

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 21, 2016
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers, First Floor at 101 City Hall Plaza with the following members present: Mayor William V. "Bill" Bell, Mayor Pro Tempore Cora Cole-McFadden and Council Members Eddie Davis, Jillian Johnson, Don Moffitt, Charlie Reece 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 Pro Tempore Cole-McFadden called the meeting to order with a moment of silent meditation; deferred to representatives of Jack and Jill of America Incorporated to lead the Pledge of Allegiance to the Flag; and introduced the representatives of Jack and Jill of America as Ms. Felicia Robinson and Christina Burton.

[CEREMONIAL ITEMS]

Mayor Pro Tempore Cole-McFadden read the National Community Development Week proclamation into the record and presented the proclamation to Reginald Johnson, Director of Community Development.

Mr. Johnson expressed appreciation for the recognition; shared information about the youth essay competition; and recognized members of the Citizen's Advisory Committee in attendance for their service.

Mayor Pro Tempore Cole-McFadden read the Kyla Desirae Newkirk Day Proclamation into the record and presented the proclamation to Kyla Desirae Newkirk, a fourth grader at Durham Academy, with her family and friends in attendance.

Ms. Newkirk read a statement of appreciation to her mentors.

Mayor Pro Tempore Cole-McFadden read the Meals on Wheels Month Proclamation into the record and presented the proclamation to Gale Adland, Executive Director of Meals on Wheels of Durham.

Ms. Adland recognized her staff in the audience; made a statement regarding the operations of her organization; and encouraged all to become volunteers.

Mayor Pro Tempore Cole-McFadden acknowledged that the previous proclamations were an excellent representation of the caring nature of the Durham community.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Davis referenced the representatives from Jack and Jill of America Incorporated; recognized audience members from the organization who were interested in learning about the governance structure of the City Council; shared that he attended the Carol Robertson Day, a day honoring the legacy of a young girl killed in Birmingham, Alabama during the Civil Rights

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Movement in 1963; stated the late Carol Robertson had been a member of Jack and Jill; and spoke to the importance of teaching youth about the Civil Rights Movement.

Mayor Pro Tempore Cole-McFadden shared that she attended the Pruitt Health Hospice event, Life as a Dream Reality Prom; and spoke about hospice staff persons who made a hospice resident's dream come true.

Mayor Bell spoke to his attendance at the Duke - Durham Health Summit at the Millennium Hotel; and congratulated the various coordinators of the event and its honorees.

[PRIORITY ITEMS BY CITY MANAGER, CITY ATTORNEY AND CITY CLERK]

City Manager Bonfield referenced two priority items: Item #6, FY2015-16 Amendments to the Budget Ordinance and Grant Project Ordinances and a Resolution, stated a memo had been added to the item; and Item #13, Revised Ordinance to Promote Equal Business Opportunities in City Contracting, stated that Ordinance Section's 2 and 3 had been revised to accurately define the effective dates.

MOTION by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Schewel, to accept the City Manager's priority items was approved at 7:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

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.

Mayor Bell recognized Council Member Reece who pulled Item #10, Acquisition of Durham Convention and Visitors Bureau Facility, for further discussion later in the meeting.

MOTION by Council Member Schewel, seconded by Council Member Moffitt, 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 Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION APPOINTMENTS

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to appoint Anne Abney and David Davis (terms expiring on April 1, 2019); and Anna Petrova (term expiring on April 1, 2017) to the Durham City-County Appearance Commission was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION REAPPOINTMENT

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MOTION by Council Member Schewel, seconded by Council Member Moffitt, to reappoint Phillip Harry Schuler to the Durham City County Appearance Commission with the term to expire on April 1, 2019 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION APPOINTMENT

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to appoint Ricardo Correa to the Human Relations Commission Representing a Hispanic/Latino Male with the term to expire on June 30, 2019 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

**SUBJECT: DEPENDENT ELIGIBILITY VERIFICATION PERFORMANCE AUDIT
DECEMBER 2015**

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to receive and accept the Dependent Eligibility Verification Performance Audit dated December 2015 as presented and approved at the January 25, 2016 Audit Services Oversight Committee meeting was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: ACCOUNTS PAYABLE PERFORMANCE AUDIT JANUARY 2016

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to receive and accept the Accounts Payable Performance Audit dated January 2016 as presented and approved at the February 22, 2016 Audit Services Oversight Committee meeting was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

**SUBJECT: FY2015-16 AMENDMENTS TO THE BUDGET ORDINANCE AND GRANT
PROJECT ORDINANCES AND RESOLUTION**

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to adopt a budget Ordinance Amending the City of Durham Budget Ordinance as amended, Fiscal Year 2015-16, the same being Ordinance # 14808;

To adopt the 2014 High Intensity Drug Trafficking Areas (HIDTA) Grant Project Ordinance (GPO) amendment superseding GPO # 14645;

To adopt the 2015 High Intensity Drug Trafficking Areas (HIDTA) Grant Project Ordinance (GPO) amendment superseding GPO # 14726;

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To adopt the 2014-16 City of Durham Employment Training Grant Project Ordinance (GPO) amendment superseding GPO # 14712;

To adopt the FY 2014-15 FTA Section 5307 Grant Project Ordinance (GPO) amendment superseding GPO # 14769;

To adopt the FY 2016-17 State Technology Grant Project Ordinance (GPO); and

To adopt a Resolution accepting CMAQ grant funds was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

**ORDINANCE #'s 14900; 14901; 14902; 14903; 14904; 14905
RESOLUTION #9963**

SUBJECT: RESOLUTION PROVIDING APPROVAL OF A FINANCING BY THE HOUSING AUTHORITY OF THE CITY OF DURHAM FOR BRIAR GREEN APARTMENTS FOR PURPOSES OF SECTION 147(F) OF THE INTERNAL REVENUE CODE

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to adopt a Resolution providing approval, for purposes of Section 147(f) of the Internal Revenue Code only, of a multifamily housing facility known as Briar Green Apartments in the City of Durham, North Carolina and the financing thereof by the Housing Authority of the City of Durham of Multifamily Housing Bonds in an aggregate amount not to exceed \$19,990,000 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

RESOLUTION #9964

SUBJECT: SITE PREPARATION AND PUBLIC IMPROVEMENTS AGREEMENT WITH MCCORMACK BARON SALAZAR DEVELOPMENT, INC. FOR SITE PREPARATION AND INFRASTRUCTURE ACTIVITIES IN SOUTHSIDE EAST PHASE II

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to authorize the expenditure of up to \$1,700,108.00 in Community Development Block Grant funds for site preparation and infrastructure activities;

To authorize the expenditure of \$1,767,755.00 in Housing Bond Program Income funds for site preparation and infrastructure activities;

To authorize the expenditure of \$991,866.00 from the Dedicated Housing Fund for site preparation and infrastructure activities;

To authorize the City Manager to execute a Community Development Block Grant Agreement with McCormack Baron Salazar, Inc. in an amount up to \$1,700,108.00;

To authorize the City Manager to execute a Housing Bond Program Income Grant Agreement with McCormack Baron Salazar, Inc. in an amount up to \$1,767,755.00;

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To authorize the City Manager to execute a Dedicated Housing Fund Grant Agreement with McCormack Baron Salazar, Inc. in an amount up to \$991,866.00;

To establish within the Dedicated Housing Fund amount of \$991,866.00, a contingency fund in the amount of \$525,000.00;

To authorize the City Manager to negotiate change orders provided that the cost of all change orders does not exceed \$525,000.00 and the total amount of the project costs do not exceed \$4,459,729.00; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal Year 2015-2016, as amended, the same being Ordinance #14778 for the purpose of adding funding in the amount of \$1,589,857.00 for the Southside East Phase II Project was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

ORDINANCE #14906

SUBJECT: DEPARTMENT OF WATER MANAGEMENT MIST LAKE FACILITY EXPANSION PROGRAM MANAGEMENT – CONTRACT WITH HEERY INTERNATIONAL, INC.

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to authorize the City Manager to execute a contract with Heery International, PC for Professional Engineering Services in an amount not to exceed \$2,360,000.00 for the Department of Water Management Mist Lake Facility Program Management Augmentation Services;

To establish a contingency fund for the contract in the amount not to exceed \$250,000.00; and

To authorize the City Manager to negotiate change orders for the contract provided that the cost of all change orders does not exceed \$250,000.00, and the total project cost of \$2,610,000.00 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: DOWNTOWN LOOP WATERLINE REPLACEMENT AND WATER METER UPGRADES – CONTRACT AMENDMENT 1 WITH KIMLEY-HORN AND ASSOCIATES, INC.

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to authorize the City Manager to execute a contract amendment with Kimley-Horn and Associates, Inc. in an amount not to exceed \$237,600.00 for the Downtown Loop Waterline Replacement and Water Meter Upgrades Contract for a revised, total contract amount not to exceed \$1,814,767.00 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

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SUBJECT: NORTH DURHAM WATER RECLAMATION FACILITY CONTROL PANEL UPGRADES – CONTRACT WITH GILBERT ENGINEERING

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to authorize the City Manager to execute a contract with Gilbert Engineering for the NDWRF Control Panel Upgrades Project in the amount of \$1,972,000.00;

To establish a contingency fund for the contract in the amount of \$197,200.00; and

To authorize the City Manager to negotiate change orders for the contract provided that the cost of all change orders does not exceed \$197,200.00 and the total project cost does not exceed \$2,169,200.00 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: REVISED ORDINANCE TO PROMOTE EQUAL BUSINESS OPPORTUNITIES IN CITY CONTRACTING

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to adopt an Ordinance to revise the Equal Business Opportunity Program; and

To approve the Minority and Women Business Participation Goals was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

ORDINANCE #14907

SUBJECT: RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A 2ND NOTICE OF EXTENSION TO THE DPAC DEED OF TRUST TO EXTEND THE LIEN TO ADDITIONAL PREMISES

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to adopt a Resolution authorizing the execution and delivery of a second notice of extension to the deed of trust to additional property and execution of a collateral assignment of lease; and

To authorize the City Manager to execute a collateral assignment of lease in the DPAC Club Unit to U.S. Bank National Association was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

RESOLUTION #9965

SUBJECT: PROPOSED 10-YEAR LEASE WITH LIBERTY ARTS, INC. FOR ARTS PAVILION AT 505 RIGSBEE AVENUE

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to adopt a Resolution Authorizing the City Manager to execute a 10-year lease with Liberty Arts, Inc. for the Liberty Arts pavilion located at 505 Rigsbee Avenue (parcel # 104933) for \$1.00 per year; and

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To authorize depositing lease revenue in the amount of \$10.00 into the General Fund was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

RESOLUTION #9967

SUBJECT: PROPOSED ACQUISITION OF FOUR PARCELS LOCATED AT 906, 908 AND 910 ANGIER AVENUE AND 201 SOUTH ELM STREET FOR THE EDMONT PARK CAPITAL IMPROVEMENT PROJECT

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to approve the fee simple acquisition of property located at 906, 908, and 910 Angier Avenue and 201 South Elm Street (parcel # 111847, 111846, 111850, and 111848, respectively) from Edgemont Community Center, Inc. for \$30,000.00, subject to the approval of the North Carolina Attorney General pursuant to N.C.G.S. §55A-12-02(g) was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: CONSULTANT CONTRACT FOR POLICE AND FIRE COMPENSATION STUDY WITH SEGAL WATERS CONSULTING

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to authorize the City Manager to execute a service agreement with Segal Waters Consulting in the amount of \$75,000.00 to conduct a comprehensive compensation study for the Police and Fire Pay Plans was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: ORDINANCE AMENDING CITY CODE SECTION 62-126 AND 62-127 – WARRANTY AND REPAIR SECURITY

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to adopt an Ordinance Amending Section 62-126 and 62-127 of the Durham City Code of Ordinances of the Warranty and Repair Security was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

ORDINANCE #14908

SUBJECT: SMALL SCALE RESIDENTIAL STORMWATER CONTROL MEASURES IN DURHAM – CONTRACT WITH BIOHABITATS, INC.

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to authorize the City Manager to execute a contract with Biohabitats, Inc. for the implementation of small scale residential stormwater control measures in the amount of \$132,882.00;

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To establish a contingency fund in the amount of \$13,288.00; and

To authorize the City Manager to negotiate change orders provided that the cost of all change orders and the contract does not exceed the total project cost of \$146,170.00 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

SUBJECT: DURHAM WORKFORCE DEVELOPMENT BOARD APPOINTMENT

MOTION by Council Member Schewel, seconded by Council Member Moffitt, to appoint Rebecca Axford to the Durham Workforce Development Board representing Labor Organization Apprenticeship with the term to expire on June 30, 2020 was approved at 7:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

The City Council disposed of the following agenda items at the March 10, 2016 Work Session:

20. **Presentation on City of Durham Affordable Housing Goals Prepared by Enterprise Community Partners, Inc.**
(A presentation was received at the 03-10-16 Work Session)
25. **Harvey Ann Goodwin**
(Comments were received at the 03-10-16 Work Session)
26. **John Haywood**
(Comments were received at the 03-10-16 Work Session)
27. **Gloria De Los Santos**
(Comments were received and the resolution was approved at the 03-10-16 Work Session with a vote of 7/0)
29. **Resolution in Support of the Right of Non-Tenure Track Faculty at Duke University**
(This item was approved at the 03-10-16 Work Session with a vote of 7/0)

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: PUBLIC HEARING ON THE INSTALLMENT FINANCING CONTRACT AND A RESOLUTION AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT

Chad Cowan, of the Finance Department, referenced the purpose of the public hearing to receive public comments regarding execution and delivery of projects to be financed pursuant to Section 160A-20 of the General Statutes of North Carolina; and stated the notice of the hearing was published in the Herald Sun on March 1st.

Council Member Schewel inquired about the description of the LIBOR interest rate; and asked about the approximate current effective annual interest rate.

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Mr. Cowan clarified the LIBOR rate as a floating short-term rate; noted the current effective annual rate as being 0.664%; and confirmed the financing was akin to a line of credit.

Mayor Bell opened the public hearing.

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

MOTION by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to adopt a Resolution Authorizing the Negotiation of an Installment Financing Contract and Providing for Certain Related Matters was approved at 7:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

RESOLUTION #9966

SUBJECT: ZONING MAP CHANGE - FARRINGTON MIXED USE (Z1500009)

City/County Planning Director Steve Medlin stated the item was continued from the February 15, 2016 Council meeting; indicated the request was to change the zoning designation of 19.95 acres located at 5708 Farrington Road, between Rutgers Place and NC 54 Highway, from Office Institutional with a development plan (OI(D)) and Residential Suburban – 20 (RS-20) to Mixed Use with a development plan (MU(D)). He stated at the previous meeting on February 15th the applicant made two additional commitments; which were included in the staff report; and stated there were no additional changes beyond that.

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

Proponents

Attorney Ken Spaulding, representing the applicant Wood Partners, acknowledged the city had not yet adopted the guidelines for affordable housing; stated their proposal would be setting precedent in the area for affordable housing, stated they were being proactive in regards to the design district standards; being consistent with UDO and Comprehensive Plan; being consistent with the light rail transit considerations; and their planned addressed the needs of light rail. He emphasized taxpayer benefits of \$1.7 million in roadway improvements and a tax revenue base increase of about \$150 million; and stated they had met with the adjacent neighbors to address their concerns. In closing, Attorney Spaulding stated the rezoning was completely right by Durham's goals and standards; addressed both the office and mixed-use aspect; the residential aspect; investments in the road improvements; creating jobs; a good tax base; and positive living experiences for people in Durham.

Deb Anderson, representing Wood Partners, reiterated the merits of their proposal being a high density development near future light rail transit; designed vertically integrated mixed-use which incorporated urban form based principles; noted the roadway improvements to the surrounding infrastructure; over \$150 million being added to the tax base; constructing new water and sewer; new stormwater infrastructure; new multi-family housing stock in Southwest Durham; and providing the city with 20 new affordable housing units.

Opponents

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Margaret Miller, resident of Trenton Road, spoke to the affordable housing goal established by city officials of 15%; urged Council to hold off on piecemeal approvals until all the information was available to create an entire planned community at Leigh Village; urged the council to not approve the rezoning request until they could assure themselves that Durham will not only have affordable housing around the Leigh Village light rail station, but to also have amenities such as grocery and drug stores for persons who are unable to afford cars.

Debbie McCarthy, resident of Trenton Road, recognized the Leigh Village Compact Neighborhood Tier consisted of 400 acres and encouraged a cohesive development with residential, retail, office, green space; stated they knew there would be a transit station and hoped there could be a ROMF saving Leigh Farm Park to the north; spoke in favor of replicating the existing Meadowmont development; noted the intensity of the proposed development was out of sync with the area; and spoke to the traffic implications being difficult.

Becky Winders, resident of Seaton Road, referenced concerns consisting of whether the council should grant an exception to the UDO density requirement of 18 units in the suburban tier mixed use properties allowing 25 to 30 units per acre as requested; asked if the development was right for Durham and Leigh Village due to its scale; and inquired how would the city meet its affordable housing goal without significant contribution from the private sector;

Spencer Bradford, resident of Acadia Street, encouraged Council to use the rezoning tool to work toward the 15% affordable housing goal at transit stops.

Sabrina Davis spoke in favor of affordable housing for low-income residents near public transit.

Rosemarie Kitchin, resident of Glen Forrest Drive, stated she wanted to make certain the accommodations made for the original planned two eight-story buildings for medical purposes; the improvements for the intersection at NC 54 and Farrington, were still a part of the overall plan; was glad to know there would be pedestrian consideration; she felt the proposal was a good development; and asked that short and long term implications be considered for one of the worse intersections in Durham County.

Rebuttal

Attorney Ken Spaulding addressed the size of the development as it related to Leigh Village; and stated out of the 400 acres there were approximately 20 being 5%; and stated the impact was a normal way by which developers develop.

Mayor Bell recognized Council Members for comments.

Mayor Pro Tempore Cole-McFadden inquired if additional information had been provided since the hearing at the Planning Commission.

Deb Anderson replied that the affordable housing units had not been added when item was heard by the Planning Commission; noted the rationale for not sharing the affordable housing proffer to the Planning Commission; stated they have developed affordable housing in many communities whereby there was an adopted program in place; spoke to issues for their firm and investment partners because Durham did not have a program implemented for providing affordable housing; emphasized the need for certification letters for her financial institutions/investors; confirmed the

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20 affordable housing units would be included in Phase II of the project; and was hopeful the city would have its program in place by the second phase.

Council Member Davis inquired about the timeline to institute a design district with special mention to the Leigh Village Design District.

Mr. Medlin responded that design district would take an average of three to five years to implement.

Council Member Johnson spoke to the reason for affordable housing goal of 15% in transit areas for individuals/families at 60% AMI; emphasized community involvement into development projects for inclusive, mixed income communities in the vicinity of transit; commented on providing structural programs, tools and incentives for developers to utilize to obtain desired level of affordable housing; noted the difficulty in obtaining 15% affordable housing from developers; was appreciative of the developers efforts, but they were not enough to arrive at the 15% goal set; and referenced the private market being able to provide density. She stated at the previous meeting she asked that the council wait until a report had been received from the consultant Karen Lado regarding specific suggestions that could be applied to this request and others; noted her concerns for approving rezonings like Farrington Road using piecemeal approach; and expressed the desire to have a comprehensive effort; inclusiveness and equity; doing the process correctly; addressing the concerns, with an outcome of being able to do it more quickly.

Council Member Moffitt stated he had spent time considering the project relevant to traffic capacities, planning of the compact neighborhood tiers and affordable housing; inquired with the Transportation staff about their opinion of the limits NC 54 imposes on development; and depending on the limits, should rezonings in the Leigh Village area be placed on hold until the compact tier was fully developed.

Bill Judge, of the City's Transportation Department, stated the roadway capacity at the intersections along NC 54 were basically operating at a Level Service D; responded that a number of roadway improvements were proposed with the development at the NC 54 and Farrington Road intersection which would provide additional capacity, but the proposed development would end up using most of it; and back at the Level Service D; referenced traffic was being mitigated and not providing excessive capacity which could be utilized by other developments; noted the City and State worked together years ago to develop NC 54, I-40 corridor plan with recommended improvements long term.

Council Member Moffitt referenced suggestions that Leigh Village should be reminiscent to Southern Village or Meadowmont; inquired how Council could ensure that retail services be available; and the process of planning the compact neighborhood tiers; the appropriate strategy for moving forward.

City/County Planning Director Steve Medlin responded that Southern Village and Meadowmont were built by a single developer who acquired all the properties and master planned the community; with Leigh Village, he stated it was a larger area under multiple land ownerships; spoke to the Downtown District and Ninth Street Design District and its form based zoning code; stated with a form base zoning code the concern was on the physical structure and less concern about uses; stated for support services such as retail; you would need to start somewhere by placing residential units in the future compact tier area to support the services. Mr. Medlin explained in detail the process of planning the compact neighborhood tiers; which involved a lot of public comments/engagement; and the legislative process of adopting both the code and then

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implementing the code through zoning actions. He stated the one concern he had not acting on intervening requests with the current compact design standards was creating an environment that development may go in an inappropriate direction; stated they advocated to the Farrington Road applicants to try and design their project that comes close to being in a compact design district; and stated in this case it was his opinion that the applicant had accomplished that; checked all the boxes requested by staff; and stated the staff was recommending approval of the project.

In terms of affordable housing and the 15% goal, Mayor Bell stated it was a goal to achieve; noted when bonus density was initially discussed he raised the question that the goal had been set too low; not being able to have developers take advantage of any bonus densities; and referenced suggestions that an overlay be done. Mayor Bell stated he did not think the Council, the Planning Commission or the Joint City/County Planning Committee had a sense of urgency to get something accomplished; and stated if all were really serious about the entire affordable housing piece, especially around transit; that should have been a priority very early. He stated developers should not be penalized who have done all they been requested within the context of what is available, and then to say to them "wait we still want 15%"; and not giving developers anything to reach the 15%. The Mayor stated it was a gap between what developers expect to get with the rents; and then you start telling them rent it for less; and stated someone had to fill the gap. Mayor Bell stated dialogue was really needed to take place with the development community letting them say what it would take to develop around the transit stops with a goal of 15%.

Council Member Davis addressed the timeline needed to complete the design district 3 to 5 years; referenced the proposed road improvements by the developer, the proffered affordable housing units, the expanded tax base; the development in the vicinity of light rail; and stated concerns raised were valid and legitimate; however, noted he would be voting in favor of the proposal.

Council Member Schewel referenced the housing consultant's recommended density bonus for affordable housing; and inquired about the length of time necessary to develop a tool for discussion with developers and community members;

Sarah Young, of the City/County Planning, responded that a draft text amendment to make revisions to the design districts was currently underway and they were in the process of trying to incorporate in that amendment what Ms. Lado provided in her report; noted the schedule of the amendment was to culminate a year from now; and stated once they return to the public she was unable to say with a revised approach to affordable housing, how much time that could potentially add. She also stated they were working on the borders/boundaries for the design districts; and noted the boundaries were scheduled to be presented at one of the work sessions in May.

Council Member Schewel stated within a year or more conservatively the bonus density tool and boundaries for the compact neighborhoods would be available; and inquired if a developer could come back with a rezoning to be in the compact neighborhood district and ask for the density bonus for affordable housing.

Ms. Young replied certainly.

Mr. Medlin stated they would review it as with any other petition; evaluate it make their recommendation based on the policies and adopted ordinance. He also stated they would have not had the opportunity to develop the complete ordinance provisions that would apply in the compact neighborhood; and stated it was important to remember that all of the compact neighborhoods are different.

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Mayor Pro Tempore Cole-McFadden inquired about what the city could require and not require.

City Attorney Baker stated the Council had discretion to approve or deny a rezoning request, but could not deny a project solely on the basis that the developer did not meet the affordable housing requirement.

Council Member Moffitt stated he believed in having affordable housing across the city; noted that someone had to pay for the affordable housing units; stated that Council was considering a rezoning application while talking about affordable housing strategies without the affordable housing consultant being present; indicated that Council could reach the level of affordable housing it desired when public dollars were put into private investments, otherwise, the funding gap would not allow for affordable housing; and struggled with looking at some affordable housing units in the current proposal and that Council had to decide to start the process or not.

Council Member Schewel spoke to the lack of housing in Durham; stated the proposal in many ways was located in the right location; designed in a way that it could be further densified; noted the proposal attempted the design to the standards of the current design district; referenced lots of road improvements; and stated the developer, the team have been communicative and responsive; and the proposal added 20 affordable units in the second phase. He noted the developer has pointed out that the City currently lacked an affordable housing program; which would allow them to receive the necessary certifications; acknowledged the density bonus and comprehensive neighborhood boundaries were underway; stated the danger in denying the request was that the developer by right had the right to develop the land for single family homes at 2 homes per acres; and spoke in favor of waiting until the density bonus and boundaries were in place before granting approval of rezonings.

Council Member Reece stated he intended to vote against the item; referenced the project consisted of 600 units of market priced, multi-family housing which had not occurred in South Durham for a very long time; indicated the project consisted of affordable housing units and valuable roadway improvements; appreciated the developer's advocacy on several issues; stated for him it needed to be decided what the process was for; questioned if the rezoning process was designed to further the City's goals or rather the goals of private interests, homeowners/property owners, developers; stated no applicant, no developer, no property owner was entitled to a rezoning; and emphasized that Council had to be guided by a vision for the type of city it desired relevant to growth; and stated as great as the project was, he could have supported it if it was not within the transit zone.

Mayor Pro Tempore Cole-McFadden stated she planned to vote for the rezoning because it was the right thing to do in accordance with her principles; noted staff stated that the developer had done everything that was expected of them to do; and indicated it was impossible to get 15% affordable housing on one project and it was unreasonable to expect that.

Mayor Pro Tempore Cole-McFadden invited Mr. Spaulding to the podium.

Attorney Ken Spaulding emphasized the developer had abided by the city's requirements; the requirements they were asked to follow; noted the comments stating the project was a good one; stated the city did not have an affordable housing program for them to follow; indicated that developers are being told you can work for 2 years with staff to come up with exactly what the city wants and requires, and once they appear before the council it is stated the developer did a wonderful job, and in turn rejecting the proposal; and stated the elected officials were trying to set

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a precedent in regards to placing a moratorium on development in Durham based on tools and objectives that do not exist.

Deb Anderson responded regarding the issue of waiting a year to develop the density bonus; explained the density bonus would create an incentive but did not solve the problem of the financial gap for developers; stated rents in Durham could not afford 15% of affordable housing units; and suggested that until the funding or toolbox was in place, the density bonus alone would not achieve Council's goals.

Council Member Moffitt explained that the Council needed to take its time in making a decision based on transparency and inclusion; he doubted the process and the funding gap would be completed within one year; reiterated that the project met many of the goals of the community; and stated that was the reason he would be voting in favor of the item; reminded the developer that developers typically took risks and built such risk into their *pro formas*; and concluded the project met many city goals; provided affordable housing and the development was in a transit area.

Mayor Bell closed the public hearing.

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 Z1500009 out of Office Institutional with a development plan (OI(D)) and Residential Suburban – 20 (RS-20) and placing same in and establishing same as Mixed Use with a development plan (MU(D)) was approved at 9:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis and Moffitt. Noes: Council Members Johnson, Reece and Schewel. Absent: None.

ORDINANCE #14909

MOTION by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Schewel, to adopt a consistency statement as required by GS 160A-383 was approved at 9:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1500009, FARRINGTON MIXED USE

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 Z1500009, Farrington Mixed Use, 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 - STRAW VALLEY (Z1400033)

Steve Medlin, City/County Planning Director, certified for the record that all public hearing notices had been carried out in compliance with state statutes and the UDO; with affidavits being part of the case files for this public hearing and the upcoming public hearing.

Mr. Medlin stated the item was a request to change the zoning designation of 4.53 acres located at 5441 New Hope Commons Drive, in the northeast quadrant of the intersection of US 15-501 Highway and Interstate – 40, from Office Institutional (OI) and Commercial Neighborhood (CN) to Mixed Use with a development plan (MU(D)) to allow a mix of office, commercial, and residential uses.

The development plan associated with the request commits to the following maximum uses: Residential: 50 units (11.55 DU/Ac.), Office: 25,000 square feet and Commercial: 50,000 square feet; indicated the text commitments included a commitment for dedication of right-of-way, provision of accessible pedestrian ramps to cross New Hope Commons Drive at Hoffler Lane, provision of a bus pull-out, concrete pad, and bus shelter along New Hope Commons Drive, and roadway improvements along Durham-Chapel Hill Boulevard, Mount Moriah Road and New Hope Commons Drive.

The staff determined the request was consistent with the *Comprehensive Plan* and other adopted policies and ordinances; and the Planning Commission recommended approval by a vote of 9-0 on January 12, 2016.

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

Dan Jewell, representing the applicant, requested rezoning of the property; explained the rationale for mixed use; spoke to the geographic location of the site in front of New Hope Commons; surrounded by Chapel Hill Boulevard on one side; with the interstate 40 on/off ramps on the other side; stated the developer proposed to commit to mid-century modern architecture in order to create a cloister around a central courtyard with structured parking underground; stated the proposal was a down-zoning and represented a small scale but an appropriate transitional project; and urged Council's approval of the project.

Becky Winders, of Seaton Road, stated the development was in a transit area; residential development; and hoped for some assistance toward the affordable housing goal; noted the proposed development was a much smaller scale; stated at the Planning Commission meeting Mr. Jewel said they expected to make a contribution to affordable housing at the rezoning approval stage; and urged Council to follow through with the developer's offer.

Jim Dewar, a resident of Buckquarter Road, Hillsborough, stated he was the owner of property on the corner 3 acres; expressed concern about the current traffic flow along New Hope Commons Drive; suggested installing a traffic signal to assist in controlling traffic; and asked about the status of sidewalks for the proposal.

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Mr. Jewell responded that at the developer's expense, a new signal would be installed at New Hope Commons Drive and Mount Moriah Road, along with an additional lane to improve the traffic situation. He stated they were not proposing to place a sidewalk along Mr. Dewar's property; and noted there was an existing sidewalk along the other side of New Hope Commons Drive; which extends out toward Mount Moriah Road.

Bill Judge, of the City's Transportation Department, explained the traffic signal would only stop southbound traffic allowing vehicles to turn left into New Hope Commons; stated vehicles driving out of New Hope Commons would need to turn right; and the northbound traffic would not be stopped so that it would not back into the 15-501 intersection. Also, stated traffic going toward the boulevard will have to stop to allow vehicles to come off of New Hope Commons Drive, but vehicles coming from the boulevard would not have to stop.

Mr. Jewell stated it was asked at the Planning Commission meeting what would the applicant do in terms of affordable housing; and stated they would do what the Council requested of them. He stated over the past week or so they have reviewed it very carefully; spoke to the proximity of the property to the proposed Patterson Place light rail station; stated the property was a ½ mile out of the radius of the Patterson Place station; spoke to pedestrian hazards between the development and the transit station; and noted the project was not presently in a walk zone of a future transit station.

At the request of Council Member Moffitt, Ms. Winders responded that she had the impression the project would try to include some affordable housing; encouraged the developer to speak with a non-profit to see if something could be worked out similar to Rose Walk Development, with a letter of intent to include affordable housing; and realized that the effort was based on good-faith.

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

MOTION by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Davis, to adopt an Ordinance Amending the Unified Development Ordinance by taking the described property in zoning map change case Z1400033 out of Office Institutional (OI) and Commercial Neighborhood (CN) and placing same in and establishing same as Mixed Use with a development plan (MU(D)) was approved at 9:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt and Reece. Noes: Council Member Schewel. Absent: None.

ORDINANCE #14910

MOTION by Council Member Moffitt, seconded by Mayor Pro Tempore Cole-McFadden, to adopt a consistency statement as required by GS 160A-383 was approved at 9:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1400033, STRAW VALLEY

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 Z1400033, Straw Valley, is based upon review of 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 - 3708 DANUBE LANE (BDG1500011 AND Z1600002A)

Jacob Wiggins, of the City/County Planning Department, stated that Reginald and Sylvia Lynch submitted requests for a utility extension agreement (EA), voluntary annexation, and initial zoning for a 3.14 acre contiguous parcel located at 3708 Danube Lane. If the request was approved, the applicant intended to construct a single family structure at the subject site and connect to City water and Sewer.

The staff recommended an initial zoning of Residential Suburban-20 Falls/Jordan-B (R2-20, F/J-B), which was consistent with City Council policy designating the least intense zoning based on the development tier and the size of the lot.

The proposed development submitted an extension agreement for approval by City Council; and Public Works and Water Management performed the utility impact analysis for the utility extension agreement and determined that the existing City of Durham sanitary sewers and water mains had capacity for the proposed development. Budget and Management Services performed a fiscal impact analysis, which determined the proposed annexation was likely to generate a \$251 net loss to the City at buildout.

Mayor Bell opened the public hearing.

Council Member Moffitt inquired if the project complied with policy of the least intense zoning district; noted the staff memo stated the opposite; not consistent with the policy.

Mr. Wiggins replied that the memo contained incorrect information and would be corrected.

City/County Planning Director Steve Medlin stated the project was consistent with all policies.

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

MOTION by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Moffitt, to authorize the City Manager to enter into a utility extension agreement with Reginald and Sylvia Lynch;

To adopt an Ordinance annexing 3708 Danube Lane (BDG1500011) into the City of Durham effective March 31, 2016; and

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To adopt an Ordinance Amending the Durham Zoning Atlas and Unified Development Ordinance to establish Residential Suburban-20, Falls/Jordan-B (RS-20, F/J-B) zoning for the property was approved at 9:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

ORDINANCE #'s 14911 and 14912

MOTION by Council Member Moffitt, seconded by Council Member Reece, to adopt a consistency statement as required by NCGS 160A-383 was approved at 9:34 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro-Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1600002A, 3708 DANUBE

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 Z1600002A, 3708 Danube, 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.

[ITEM REMOVED FROM THE CONSENT AGENDA]

SUBJECT: ACQUISITION OF DURHAM CONVENTION AND VISITORS BUREAU FACILITY

Council Member Reece inquired about what would the Council be actually voting on.

Don Greeley, Director of Water Management, stated that Council would be voting to authorize the City Manager to work in conjunction with General Services to negotiate the purchase of the former site of the Durham Convention and Visitor's Bureau.

City Manager Bonfield confirmed that Council would vote on the actual construction contract at a future date.

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MOTION by Mayor Pro Tempore Cole-McFadden, seconded by Council Member Reece, to authorize the City Manager and the General Services Department to negotiate with Durham County for the purchase of the Durham Convention and Visitors Bureau site was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

Council Member Reece indicated that he would not be able to attend the upcoming Work Session on March 24th and requested an excused absence.

MOTION by Council Member Moffitt, seconded by Mayor Pro Tempore Cole-McFadden, to excuse Council Member Reece from the March 24th Work Session was approved at 9:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Davis, Johnson, Moffitt, Reece and Schewel. Noes: None. Absent: None.

Mayor Bell expressed appreciation for the discussion held earlier regarding affordable housing; and stated at the special meeting on Thursday, April 7th at 9 am he would be presenting a specific recommendation for council to consider pertaining to developing a tool for affordable housing around transit stops.

There being no further business to come before the City Council, the meeting was adjourned at 9:37 p.m.

Dianalynn Schreiber, CMC, NCCMC
Deputy Clerk

D. Ann Gray, MMC, NCCMC
City Clerk