

**DURHAM, NORTH CAROLINA  
MONDAY, NOVEMBER 17, 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 Councilmembers 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 Dianalynn Schreiber.

Mayor Bell called the meeting to order with a moment of silent meditation followed by the Pledge of Allegiance led by Councilmember Brown.

**[CEREMONIAL ITEMS]**

Mayor Bell introduced the ceremonial item Recognition of Sister Cities and Mayor's Awards; and presented certificates to the following persons: Kathie Davidson, Social Studies, Riverside High School; Bill Ingram, President, Durham Technical Community College; Robin Barth, Sister Communities of San Ramon, Nicaragua; Miguel Riviera, Chief Executive Officer, the Latino Community Credit Union; and acknowledged President of Sister Cities Brady Surles for comments.

Mayor Bell recognized youth athletes from the Durham Bullz All-Starz National Championship; presented an official mayoral letter to distribute to the athletes; addressed and acknowledged the achievements of Head Coach Toney Green, Assistant Coach Kennard Burris and Founder Andre Jones; congratulated the athletes for a recent National Championship title win in the National Basketball Travel Association tournament; thanked the youths' parents for their support; and requested the athletes to be recognized in front of the dais.

Mayor Bell requested Councilmember Davis join him in presenting a Proclamation Honoring 1943 Hillside Hornets Football Team honoring the 71<sup>st</sup> anniversary of their achievement; Councilmember Davis introduced the athletes and spoke to their 1943 team record; and presented the proclamation to Willie Bradshaw, Thomas Taylor, Artis Plummer and Dr. Joseph Mitchell.

The former 1943 Hillside Hornets Team members in attendance and family members expressed appreciation for the honor.

Mr. Willie Bradshaw presented a photograph of the 1943 team to Mayor Bell for display in City Hall; reminisced about the team's travels; and spoke to the success of the 1943 team under the tutelage of Coaches Riddick and Mabry.

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Councilmember Moffitt spoke to his attendance at the Hillside High School theater's season opening event; and stated that the school's staff had raved about the 1943 team and the former athletes' contributions to the program.

**[ANNOUNCEMENTS BY COUNCIL]**

Mayor Bell asked if there were any announcements by Council; there were no announcements.

**[PRIORITY ITEMS]**

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

City Manager Bonfield stated he had no priority items.

City Attorney Baker recognized the Webelos 1 Den from Durham Cub Scout Pack 424, sponsored by the Immaculate Conception Catholic Parish on Chapel Hill Street; stated the boys were fourth graders working on their Citizen Activity Badge requirements and Citizenship pins; described the badge process; introduced the Den leaders: Christopher Meldrum, Christy Raska, Sabrina Lamar, Scott Koon, Thomas Jansen and Tony Campione; and requested the scouts to stand and be acknowledged.

City Clerk Gray stated she had no priority items.

Mayor Bell recognized Councilmember Moffitt for comments. Councilmember Moffitt explained the consent agenda process; and stated the agenda would be approved with a single motion and items pulled from the agenda by any citizen or Councilmember would be discussed at the end of the agenda.

Mayor Bell read each item on the consent agenda.

Victoria Peterson, citizen, requested Item #3, Amendment to Civilian Police Review Board Procedure Manual, be pulled for further discussion.

Councilmember Moffitt requested Item #8, Environmental Workforce Development and Job Training Contract between the City of Durham and the Trustees of Durham Technical Community College, be pulled for further discussion.

**MOTION** by Mayor Pro-Tempore Cole-McFadden, seconded by Councilmember Catotti, to approve the consent agenda as amended was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**[CONSENT AGENDA]**

**SUBJECT: APPROVAL OF CITY COUNCIL MINUTES**

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**MOTION** by Mayor Pro-Tempore Cole-McFadden, seconded by Councilmember Catotti, to approve the City Council minutes for the September 18, 2014 Work Session and the October 6, 2014 City Council Meeting was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENT**

**MOTION** by Mayor Pro-Tempore Cole-McFadden, seconded by Councilmember Catotti, to appoint Crystal L. Brooks to the Human Relations Commission representing a minority female with the term to expire on June 30, 2015 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: SELECTION OF URBAN DESIGN VENTURES, LLC FOR THE PREPARATION OF A FIVE-YEAR CONSOLIDATED PLAN, ANNUAL ACTION PLAN AND ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE**

**MOTION** by Mayor Pro-Tempore Cole-McFadden, seconded by Councilmember Catotti, to approve the selection of Urban Design Ventures, LLC as the Consultant to prepare a Five-Year Consolidated Plan, Annual Action Plan and Analysis of Impediments to Fair Housing Choice;

To authorize the City Manager to execute a contract with Urban Design Ventures, LLC in the amount of \$42,500.00 for a Five-Year Consolidated Plan (Con Plan), Annual Action Plan (AAP) and Analysis of Impediments to Fair Housing Choice (AI); and

To approve an amount up to \$27,500.00 for the additional services to be performed by the Consultant that includes a detailed housing needs analysis and resource analysis for the development of affordable housing in future rail access was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: PROPERTY EXCHANGE BETWEEN THE CITY OF DURHAM AND THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE GUESS ROAD WIDENING PROJECT AND THE MOUNTAINS TO SEA TRAIL**

**MOTION** by Mayor Pro-Tempore Cole-McFadden, seconded by Councilmember Catotti, to declare 0.168 acres of parcel #181033 and 1.772 acres of parcel #177454 as surplus;

To authorize the City Manager to sell and the City Manager or Mayor to convey to North Carolina Department of Transportation 0.168 acres of fee simple right-of-way and 0.106 acres of

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temporary construction easement on parcel #181033 as well as approximately 1.772 acres in fee simple right-of-way and approximately 0.747 acres of temporary construction easement on parcel #177454; and

To accept the conveyance to the City from North Carolina Department of Transportation of approximately 6.195 acres in fee simple as the replacement property was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: HOUSING AND URBAN DEVELOPMENT FAIR HOUSING ASSISTANCE PROGRAM 2014-15 GRANT PROJECT ORDINANCE**

**MOTION** by Mayor Pro-Tempore Cole-McFadden, seconded by Councilmember Catotti, to authorize the City Manager to accept the U.S. Department of Housing and Urban Development 2014-15 Grant Funds by executing the grant documents; and

To adopt the U.S. Department of Housing and Urban Development 2014-15 Fair Housing Grant Project Ordinance in the amount of \$81,530.00 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**ORDINANCE #14693**

**The City Council disposed of the following agenda items at the November 6, 2014 Work Session:**

5. Guidelines for Dedicated Funding Source (DFS) Funded Small Project Development and Neighborhood Revitalization  
*(This item was approved at the 11-6-14 Work Session by a vote of 7/0).*

12. Gwyn Silver  
*(Comments were received at the 11-6-14 Work Session)*

13. John "Giovanni" Tarantino  
*(Comments were received at the 11-6-14 Work Session)*

**[GENERAL BUSINESS AGENDA]**

**SUBJECT: POLICE DEPARTMENT'S THIRD QUARTERLY REPORT ON CRIME AND COMMUNITY RELATIONS**

To receive the Police Department's Third Quarterly Report on Crime and Community Relations as a result of the administration's response to the recommendations received from the Durham Human Relations Commission and the Civilian Police Review Board.

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Mayor Bell deferred to Police Chief Jose L. Lopez, Sr. for presentation.

Chief Lopez presented the PowerPoint presentation that included third quarter performance measures, statistics of violent crime, property crime, clearance rates, Priority 1 Calls, staffing levels and response times; anticipated that clearance rates would go increase by year-end; shared photos of community events; and responded to Council's questions.

Councilmember Schewel stated the data provided was considered a landmark when considering transparency in that the report included new analysis; expressed appreciation for the information; inquired about the compliance rate policing report on page 2 and requested that be made clear; referenced page 6 chart, last column that listed male/female passengers, the chart stated that 100% of passengers were searched, compared with drivers searched, and requested an explanatory footnote be inserted of the rationale of 100%; requested clarification on many of the charts where 'total by race' was listed, and inquired if it should be 'total all races' and the final column should be labelled as 'total all ethnicities'; pointed out statistics indicating a direction away from racial bias that showed white drivers were more likely ticketed at a higher rate, and African American drivers were more likely to be given verbal warnings; that the statistic was very positive indicator in terms of racial bias not existing on the force; spoke to the stopping of African Americans in Attachment 3 which helped explain the disparity but did not fully explain a six-fold disparity; stated he was proud that the Department had gone to such lengths to distribute information to the public, acknowledged the administrative burden of compiling the report but emphasized the report would build confidence with the public; relevant to Attachment 3, requested the difference between self-initiated calls for service versus directed patrol calls (dispatched); referenced Attachment 4 and commended the Department for supporting the City Manager's Recommendations made in response to the Human Relations Commission; referenced Attachment 8, showed seriousness in addressing the issue that the Department was policing itself and taking citizen complaints seriously; and asked about the difference between an administrative investigation and performance review action in Attachment A.

Chief Lopez defined administrative investigation and performance review action; stated aggravated assaults were trending down; responded he would get back to Councilmember Schewel regarding rape trending factors; stated the City's population had grown and that the public was more trusting and willing to call Priority 1 for assistance which could account for higher Priority 1 calls; and addressed the recruitment application process.

Councilmember Schewel stated he would like further clarification on terminology; inquired about Attachment 10, aggravated assaults, and the forecast for the 4<sup>th</sup> quarter; inquired about identifying factors in rape cases; commended the dedication of the officers with respect to the types of crimes being handled; appreciated reading about officer recognitions with special mention of Misdemeanor Diversion Program; expressed concerns about the increase in Priority 1 calls; inquired about the police recruitment rate for Durham residents; requested the Chief devise ways to publicize department openings; suggested utilizing Public Affairs for the recruitment of officers; and appreciated the overall amount of data and transparency the report represented.

Mayor Bell congratulated the Police Department for the two recent apprehensions of persons involving a convenient store and pizza delivery; stated he was troubled by African-American

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males using guns to commit crimes; emphasized that the message needed to go out that when such crimes occur, that the youths' lives were wasted; and asked about the Police recruitment application process.

Councilmember Moffitt expressed appreciation for the report; inquired about the increase in clearance rates toward year-end; addressed open cases and their disposal; and requested such statistics be reflected in the upcoming quarterly report.

Chief Lopez stated that as the year came to an end, more cases would be cleared.

Mayor Bell stated there were speakers to the item.

Chris Tiffany, cited statistics from Durham and Ferguson, Missouri police departments on minority vehicular stops and searches; stated there was no documentation when local pedestrians were searched without charges; provided a photograph of a citizen; spoke to the tracking of officers whose behavior was related to sustained complaints; and requested that pedestrian searches be documented similar to those at vehicular stops.

Mayor Bell requested that the City Manager follow up with Mr. Tiffany's concerns.

Victoria Peterson, advocated for a new police chief; spoke to the murders in McDougald Terrace and on Rosewood; referenced a combination break-in and murder, a shooting on Fayetteville Street and another on Roxboro Street; stated the community needed to demand alternative treatment for youth caught up in the criminal justice system; spoke to the impact that a legacy of a criminal record would make on future employability with the police department.

The Council thanked the Police Chief for the report.

**[PUBLIC HEARINGS]**

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

Michael Stock, of the Planning Department, indicated that all notifications had been performed according to law and affidavits were on file for review; stated that the text amendment TC1300002 was a privately-initiated request by Horvath Associates to amend the method of calculating required tree coverage areas pursuant to Sec. 8.3, Tree Protection and Tree Coverage, of the *Unified Development Ordinance* (UDO); stated that the Durham City Council held a public hearing on the item at its February 3, 2014 meeting, and continued the item until May 19, 2014 to allow the applicant to consider revisions based upon comments received at the hearing; stated that at the May 19th meeting, the Council closed the hearing and referred the item back to the administration upon the request by the applicant.

He stated based upon comments received during the February public hearing, the applicant had subsequently revised the request. The applicant had requested the item to be applicable only within the City jurisdiction. The original request would exempt utility easements of record of at least 50 feet in width from tree coverage calculations. The revised request would allow the

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exemption only for single-family residential developments; the exemption could only be applied to tree replacement calculations; it could be applied to tree preservation area calculations; and the exemption area could not be used for density or impervious surface calculations.

In summary, Mr. Stock stated that Council would be required to take two actions- the first action would be a vote on the amendment itself-and the second, to vote on the appropriate statement of consistency; and stated he was available to answer Council's questions.

The staff recommended approval and the Planning Commission recommended approval, 14-0, at the November 12, 2013 meeting.

As this was the time and place set for the public hearing, anyone wishing to be heard was given an opportunity.

Mayor Bell stated there was a speaker to the item.

Ronald Horvath, proponent, spoke to his research on tree coverage calculations regarding single-family versus multi-family utilization of easements; agreed with removing impervious coverage and density from the item; spoke to utility and power line easements; and supported the item as presented.

Mayor Bell inquired about the width of the exemption; and inquired about the amount of tree coverage in the application.

Mr. Stock confirmed the extension of the utility easement would be at least fifty-feet wide; and responded regarding tree coverage versus replacement as applied to single-family residential parcels.

Being no further speakers, Mayor Bell closed the public hearing.

**MOTION** by Mayor Pro-Tempore Cole-McFadden, seconded by Councilmember Brown, to receive comments on the Unified Development Ordinance Text Amendment, Tree Coverage Calculations (TC1300002); and

To adopt an Ordinance Amending the Unified Development Ordinance, incorporating revisions to Article 6, District Intensity Standards, and Article 8, Environmental Protection was approved at 8:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**ORDINANCE #14694**

**MOTION** by Councilmember Schewel, seconded by Councilmember Catotti, to adopt the consistency statement as outlined below was approved at 8:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

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Unified Development Ordinance  
Text Amendment Consistency Statement  
Regarding TC1300002, Tree Coverage Calculation Amendment

Whereas the Durham City Council, upon acting upon a zoning text change to the *Unified Development Ordinance* and pursuant to NCGS § 160A-383, is required to approve a statement describing how the action is consistent with the *Durham Comprehensive Plan*; and

Whereas the Durham City Council, upon acting upon a zoning text change to the *Unified Development Ordinance* and pursuant to NCGS § 160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

Now Therefore, Be It Adopted By The Durham City Council: That final action regarding text amendment TC1300002, Tree Coverage Calculation Amendment, is based upon review of, and consistency with, the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable, as provided in the “Issues” section of the memo to the City Manager, dated November 17, 2014, regarding the subject “*Unified Development Ordinance* Text Amendment, Tree Coverage Calculation Amendment (TC1300002),” along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The text amendment promotes this by offering fair and reasonable regulations for the citizens and business community of the City of Durham as supported in the “Issues” section of the memo to the City Manager, dated November 17, 2014, regarding the subject “*Unified Development Ordinance* Text Amendment, Tree Coverage Calculation Amendment (TC1300002),” along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the amendment is reasonable and in the public interest.

**[ITEMS PULLED FROM THE CONSENT AGENDA]**

**SUBJECT: AMENDMENT TO CIVILIAN POLICE REVIEW BOARD PROCEDURE  
MANUAL**

Mayor Bell stated there were two speakers to the item.

Victoria Peterson, resident, inquired about the individual responsible for sending juveniles to the Durham County Jail versus the Youth Home; stated that many juveniles had been arrested this year and that their education needed to be continued while incarcerated; and expressed a need to connect youth with intervention resources earlier than was currently provided.

Mayor Bell stated that educational training in jail was arranged between the Sheriff’s Office and the Durham County Board of Education.

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Chris Tiffany, resident, cited information from the Police Review Board Manual; spoke to community police relations; and requested that speakers be allotted three minutes to address the concerns regarding police matters when they appear on the agenda.

Mayor Bell inquired about appointments of citizens to Police Review Board.

City Manager Bonfield clarified that the Manager would make recommendations for appointments to the Board and that Council would confirm or reject the recommendations.

In Section 1.6 entitled “Vacancies”, Mayor Bell requested the following language “vacancies are filled by the City Manager “if” confirmed by the City Council.”

**MOTION** by Councilmember Moffitt, seconded by Mayor Pro-Tempore Cole-McFadden, to approve the proposed revisions to the Civilian Police Review Board Procedure Manual (including the amendment by Mayor Bell) was approved at 8:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

**SUBJECT: ENVIRONMENTAL WORKFORCE DEVELOPMENT AND JOB TRAINING CONTRACT BETWEEN THE CITY OF DURHAM AND THE TRUSTEES OF DURHAM TECHNICAL COMMUNITY COLLEGE**

Al Wimmer, Office of Workforce and Economic Development, introduced the item.

Mayor Bell stated there were speakers to the item.

Victoria Peterson, resident, desired to address staff regarding the notification of young males at public housing complexes such as McDougald Terrace; inquired about the Brownfields study; inquired about how many of the young men had been accepted in the program who had had trouble with the law; and asked was there a guarantee regarding how many young men would be hired once it was determined that the individuals had had trouble with the law.

Mr. Wimmer responded that press releases had been issued and orientation sessions had been held at McDougald Terrace; pertaining to former offenders, there were roughly fifteen former offenders in the class, who were self-attested, and that background checks had not been conducted for entry into the training program; and confirmed the age group for participants was for ages 18 and above.

Ms. Peterson requested that ex-offenders be given priority in the program at Durham Technical Community College; requested the age group of the participants; and reiterated the need to work with young men who had had trouble with the law.

**MOTION** by Mayor Pro-Tempore Cole-McFadden, seconded by Councilmember Brown, to authorize the City Manager to execute a sub-award contract between the City of Durham and the Trustees of Durham Technical Community College in an amount not to exceed \$150,000.00 to provide the training for the Environmental Workforce Development and Job Training

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("Brownfields") Grant received from the Environmental Protection Agency was approved at 8:25 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Councilmembers Brown, Catotti, Davis, Moffitt and Schewel. Noes: None. Absent: None.

There being no further business to come before the Council, the meeting was adjourned at 8:25 p.m.

Dianalynn Schreiber, CMC, NCCMC  
Deputy City Clerk

D. Ann Gray, MMC, NCCMC  
City Clerk