

**DURHAM, NORTH CAROLINA
MONDAY, SEPTEMBER 21, 2015
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chamber located at 101 City Hall Plaza with the following members present: Mayor William V. “Bill” 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 Dianalynn Schreiber.

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

[CEREMONIAL ITEMS]

Mayor Bell read and presented a proclamation for National Disability Employment Awareness Month to Jason Jones, Assistant Director of Parks and Recreation.

Mr. Jones introduced his key partners and announced a special program, Disable the Label, scheduled at the Holton Center on October 3, 2015.

[ANNOUNCEMENTS BY COUNCIL]

Mayor Bell stated that the Council had worked diligently to provide the affordable housing program in Southside Durham; announced the television ad highlighting the Southside Homeownership Program; and presented the following:

- The success of the City’s neighborhood revitalization efforts in Southside has shown there is demand for ownership in this historic neighborhood.
- Experience of attracting buyers for Phase I of the ownership component of the Southside project showed a strong interest by many families in Durham wanting to buy a home of their own, but also showed many households were not positioned to meet lenders’ underwriting requirements at the initial application. In other words, they were not mortgage ready.
- City determined to get in front of the Phase II ownership development by launching a marketing initiative that would focus on helping households be prepared to qualify for a first mortgage when the next houses in the ownership neighborhood began to be built in the late summer of 2016.
- The preparation strategy will be supported by individualized housing counseling for families with the income capacity and desire to own a home through the Department of Community Development at no cost to the families.
- Time Warner Cable provides TV commercials, video and mobile impressions on-line. The advertisement will be seen on HGTV, OWN Network, TWC News 14 and DTV8.

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Mayor Bell thanked the students who were volunteer theatre majors from North Carolina Central University and their department director for being instrumental in making the video shown at the meeting; and to be aired on TV.

Reginald Johnson, Director of Community Development, provided the Community Development contact number, 919-560-4570.

[PRIORITY ITEMS]

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

The City Manager and City Attorney responded that they did not have any items.

City Clerk Gray administered the oath of office to Barry Burch, Sr., who recently appointed to the Citizen's Advisory Committee.

The Mayor explained the Consent Agenda was passed with one motion; and asked if there were any items that needed to be pulled from the Consent Agenda. No items were removed from the Consent Agenda for discussion.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to approve the Consent Agenda as printed was approved at 7:17 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.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to approve the City Council Minutes for the following meetings: June 4, 2015; June 8, 2015; June 15, 2015; June 24, 2015; and July 23, 2015 was approved at 7:17 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.

SUBJECT: INVENTORY AUDIT - JUNE 2015

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to receive and accept the Inventory Audit for June 2015 as presented and approved at the August 24, 2015 Audit Services Oversight Committee meeting was approved at 7:17 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.

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SUBJECT: STREET RENAMING – RIDGEWAY ROAD (SN1500002 AND SN1500003)

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to adopt Resolutions to change the name of two portions of Ridgeway Road to Crossland Drive (SN1500002) and Macy Grove Drive (SN1500003) was approved at 7:17 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.

RESOLUTION #9942 & #9943

SUBJECT: FIRST AMENDMENT TO THE PARKING LEASE AGREEMENT BY AND BETWEEN THE CITY OF DURHAM AND AMERICAN CAMPUS, LLC FOR THE NORTH PARKING GARAGE

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize the City Manager to execute the First Amendment to the Parking Lease Agreement by and between the City of Durham and American Campus, LLC for a period not to exceed 36 months was approved at 7:17 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.

SUBJECT: PROFESSIONAL ENGINEERING SERVICES FOR THE HOMELAND AVENUE STREAM RELOCATION PROJECT – THE JOHN R. MCADAMS COMPANY INC.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize the City Manager to execute a contract with The John R. McAdams Company Incorporated for professional engineering services in an amount not to exceed \$95,960.00 for the Homeland Avenue stream relocation project was approved at 7:17 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.

SUBJECT: PROFESSIONAL ENGINEERING SERVICES FOR THE AIKEN AVENUE STREAM RELOCATION PROJECT – THE JOHN R. MCADAMS COMPANY, INC.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize the City Manager to execute a contract with The John R. McAdams Company Incorporated for professional engineering services in an amount not to exceed \$99,160.00 for the Aiken Avenue stream relocation project was approved at 7:17 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.

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SUBJECT: PROFESSIONAL ENGINEERING SERVICES FOR ROOF REPLACEMENTS AT VARIOUS DEPARTMENT OF WATER MANAGEMENT FACILITIES – RAYMOND ENGINEERING – GEORGIA PLLC

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize the City Manager to execute a contract with Raymond Engineering – Georgia, PLLC for professional services for design, evaluation, & construction administration/inspection services for multiple roof replacements for Department of Water Management facilities at a contract cost of \$137,400.00;

To establish a contingency fund in the amount of \$14,000.00; and

To authorize the City Manager to negotiate change orders provided that the cost of all change orders does not exceed \$14,000.00; and the total project cost does not exceed \$151,400.00 was approved at 7:17 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.

SUBJECT: DISPARITY STUDY FOLLOW-UP REPORT

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to receive a follow-up report on the Disparity Study; and

To refer the item to the Administration for implementation of study recommendations was approved at 7:17 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.

SUBJECT: CONTRACT FOR INSURANCE BROKER SERVICES – ARTHUR J. GALLAGHER

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize the City Manager to enter into a contract with Arthur J. Gallagher as the City's Insurance Broker for a period of three years with two optional one-year extensions was approved at 7:17 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.

SUBJECT: CONTRACT FOR FALSE ALARM REDUCTION PROGRAM SERVICES – PMAM CORPORATION

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize the City Manager to enter into a contract with PMAM Corporation for False Alarm

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Reduction Program Services in the estimated amount of \$171,600.00 was approved at 7:17 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.

SUBJECT: LAND LEASE BETWEEN THE CITY OF DURHAM AND FRONTIER COMMUNICATIONS OF THE CAROLINAS, LLC

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to accept a land lease with Frontier Communications of the Carolinas, LLC for a portion of the property located at 6605 Farrington Road and advertise for upset bids pursuant to the Upset Bid Procedure (G.S. 160A-269);

To authorize the City Manager to accept the bid from the highest responsible bidder at the conclusion of the upset bid process, pursuant to Section 86.3 of the City Charter;

To authorize the City Manager to execute a land lease with Frontier Communications of the Carolinas, LLC for a twenty (20) year term for the purpose of location and operation of telephone communications exchange facilities, together with the access easement, on a portion of 6605 Farrington Road, Parcel ID 141733 (City Tract 760); and

To authorize the City Manager to execute a Memorandum of Lease was approved at 7:17 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.

SUBJECT: PROPOSED CONDEMNATION OF PROPERTY LOCATED AT 1914 E. CORNWALLIS ROAD (PARCEL ID 155777) AND 1916 E. CORNWALLIS ROAD (PARCEL ID 155776) FOR THE MARTIN LUTHER KING JR. SANITARY SEWER OUTFALL RELOCATION PROJECT

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to find it is necessary, in the public interest, and for the public use and benefit, to condemn the following interests in the property identified as 1914 E. Cornwallis Road (Parcel ID 155777) and 1916 E. Cornwallis Road (Parcel ID 155776), owned by ECDG South, LLC; and as shown on the map entitled Proposed MLK Jr. Parkway Sanitary Sewer Outfall Easement Map prepared by Hydrostructures, P.A. dated October 30, 2014; and

To authorize the City Attorney to initiate condemnation proceedings for that purpose, with a deposit into court for \$6,900.00 as the City's estimate of just compensation was approved at 7:17 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.

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SUBJECT: PROPOSED CONVEYANCE OF VARIOUS PROPERTY INTERESTS TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE ALSTON AVENUE WIDENING PROJECT

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize conveying to the North Carolina Department of Transportation, pursuant to NCGS §160A-274, a) .147 acres on 1318 E. Pettigrew Street for a temporary construction easement, a permanent utility easement, and fee simple right-of-way; and b) .042 acres on 917 Liberty Street for a temporary construction easement and a permanent utility easement for a total amount of \$19,155.00; and

To authorize the City Manager or Mayor to convey the city-owned property interests by special warranty deed was approved at 7:17 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.

SUBJECT: PROPOSED CONVEYANCE OF CITY-OWNED PROPERTY TO THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE ALSTON AVENUE WIDENING PROJECT

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize conveying to the North Carolina Department of Transportation, pursuant to NCGS §160A-274, a) the entire .034-acre parcel that was formerly a part of 909 Liberty Street in fee simple; b) the entire .037-acre parcel that was formerly a part of 903 Eva Street and 906 N. Alston Avenue in fee simple; and c) the entire .007-acre parcel that was formerly a part of 902 Holloway Street and 904 Holloway Street in fee simple for a total amount of \$16,960.00; and

To authorize the City Manager or Mayor to convey the city-owned property interests by special warranty deed was approved at 7:17 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.

SUBJECT: CONTRACT WITH OPENDATASOFT FOR OPEN DATA PLATFORM

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize the City Manager to execute a service contract with OPENDATASOFT in the amount of \$90,000.00 for a two-year period to procure an Open Data Platform for the City of Durham was approved at 7:17 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.

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The City Council disposed of the following agenda items at the September 10, 2015 Work Session:

5. Durham-Orange Light Rail Transit Project

(This item was referred back to the Administration – Department of Transportation)

17. Durham County Tax Administration - Annual Tax Settlement

(A presentation was received at the 09-10-15 Work Session)

18. FY2014-15 4th Quarter Financial Report

(A presentation was received at the 09-10-15 Work Session)

19. Poverty Reduction Initiative - Public Safety Task Force

(A presentation was received at the 09-10-15 Work Session)

27. Wanda Boone

(Comments were received at the 09-10-2015 Work Session)

28. Elois Johnson

(Comments were not received at the 09-10-2015 Work Session)

29. Disposition and Development Alternatives for Excess Land Adjacent to Durham Station

(This item was referred back to the Administration – Office of Economic Development)

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: CONSOLIDATED ANNEXATION - 729 CLAUSUN DRIVE (BDG1500003)

Patrick Young, Assistant Planning Director, certified that the Planning Department Items 20-24 on the agenda this evening, had been advertised in accordance to law; and affidavits were on file in the Planning Department.

Mr. Young stated that the request represented a consolidated annexation item for a property located at 729 Clausun Drive, which included initial zoning, annexation and approval of a utility extension agreement; indicated that staff recommended the initial zoning of Residential Suburban-20, Falls of the Neuse/Jordan Lake-B (F/J-B) (RS-20, F/J-B); and stated the project was unanimously recommended by the Planning Commission at their meeting of April 14, 2015.

Mr. Young continued his report by stating Public Works and Water Management departments performed the required utility impact analysis which determined the existing City of Durham sanitary sewers and water mains had capacity for the proposed development; the Budget and Management Services performed a fiscal impact analysis which determined that the proposed annexation would be revenue positive following annexation; stated staff recommended approval of the item; and that he was available to answer Council's questions.

Mayor Bell opened the public hearing and stated there was a speaker to the item.

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Mitch Barrow of Carlton Crossing Drive spoke in favor of the item; and requested Council's support.

Being no additional speakers to the item, Mayor Bell declared the public hearing closed.

Council Member Moffitt inquired about the city's policy regarding voluntary annexations.

City Manager Bonfield deferred to Patrick Young, Assistant Planning Director, for a response.

Mr. Young advised that there was a pending annexation application on the property immediately to the north along Dulaire Drive, once adopted it would make the proposed annexation directly contiguous with the city; referenced several properties that over time would become annexed and would form a directly contiguous area; stated annexations were effective four-times per year; was confident adjacent properties would be coming before Council for approval; and noted that the parcel was serviced with city water and county sewer.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize the City Manager to enter into a utility extension agreement with Baron Company, LLC;

To adopt an Ordinance Annexing 729 Clausun Drive (BDG1500003) into the City of Durham effective September 30, 2015; and

To adopt an Ordinance Amending the *Unified Development Ordinance* to establish Residential Suburban-20, Falls of the Neuse/Jordan Lake-B (RS-20, F/J-B) zoning for the property was approved at 7:22 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.

ORDINANCE #14832 & #14833

MOTION by Council Member Catotti, seconded by Mayor Pro-Tempore Cole-McFadden, to adopt a consistency statement as required by NCGS 160A-383 was approved at 7:23 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.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1500010A, 729 Clausun Drive

WHEREAS the Durham City Council, upon acting upon a zoning map change to the *Unified Development Ordinance* and pursuant to state statute GS 160A-383, is required to approve a statement describing how the action is consistent with the Durham Comprehensive Plan; and

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WHEREAS the Durham City Council, upon acting upon a zoning map change to the *Unified Development Ordinance* and pursuant to state statute GS 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 AS APPROPRIATE:

That final action regarding zoning map change Z1500010A, 729 Clausun Drive, is based upon review of, and consistency with, the Durham *Comprehensive Plan* and any other officially adopted plan that is applicable; and

That the proposed zoning map change is reasonable and in the public interest based upon the information provided within the report and associated documents submitted to the City Council, and the information provided through the public hearing.

SUBJECT: CONSOLIDATED ANNEXATION - HARRIS BEVERAGE (BDG1500009)

Pat Young, Assistant Planning Director, presented the item; stated that Joven Group Four had submitted a consolidated annexation item for approximately 21.5 acres of land at 1035 Junction Road which included initial zoning, annexation and approval of a utility extension agreement; acknowledged the subject site was presently vacant; and if the request was approved, the applicant intended to construct a warehouse on the annexed portion of the property.

The staff was recommending an initial zoning of Industrial Light, Falls of the Neuse/Jordan Lake-B (IL, F/J-B), which was an exact translation of the current IL, F/J-B zoning.

Public Works and Water Management performed the required utility impact analysis and have determined that the existing City of Durham sanitary sewers and water mains had adequate capacity for the proposed development.

Budget and Management Services performed a fiscal impact analysis which determined that the proposed annexation would be revenue positive following the annexation. Staff recommended approval of the item. Mr. Young stated that he was available for questions.

Council Member Schewel inquired about the lack of comments from the City-County Planning Commission.

Mr. Young responded that the item did not go before the City-County Planning Commission since it was a direct translation from County zoning; and verified that there was a standing policy for the Planning Commission that allowed for automatic endorsement of direct translational zoning.

Mayor Bell opened the public hearing and stated there was a speaker to the item.

Patrick Byker, Attorney from Morningstar Law Group and representative for the applicant, expressed appreciation to staff for their assistance during the project; stated the approval of the

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item would allow for a new headquarters and warehouse facility in East Durham with expected completion by the middle of next year; and requested support of the item.

Being no additional speakers to the item, Mayor Bell declared the public hearing closed.

MOTION by Council Member Moffitt, seconded by Mayor Pro-Tempore Cole-McFadden, to authorize the City Manager to enter into a utility extension agreement with Joven Group Four;

To adopt an Ordinance Annexing Harris Beverage (BDG15000009) into the City of Durham effective September 30, 2015; and

To adopt an Ordinance Amending the *Unified Development Ordinance* to establish Industrial Light, Falls/Jordan District B (IL, F/J-B) zoning for the property was approved at 7:26 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 #14834 & #14835

MOTION by Council Member Catotti, seconded by Mayor Pro-Tempore Cole-McFadden, to adopt a consistency statement as required by NCGS 160A-383 was approved at 7:26 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.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1500026A, HARRIS BEVERAGE

WHEREAS the Durham City Council, upon acting upon a zoning map change to the *Unified Development Ordinance* and pursuant to state statute GS 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 map change to the *Unified Development Ordinance* and pursuant to state statute GS 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 AS APPROPRIATE:

That final action regarding zoning map change Z1500026A, Harris Beverage, is based upon review of, and consistency with, the Durham *Comprehensive Plan* and any other officially adopted plan that is applicable; and

That the proposed zoning map change is reasonable and in the public interest based upon the information provided within the report and associated documents submitted to the City Council, and the information provided through the public hearing.

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SUBJECT: CONSOLIDATED ANNEXATION - MONTESSORI SCHOOL OF RALEIGH (BDG1400011)

Patrick Young, Assistant Planning Director, stated the Montessori School of Raleigh had submitted a consolidated annexation item for two parcels of land totaling approximately 39.7 acres located along Andrews Chapel Road, which included initial zoning, annexation and approval of a utility extension agreement; noted that an existing educational facility was located on the site and no expansions to the present use was proposed at this time.

Staff recommended an initial zoning of Residential Rural (RR) which was consistent with City Council policy designating the least intense zoning district based on the Development Tier and also consistent with the existing zoning on the site.

Public Works and Water Management performed the required utility impact analysis and determined that the existing City of Durham sanitary sewers and water mains had adequate capacity for the proposed development.

Budget and Management Services performed a fiscal impact analysis which determined that the proposed annexation would be revenue negative based on an educational exemption from sales and property tax on the property.

Staff recommended approval of the item; and Mr. Young stated he was available for questions.

Mayor Bell opened the public hearing.

Being no speakers to the item, Mayor Bell declared the public hearing closed.

Council Member Schewel suggested the school change its name to Montessori School of Durham being that they were within the city limits of Durham.

MOTION by Council Member Moffitt, seconded by Mayor Pro-Tempore Cole-McFadden, to authorize the City Manager to enter into a utility extension agreement with the Montessori School of Raleigh;

To adopt an Ordinance Annexing the Montessori School of Raleigh (BDG1400011) into the City of Durham effective September 30, 2015; and

To adopt an Ordinance Amending the *Unified Development Ordinance* to establish Residential Rural (RR) zoning for the property was approved at 7:29 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 #14836 & 14837

MOTION by Council Member Catotti, seconded by Council Member Moffitt, to adopt a consistency statement as required by NCGS 160A-383 was approved at 7:29 p.m. by the following

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

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1400039A, MONTESSORI SCHOOL OF RALEIGH

WHEREAS the Durham City Council, upon acting upon a zoning map change to the *Unified Development Ordinance* and pursuant to state statute GS 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 map change to the *Unified Development Ordinance* and pursuant to state statute GS 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 AS APPROPRIATE:

That final action regarding zoning map change Z1400039A, Montessori School of Raleigh, is based upon review of, and consistency with, the Durham *Comprehensive Plan* and any other officially adopted plan that is applicable; and

That the proposed zoning map change is reasonable and in the public interest based upon the information provided within the report and associated documents submitted to the City Council, and the information provided through the public hearing.

SUBJECT: CONSOLIDATED ANNEXATION - AMERCO (BDG1500001)

Patrick Young, Assistant Planning Director, stated that Amerco Real Estate Company was requesting a consolidated annexation for five parcels of land, totaling approximately 6.01 acres, located at 2470 West US Highway 70 including initial zoning; annexation; and utility extension agreement. The applicant intended to expand and upgrade portions of an existing U-Haul rental business at the site.

Staff recommended an initial zoning of Commercial General (CG) and Residential Suburban-20 (RS-20) which was an exact translation of existing County zoning based on the *Comprehensive Plan* designation of the site as Commercial.

Public Works and Water Management performed the utility impact analysis for the utility extension agreement and determined that the existing City of Durham water mains had sufficient capacity for the proposed development; stated the sanitary sewer was provided by Durham County at the location.

Budget and Management Services performed a fiscal impact analysis which determined that the proposed annexation would be revenue positive following annexation.

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Staff recommended approval of the item. Mr. Young stated he was available for questions.

Mayor Bell opened the public hearing.

Being no speakers to the item, Mayor Bell declared the public hearing closed.

MOTION by Council Member Moffitt, seconded by Council Member Brown, to authorize the City Manager to enter into a utility extension agreement with Amerco Real Estate Company;

To adopt an Ordinance Annexing Amerco (BDG1500001) into the City of Durham effective September 30, 2015; and

To adopt an Ordinance Amending the *Unified Development Ordinance* to establish Commercial General (CG) and Residential Suburban-20 (RS-20) zoning for the property was approved at 7:31 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 #14838 & #14839

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Catotti, to adopt a consistency statement as required by NCGS 160A-383 was approved at 7:31 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.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1500003A, U-HAUL

WHEREAS the Durham City Council, upon acting upon a zoning map change to the *Unified Development Ordinance* and pursuant to state statute GS 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 map change to the *Unified Development Ordinance* and pursuant to state statute GS 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 AS APPROPRIATE:

That final action regarding zoning map change Z1500003A, U-Haul, is based upon review of, and consistency with, the Durham *Comprehensive Plan* and any other officially adopted plan that is applicable; and

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That the proposed zoning map change is reasonable and in the public interest based upon the information provided within the report and associated documents submitted to the City Council, and the information provided through the public hearing.

SUBJECT: ZONING MAP CHANGE - SOUTHWEST DURHAM AT 15-501 (Z1400030)

Patrick Young, Assistant Planning Director, stated the item represented a request by the Arden Group to change the zoning map designation of 12.45 acres of property at 3301 Southwest Durham Drive (at the intersection of US 15-501 and SW Durham Drive) from its current zoning map designation of Residential Suburban -20 (RS-20) to Commercial General with a development plan (CG-D). Mr. Young stated the request was consistent with the future land use map designation of the property, which was Commercial; the proposal included a number of commitments above ordinance minimums, including provision of a shared-use bicycle/pedestrian trail, a bus shelter and pull-out along with a number of transportation related improvements detailed in the staff report; indicated there were revisions to the original staff report based on correspondence provided by NCDOT on Friday, September 18, 2015. Staff was able to use the NCDOT correspondence to determine compliance with a number of transportation-related policies and provisions within the *Comprehensive Plan* and *Unified Development Ordinance* (UDO).

He stated the Planning Commission did not have the additional information at the time of their hearing; and recommended approval of the item at their August 11, 2015, meeting by a vote of 8-6.

Staff found the request consistent with all adopted plans, policies and ordinances. Mr. Young stated he was available for questions.

Mayor Bell opened the public hearing and stated there were speakers to the item.

Patrick Byker, Attorney from Morningstar Law Group and representing the applicant, requested Council's approval of the zoning map change; explained that the University Ford dealership had the option to renovate its current location or relocate to the proposed site on 15-501; noted University Ford had been located downtown for over 40 years; stated his client preferred to relocate to 15-501; which was in the City's best interest as well; spoke to the transportation concern with the dedication of right-of-way at the intersection to accommodate the improvement of 15-501 to a freeway; referenced traffic counts and capacity; spoke to status of improvements of 15-501 being unfunded; referenced his research regarding any potential liability the City could have; which was shared with City Attorney Baker; and stated he was not aware of any statutory or case law basis for the City to have liability for future acquisition of right-of-way for University Ford.

John Davenport, President of John Davenport Engineering at 305 West Fourth Street, Winston-Salem, stated he was the engineer representing the applicant, stated there were challenges in identifying the right-of-way, they worked with staff and NCDOT and they provided answers for the project to proceed; and was available for questions.

Tony Fisher, President of University Ford/Kia, noted his tenure with University Ford; spoke in support of relocating his dealership to the 15-501 location; spoke to his personal and work-related

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experiences in Downtown; referenced the process and the pathway his team took being unreasonably lengthy and expensive. However, Mr. Fisher felt that every question and concern was answered; stated the zoning would be good for his company, his employees; his customers; and the continued revitalization for the City of Durham. He requested Council's approval of the item.

Michael Waldroup, of McFarland Road, stated he was a neighbor of the future location of University Ford; supported the item; viewed it as part of a future block in the Patterson Place Compact Neighborhood; and urged Council to support the request.

Being no additional speakers, Mayor Bell declared the public hearing closed.

Council Member Catotti stated she appreciated the comments; however, she viewed the request as a land use rezoning and not about the merits of relocating; requested feedback from Transportation staff regarding the elimination of the loop; and the city's transportation position given the long horizon improvements on 15-501; or any other transportation concerns along 15-501; inquired about the agenda memo (Page 5 of 18), where Transportation staff noted the applicant's revised concept eliminated access to 15-501 at Mt. Moriah Road; and expressed concerns regarding density for a future light-rail station, but stated as Mr. Waldroup indicated, they should be looking long term about possible second generation redevelopment of the site. Also, she stated the rezoning request was appropriate.

Bill Judge, of the Transportation Department, referenced the information in the agenda from the adopted Corridor Study, a cloverleaf interchange; stated staff met with the applicant because of the impacts, essentially the taking of their parcel; discussed with the applicant the process they needed to go through for an alternative interchange that would basically have to have no impact on other property owners; stated that NCDOT would have to deem the alternative viable; noted at the Planning Commission meeting they did not have NCDOT's concurrence until last Friday; where NCDOT agreed to the alternative interchange as presented in the packet; referenced a functional design prepared showing Mt. Moriah Road being grade separated with a bridge over Mt. Moriah to get from one side to the other; stated their concern was a number of property owners invested under the previous concept with a service road configuration; referenced a series of public hearings that would need to be held once NCDOT finalized the 15-501 Corridor; and stated even though NCDOT signed off on the applicant's alternative design; it does not mean it would be the one that would be constructed.

Council Member Schewel addressed City Attorney Baker regarding Attorney Byker's comments about the City's potential liability given the UDO; and noted the current configuration was included the Metropolitan Planning documents.

City Attorney Baker responded by referencing conversations with the applicant and applicant's attorneys; and indicated he felt comfortable and it was within Council's jurisdiction and authority to do so.

Council Member Schewel inquired about the timeframe to convert 15-501 into a limited access highway; and asked about Garrett Road improvements.

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Mr. Judge responded that there had been a series of interim improvements since the corridor was developed, mainly the 6 lanes, which had provided interim capacity; referenced the current state transportation improvement program (TIP) that included a project for environmental work at the Garrett Road interchange; subject to funding availability; indicated there would be a future interchange at Garrett Road; and hoped NCDOT would perform all the environmental work all the way down to I-40; and stated he could not be definitive on the timing of the improvements.

Mayor Pro-Tempore Cole-McFadden inquired if the staff recommendation had changed.

Mr. Young responded affirmatively; and noted that once the NCDOT letter had been received last Friday, then compliance was able to be determined with a number of policies from the *Comprehensive Plan* that pertained to transportation improvements.

Council Member Schewel stated he would support the request; but he was not totally comfortable; explained his discomfort with the item; stated NCDOT's letter by Joey Hopkins was a weak endorsement; was not a full endorsement; he understood staff's continuing concerns about the single-point urban interchange (SPUI) concept impacts and the other existing developments; and the right-in right-out expectations were important. In addition, Mr. Schewel explained why he would be supporting the request stating it was all very much in the future; not knowing what the actual configuration would be; and the City not being at risk.

Mayor Bell spoke in support of the zoning request; referenced Mr. Byker's comments regarding the City Attorney's position on potential liability; which he had been assured there would be none; and referenced his support for University Ford relocating since 1994.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Moffitt, to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1400030 out of Residential Suburban – 20 (RS-20) and placing same in and establishing same as Commercial General with a development plan (CG(D)) 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 #14840

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Moffitt, to adopt a consistency statement as required by GS 160A-383 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.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1400030, Southwest Durham at 15-501

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute NCGS 160A-383, is required to approve a

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statement describing whether or not the action is consistent with the Durham Comprehensive Plan; and

WHEREAS the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute NCGS 160A-383, is required to provide a brief statement indicating whether or not the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE DURHAM CITY COUNCIL AS APPROPRIATE:

That final action regarding zoning map change Z1400030, Southwest Durham at 15-501, is based upon review, and consistency with, the Durham *Comprehensive Plan* and any other officially adopted plan that is applicable;

That the proposed zoning map change is reasonable and in the public interest based upon the information provided within the staff report and associated documents submitted to the City Council, and the information provided through the public hearing.

SUBJECT: STREET CLOSING – BEAMON STREET (SC1500004)

Mr. Patrick Young, Assistant Planning Director, noted the request was to close 422 linear feet of public right-of-way for Beamon Street. The right-of-way comprised the entirety of Beamon Street; was currently open and was bordered by property owned by the City of Durham and Gethsemane Baptist Church; and stated if the request was approved, the right-of-way would be divided evenly among the adjoining property owners as reflected in the street closing plat.

The area adjacent to the right-of-way was bordered by a place of worship and vacant land which was proposed for development. If the request was approved, the properties owned by the City would be developed with residential units.

The request was reviewed by nineteen City and County Departments and utility service providers and no negative impacts were identified; and the staff recommended approval.

Mayor Bell opened the public hearing.

Mike Tarrant, representing the applicant, stated he was available to answer questions.

Being no additional speakers, Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to adopt an order for the permanent closing of 422 linear feet of public right-of-way for Beamon Street was approved at 7:54 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 #14841

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SUBJECT: ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT BETWEEN LONGFELLOW REAL ESTATE PARTNERS, LLC AND THE CITY OF DURHAM

Kevin Dick, Director of Office of Workforce and Economic Development, provided a Powerpoint presentation commenting on the following: the company's background; the type of work they were associated with; notable projects in Durham to date; contributions they have made locally; the proposed project and incentive payment; displayed renderings illustrating the development; potential job creation; policy issues; project financing; condition precedents; why an incentive was necessary; and why the project made sense for the Durham taxpayers.

Mayor Pro-Tempore Cole-McFadden inquired about the monitoring aspect of the MWBE/SBE participation requirements; and the involvement of North Carolina Central University.

Mr. Dick responded that his office would monitor the participation of the MWBE/SBE; affirmed that they have connected the developer with North Carolina Central touring the Bright Center; and referenced discussions with the university and developer on how collaboration could take place in the future.

Mayor Pro Tempore Cole-McFadden stated she would like to obtain additional information from the developer on the collaborative opportunities with North Carolina Central University; some type of commitment.

Council Member Brown requested information on Phases 2 and 3; and asked if they would be included as part of the proposal before the Council this evening.

Mr. Dick responded that the proposed incentive was associated with Phase 1; any consideration of future phases in terms of public involvement would need to be assessed by staff; then approved by Council; commented on the timeline for future phases; and stated the projected timeline would be roughly a seven to nine year development period for all of the phases.

At the request of Council Member Schewel, Mr. Dick explained the location of open space and how it related to the buildings.

Council Member Catotti requested additional detail regarding the \$8.3 million in public infrastructure improvements located in the vicinity of the project.

Jessica Brock, representing Longfellow Real Estate Partners, LLC, spoke to additional infrastructure in the form of burying power lines, widening streets, adding bike lanes; and increasing the size of the water retention system as necessary.

Mayor Bell opened the public hearing stating there were speakers to the item.

Victoria Peterson, a resident, addressed employment issues asking that the young men in the community be employed; making certain minority companies get employment; stated an additional

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level should be included to ascertain how the City was making sure that the young men in the community, black or white; persons that have criminal records; get employment. She stated the City did not have anyone in place to make sure the citizens are being employed.

Vince Taylor, owner of Taylor's Construction Company, noted the young men that called him on a daily basis asking for work; and asked the Council to find ways to employ persons that have been disenfranchised.

Council Member Catotti appreciated the parking availability commitment on nights/weekends for 50% of the spaces; expressed concern about the incentive being 70% of future tax revenues; which she considered too high; and stated she would be voting in opposition to the request.

Council Member Schewel expressed appreciation to the Attorney's Office and the Office of Workforce Development staff for their input in devising the city's first incentive which contained assurances by the company for the appropriate treatment of contractors and lower tier sub-contractors; and requested Mr. Dick's to describe the employment plan.

Mr. Dick explained the Durham Workforce Plan was part of the agreement; stated they connected the subcontractors to the NC Works Career Center System; elaborated that they try to set up a pipeline of individuals that are completing training programs; and/or those who already have experience in the various construction fields that would be part of the project development; he stated basically what they do was connect individuals to opportunities; invite sub-contractors to recruitment and graduation events for various training classes; and stated they could not guarantee hires; and could not walk into interviews with individuals who are interviewing for positions.

Mr. Dick continued his comments stating that they keep construction companies apprised of the availability of positions; noted the city would stay in close contact with the developer when they choose the general contractor; and a staff person was assigned to make certain that flow of communication occurs.

Council Member Schewel pointed out the County's large tax benefit they would be receiving compared to the City's; the size of the incentive being offered by the City; and urged continued work to have the share for incentives at a more closely fifty-fifty level between the City and County.

Mayor Bell stated he supported the project; and requested a commitment from Longfellow in terms of their response to do all they can to ensure that minority contractors would have an opportunity to work on the project.

Ms. Brock responded that Longfellow was committed that the jobs are filled by Durham residents; stated they had a contractual obligation in their development agreement; noted they had not hired any general contractors or subs; stated they interviewed several consultants in the area to assist them with identifying good minority or women owned businesses to be a part of their project; and reiterated they were absolutely committed to that.

Mayor Pro-Tempore Cole-McFadden inquired about the involvement of North Carolina Central University.

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Ms. Brock addressed her work with NCCU Chancellor Dr. Saunders-White discussing how NCCU can be a part of the project. She stated Dr. Saunders-White's plans are big plans, plans that would not be within the next 6 to 12 months; commented on what impact NCCU can have on an innovation district; whether it was within their 15 acres or whether it was a part of greater Downtown.

Mayor Bell closed the public hearing.

MOTION by Mayor Pro-Tempore Cole-McFadden, seconded by Council Member Brown, to authorize the City Manager to execute the proposed economic development incentive agreement between Longfellow Real Estate Partners, LLC and the City of Durham for capital investment associated with construction of Durham.ID Phase I, for a total incentive payment amount not to exceed \$5,250,000.00 over 15 years was approved at 8:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Brown, Davis, Moffitt and Schewel. Noes: Council Member Catotti. Absent: None.

Council Member Schewel addressed the audience members; specifically the members of law enforcement; stated that Council was fully supportive of the Police Department; appreciated the work accomplished by the Police Department; and invited the law enforcement members and representatives in attendance to join him for pizza after the meeting to discuss their concerns.

Mayor Bell recognized Michael Evans for comments.

Michael Evans, President of the Fraternal Order of Police, stated he and others in attendance were present to show support for Police Chief Lopez; stated the chief was done wrong; stated they were told a new chief would be hired because morale was low; and that the crime rate was up.

Mr. Evans reported their research back to 1994; and of the previous four chiefs, he stated the crime was the lowest under Chief Lopez; stated that Chief Lopez supported them; and if the Council supported the Chief as he supported them, they would not be having the problems they are experiencing currently. He also stated the times being experienced now were bad, not only in Durham, but all over the United States; and noted it was time for the Police Department and the community to work together.

There being no further business to come before Council, the meeting was adjourned at 8:30 p.m.

Dianalynn Schreiber, CMC, NCCMC
Deputy City Clerk

D. Ann Gray, MMC, NCCMC
City Clerk