

**DURHAM, NORTH CAROLINA**  
**MONDAY, MAY 19, 2014**  
**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 Bonfield, Senior Assistant City Attorney Emanuel McGirt, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

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

Mayor Bell recognized Cub Pack #137 from St. Joseph AME Church and their scout leader, and read a proclamation designating May 18-24, 2014 as National Public Works Week presented to Public Works Director Marvin Williams.

At the request of Council Member Moffitt, Deputy City Manager Bo Ferguson provided Council with an update on the recent storm event [F1 Tornado] that took place this past weekend referencing the response and recovery efforts of various departments and agencies.

Council Member Davis thanked Parks and Recreation, other departments and volunteers that helped to make last weekend's Bimbe Festival a wonderful event at Rock Quarry Park. He commented on the mid-day program [*State of Things*] held today at WUNC-Radio which featured two fire fighters and emergency response individuals along with others who talked about firefighting and the article in the newspaper regarding the fire truck that would be saved.

Council Member Moffitt shared that he along with his family and Council Member Schewel attended Bimbe and noted it was a great location.

Mayor Bell asked for priority item 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 Item #2 [Network Hut License Agreement between the City of Durham and Google] was pulled by a citizen.

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to approve the Consent Agenda as amended was approved at 7:14 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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**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to approve City Council minutes for the March 20, 2014 City Council Work Session and April 7, 2014 City Council Meeting was approved at 7:14 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 TO EXISTING HOME INVESTMENT PARTNERSHIP AGREEMENT WITH SOUTHSIDE REVITALIZATION PHASE 1 LP IN THE AMOUNT OF \$500,000.00**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the expenditure of up to \$500,000.00 in HOME funds;

To authorize the City Manager to amend the existing construction to permanent fourth deed of trust HOME loan agreement with Southside Revitalization Phase 1 LP in the amount of \$500,000.00 for a total loan amount up to \$2,533,739.00; and

To authorize the City Manager to execute such other non-loan related documents as necessary and as required by other lenders and the investor to include but not limited to an inter-creditor agreement and a disbursing agreement was approved at 7:14 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: RENEWAL OF URBAN SEARCH AND RESCUE MEMORANDUM OF AGREEMENT - CITY OF RALEIGH AND THE TOWN OF CHAPEL HILL**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to enter into an MOA with the City of Raleigh and the Town of Chapel Hill for continued participation in the regional USAR team; and

To authorize an annual payment in the amount of \$61,027.35 to the City of Raleigh for consolidated team funding was approved at 7:14 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: COMPENSATION AND CLASSIFICATION PLAN RECOMMENDATIONS**

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to amend and adopt the recommended changes to the City of Durham's Compensation and Classification Plan, including general pay plan structure adjustments; and

To amend and adopt the Durham Minimum Livable Wage rate to \$12.33 per hour, effective January 1, 2015 was approved at 7:14 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: ADOPTION OF PROPOSED WATER AND SEWER RATES FOR FY 2014 - 2015**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt an Ordinance to change rates for water and sewer service, Section 1, Part 15-104 of the City's fee schedule, effective July 1, 2014. Rates shall be applied to all bills rendered after August 1, 2014 was approved at 7:14 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 #14611**

**SUBJECT: PROPOSED UPDATES TO FEE SCHEDULE FOR WATER AND SEWER CAPITAL FACILITY FEES**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to adopt an Ordinance Amending Chapter 15, Part 15-103 (Capital facilities fees) of the City's Fee Schedule with an effective date of October 1, 2014 was approved at 7:14 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 #14612**

**SUBJECT: WATER RECLAMATION FACILITIES MASTER PLANS ENGINEERING SERVICES CONTRACT – AMENDMENT #2 - HAZEN AND SAWYER, P.C.**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute a contract Amendment with Hazen and Sawyer, P.C. for engineering services for the Water Reclamation Facilities Master Plans Project in the total amount not to exceed \$714,828.00; and

To authorize the City Manager to negotiate change orders for the contract provided that the total project cost does not exceed \$3,540,729.00 which includes the revised total contract amount of

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\$3,432,630 plus remaining contingency was approved at 7:14 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: TURNAGE HEIGHTS LIFT STATION ABANDONMENT PROJECT - MCKIM & CREED, INC.**

**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to authorize the City Manager to execute a contract with McKim & Creed, Inc. for engineering services for the Turnage Heights Lift Station Abandonment Project in the total amount not to exceed \$138,633.00;

To establish a contingency fund for the contract of \$12,367.00; and

To authorize the City Manager or his designee to negotiate amendments for the contract provided that the cost of all amendments, together with the original contract, does not exceed the total project cost of \$151,000.00 was approved at 7:14 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.

**The City Council disposed of the following agenda items at the May 8, 2014 Work Session:**

**3. Proposed Sale of Property at 606 Eastway Avenue; PIN# 0831-10-45-6766**  
*(This item was approved at the Work Session with a vote of 6/0)*

To determine the property at 606 Eastway Avenue to be surplus, and authorize the sale of the property under the authority of Section 86 of the City Charter;

To accept the offer to purchase for the property located at 606 Eastway Avenue, and authorize the City Manager and the Mayor to sell and convey the property by a non-warranty deed; and

To authorize the City Manager to terminate the contract for sale if the contract terms are not fulfilled.

**16. Ronderrence Peterson**  
*(Citizen did not appear at the May 8, 2014 Work Session)*

To receive comments from Ronderrence Peterson regarding forming a committee to institute such programs into the community for more African American Coalition.

**[GENERAL BUSINESS AGENDA]**

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**SUBJECT: PROPOSED FISCAL YEAR 2014-15 BUDGET AND FISCAL YEAR 2015-2020 CAPITAL IMPROVEMENT PLAN (CIP)**

To receive a presentation from the City Manager on the proposed Fiscal Year 2014-15 Budget and Fiscal Year 2015-2020 Capital Improvement Plan (CIP).

City Manager Thomas Bonfield presented the FY 2014-15 preliminary budget. The proposed budget includes a 1.29 cents tax increase on every \$100 of assessed property value for voter-approved debt and public safety.

City Manager Bonfield said that the FY 2014-15 budget, like proposed fiber, propels the city forward with increased “connectivity, cooperation, collaboration, innovation and inclusion, while meeting community priorities.”

City Manager Bonfield recommends a total preliminary budget for FY 2014-15 of \$386.7 million, a 2.7 percent increase from last year’s budget, and includes a \$173.6 million budget for services covered by the general fund. The 1.29 cent property tax increase is needed for voter-approved debt service costs from previous bonds and to cover 16 police officers and 15 firefighters’ salaries that had been paid by recently expired federal grants. The tax bill for the owner of a \$150,000 home would rise by \$19.35.

The street resurfacing fund is recommended to receive a \$250,000 boost, increasing the fund to \$1 million. “This was a priority for supporters of the previous street bond,” Bonfield said. “Improving streets continues to be a top priority for residents, according to the latest resident satisfaction survey.”

While five positions (four filled) were recommended for elimination, eight new positions are being added for Water Management, Public Works and Human Resources departments. A key challenge is finding efficiencies in the Solid Waste Management Department, which continues to require a significant subsidy from the general fund, Bonfield said. Although increases are recommended for yard waste and tipping fees, other operational efficiencies were needed. Code enforcement will now be done on a reactive basis, enabling the department to eliminate two positions. Also, recycling and waste diversion outreach activities now performed by one position will be absorbed by other positions in the department.

The City Manager also recommended that the City return to its differentiated pay-for-performance plan, rewarding employees according to their performance. While the average increase will be 3 percent for general pay plan employees, police and fire pay plan employees will receive an average 3.5 percent increase. Although health care premiums remained constant, dental premiums increased slightly.

Other fee changes included water and sewer and stormwater rate increases that were previously presented to Council at its May 8 work session, and approved during tonight’s meeting. The FY 2014-2020 Capital Improvement Plan (CIP) budget contains a little more than \$93 million, including \$44 million for the new Police Headquarters, \$7 million for fire equipment and Fire Station #17, and \$4.2 million for park upgrades, and \$20.5 million for water and sewer

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improvements. CIP funding is provided through impact fees, water and sewer revenues, revenue bonds, stormwater fees, and program income.

**Other highlights include:**

- \$500,000 for deferred maintenance (CIP)
- \$6 million for fleet vehicles (CIP)
- \$254,000 for Administrative Office of the Courts contracts
- \$1.7 million for public arts & culture, including the Carolina Theatre, Durham Arts Council, St. Joseph's Historic Foundation, American Dance Festival, Full Frame Documentary Film Festival, Durham Blues Festival, and other public art initiatives

The budget also maintains fund balance reserves at 13.5 percent for FY 2015 year-end, with \$440,000 of these funds to be used for one-time expenditures, including a Web 2.0 to increase resident engagement. The City continues to maintain excellent fiscal status with a AAA bond-rating from all three ratings agency – achieved by only a few of nation's more than 22,500 cities.

To encourage resident feedback, the 2<sup>nd</sup> annual E-Town Hall will be held on Monday, June 2 at 7 p.m. during the regularly scheduled City Council Meeting. “We are asking residents to send us their thoughts and questions now that they’ve heard the proposal,” Bonfield said. “Comments and questions can be sent in a number of ways – by email, on the City’s Facebook page or Twitter feed, and even by video submission on the City’s YouTube channel. Then, we’ll respond to as many comments and answer as many questions as we can during our live E-Town Hall, aired on DTN and on the City’s website.”

A public hearing is also scheduled for the preliminary budget for Monday, June 2 with final budget approval set for Monday, June 16 at 7 p.m. in the City Council Chambers.

Victoria Peterson spoke in support of bringing fiber optic to Durham and urged Council to address the crime in this city.

No action was taken by the City Council.

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

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT - TREE COVERAGE CALCULATIONS (TC1300002)**

To close the public hearing and refer the text amendment request back to the administration for further consideration, as requested by the applicant.

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Recommendations: The staff recommends closing the public hearing and referring the text amendment request back to the administration for further consideration. The Planning Commission recommended approval, 14-0, at the November 12, 2013, meeting.

Patrick Young, of the City/County Planning Department, certified that all public hearings items on the agenda tonight have been properly advertised in accordance with law and affidavits are on file with the department. He referenced that the Durham City Council held a public hearing on the proposed text amendment regarding tree coverage calculations at its February 3, 2014 meeting and continued that public hearing to the May 19, 2014 City Council Meeting. He informed Council that the applicant is requesting that this item be referred back to the administration for additional modifications. He stated staff is requesting that Council close the public hearing and refer this item back to the administration. He said the applicant expressed his intent to make modifications, coordinate with staff and item will be reprogrammed for a future meeting with new notifications—the cost paid by the applicant.

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

**MOTION** by Council Member Schewel seconded by Council Member Brown to close the public hearing and refer the text amendment request back to the administration for further consideration, as requested by the applicant was approved at 7:43 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: CONSOLIDATED ANNEXATION ITEM – THE CORNERS AT BRIER CREEK INITIAL**

To conduct a public hearing to receive comments on the Consolidated Annexation Item – The Corners at Brier Creek Initial;

To authorize the City Manager to enter into a water and sewer extension agreement with Creekwood Highway 70-Alexander, LLC, Seventy West, LLC and Seventy Vest, LLC;

To adopt an Ordinance Annexing the Corners at Brier Creek development into the City of Durham effective June 30, 2014;

To adopt an Ordinance Amending the Unified Development Ordinance placing the described property in and establishing as Rural Residential (RR) zoning district; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent not consistent with the Comprehensive Plan, however 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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Recommendations: The staff recommends that the City Council approve the Utility Extension Agreement, Voluntary Annexation Petition, and Zoning Map Change.

Patrick Young, of the City/County Planning Department, stated that this consolidated item consists of an utility extension agreement, annexation and initial zoning for the Corners at Brier Creek. The proposed annexation is for 123.5 acres at the northern corner of T. W. Alexander and U S Highway 70. The request is to grant the utility extension agreement which has been reviewed by the Public Works and Water Management Departments which found that there are no negative utility impacts and there is adequate water and sewer capacity in the area to serve the proposed project. He reported the voluntary petition for annexation was reviewed by the Budget and Management Services Department and the fiscal impact analysis at the proposed density would be revenue positive following annexation. If the annexation is approved the initial zoning would have to be applied by the City and staff is recommending that an initial zoning of rural residential [RR] be applied to the property. He stated the applicant has expressed an interest in a subsequent zoning to a higher density at a later date. He stated that staff is recommending that Council approve the extension agreement, voluntary annexation and initial zoning for this project.

Mayor Bell opened the public hearing.

Patrick Byker, representing the applicant, thanked Council for their support and noted he was present to answer any questions.

No one spoke in opposition to this item.

Mayor Bell closed the public hearing.

Patrick Young, of the City/County Planning Department, informed Council that the date of the meeting referenced in the ordinance was changed to May 19, 2014.

**MOTION** by Council Member Moffitt seconded by Mayor Pro Tempore Cole-McFadden to receive comments on the Consolidated Annexation Item - The Corners at Brier Creek Initial;

To authorize the City Manager to enter into a water and sewer extension agreement with Creekwood Highway 70-Alexander, LLC, Seventy West, LLC and Seventy Vest, LLC;

To adopt an Ordinance Annexing the Corners at Brier Creek development into the City of Durham effective June 30, 2014;

To adopt an Ordinance Amending the Unified Development Ordinance placing the described property in and establishing as Rural Residential (RR) zoning district; and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent not consistent with the Comprehensive Plan, however 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 7:46 p.m. by the following vote: Ayes: Mayor

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

**Ordinance #14607 & 14608**

Mayor Bell asked Patrick Byker if he wanted to comment on an item that may require further action by the Raleigh City Council or General Assembly.

Patrick Byker made comments regarding the annexation agreement between Durham and Raleigh before T. W. Alexander went across U. S. 70/Glenwood Avenue. He noted the road was extended which created three small parcels that totaled 1.07 acres located in the City of Raleigh's jurisdiction and out of 123 acres in the project] there is a small percentage in Raleigh and the applicant is working on that matter to get it done administratively, but if there is a conflict between the two ordinances the General Assembly may be able to take a look at this during their short session. Also, he noted this item would not be resolved by May 23<sup>rd</sup> legislative breakfast meeting with the Durham Delegation.

**SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT,  
WATERSHED PROTECTION OVERLAY – RURAL VILLAGES  
(TC1300003)**

To conduct a public hearing to receive comments on the Unified Development Ordinance Text Amendment, Watershed Protection Overlay – Rural Villages (TC1300003); and

To adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 8, Environmental Protection, and Article 16, Definitions.

Recommendations: The staff recommends approval. The Planning Commission heard this text amendment at its February 11, 2013 meeting and voted to recommend approval, 12-0.

Patrick Young, of the City/County Planning Department, briefed Council on the text amendment --watershed protection overlay – Rural Villages. He reported that this text amendment would adjust regulations regarding lot size and impervious surface limits within the Rougemont Rural Village within the County's jurisdiction and there would be no direct impact to the city limits. He stated this item is before Council to ensure consistency between the City and County adopted version of the Unified Development Ordinance [UDO]. He reported that the County recently adopted this item by unanimous vote and the Planning Commission recommended approval at its February 11, 2014 meeting.

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 an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 8, Environmental Protection, and Article 16, Definitions was approved at 7:50 p.m. by

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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 #14609**

**SUBJECT: ADOPTION OF PROPOSED STORMWATER RATES FOR FY 2015**

To conduct a public hearing to receive comments on the FY 2015 Stormwater Rate Increase; and

To adopt an Ordinance to Change the Fee Schedule Revising Stormwater Rates Effective July 1, 2014.

Paul Wiebke, of the Public Works Department, noted in order to continue the retrofit program development in the Falls Lake watershed while maintaining required activities associated with the National Pollution Discharge Elimination System [NPDES] permit, the administration recommends adoption of a stormwater rate increase of 7.5% effective July 1, 2014. He gave an overview of the customer bill impacts/tier rates.

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 an Ordinance to Change the Fee Schedule Revising Stormwater Rates Effective July 1, 2014 was approved at 7:52 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 #14610**

**[ITEM PULLED FROM CONSENT AGENDA]**

**SUBJECT: NETWORK HUT LICENSE AGREEMENT BETWEEN THE CITY OF DURHAM AND GOOGLE**

Victoria Peterson made comments in support of fiber coming to the community and urged Council to encourage companies to hire local citizens. She raised several questions regarding the number of homes receiving fiber, what City properties are involved and how this program will help young citizens receive employment.

Mayor Bell stated that they are not a point to answer questions raised by Ms. Peterson. He noted if the City is fortunate to receive one of the projects that may require City support there would be strong emphasis to make sure that local citizens are employed.

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**MOTION** by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to authorize the City Manager to execute a Network Hut License Agreement with Google that provides for the lease terms and conditions that will be proposed for the construction and housing of network equipment huts to be located on various real property owned by the City of Durham was approved at 7:56 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 7:56 p.m.

Linda E. Bratcher, CMC  
Deputy City Clerk

D. Ann Gray, MMC, NCCMC  
City Clerk