

**DURHAM, NORTH CAROLINA  
MONDAY, DECEMBER 16, 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, Eddie Davis, Don Moffitt and Steve Schewel. Absent: None.

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

Mayor Bell called the meeting to order with a moment of silent meditation followed by the pledge of allegiance led by Kyla Newkirk.

Mayor Bell read a proclamation designating December 16, 2013 as a day to honor Nelson Mandela which was presented to Owen Scott. Mr. Scott gave a video presentation entitled "Amandla Awethu" [Power to the People] by Regina Leonard.

Parks and Recreation Director Rhonda Parker introduced Conrad Rensburg with Absolute Care Foundation. He provided background information on the organization and referenced projects that his organization has worked on throughout our region to make a difference in the lives of others. Also, he referenced his donation of equipment and cash totaling \$16,680 for the renovation of Carroll Street Park.

Mayor Bell recognized the Durham Raiders football team for winning the Turkey Bowl and their mentors, Duke University [Football and Basketball teams], Southern High School for winning 3-A Football Championship, and NCCU [Women's basketball team]. The Mayor stated good things are happening in the community and would hope the good things that are happening in Durham do not outweigh the challenges in our community.

Council Member Davis read a statement acknowledging and recognizing that 50 years ago [1963] was a pivotal year in the human and civil rights history of Durham. He noted thus far this year there have been several community programs in celebration of the golden anniversary of the North Carolina Fund, the civil rights marches and the principled leadership of the then-newly-elected Mayor Wense Grabarek. He stated one of the most crucial and catalytic factors in the racial integration of restaurants, movie theaters and other public facilities in our city was the courageous full-page newspaper advertisement, that was provided to Council, that listed hundreds of individual citizens who encouraged local merchants and business people to serve and hire people without regard to race. He referenced several people who would go on to become local elected officials, including Robert Ghirardelli, Margaret Keller and Sylvia Kerckhoff. He stated that he did not want this 50<sup>th</sup> anniversary year of that newspaper advertisement to pass without the City Council acknowledging these brave citizens—several of whom are still living and working for positive change in Durham.

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Mayor Bell asked for priority items by the City Manager, City Attorney and City Clerk. There were no priority items.

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. Consent Agenda Items 4, 9 and 10 were pulled.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to approve City Council minutes for the October 24, 2013 City Council Work Session and November 4, 2013 City Council Meeting was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: WORKFORCE DEVELOPMENT ACT YOUTH CONTRACT WITH PROGRAM ELEMENT PROVIDER - ACHIEVEMENT ACADEMY OF DURHAM (AAD)**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute a contract with Achievement Academy of Durham (AAD) in the amount of \$52,000.00 for Youth Program Element Services was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: DURHAM ARTS COUNCIL, INC. BUILDING AND SERVICES AGREEMENT**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to enter into an Agreement with the Durham Arts Council, Inc. from January 1, 2014 through December 31, 2024, with payment not to exceed \$7,457,600.51 for programs and to operate the facility; and

To authorize the City Manager the right to extend the Contract upon the same terms and conditions for a period equal to two five year extensions. Such extensions of the agreement may be at any point where extensions are authorized by agreement of both parties was approved at

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7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: ACCEPTANCE OF A DONATION FROM ABSOLUTE CARE FOUNDATION FOR THE RENOVATION OF CARROLL STREET PARK**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to accept the donation of equipment and cash totaling \$14,680.00 for the renovation of Carroll Street Park was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: LEASE OF NON-RESIDENTIAL PROPERTY AND CONTRACT FOR SERVICE WITH D3 COMMUNITY OUTREACH, INC.**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute a Lease of Non-Residential Property and Contract for Service with D3 Community Outreach, Inc. was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: AMENDMENT #3 TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF DURHAM AND THE DURHAM PUBLIC SCHOOLS BOARD OF EDUCATION FOR THE JOINT RENOVATION AND USE OF THE HOLTON SCHOOL**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute an Amendment #3 to the Interlocal Agreement between the City of Durham and Durham Public Schools Board of Education for the Joint Renovation and Use of the Holton School to formalize efficient operations, repair and maintenance of the Holton School was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: HOLLAND ALLEY – REVOCABLE USE EASEMENT - GENTIAN GROUP LLC**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to grant a revocable use easement to Gentian Group LLC for improvements within the Holland Street right-of-way was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

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**SUBJECT: CITY SEWER USE ORDINANCE (CHAPTER 70 ARTICLE IV)  
REVISION AND WASTEWATER PRETREATMENT INTERLOCAL  
AGREEMENT WITH DURHAM COUNTY**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt an Ordinance to Repeal Chapter 70 Article IV Sections 70-187 through 70-411 of the City Code in its entirety and replace it with the revised Chapter 70 Article IV 70-187 through 70-411; and

To adopt a Resolution Ratifying the Wastewater Pretreatment Interlocal Agreement with Durham County was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #14551**

**Note: Resolution not provided for adoption.**

**The City Council disposed of the following agenda items at the December 5, 2013 Work Session:**

**2. Post-Employment Benefits - Retiree Medicare Supplement Benefit Update  
(This item was referred back to the City Manager's Office)**

To confirm its approval of the City's Medicare Supplement Guidelines.

**12. Ordinance to Change Parking Fees  
(This item was referred back to the Administration – Dept. of Transportation)**

To adopt an Ordinance Amending the Parking Fees.

**27. Milan Pham  
(Comments were received at the 12-05-13 Work Session)**

To receive comments from Milan Pham regarding parking issues created by growth of the business district directly abutting the North Street area residences.

**[GENERAL BUSINESS AGENDA]**

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**SUBJECT: 2013 THIRD QUARTER CRIME SUMMARY REPORT**

To receive the Durham Police Department's 2013 Third Quarter Crime Summary Report.

Police Chief Jose Lopez gave a power point presentation on the Police Department's 2013 Third Quarter Crime Summary Report highlighting the following:

**Significant Accomplishment**

- Lowest January-September Part 1 Index Crime in 14 Years
- 2nd lowest Part 1 Violent Crime Totals in 14 years
- 2nd lowest Part 1 Property Crime Totals in 14 Years

**Part 1 Violent Crime**

- Homicide, Rape, Robbery and Aggravated Assault
- Violent crime down 8 percent
- Large drop – 16% - in aggravated assaults

**Part 1 Property Crime**

- Burglary, larceny and motor vehicle theft
- Part 1 property crimes up slightly
- Burglaries continue to drop

**Part 1 Index Crime**

- Total of Part 1 violent and property crimes
- Part 1 index crime down slightly
- Fourteen-year low

Part 1 Clearance Rates for homicide, rape, robbery aggravated assault, violent crime, burglary, larceny, vehicle theft and property crime – YTD 2013, DPD 2012 and FBI 2012

**Response Time – Priority 1 Calls for Service**

- 4,012 Priority 1 calls for service Jan-Sept.
- 5.8 minute average response time standard – met the standard
- 54.7 percent answered in less than five minutes – did not meet new 57 percent standard

**Staffing Levels**

- Sworn Staffing – Fully Staffed
- Non-Sworn Staffing – 102/116 (88%)

**National Night Out 2013**

Shop with the FOP

Holiday Initiatives

**CALEA Gold Standard**

- Received Gold Standard Assessment
- CALEA accredited since 1991 – received Meritorious Award

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- Gave presentations about two successful initiatives at CALEA conference – Residential Awareness Program (RAP)/ Intelligence Led Policing and Police Training Officer (PTO) program

Victoria Peterson stated there is a serious crime problem particularly in the African American community that should be addressed and referenced the need for a new police chief.

Council Member Schewel offered some thoughts on the recent issues swirling around the police department. He stated he attended Compstat meetings, rode with Officer Hayes in District 3 one recent Saturday night, has been talking to community leaders, reading the FADE documentation of statistics about the police department's traffic stops and searches, read our police department's very thorough responses, attended vigils for homicide victims organized by the Religious Coalition for a Non-Violent Durham, attended Chief Lopez's recent press conference and spoke there to Chief Smith and Chief Marsh. Also, he stated that he has spoken to people who have been working with the Huerta family, including those who simply want to figure out a way to raise the funds to get Jesus Huerta a decent burial as well as took a long walk with his colleague Don Moffitt to talk these things through one more time. He stated that he said all this to assure our community--and our police department--that they take these issues very seriously indeed. All of my colleagues share the same concerns that I have.

He offered the following observations: First, and foremost, the DPD is an excellent department filled with men and women, black, white and Hispanic, who care deeply about our community, both its safety and its general welfare. I rode with one of them two weeks ago, and let me tell you a little bit about that ride.

He stated that he was impressed with the many and various things a police officer is called to do during five hours on an average Saturday night. Officer Hayes was very pro-active, both in responding to assignments he received over the radio and in the directed patrols he initiated on his own. He encountered several situations in which he made wise and careful decisions. He worked in close communication with his squad. He was called upon to move from one end of District 3 to the other, and he did so with excellent knowledge of the territory.

I think few people understand the "community care" function of a police officer which, on this night, was almost as important as the crime-fighting function. We went to a scene where a toddler had been found out in the middle of a street; Officer Hayes helped someone try to stop harassing phone calls; and we ended the night pushing a stalled motorist's car into a parking lot off of Duke Street.

On at least one occasion, Officer Hayes was clearly in what could have been a dangerous situation, and he handled it with an eye both towards safety and getting the job done well.

Of course, one thing I had an eye out for was whether or not there was any profiling going on that I could spot. I can say without a scintilla of doubt that Officer Hayes didn't profile anyone or even consider it. In the dark of the night, he was doing his job without regard for race or ethnicity.

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This is the kind of job that the vast majority of our police force is doing every day. By and large, our department has the strong support of our community. Mainly, our community regards our police officers as friends, as helpers, and as protectors, and they want more, not less, policing in their neighborhoods. That is what I continually hear from our PACs and neighborhood groups across the city.

Second, I want to be clear at the same time that I take the concerns of the community very seriously. I was very concerned when I read the statistics compiled by FADE and its allies about traffic stops and searches. I want to make sure, and all of us do, that there is not a hint of racial discrimination in the work of our police department. I also want to say that the work of FADE and others has started a sometimes painful but still useful conversation in the community at large and in City government in particular about these very, very important issues of discrimination.

I have been impressed by the good work of Chief Marsh and others in the department who have responded so fully and carefully to the statistics compiled by FADE.

And I want to thank Mayor Bell for starting us down what I think is a very good process centered now at the Human Relations Commission and soon coming to us at the city council.

During this process, I think it is critical that all of us, on council and in the police department, give up any defensiveness we might have about these issues. If we are going to improve as a city and a police department, we've got to face any charges about bias or police misconduct with an open ear and an open heart. I know that's hard when we are under attack. But it's necessary if we're going to make positive change.

Along these lines, I was really impressed with the conclusions of the report just sent to the Human Relations Commission which Don Moffitt shared with me today. I can see from this that the department is already taking important steps to examine itself and to change. Let me read the conclusions from that report:

- First, we have had to take a hard look at ourselves as a department—our internal controls, and our review process just to be sure that we're doing all we can. Consequently, we are now trying to develop a method of analyzing our officers' individual traffic stop data more closely and to review that annually to ensure that our officers are complying with our prohibition on bias-based policing.
- Second, we are actively researching training to supplement the State mandated diversity training...
- Third, it was discovered that complainants don't really know that officers are actually disciplined when complaints are sustained... We are trying to explore some way to get this message out to the great community without compromising personnel privacy.
- Fourth, we are actively working on a protocol that will allow us to release some facts and information regarding critical incidents a little sooner in some situations.

This is impressive to me. The openness to change which it represents is just what we need. And it's the right approach: Let's see what other cities are doing who are doing the best job of this. Let's look for solutions, for changes in our processes that can help us improve. As good as

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our police department is in so many ways, we can all improve. Let's give our department the encouragement to do so.

Finally, I want to say a word about the process we are undergoing to give our community information about three cases before us—the case of Jose Ocampo, the case of Derek Walker, and the case of Jesus Huerta.

He made comments regarding the observation made by Council Brown regarding the underfunding by the state legislature of the SBI's forensic office which affect investigations of our police-related shootings and the entire list of violent cases in the whole state. He noted there are people languishing in jail right now all over North Carolina awaiting trial for far too long because the legislature has neglected its duty to adequately fund our justice system, including especially the SBI labs. So given that reality, we've got to figure out a different way to inform our public of key facts much sooner. This is critical if our police department is going to keep and maintain the confidence of the public in its truthfulness and transparency. Those are incredibly important assets, and we must not squander them. Also, he made comments about his conversations with people about the case of Jesus Huerta and the information that they are requesting. We have to let the people know what happened in that case and then let the chips fall where they may. If a terrible mistake was made that contributed to the tragic death of a young man, that truth must come out. I urge our city manager and the top brass in the department and our city attorney, who I am sure has an important hand in these decisions, to figure out a way to get that full truth out right away.

And as for the other investigations, I know that Mayor Bell and our city manager have been on the phone to the state DOJ talking to top people there and urging them to get this process moving. Their failure jeopardizes the confidence of our community. Also, he made comments regarding the police work with Threshold, the day center for mentally ill people in Durham.

In closing, he stated there is so much of that going on every single day in Durham. Let's figure out a way to make that the story on the top of everyone's mind in Durham is not by a public relations campaign. But because we have responded non-defensively and constructively to the criticisms of FADE and others, and changed when we need to change. And because we have done whatever it takes to get the truth out to our community about the controversial cases occupying the headlines. And because we have faced that truth head-on, whatever it is, and dealt with the consequences, however difficult they might be.

Council Member Davis stated he would hope that they can give the Durham community a sense of the transparency that is going on and the desire by the community from the Police Department and that they are given the opportunity to know what the protocols are of the Police Department when it comes to situations like Mr. Walker, Jesus Huerta and Mr. Taylor. He said the community is being very patient when it comes to the answers that are needed and the protocols that are utilized by the Police so that people can recognize the good work that has been shared tonight is reinforced and recognized and praised rather than being criticized in spite of the good things that were reported tonight. He noted some of these things have been lingering for months, and we do not want to rush to judgment and want to allow the investigations to go forward, but

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too many of them have occurred too often and without the kind of transparency that the citizens of Durham desire.

Council Member Moffitt made citizens aware that there is a lot of information on the City's website about the issues that Council Member Schewel raised. He stated that there are 24 documents that come from the initial community session that was held by the Human Relations Commission as well as subsequent responses by the Police Department. Also, he shared where citizens could locate these documents on the city's website under Neighborhood Improvement Services—Human Relations, etc. He referenced the good work that Human Relations Commission is doing and noted they have scheduled five meetings in January and February to continue their work. Also, he stated the Civilian Police Review Board is holding meetings as well.

Police Chief Lopez shared information that is located on his website and their work with the SBI. He stated they have to make sure the information is factual before releasing it and they are working very closely with the community. Also, he stated that they need the community to come forward with information to help them solve some of these issues.

Mayor Bell stated no one on the Council has no reason not to be transparent about the crime issues and they have to depend upon the professionals that are given the responsibility for solving these crimes. He referenced conversations he and the City Manager had with the state's attorney general's office, SBI Director and they impressed upon them how important it was that they come to some type of resolution on these issues that were before them. He referenced other agencies that are involved in solving issues. He stated we do not want to rush to judgment on these issues no matter how important they are. Mayor Bell stated once reports come out and if there are misdeeds or misactions taken by the Police Department, he would say to the City Manager that we got to fix that. Until that is proven, he does not want to judge the police, SBI, chief medical officer, or the DA, but wanted to continue to stress to them the importance of completing the report in an independent and objective way as possible so that we can get to the bottom of these issues. Mayor Bell asked Durham citizens to trust the City Council because they have no reason to hide anything and will not hide anything, but they do have a reason to be professional and ethical about what they do and say. He made comments regarding the crime report referencing that violent crime is down, the types of violent crime and who is committing these acts. In closing, he stated he understands the patience that people have, understand the victims' family, but there is a process and would hope that everyone would allow the process to go through and trust that the City Council wants it done as quickly as possible and done right.

**Note: No action was taken by the City Council.**

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

**SUBJECT: CONSOLIDATED ANNEXATION - THE OAKS AT LYONS FARM -  
PARKWOOD VOLUNTEER FIRE DEPARTMENT - B. WALLACE  
DESIGN AND CONSTRUCTION, LLC**

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To conduct a public hearing to receive comments on the Consolidated Annexation - The Oaks at Lyons Farm;

To authorize the City Manager to enter into a water extension agreement with B. Wallace Design and Construction, LLC;

To adopt an Ordinance Annexing The Oaks at Lyons Farm into the City of Durham effective December 31, 2013;

To authorize the City Manager to make a one-time debt service payment to the Parkwood Volunteer Fire Department;

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 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.

Recommendations: The Staff recommends that the City Council approve the Utility Extension Agreement, Voluntary Annexation Petition, and Initial Zoning.

Scott Whiteman, of the City/County Planning Department, certified that notification has been provided and affidavits are on file as required by law for all Planning Department public hearing items on the agenda. He stated this item is three separate actions by City Council related to the annexation of Oaks at Lyon's Farm. He reported that a utility extension agreement has been requested by B. Wallace Homes to serve the development and the Public Works and Water Management Departments have performed a utility impact analysis that determined that adequate sewer and water capacity is available. Also, a voluntary petition for contiguous annexation has also been submitted by the property owner for the site and the Budget and Management Services has performed a fiscal impact analysis based on the most intense permitted use for initial zoning that determined that estimated revenues will exceed estimated expenditures immediately following annexation. He stated staff is recommending an initial zoning of rural residential which would permit up to 17 single-family dwelling units. He stated that staff is recommending that Council approve the extension agreement for voluntary annexation and the initial zoning for The Oaks at Lyons Farm.

Mayor Bell opened the public hearing.

Jarrold Edens, representing the applicant, spoke in support of this item. He commented on the property that had been annexed adjacent to the site and on school impacts. He proffered that the applicant would make a contribution of \$1,500--\$500 per child--to Durham Public Schools prior to the first certificate of occupancy.

Jeff Dasher spoke against this item due to the lack of consideration that the developer gave to the concerns raised by residents of Silver Pine Court. He said there is only one entrance to the

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developed property coming from Silk Tree Lane and the developer will not build an entrance that will go out to Scott King Road. He asked the developer to allow an additional entrance from Scott King Road because of the traffic and urged Council to postpone or send this item back to the Planning Department so that the developer can give them the quality of life they deserve.

Jarrold Edens addressed questions raised by the opponent. He made comments about the 50 percent open space and 4.7 acres of permanent tree coverage. He stated NCDOT does not allow multiple connections to the state maintained roads and urged Council to support this request.

Jeff Doscher requested that the developer put in a second entrance on the main road.

Mayor Bell closed the public hearing.

Scott Whiteman, of the City/County Planning Department, responded to Council Member Brown's question stating that Scott King Road is a state maintained road and NCDOT would have to approve the access.

Wesley Parham, of the Transportation Department, reported if NCDOT allows the connection, they would also require the construction of a left-turn lane into the site. Also, he made comments about the cost associated with the street connection to include also the widening of a left turn lane as well as significant adjustments to ensure proper sight distance along Scott King Road.

Due to a question raised by Council Member Davis, Scott Whiteman of the City/County Planning Department addressed protocols for neighborhood meetings with the developer.

City/County Planning Director Steve Medlin addressed questions raised by Council Member Schewel regarding conservation subdivision.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Schewel to receive comments on the Consolidated Annexation - The Oaks at Lyons Farm;

To authorize the City Manager to enter into a water extension agreement with B. Wallace Design and Construction, LLC;

To adopt an Ordinance Annexing The Oaks at Lyons Farm into the City of Durham effective December 31, 2013;

To authorize the City Manager to make a one-time debt service payment to the Parkwood Volunteer Fire Department;

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 action is consistent with the Comprehensive Plan, and is reasonable and in the public interest in

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light of information presented in the public hearing and in the accompanying agenda materials;  
and

To accept the additional committed element from the applicant to pay \$500 per additional student to Durham Public Schools [Total \$1,500] prior to final plat approval was approved at 8:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #s 14552 and 14558**

**SUBJECT: CONSOLIDATED ANNEXATION - RICHMOND PARK - GREEN OLIVE INVESTMENTS, LLC - PARKWOOD VOLUNTEER FIRE DEPARTMENT**

To conduct a public hearing to receive comments on the Consolidated Annexation - Richmond Park;

To authorize the City Manager to enter into a utility extension agreement with Green Olive Investments, LLC;

To adopt an Ordinance Annexing Richmond Park into the City of Durham effective December 31, 2013;

To authorize the City Manager to make a one-time debt service payment to the Parkwood Volunteer Fire Department;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Residential Suburban-10 with a development plan (RS-10(D)) zoning for the property; 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.

Recommendations: The Staff recommends that the City Council approve the Utility Extension Agreement, Voluntary Annexation Petition, and Initial Zoning.

Scott Whiteman, of the City/County Planning Department, stated this item is three separate actions by City Council related to the annexation of the Richmond Park development. He said a utility extension agreement has been requested by Green Olive Investments to serve the development and the Public Works department has performed a utility impact analysis that determined that adequate sewer and water capacity is available. He stated a voluntary petition for contiguous annexation has also been submitted by the property owner and the Budget and Management Services Department has performed a fiscal impact analysis based on the most intense use permitted within the proposed initial zoning. The analysis projects that estimated revenues will exceed estimated expenditures immediately upon annexation. He stated staff is

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recommending an initial zoning of RS-10 with a development plan which would permit up to 16 single-family units and that Council approve the extension agreement, voluntary annexation, and initial zoning for Richmond Park.

Mayor Bell opened the public hearing.

Michael Birch, representing the applicant, spoke in support of the Consolidated Annexation for Richmond Park. He stated this process was approved by the County in 2009 for a 16-lot subdivision. As a condition of that plan, it required annexation into the City. He informed Council that this plan is one lot less than the 16-lot subdivision that was approved by the County in 2009 so they are proposing 15 single-family detached lots along with all committed elements that were agreed to and approved in 2009. He referenced storm water conversations he had with neighbors in the nearby area referencing the impervious surface and analysis for controlling the 1 day and 100-year storm events. He made comments about what they will do to prepare for these storm events to reduce storm water impacts referencing the storm retention facility.

Matthew Willis spoke against this item expressing concerns with the drainage ditch after 25 days of continuous rain in April, storm water, no tree buffer zone, cutting down of trees and insects as a result retention pond being placed next to him. Also, he noted that he was not against building new houses.

Charles Chaney spoke in opposition to this item citing the lack of tree buffer.

Michael Birch, representing the applicant, addressed the stormwater and tree buffer transition issues. He said that this development would have no impact on the adjacent property from the stormwater standpoint for up to the 100-year storm. He made comments regarding the location of the stormwater detention facility and noted tree buffers are driven by zoning and the zoning of adjacent properties. He noted there would be a 40-foot tree buffer area along the southern property line. He pointed out with the current 50-foot buffer and 25 foot building set back on their property there would be a minimum 75 feet of separation between structures.

Bill Hunt spoke in opposition to this item expressing issues with flooding.

Mayor Bell outlined the purpose of this item and the process.

Scott Whiteman, of the City/County Planning Department, addressed concerns raised by the opponents. He noted when this development plan was originally approved by the County Commissioners, the applicant did show all the required buffers per the Unified Development Ordinance. The lots to the south and east are zoned rural residential which is a required buffer between the R10 zoning district and RR zoning district. He stated the applicant is doing what is completely required by ordinance and there are no buffers shown to the west and the north.

Mayor Bell asked staff can the applicant remove all the trees that the opponents are concerned about.

Scott Whiteman, of the City/County Planning Department, replied, it is legally permissible.

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Mayor Bell asked the applicant if they intent to remove trees that the opponents are concerned about.

Michael Birch made comments about the building envelope.

Mayor Bell expressed stormwater runoff concerns and would hope that the developer would minimize excessive runoff from their property onto others.

City/County Planning Director Steve Medlin addressed question raised by Council Member Moffitt regarding the transitional use area. He explained that the 50 foot transitional use area is within the adjacent subdivision. It is not a buffer, but an area that was a component of the unified development ordinance requirements for planned density residential districts.

Discussion was held on the transitional use area.

Michael Birch, representing the applicant, committed to an undisturbed tree buffer area of 10 feet on their side of the common property line with the subdivision to the north.

For clarification, City/County Planning Director Steve Medlin stated the applicant committed to providing a ten [10] foot wide tree coverage area adjacent to the northern property line.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Schewel seconded by Mayor Pro Tempore Cole-McFadden to receive comments on the Consolidated Annexation - Richmond Park;

To authorize the City Manager to enter into a utility extension agreement with Green Olive Investments, LLC;

To adopt an Ordinance Annexing Richmond Park into the City of Durham effective December 31, 2013;

To authorize the City Manager to make a one-time debt service payment to the Parkwood Volunteer Fire Department;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Residential Suburban-10 with a development plan (RS-10(D)) zoning for the property; 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; and

To accept the committed element from the applicant to provide a ten (10) foot wide tree coverage area adjacent to the northern property line was approved at 9:02 p.m. by the following vote:

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Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #s 14553 and 14559**

**SUBJECT: CONSOLIDATED ANNEXATION - RTP GLOBAL MISSION CHURCH (BDG1300016) - PARKWOOD VOLUNTEER FIRE DEPARTMENT**

To conduct a public hearing to receive comments on the Consolidated Annexation - RTP Global Mission Church (BDG1300016);

To authorize the City Manager to enter into a water extension agreement with RTP Global Mission Church, Inc.;

To adopt an Ordinance Annexing RTP Global Mission Church into the City of Durham effective December 31, 2013;

To authorize the City Manager to make a one-time debt service payment to the Parkwood Volunteer Fire Department;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Industrial Light (IL) zoning for the property; 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.

Recommendations: The Staff recommends that the City Council approve the Utility Extension Agreement, Voluntary Annexation Petition, and Initial Zoning.

Scott Whiteman, of the City/County Planning Department, stated this item is three separate actions by City Council related to the RTP Global Mission Church annexation. He stated a utility extension agreement has been requested by RTP Global Mission Church to serve the development and the Public Works department has performed a utility impact analysis and determined that adequate sewer and water capacity is available. He said a voluntary petition for contiguous annexation has also been submitted by the property owner and the Budget and Management Services Department has performed a Fiscal Impact Analysis that determined that estimated revenues will exceed estimated expenditures the second year after build-out. Staff is recommending an initial zoning of Industrial Light for the subject property, which would permit a place of worship use and that Council approve the extension agreement, voluntary annexation, and initial zoning for RTP Global Mission Church.

Mayor Bell opened the public hearing.

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Chui Lee, representing RTP Global Mission Church, spoke in support of this item noting he was present to answer questions.

Council Member Moffitt made comments about the site—stream and slope area.

No one spoke against this item.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive comments on the Consolidated Annexation - RTP Global Mission Church (BDG1300016);

To authorize the City Manager to enter into a water extension agreement with RTP Global Mission Church, INC;

To adopt an Ordinance Annexing RTP Global Mission Church into the City of Durham effective December 31, 2013;

To authorize the City Manager to make a one-time debt service payment to the Parkwood Volunteer Fire Department;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Industrial Light (IL) zoning for the property; 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 9:06 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #s 14554 and 14560**

**SUBJECT: CONSOLIDATED ANNEXATION - GROVER YANCEY ANNEXATION (BDG1300015)**

To conduct a public hearing to receive comments on the Consolidated Annexation - Grover Yancey Annexation (BDG1300015);

To authorize the City Manager to enter into an utility extension agreement with Grover Yancy;

To adopt an Ordinance annexing the Grover Yancey Annexation site into the City of Durham effective December 31, 2013; and

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To adopt an Ordinance Amending the Unified Development Ordinance to establish Residential Suburban-20 (RS-20) zoning for the property;

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.

Recommendations: The Staff recommends that the City Council approve the Utility Extension Agreement, Voluntary Annexation Petition, and Initial Zoning.

Scott White, of the City/County Planning Department, stated this item is three separate actions by City Council related to the Grover Yancey annexation. He stated a utility extension agreement has been requested by Grover Yancey to serve the development and the Public Works department has performed a utility impact analysis and determined that adequate sewer and water capacity is available. Also, he noted a voluntary petition for non-contiguous annexation has also been submitted by the property owner for the site and the Budget and Management Services Department has performed a fiscal impact analysis that determined revenues will exceed estimated expenditures immediately upon annexation. He stated staff is recommending an initial zoning of RS-20 for the subject property, which would permit one single family unit and that Council approve the extension agreement, voluntary annexation, and initial zoning for the Grover Yancey Annexation.

Mayor Bell opened the public hearing.

Cliff Credle, representing the applicant, spoke in support of this item for a single family residential lot which is on the border of the city limits.

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 - Grover Yancey Annexation (BDG1300015);

To authorize the City Manager to enter into an utility extension agreement with Grover Yancey;

To adopt an Ordinance annexing the Grover Yancey Annexation site into the City of Durham effective December 31, 2013; and

To adopt an Ordinance Amending the Unified Development Ordinance to establish Residential Suburban-20 (RS-20) zoning for the property;

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

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was approved at 9:08 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #s 14555 and 14561**

**SUBJECT: CONSOLIDATED ANNEXATION - CHANGING HEARTS FOR CHANGING LIVES (BDG1300017)**

To conduct a public hearing to receive comments on the Consolidated Annexation - Changing Hearts for Changing Lives (BDG1300017);

To authorize the City Manager to enter into a utility extension agreement with Changing Hearts for Changing Lives, INC;

To adopt an Ordinance Annexing Changing Hearts for Changing Lives into the City of Durham effective December 31, 2014;

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

Recommendations: The Staff recommends that the City Council approve the Utility Extension Agreement, Voluntary Annexation Petition, and Initial Zoning.

Scott White, of the City/County Planning Department, stated this item is three separate actions by City Council related to the Changing Hearts for Changing Lives annexation. He said a utility extension agreement has been requested by Changing Hearts for Changing Lives to serve the development. He noted the Public Works department has performed a utility impact analysis and determined that adequate sewer and water capacity is available and a voluntary petition for contiguous annexation has also been submitted by the property owner for the site. He noted the Budget and Management Services Department has performed a Fiscal Impact Analysis based on the proposed use of the site as a place of worship and determined that estimated revenues will not exceed estimated expenditures within the 10-year analysis timeframe. He noted that the annexation will be effective on December 13, 2013 rather than December 13, 2014. He stated staff is recommending an initial zoning of rural residential [RR] for the subject property, which would permit a place of worship subject to approval of a minor special use permit by the Board of Adjustment. He stated staff recommends that Council approve the extension agreement, voluntary annexation, and initial zoning for Changing Hearts for Changing Lives.

Mayor Bell opened the public hearing.

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Scott Whiteman, of the City/County Planning Department, addressed questions raised by Council Members. He stated there is no development plan associated with this item and no envelope, but there is an associated site plan under review and any driveways would have to be approved by the North Carolina Department of Transportation because of all of the adjacent roadways that are outside of the city limits. For clarification, he noted the RR zoning would allow a place of worship only if the Board of Adjustment approves a minor special use permit. Also, he referenced resolution adopted by the Planning Commission in 2005 recommending approval of any initial zoning if it were the same zoning already existing in the county.

Kevin Tingen asked who will pay for the sewer.

Scott Whiteman, of the City/County Planning Department, replied the applicant is required to pay for all sewer and water improvements that are associated with this development.

Cliff Credle, representing the applicant, spoke in support of this item. He stated this is a residentially zoned property that is currently in the county and there are three parcels that are being recombined into one for a place of worship. He made comments regarding the land not being conducive to septic and well, it is approximately 80 feet from the existing sewer line and there is water existing on both frontages.

David Johnson stated he was not sure if he was speaking against this item or for it since they have not seen the plans or the layout for this project. He stated that he did not have a problem with a church being placed on the site and would like for it to stay as a church because of the retired residents that live in the area. He expressed a concern that at some point residents would have to pay for the sewer lines coming across their property.

Scott Whiteman, of the City/County Planning Department, stated the place of worship would have to be approved by the Board of Adjustment at a public hearing so that all neighbors within 300 feet of site would be notified of the public hearing. Should the special use permit not be approved, then the site would be developed at the existing zoning---very low density residential.

Kevin Tingen raised drainage concerns from the stream.

Scott Whiteman, of the City/County Planning Department, explained that regardless of what is built on the site, a buffer of at least 50 feet as well as any stormwater improvements would be required by ordinance.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive comments on the Consolidated Annexation - Changing Hearts for Changing Lives (BDG1300017);

To authorize the City Manager to enter into a utility extension agreement with Changing Hearts for Changing Lives, INC;

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To adopt an Ordinance Annexing Changing Hearts for Changing Lives into the City of Durham effective December 31, 2013;

To adopt an Ordinance Amending the Unified Development Ordinance to establish Rural Residential (RR) zoning for the property; 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 9:17 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #s 14556 and 14562**

**SUBJECT: COMPREHENSIVE PLAN AMENDMENT - PAGE PARK II (A1300006)**

To conduct a public hearing to receive comments on the Comprehensive Plan Amendment - Page Park II (A1300006) Plan Amendment; and

To adopt a Resolution to Change the Future Land Use from Industrial and Office.

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, 11-0, on September 10, 2013.

Patrick Young, of the City/County Planning Department, briefed Council on the staff report. He stated that the applicant, Lennar Carolinas, is requesting an amendment to change the Future Land use Map designation from office to medium density residential. He reported staff has determined that this request provides appropriate transition and recommends approval. He stated the Planning Commission recommended approval of this request at their October 8, 2013 meeting.

Mayor Bell opened the public hearing.

Robert Shunk, representing the applicant, spoke in support of this plan amendment. He stated he was present to answer any questions.

No one spoke against this item.

Mayor Bell closed the public hearing.

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**MOTION** by Council Member Brown seconded by Mayor Pro Tempore Cole-McFadden to receive comments on the Comprehensive Plan Amendment - Page Park II (A1300006) Plan Amendment; and

To adopt a Resolution to Change the Future Land Use from Industrial and Office was approved at 9:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Resolution #9879**

**SUBJECT: ZONING MAP CHANGE - PAGE PARK II (Z1300017)**

To conduct a public hearing to receive comments on the Zoning Map Change - Page Park II (Z1300017);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1300017 out of Office Institutional with a development plan (OI(D)) and Residential Suburban – Multifamily with a development plan (RS-M(D)) and placing same in and establishing same as Residential Suburban - Multifamily with a development plan (RS-M(D)); and

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

Planning Commission Recommendation and Vote: Approval 11-0 on October 8, 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.

[The site is located at 5310 and 5330 Jessip Street, intersection of Crown Parkway and Jessip Street, west of Page Road, PINs 0747-02-88-6328, 0747-02-98-3482]

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Patrick Young, of the City/County Planning Department, briefed Council on the staff report. He stated the applicant, Lennar Carolinas, is requesting to change the zoning designation of 16.875 acres from residential suburban—multifamily with a development plan and office institutional with a development plan to residential suburban—multifamily with a development plan. He stated this request would allow a maximum of 124 residential units. He reported there are text, graphic and design commitments associated with this request, which are provided in the staff report. He said staff has determined this request is consistent with the Comprehensive Plan and other adopted policies and ordinances and the Planning Commission recommended approval at their October 8, 2013 meeting.

Mayor Bell opened the public hearing.

Robert Shunk, representing the applicant, spoke in support of this item. He noted he was present to answer any questions.

Council Member Schewel noted this zoning change would add 20 students to Durham Public Schools.

Robert Shunk, representing the applicant, noted student impacts would be less because they are proposing to build townhomes vs apartments. He stated the applicant is willing to proffer \$500 per additional student prior to final plat approval.

Patrick Young, of the City/County Planning Department, reported there is a site plan under review that reflects townhomes which is not a committed element.

After discussion, Robert Shunk, representing the applicant, stated they could commit to doing townhomes and committed to \$500 per additional student.

Patrick Young explained the notation of impervious surface-- maximum 100 percent referenced in the staff report on page 8.

No one spoke against this zoning map change.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive comments on the Zoning Map Change - Page Park II (Z1300017);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1300017 out of Office Institutional with a development plan (OI(D)) and Residential Suburban – Multifamily with a development plan (RS-M(D)) and placing same in and establishing same as Residential Suburban - Multifamily with a development plan (RS-M(D));

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, should the plan amendment be approved, and

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is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; and

To accept additional committed element from the applicant to provide \$500 per additional student to Durham Public Schools prior to approval of final plat [if townhomes or building permit if multi-family] was approved at 9:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #14563**

**SUBJECT: COMPREHENSIVE PLAN AMENDMENT - MUIRFIELD  
COMMERCIAL (A1200015)**

To conduct a public hearing to receive comments on the Comprehensive Plan Amendment - Muirfield Commercial (A1200015) Plan Amendment; and

To adopt a Resolution to Change the Future Land Use from Low-Medium Density Residential (4-8 DU/Ac) 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, 11-0, on October 8, 2013.

Patrick Young, of the City/County Planning Department, briefed Council on the staff report. He stated the applicant, Horvath Associates, is requesting an amendment to change the Future Land use Map designation of the 1.85 acre site located on the east side of Guess Road, north of Horton Road and south of Victory Boulevard from low-medium density residential to commercial to facilitate their zoning request. He stated staff is recommending approval of this request and the Planning Commission recommended approval of this request at their October 8, 2013 meeting.

Mayor Bell opened the public hearing.

Ron Horvath, representing the applicant, stated this item is to correct a future land use plan. He stated that the property that was zoned commercial a number of years ago, but at that time they were not updating the land use plan. He urged Council to approve this request.

Patrick Young, of the City/County Planning Department, responded to Council Member Moffitt's question regarding the technical correction.

No one spoke against this item.

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Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive comments on the Comprehensive Plan Amendment - Muirfield Commercial (A1200015) Plan Amendment; and

To adopt a Resolution to Change the Future Land Use from Low-Medium Density Residential (4-8 DU/Ac) to Commercial was approved at 9:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Resolution #9880**

**SUBJECT: ZONING MAP CHANGE - MUIRFIELD COMMERCIAL (Z1200026)**

To conduct a public hearing to receive comments on the Zoning Map Change - Muirfield Commercial (Z1200026);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1200026 out of Commercial Neighborhood with a development plan (CN(D)) and placing same in and establishing same as Commercial Neighborhood with a development plan (CN(D)); and

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

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

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

Planning Commission Recommendation and Vote: Approval 11-0 on October 8, 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.

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[The site is located at 1439 Victory Boulevard, with frontage on Guess Road north of Horton Road and south of Prison Camp Road, PIN 0824-03-11-1088]

Patrick Young, of the City/County Planning Department, briefed Council on the zoning map change for Muirfield Commercial. He stated the applicant, Horvath Associates, is requesting to change the zoning designation of 2.95 acre site located at 1439 Victory Boulevard, north of Horton Road and south of Prison Camp Road from its existing designation of commercial neighborhood [CN] with a development plan that was zoned in 2003 to commercial neighborhood [CN] with a development with different commitments to include a commitment that 1) allows an increase in non-residential development from 5,000 square feet to 8,000 square feet; 2) modifies the site access points; and changes the committed uses to allow a mix of office, retail or restaurant without a drive-through and the previous zoning limited uses to office or retail or restaurant. He stated this request is consistent with the future land use designation of the Comprehensive Plan and reported there are numerous text, graphic, and design commitments associated with this request which are outlined in the staff report. He said the Planning Commission recommended approval of this request at their October 8, 2013 meeting.

Mayor Bell opened the public hearing.

Ron Horvath, representing the applicant, spoke in support of this zoning map change. He pointed out that this zoning was to eliminate two drive-way connections that cross the stream to the rear of the property and to provide access to the residential development that is behind the commercial site. He stated the applicant removed the access point out onto Victory Boulevard, eliminated two stream crossings and provided neighborhood access. He urged Council to approve this request.

Council Member Catotti asked for clarification about the off-site trail.

Ron Horvath, representing the applicant, referenced the 2003 commitment regarding the Warren Creek Greenway Trail easement which is on the southern side of property.

For clarification, Patrick Young stated there is a 2003 commitment on the adjacent property which is not a part of the action tonight but is associated with this proposed development and would stay a commitment from the 2003 action.

No one spoke against this zoning map change.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive comments on the Zoning Map Change - Muirfield Commercial (Z1200026);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1200026 out of Commercial Neighborhood with a development plan (CN(D)) and placing same in and establishing same as Commercial Neighborhood with a development plan (CN(D)); and

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To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan, should the plan amendment be approved, and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials was approved at 9:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #14564**

**SUBJECT: ZONING MAP CHANGE - HUTSON PROPERTY (Z1300010)**

To conduct a public hearing to receive comments on the Zoning Map Change - Hutson Property (Z1300010);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1300010 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.

Planning Commission Recommendation and Vote: Approval 11-0 on September 10, 2013. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

[The site is located at 117 East N.C. 54 Highway, east of Fayetteville Road and west of Interstate 40, PIN 0728-01-06-0568]

Patrick Young, of the City/County Planning Department, briefed Council on the staff report. He stated the applicant is requesting to change the zoning designation of 7.99 acre parcel from Residential Suburban -20 to Office Institutional with a development plan to allow for a

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maximum of 150,000 square feet of office space. He stated there are text, graphic and design commitments associated with this request as well as transit and roadway improvements including a dedication and development of a four-foot bicycle lane as well as design commitments. He stated staff has determined that this request is consistent with the Comprehensive Plan and the Planning Commission recommended approval of this item at their September 10, 2013 meeting.

Mayor Bell opened the public hearing.

Bob Zumwalt, representing the applicant, spoke in support of this request.

Wesley Parham, of the Transportation Department, responded to question raised by Council Member Schewel. He explained why staff does not see any problem with additional trips generated as a result of this request.

No one spoke against this zoning map change.

Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive comments on the Zoning Map Change - Hutson Property (Z1300010);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1300010 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 was approved at 9:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #14565**

**SUBJECT: ZONING MAP CHANGE - HOPE VALLEY FARMS POD BB REVISIONS (Z1300012)**

To conduct a public hearing to receive comments on the Zoning Map Change - Hope Valley Farms Pod BB Revisions (Z1300012);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1300012 out of Commercial General with a development plan (CG(D)) and placing same in and establishing same as Commercial General with a development plan (CG(D)); and

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

Planning Commission Recommendation and Vote: Approval 11-0 on October 8, 2013. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission believes the request is reasonable and in the public interest and recommends approval based on comments received at the public hearing and the information in the staff report.

[The site is located at 1051 Martin Luther King, Jr. Parkway, between South Roxboro Street and Archdale Drive, PIN 0820-17-10-7531].

Patrick Young, of the City/County Planning Department, briefed Council on the zoning map change for Hope Valley Farms Pod BB. He stated the applicant is requesting to change the zoning designation of 6.77 acres and this site was zoned Commercial General or CG with a development plan in 2009 and the development plan at that time included a number of graphic and text commitments which would stay in place, including enhanced project boundary buffers and transportation improvements. He reported there are proffers that the applicant is requesting to remove from the 2009 commitments—1) limited fuel sales and/or convenience store uses as well as roadway improvements along Martin Luther King, Jr. Parkway and South Roxboro Street. He stated staff has determined this request is consistent with the Comprehensive Plan and other adopted policies and ordinances and the Planning Commission recommended approval of this request at their October 8, 2013 meeting.

Mayor Bell opened the public hearing

Patrick Byker, representing the applicant, spoke in support of this request. He explained why they are requesting the minor zoning map change to 6.77 acres. He made comments regarding the proposed construction of .8 opacity buffer entirely within their property and the plantings [trees and shrubs], distance of residents being 500 feet away from their project, and their neighborhood meeting.

Attorney Lewis Cheek, representing the applicant, spoke in support of this request providing background information about the applicant, Murphy USA. He referenced that this would be the

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first convenience store site in Durham, the number of employees who would work at this site, and estimated that the site would generate \$2 million in the tax base and associated sales taxes. He said there would be a number of enhancements and improvements to make this development neighborhood friendly, stated traffic improvements would be constructed mitigating the effects with a modest increase in traffic and reported that there would be no further median cuts in Martin Luther King, Jr. Parkway as a result of the project. He urged Council to approve the zoning map change.

A project engineer, representing USA Murphy, addressed a question from Council Member Davis regarding the intrusion of lighting from this facility onto neighbors referencing the types of lighting [recessed/LED] to be used for this project

Mayor Pro Tempore Cole-McFadden referenced complaints [noise, litter]she received from residents who live near convenience stores.

Attorney Lewis Cheek stated that the applicant would monitor their property to address noise and litter concerns.

A representative from Murphy USA addressed noise issue at convenience stores and said if there is a problem they would avail themselves of the noise ordinance already in place. Also, he noted that they pay their staff above the minimum wage and a livable wage. He highlighted that there would be a manager, assistant manager and four to five cashiers at this station.

A resident of Elm Grove Townhomes - Hope Valley Farms North expressed notification concerns that did not reach 240 townhome owners. She asked Council to continue the public hearing process to allow the neighborhood the opportunity to speak with the applicant so that they can have an opinion about the project.

Patrick Young, of the City/County Planning Department, addressed the notification concern. He stated that notification requirements were met for homeowners within a 600 feet area of the project.

City/County Planning Director Steve Medlin explained notification requirements of the Unified Development Ordinance and state statutes.

Patrick Byker, representing the applicant, stated his records indicate that they sent a first class letter to the Elm Grove Town Home Association, Inc. on April 2, 2013.

Council held discussion on notification process and undeveloped property that surrounds the subject project.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Brown seconded by Council Member Davis to receive comments on the Zoning Map Change - Hope Valley Farms Pod BB Revisions (Z1300012);

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To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1300012 out of Commercial General with a development plan (CG(D)) and placing same in and establishing same as Commercial General with a development plan (CG(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 was approved at 9:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Davis and Schewel. Noes: Council Members Catotti and Moffitt. Absent: None.

Council held discussion on the design commitment—brick exterior—being a part of the motion.

**MOTION** by Council Member Brown seconded by Mayor Pro Tempore Cole-McFadden to reconsider the previous action by Council on this matter was approved at 9:59 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

Patrick Byker, representing the applicant, amended the design commitment to reflect a brick exterior building, with the exception of the windows and doors.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to receive comments on the Zoning Map Change - Hope Valley Farms Pod BB Revisions (Z1300012);

To adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1300012 out of Commercial General with a development plan (CG(D)) and placing same in and establishing same as Commercial General with a development plan (CG(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; and

To accept the design commitment from the applicant limiting building exterior to brick [excluding windows and doors] was approved at 10:00 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Davis and Schewel. Noes: Council Members Catotti and Moffitt. Absent: None.

**Ordinance #14566**

**December 16, 2013**

**SUBJECT: STREET CLOSING - NORTH LASALLE STREET (SC1300003)**

To conduct a public hearing to receive comments on the permanent closing of 150 linear feet of North LaSalle Street, located north of Hillsborough Road and east of US 15/501, and to order the permanent closure of the right-of-way; and

To adopt an order permanently closing 150 linear feet of North LaSalle Street.

Patrick Young, of the City/County Planning Department, briefed Council on the staff report. He stated this request is to close a 150 linear foot segment of North LaSalle Street. He stated this property is currently an open right-of-way but has been used for many years as parking for the adjacent building. He stated Sheetz, Inc. is proposing utilization of this property for parking and site access to a new convenience store and gas station. He reported City agencies, NCDOT and utility service providers have reviewed this proposal and no service delivery or other impacts were identified.

Mayor Bell opened the public hearing.

Jamie Gerhart, representing the applicant, spoke in support of this item.

No one spoke against this street closing.

Mayor Bell closed the public hearing.

**MOTION** by Council Member Moffitt seconded by Mayor Pro Tempore Cole-McFadden to receive comments on the permanent closing of 150 linear feet of North LaSalle Street, located north of Hillsborough Road and east of US 15/501, and to order the permanent closure of the right-of-way; and

To adopt an order permanently closing 150 linear feet of North LaSalle Street was approved at 10:02 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #14557**

**[ITEMS PULLED FROM CONSENT AGENDA]**

**SUBJECT: WORKFORCE INVESTMENT ACT YOUTH CONTRACT WITH COMMUNITY PARTNERSHIPS, INC.**

Mayor Pro Tempore Cole-McFadden expressed concerns about an outside firm receiving this contract since there was a half-point rating difference between this firm and a local firm.

Michael Honeycutt, of the Office of Economic and Workforce Development, explained why Community Partnerships received this contract referencing the RFP review by the Development

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Review Workforce Board and that the provider has met and exceeded the stated performance goals that are mandated by the state and federal government.

James Dickens, of the Office of Economic and Workforce Development, stated this is a six month contract with an option for renewal for up to two years. He stated staff does not have to go back to an RFP after six months unless the contractor is not performing well. He reported federal guidelines require a RFP every three years.

Council held discussion on length of contract, contract renewal and the two proposals received, one being from Operation Breakthrough whose score ranked close to Community Partnerships.

As liaisons to the Workforce Development Board, Council Members Catotti and Schewel shared information raised at the meeting.

Mayor Pro Tempore Cole-McFadden urged staff to think about how do you mentor local providers so that they can take advantage of city business and to do a better job in embracing local contractors.

Mayor Bell requested an update on this project in six months.

**MOTION** by Council Member Catotti seconded by Council Member Schewel to authorize the City Manager to execute a contract with Community Partnerships, Inc. in the amount of \$175,000.00 for Youth Framework Services was approved at 10:14 p.m. by the following vote: Ayes: Mayor Bell and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: Mayor Pro Tempore Cole-McFadden. Absent: None.

**SUBJECT: 2014 FINANCIAL CRIMES TASK FORCE GRANT**

Victoria Peterson requested a report about the drug monies the Police Department has received over the last five years before this item is approved by Council.

**MOTION** by Council Member Schewel seconded by Council Member Brown to authorize the City Manager to accept the U.S. Department of Treasury 2014 Financial Crimes Task Force Grant by executing the grant documents; and

To adopt the 2014 Financial Crimes Task Force Grant Project Ordinance in the amount of \$27,360.00 was approved at 10:19 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**Ordinance #14550**

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**SUBJECT: AMENDMENT TO FITNESS MEDICAL RISK TRAINING (FMRT)  
CONTRACT FOR PSYCHOLOGICAL SERVICES**

Victoria Peterson asked that additional funding be added to this item to provide for a board certified licensed psychologist to address crisis situations that occur in this community.

**MOTION** by Council Member Moffitt seconded by Council Member Catotti to authorize the City Manager to execute a contract amendment with Law Enforcement Services Group, PLLC, d/b/a the FMRT Group in the amount of \$8,147.50 for Psychological Services was approved at 10:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

There being no further business to come before the City Council, the meeting was adjourned at 10:22 p.m.

Linda E. Bratcher, CMC  
Deputy City Clerk

D. Ann Gray, MMC, NCCMC  
City Clerk