Bell opened the public hearing.

Ron Horvath, representing the applicant, stated he was present to answer questions.

No one spoke against this item.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to receive comments on the consolidated annexation of Del Webb III;

To adopt an Ordinance Annexing Del Webb III into the City of Durham effective September 30, 2013;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Residential (RR) zoning for the property; and

To adopt as support for its action on the proposed zoning map change the determination that the action is not consistent with the Comprehensive Plan, but is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 7:58 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**Ordinance #s 14503 and 14504**

**SUBJECT: Comprehensive Plan Amendment – Del Webb Carolina Arbors (A1200011)**

To conduct a public hearing to receive comments on the Del Webb Carolina Arbors (A1200011) Plan Amendment; and

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To adopt a Resolution to Change the Future Land Use Map of the Durham Comprehensive Plan from Low-Medium Density Residential (4-8 DU/Ac.) to Low Density Residential (4 DU/Acre or Less).

Recommendations: The Staff recommends approval based on conditions warranting an amendment to the Future Land Use Map and the proposed plan amendment meeting the four criteria for plan amendments.

The Planning Commission recommended approval, based on the justification, the request meeting the four criteria for plan amendments, and information heard at the public hearing, 12-0, on July 9, 2013.

Aaron Cain, of the City/County Planning Department, stated the applicant, Horvath Associates, is requesting to amend approximately 14.3 acres of the Future Land Use Map from low-medium density residential to low density residential located in eastern Durham County, north of US Highway 70 and west of Andrews Chapel Road and south of Leesville Road. He stated that staff has determined the request meets the four criteria for plan amendments and recommending approval. He reported that the Planning Commission recommended approval at its July 9, 2013 meeting.

Mayor Bell opened the public hearing.

Ron Horvath, representing the applicant, stated he was present to answer questions.

No one spoke against this item and Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Schewel to receive comments on the Del Webb Carolina Arbors (A1200011) Plan Amendment; and

To adopt a Resolution to Change the Future Land Use Map of the Durham Comprehensive Plan from Low-Medium Density Residential (4-8 DU/Ac.) to Low Density Residential (4 DU/Acre or Less) was approved at 8:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**Resolution #9872**

**SUBJECT: Zoning Map Change-Del Webb Carolina Arbors (Z1200022)**

To conduct a public hearing to receive comments on the zoning map change for Del Webb Carolina Arbors (Z1200022);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1200022 out of Planned Development Residential 3.700

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(PDR 3.700) and Residential Rural (RR) and placing same in and establishing same as Planned Development Residential 3.700 (PDR 3.700); and

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

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

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

Planning Commission Recommendation and Vote: Approval 12 – 0 on July 9, 2013. The Planning Commission finds that the ordinance request is not consistent with the adopted Comprehensive Plan. However, should the plan amendment be approved, the request would be consistent with the Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

Patrick Young, of the City/County Planning Department, briefed Council on the zoning map change to change the zoning designation for 447.33 acres of property located on the south side of Leesville Road, east of Doc Nichols Road and north and west of Andrews Chapel Road from RR and PDR.3.7 to PDR.3.7. With this zoning map change request, the applicant, Tim Silvers, Horvath Associates, PA would propose to add 18 acres to the south of the previous development [Case Z1100026] approved in June 2012 and contains the same adopted committed elements that were in that case which includes a maximum of 1,314 residential units, the development of a north-south collector street and several off-site transportation improvements. He stated that staff has determined this request is consistent with the Comprehensive Plan and other adopted policies and ordinances. He stated the Planning Commission recommended approval at its July meeting.

Council Member Schewel asked for clarification on the number of acres associated with this request -- Attachment 11 references 491 acres [Legacy Summary Development Plans].

Patrick Young reported the case before Council tonight covers 447.33 acres.

Ron Horvath stated the 491 acres was a typo.

Council Member Schewel asked questions regarding the location of fire station, the community's age restriction, greenway trail and/or easement, DOST comments—pedestrian and bicycle interconnectivity with developments to the north and south, BPAC comments regarding north-

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south collector street being constructed as a complete street with striped bicycle lanes that were addressed by the applicant and/or staff.

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

Mayor Bell made comments regarding this development.

Ron Horvath answered questions raised by Mayor Bell. He gave an update on the project referencing the number of units [1,314], infrastructure, pump station, open house and clubhouse.

**MOTION** by Council Member Moffitt seconded by Council Member Brown to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1200022 out of Planned Development Residential 3.700 (PDR 3.700) and Residential Rural (RR) and placing same in and establishing same as Planned Development Residential 3.700 (PDR 3.700); and

To adopt as support for its action on the proposed zoning map change the determinations that, should the plan amendment be approved, the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:11 p.m. by the following vote:  
Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**Ordinance #14499**

**SUBJECT: Consolidated Annexation Item - 2207 Page Road Water Tower**

To conduct a public hearing to receive comments on the consolidated annexation of 2207 Page Road Water Tower;

To adopt an Ordinance Annexing 2207 Page Road Water Tower into the City of Durham effective September 30, 2013;

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

To adopt as support for its action on the proposed zoning map change the determinations that the while the action is not consistent with the Comprehensive Plan, it is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Patrick Young, of the City/County Planning Department, briefed Council on the staff report for the consolidated annexation item of 2207 Page Road Water Tower. He stated this item includes

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a voluntary annexation petition and an initial zoning to rural residential. He stated staff is recommending that Council approve the voluntary annexation and initial zoning.

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

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to adopt an Ordinance Annexing 2207 Page Road Water Tower into the City of Durham effective September 30, 2013;

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

To adopt as support for its action on the proposed zoning map change the determinations that the while the action is not consistent with the Comprehensive Plan, it is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 8:12 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**Ordinance #s 14501 and 14502**

**SUBJECT: Zoning Map Change-Carolina Crossing II (Z1200004)**

To conduct a public hearing to receive comments on the zoning map change for Carolina Crossing II (Z1200004);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1200004 out of Residential Suburban – 20 (RS-20) and placing same in and establishing same as Office Institutional with a development plan (OI(D)); and

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

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

Staff Determination: Staff determines that this request is consistent with the Comprehensive Plan and other adopted policies and ordinances.

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Planning Commission Recommendation and Vote: Denial 8 – 4 on July 9, 2013. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. However, the Commission believes the request is not reasonable nor in the public interest and recommends denial based on problems with traffic congestion and inadequate transportation infrastructure.

Patrick Young, of the City/County Planning Department, briefed Council on the staff report. He stated the applicant [EarthCentric Engineering, Inc.] is requesting to change the zoning designation of a 5.033 acre parcel located at 5936 Farrington Road from its current designation of Residential Suburban – 20 to Office Institutional with a development plan and this property is in the suburban transit area. He stated the request is consistent with the Future Land Use Designation of the Comprehensive Plan and other adopted policies and ordinances. He said there is a development plan associated with this case which includes commitments not limited to roadway improvements per the recommendation of the Traffic Impact Analysis, and the long range bicycle plan and a commitment limiting uses to two office buildings pursuant to the compact neighborhood tier development standards. He stated that staff determined that this request is consistent with the Comprehensive Plan and other adopted policies and ordinances and the Planning Commission recommended denial of this request at its July 9, 2013 meeting.

Mayor Bell opened the public hearing.

### **Proponents**

Attorney Kenneth Spaulding, representing the applicant, spoke in support of this zoning map change to office institutional. He stated staff's review of the application found that it is consistent with policies. He stated the developer would be contributing from the private sector approximately \$1 million for significant and substantial road improvements and tax base would be enhanced. He stated this rezoning and road improvements would complement the long range plans of the I-40/54 Corridor Study by serving as a significant interim road improvement as the discussion continues regarding the location of the proposed road. He referenced that this rezoning has been passed and approved by the State Department of Transportation and local Department of Transportation and this zoning would provide for present and current improvements as the State continues to find appropriations to fund necessary road improvements across all 100 counties of this state. He urged Council to approve this rezoning request.

Earl Lewellyn, representing the applicant, gave a power point presentation on the road improvements for Carolina Crossing II highlighting the following:

#### **Carolina Crossing II**

- TIA Recommendations approved by NCDOT & City
- Site will add only 2.7% to traffic on NC 54
- TIA includes additional 6% growth on NC 54
- Project provides \$1 M in otherwise unfunded transportation improvements
- Staff report states that current LOS is maintained
- Also provides other important operational benefits

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NC 54 Corridor Study

- Long Range Solutions & Phasing
- Grande separation of NC 54 AND Farrington Road – Most critical element
- No significant portions of the NC 54 Corridor Study are currently funded
- Interim improvements are needed

Off-site roadway improvements map

Other Considerations

- Comprehensive Plan allows LOS E at NC 54-Farrington
- Site will intercept traffic already using NC 54
- Deeded access to Farrington Road
- Cross Access

Summary

- Site will add only 2.7% to NC 54 Traffic
- \$1M in improvements that accommodate more than just this project
- Improvements provide additional capacity and more efficient use of existing capacity
- No conflicts with NC 54 Corridor Study
- Interim solutions until Corridor Study recommendations can be funded
- Improvements -- extension of left turn lane, construction of right turn lane, bike-lanes, crosswalk, pedestrian signals, and rights of way.

Earl Lewellyn, representing the applicant, noted the applicant committed to provide crosswalks and pedestrian signals at the intersection subject to NCDOT approval.

Patrick Young, of the City/County Planning Department, asked the applicant to make it clear that these improvements would be subject to NCDOT approval and specifications that would include appropriate termination points, handicap accessible ramp and other associated improvements and location.

Earl Lewellyn, representing the applicant, stated improvements [crosswalks and pedestrian signals] would be limited generally to the intersection of NC 54 and Farrington Road in accordance to NCDOT policy.

Phillip Koch, representing the applicant, stated the building height proposed would be seven stories.

Patrick Young, of the City/County Planning Department, stated the wording that was missing from the design commitments on page 11 of the staff report.

Bill Judge, of the Transportation Department, reported staff is not aware of any proposed traffic improvements having a conflict with the NC 54 Study.

Earl Lewellyn, representing the applicant, stated the applicant has committed to all the improvements recommended by NCDOT and the City of Durham as well as the additional

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proffer regarding pedestrian signals. Also, he summarized how it was determined that the site would add only 2.7% to traffic on NC 54.

Council held discussion and/or asked questions that were addressed by staff regarding sidewalks, road improvements, fly-over, building height, traffic pattern, design commitments, traffic commitments, NCDOT's letter, transit station site/route, 54 Study, Falconbridge Community concerns, traffic volume along Highway 54 and \$40 million needed to resolve complicated traffic issues.

Jason Hughes, Pastor of Farrington Road Baptist Church, asked Council to support this rezoning request because this item would allow them to move away from a congestive intersection to a new church facility from the purchase of their property.

### **Opponents**

Van Noah spoke against this rezoning request expressing traffic concerns and dense development.

Rosemarie Kitchin, of the Falconbridge Community, spoke in opposition to this rezoning citing aesthetics and traffic concerns.

Julia MacMillan spoke in opposition to this item expressing concerns about safety and traffic issues.

Mayor Bell closed the public hearing.

Patrick Young, of the City/County Planning Department, stated the applicant has committed to pedestrian improvements [Farrington Road/NC 54] subject to compliance with all NCDOT and City's Department of Transportation standards and specifications and acceptance by the N. C. Department of Transportation.

Earl Lewellyn, representing the applicant, asked for clarification. He stated as long as it's under the purview of crosswalks and pedestrian activated signals the applicant is fine.

For clarification, Patrick Young stated they wanted to make sure concerns by Council and citizens were addressed. It is limited crosswalks and pedestrian activated signals if that's clear then it can be enforced. The intent of identifying city and state standards was to ensure the striping, markings and ramps were done to city and state standards.

Earl Lewellyn, representing the applicant, stated they were fine with the proffer.

Rosemarie Kitchin, representing Falconbridge Community, expressed that they have a concern with people coming north on Farrington Road and cutting through their neighborhood to NC 54.

Earl Lewellyn, representing the applicant, made comments about improvements that help mitigate that turn, long term improvements and phasing of improvements.

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Several members of Council explained why they support this item.

Council held discussion on cut through traffic/traffic, aesthetics of 7-story building, Collector Street Plan, connectivity, construction time line and safety, Transportation Improvement Plan, ramp, pedestrian crosswalk, and building height.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive comments on the zoning map change for Carolina Crossing II (Z1200004);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1200004 out of Residential Suburban – 20 (RS-20) and placing same in and establishing same as Office Institutional with a development plan (OI(D))— as well as additional proffer for crosswalks and pedestrian signals; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Moffitt and Schewel. Noes: None. Absent: Council Member Clement.

**Ordinance #14500**

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: Durham City-County Appearance Commission - Appointment**

To appoint a citizen to fill one (1) vacancy on the Durham City-County Appearance Commission with the term expiring on April 1, 2015.

City Clerk Gray announced by ballot that the City Council appointed Lu W. Rose [with four votes] to the Durham City-County Appearance Commission with the term expiring on April 1, 2015.

There being no further business to come before the City Council, the meeting was adjourned at 9:38 p.m.

Linda E. Bratcher, CMC  
Deputy City Clerk

D. Ann Gray, MMC, NCCMC  
City Clerk