

**DURHAM, NORTH CAROLINA
MONDAY, FEBRUARY 20, 2023
7:00 P.M.**

The Durham City Council met in the Council Chambers at 101 City Hall Plaza and via zoom at the above time and date with the following members present: Mayor O’Neal, Mayor Pro Tempore Middleton Mark-Anthony Middleton and Council Members Javiera Caballero, DeDreana Freeman, Monique Holsey- Hyman, Jillian Johnson and Leonardo Williams. Absent: None.

Also Present: Deputy City Manager Bertha Johnson, City Attorney Kim Rehberg and City Clerk Diana Schreiber.

[CALL TO ORDER]

Mayor O’Neal called the meeting to order and welcomed those in attendance in the Chamber and virtually.

[MOMENT OF SILENT MEDITATION]

Mayor O’Neal conducted the moment of silence.

[PLEDGE OF ALLEGIANCE TO THE FLAG]

Council Member Freeman led the Pledge of Allegiance to the flag.

[CEREMONIAL ITEMS]

Mayor O’Neal introduced two ceremonial items; recognized retired NCCU Economics Professor E. Victor Moffo, who turned 96 on February 11, 2023; was a sixty-year resident in Durham who officially became a US Citizen in January 2023.

Council Member Johnson read the Black History Month Proclamation and presented the Proclamation to Equity and Inclusion Department Director Sharon Williams. Members of the Racial Equity Commission expressed appreciation for the honor.

Council Member Caballero read the GoDurham Million Miler Club Proclamation featuring bus operators who had driven over a million miles without a safety violation. The Proclamation was presented to the drivers in honor of their service. Mayor O’Neal thanked the drivers for their accident free histories.

Mayor O’Neal spoke to an email request from Ms. Seibel to accommodate the public speakers. She was trying to devise a method to attend to public speakers on an earlier basis.

[ANNOUNCEMENTS BY COUNCIL]

Council Member Holsey-Hyman announced Black History Month and youth in the City; attended the funeral of the young man from Hillside High School; spoke to the play, *State of Emergency*, by youth where they were asking for help; mentioned non-retaliation in her speech and urged parents to step up.

Council Member Williams shouted out to Hillside High School Community and thanked them for inviting the Council Member to be a panelist who spoke following the play, *State of Emergency*, addressed the crisis in the community and focused on who was responsible for caring for the youth.

Council Member Freeman took a personal point of privilege related to the disappearance of her aunt; this weekend, a news article published recently reminded her of the pain experienced by her family; urged folks when they see something, say something; and announced the Black and Brown and Missing website's activation.

Mayor Pro Tempore Middleton congratulated Professor Moffo and the Hillside High School student/actors; announced the NCLM Board Meeting on Thursday and due to being in a leadership role, would not be able to attend the 2/23/23 Work Session.

MOTION by Council Member Caballero, seconded by Council Member Williams, to approve an excused absence of Mayor Pro Tempore Middleton for the 2/23/23 Work Session at 7:27 PM by the following votes: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

Mayor O'Neal announced two awards:

US Conference of Mayors congratulated the city's Safe Streets for All grant award of \$400,000;

Arbor Day Foundation congratulated Durham for earning recognition as 2022 Tree City USA.

[PRIORITY ITEMS OF THE CITY MANAGER, CITY ATTORNEY AND CITY CLERK]

Deputy City Manager Bertha Johnson, sitting in for City Manager Wanda Page, announced four priority items:

Item 25) Attachment 2 modified; Item 26) Attachment 4, Exhibit B, deleted; Item 49) Attachment E revised; Item 54) Support Youth Mentoring Services Act added to the Action Agenda.

City Attorney Rehberg and City Clerk Schreiber did not have any priority items.

[CONSENT AGENDA]

Mayor O'Neal read the items from the printed agenda. The following item was pulled

from the Consent Agenda: Item 24.

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to approve the consent agenda was approved at 7:40 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: DURHAM HOMELESS SERVICES ADVISORY COMMITTEE – APPOINTMENT (ITEM 1/ PR 15993)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to appoint Humphrey Truitt to the Durham Homeless Services Advisory Committee representing Corporate/Private Sector with the term to expire on June 30, 2023 was approved at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: DURHAM PERFORMING ARTS CENTER OVERSIGHT APPOINTMENTS (ITEM 2/ PR 15992)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to appoint Philip H. Kearney representing Arts and Culture and Amit K. Singh representing Facility Management to the Durham Performing Arts Center Oversight Committee with the terms to expire on March 1, 2026 at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: DURHAM PERFORMING ARTS CENTER OVERSIGHT COMMITTEE MAYORAL APPOINTMENT (ITEM 3/ PR 15991)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to appoint Finesse G. Couch to the Durham Performing Arts Center Oversight Committee representing Mayor's Appointee and Community Relations with the term to expire on March 1, 2026 at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: MAYOR'S HISPANIC/LATINO COMMITTEE – APPOINTMENT (ITEM 4/ PR 15990)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to appoint Jose E. Guerrero to the Mayor's Hispanic/Latino Committee with the term expiring on October 1, 2024 at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal,

Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

**SUBJECT: CITIZENS ADVISORY COMMITTEE – APPOINTMENT
(ITEM 5/ PR 15989)**

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to appoint Sherard Johnson to the Citizens Advisory Committee with the term to expire on June 30, 2024 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

**SUBJECT: ON-STREET, OFF-STREET PARKING PERFORMANCE AUDIT
JANUARY 2023 (ITEM 6/ PR 15994)**

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the On-Street, Off-Street Parking Performance Audit approved at the January 23, 2023, Audit Services Oversight Committee meeting at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

**SUBJECT: AUDIT SERVICES OVERSIGHT COMMITTEE - 2022 ANNUAL
REPORT (ITEM 7/ PR 15983)**

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the 2022 Audit Services Oversight Committee Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

**SUBJECT: 2022 RALEIGH-DURHAM AIRPORT AUTHORITY ANNUAL REPORT
(ITEM 8/ PR 16014)**

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, To receive the 2022 Raleigh-Durham Airport Authority Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

**SUBJECT: AMERICAN RECOVERY PLAN ACT (ARPA) PROJECT – DURHAM
CHILDREN'S INITIATIVE'S CONNECTED TO CAREER PIPELINE
(ITEM 9/ PR 15974)**

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman,

to authorize the City Manager to execute an ARPA subrecipient grant agreement with Durham Children's Initiative in an amount not to exceed \$140,000 at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: 2022 DURHAM OPEN SPACE AND TRAILS COMMISSION ANNUAL REPORT (ITEM 10/ PR 16022)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the 2022 Durham Open Space and Trails Commission Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: 2022 DURHAM CITY-COUNTY APPEARANCE COMMISSION ANNUAL REPORT (ITEM 11/ PR 16021)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the 2022 Durham City-County Appearance Commission Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: 2022 BOARD OF ADJUSTMENT ANNUAL REPORT (ITEM 12/ PR 16019)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the 2022 Board of Adjustment Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: 2022 PLANNING COMMISSION ANNUAL REPORT (ITEM 13/ PR 16024)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the 2022 Planning Commission Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: 2022 HISTORIC PRESERVATION COMMISSION ANNUAL REPORT (ITEM 14/ PR 16030)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman,

to receive the 2022 Historic Preservation Commission Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: APPROVAL OF A MULTIFAMILY HOUSING FACILITY TO BE KNOWN AS HARDEE STREET APARTMENTS IN THE CITY OF DURHAM, NORTH CAROLINA WITH THE FINANCING THEREOF WITH MULTIFAMILY HOUSING REVENUE BONDS (ITEM 15/ PR 16011)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to adopt a resolution providing approval of a multifamily housing facility known as Hardee Street Apartments in the City of Durham, North Carolina; and

To approve the financing thereof with multifamily housing revenue bonds in an aggregate amount not to exceed \$21,000,000 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

RESOLUTION #10278

SUBJECT: 2022 DURHAM COMMUNITY SAFETY AND WELLNESS TASKFORCE ANNUAL REPORT (ITEM 16/PR 16036)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive an annual report from the Durham Community Safety & Wellness Task Force at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: BUDGET AMENDMENTS FOR CERTAIN CIP PROJECT ORDINANCES, HUD GRANT PROJECT ORDINANCES, AND FY23 ANNUAL OPERATING FUNDS (ITEM 17/ PR 15962)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to adopt Ordinances amending Capital Improvements Project Ordinances, the same being Ordinance #16050, #16051, #15954, #15955, #15956, #15957, for the purpose of closing various projects deemed complete and in the amount of \$272,839,437; **ORDINANCES #16081 CULTURAL/REC; #16092 WATER/WASTEWATER; #16083 STORMWATER; #16084 SOLID WASTE; #16085 PARKING; #16086 TRANSIT.**

To adopt an Ordinance amending the General Capital Improvements Project Ordinance, the same being Ordinance #16050, for the purpose of increasing River Park Playground project by \$322,741 and by using remaining funds from Construction in Process projects that are being closed;

To adopt an Ordinance amending the General Capital Improvements Project Ordinance, the same being Ordinance #16050, for the purpose of increasing the Beechwood Cemetery project by \$240,690 and by using remaining funds from Construction in Process projects that are being closed;

To adopt an Ordinance amending the General Capital Improvements Project Ordinance, the same being Ordinance #16050, for the purpose of increasing the Morgan Rigsbee Mixed Use Parking Garage Upfit project by \$386,621 and by using remaining funds from Construction in Process projects that are being closed;

To adopt an Ordinance amending the General Capital Improvements Project Ordinance, the same being Ordinance #16050, for the purpose of increasing Alston Avenue Sidewalk project by \$1,332,010, of which \$242,484 uses remaining funds from Construction in Process projects that are being closed, \$871,621 is federal funding, and \$217,905 is a 20% City match requirement paid out of the Debt Service Fund;

To adopt an Ordinance amending the General Capital Improvements Project Ordinance, the same being Ordinance #16050, for the purpose of increasing Renaissance Traffic Signal project by \$59,303 and by using remaining funds from Construction in Process projects that are being closed;

To adopt an Ordinance amending the General Capital Improvements Project Ordinance, the same being Ordinance #16050, for the purpose of increasing Sidewalk, Repair, ADA, Gaps project by \$3 and by using remaining funds from Construction in Process projects that are being closed;

To adopt an Ordinance amending the Solid Waste Capital Improvements Project Ordinance, the same being Ordinance #15955, for the purpose of increasing Waste Disposal Recycling Center Reconstruction by \$7,087 and by using remaining funds from Construction in Process projects that are being closed

ORDINANCE #16084

To find that Renaissance Traffic Signal project is at least 17.5% necessitated by new construction and that up to 17.5% of the capital costs of that project may be paid by impact fees collected within the same service zone and collected for the same purpose;

To adopt an Ordinance amending the FY 2021-2022 U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) grant project ordinance to recognize the actual CDBG Program Income received of \$193,764.51 for a total appropriation of \$2,300,841.51, the same being Ordinance #15799. **ORDINANCE #16087**

To adopt an Ordinance amending the FY 2021-2022 U.S. Department of Housing and Urban Development (HUD) HOME Investment Partnerships Agreement (HOME) grant project ordinance to recognize the actual CDBG Program Income received of

\$791,550.92 for a total appropriation of \$1,990,731.92, the same being Ordinance #15801. **ORDINANCE #16088**

To adopt an Ordinance amending the FY 2022-2023 U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) grant project ordinance to recognize the actual grant award received decrease from \$2,100,000 to \$2,077,194. The estimated Program Income remains unchanged at \$100,000 for a total appropriation of \$2,177,194, the same being Ordinance #15926. **ORDINANCE #16089**

To adopt an Ordinance amending the FY 2022-2023 U.S. Department of Housing and Urban Development (HUD) HOME Investment Partnerships Agreement (HOME) grant project ordinance to recognize the actual grant award received increase from \$1,100,000 to \$1,315,500. The estimated Program Income remains unchanged at \$100,000 for a total appropriation of \$1,415,500, the same being Ordinance #15927. **ORDINANCE #16090**

To adopt an Ordinance amending the FY 2022-2023 U.S. Department of Housing and Urban Development (HUD) Emergency Solutions Grant Program (ESG) grant project ordinance to recognize the actual grant award received increase from \$174,000 to \$179,732 for a total appropriation of \$179,732, the same being Ordinance #15928. **ORDINANCE #16091**

To adopt an Ordinance amending the FY 2022-2023 U.S. Department of Housing and Urban Development (HUD) Housing Opportunities for Persons with AIDS Performance (HOPWA) grant project ordinance to recognize the actual grant award received increase from \$858,000 to \$965,738 for a total appropriation of \$965,738, the same being Ordinance #15929. **ORDINANCE #16092**

To adopt a budget ordinance amending the City of Durham Budget Ordinance as amended, Fiscal Year 2022-23, the same being Ordinance #16058. **ORDINANCE #16093**

To adopt a Resolution superseding Resolution #10270 to amend the Internal Service Funds Fiscal Year 2022-23 Financial Plan for the purpose of recognizing revenue adjustments in the Risk Fund at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None. **RESOLUTION #10279**

**SUBJECT: COOPERATIVE GROUP PURCHASE CONTRACT – THREE (3)
SUTPHEN EXTREME DUTY CUSTOM PUMPER TRUCKS
(ITEM 18/ PR 16010)**

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a contract with the Sutphen Corporation for the purchase of three (3) Sutphen Extreme Duty Custom Pumper Trucks in the amount of \$2,584,373.07 at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: CONSTRUCTION CONTRACT WITH BAR CONSTRUCTION COMPANY, INC. FOR ATHLETIC COURT RENOVATIONS – PINEY WOOD PARK PICKLEBALL (ITEM 19/ PR 16017)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a construction contract with Bar Construction Company, Inc. for the Piney Wood Park Pickleball Project in the amount of \$443,000; To establish a contingency fund for the contract in the amount of \$34,640; and

To authorize the City Manager to negotiate and execute change orders to the construction contract, provided that the total project cost does not exceed \$477,640 at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: DURHAM CULTURAL ADVISORY BOARD 2022 ANNUAL REPORT (ITEM 20/ PR 16020)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the Durham Cultural Advisory Board 2022 Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: SERVICE CONTRACT WITH ARBORMAX TREE SERVICE, LLC FOR RIGHT-OF-WAY STUMP REMOVAL (ITEM 21/ PR 16031)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a service contract with Arbormax Tree Service, LLC for the grinding and removal of tree stumps in an amount not to exceed \$74,279.50;

To establish a contingency fund for the service contract with Arbormax Tree Service, LLC in an amount not to exceed \$15,720.50; and

To authorize the City Manager to negotiate and execute change orders for the contract with Arbormax Tree Service, LLC, provided that the total contract cost does not exceed \$90,000 at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore

Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: DURHAM ENVIRONMENTAL AFFAIRS BOARD 2022 ANNUAL REPORT (ITEM 22/ PR 16006)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the Durham Environmental Affairs Board 2022 Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: DURHAM CONVENTION CENTER AUTHORITY BOARD 2022 ANNUAL REPORT (ITEM 23/ PR 16008)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the Durham Convention Center Authority Board 2022 Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: GOVERNING SERVICE AGREEMENTS FOR ON-CALL PROFESSIONAL SERVICES: GEOTECHNICAL ENGINEERING, ENVIRONMENTAL SERVICES, SURVEYING AND COST ESTIMATING (ITEM 25/ PR 16032)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute Governing Service Agreements for 2023-2026 On-Call Professional Services for Geotechnical Engineering, Environmental Services, Surveying and Cost Estimating with: (1) A1 Consulting Group, Inc., (2) Axias (GA) LLC, (3) CHA Consulting, Inc., (4) Cumming Management Group, Inc., (5) DRMP NC Inc., (6) ECS Southeast, LLP, (7) Falcon Engineering, Inc., (8) The John R. McAdams Company, Incorporated, (9) NOVA Engineering & Environmental, Inc., (10) PEG Contracting Inc., (11) Pennoni Associates Inc., (12) RVE, Inc., (13) S&ME, INC., (14) STEWART ENGINEERING, INC., (15) Summit Design and Engineering Services, PLLC, (16) Summit Engineering, Laboratory & Testing, Inc., (17) Tai and Associates PLLC, and (18) Terracon Consultants, Inc.; and

To authorize the City Manager to negotiate and execute Supplemental Service Agreements for services up to \$250,000 for each project without additional City Council approval at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: CONTRACT TO PERFORM ENERGY AUDIT SERVICES BETWEEN THE CITY OF DURHAM AND ALPHA FACILITIES SOLUTIONS, LLC (ITEM 26/ PR 16035)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a contract with ALPHA Facilities Solutions, LLC to provide energy audit services in an amount not to exceed \$125,000; and

To authorize the City Manager to execute subsequent documents permitted by or required by the contract, including any amendments, or related documents at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: LEASE WITH RDU PRESIDENTIAL PARK WEST PROPERTY OWNER LP FOR DURHAM POLICE DEPARTMENT DISTRICT 4 SUBSTATION (ITEM 27/ PR 16034)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a lease agreement with RDU Presidential Park West Property Owner LP for 2945 South Miami Boulevard Durham, NC 27703 (Suites 133, 134, 135, and 136) for Durham Police Department District 4 Substation;

To authorize the City Manager to execute a five-year lease extension with RDU Presidential Park West Property Owner LP; and

To authorize the City Manager to execute subsequent documents permitted by or required by the Lease Agreement, including any amendments, or related documents at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: MAYOR’S HISPANIC/LATINO COMMITTEE 2022 ANNUAL REPORT (ITEM 28/ PR 16040)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the 2022 annual report for Mayor’s Hispanic/Latino Committee at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: WORKFORCE INNOVATION AND OPPORTUNITY ACT AGREEMENT FOR ADULT WORKER AND DISLOCATED WORKER PROGRAM – ECKERD YOUTH ALTERNATIVES, INC. (ITEM 29/ PR 16037)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to ratify the services provided by Eckerd Youth Alternatives, Inc. as a sub recipient beginning July 1, 2022; and

To authorize the City Manager to execute a sub recipient agreement with Eckerd Youth Alternatives, Inc. to fully implement the WIOA Adult Worker and Dislocated Worker Program for the DWDB in an amount not to exceed \$439,918 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: 2022 RECREATION ADVISORY COMMISSION ANNUAL REPORT (ITEM 30/ PR 15984)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the 2022 Recreation Advisory Commission Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: 2022 NATIONAL POLICE ATHLETIC LEAGUE ENDOWMENT GRANT PROJECT ORDINANCE (ITEM 31/ PR 16013)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to accept the 2022 National PAL Endowment sub-grant by executing the grant documents; and

To adopt the 2022 National PAL Endowment Grant Ordinance in the amount of \$3,000 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None. **ORDINANCE #16094**

SUBJECT: 2023 DUKE DOING GOOD GRANT PROJECT ORDINANCE (ITEM 32/ PR 16012)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to accept the 2023 Duke Doing Good Award grant by executing the grant documents; and

To adopt the 2023 Duke Doing Good Grant Ordinance in the amount of \$5,000 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None. **ORDINANCE #16095**

SUBJECT: CONTRACT SW-40C, CONSTRUCTION ENGINEERING AND INSPECTION SERVICES FOR SOUTH ALSTON AVENUE SIDEWALK (ITEM 33/ PR 15976)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a professional services contract for SW-40C, Construction Engineering and Inspection Services for South Alston Avenue Sidewalk with TranSystems Corporation in the amount not to exceed \$234,618 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

**SUBJECT: CONTRACT SW-92 SIDEWALK REPAIRS 2023
(ITEM 34/ PR 15977)**

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a contract for SW-92 Sidewalk Repairs 2023 with Browe Construction Company in the amount of \$2,781,465;

To establish a contingency fund in the amount of \$278,146.50; and

To authorize the City Manager to negotiate and execute change orders to the contract provided that the total contract cost does not exceed \$3,059,611.50 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

**SUBJECT: CONTRACT ST-322 MARYLAND AVE. BRIDGE REMOVAL
(ITEM 35/ PR 15987)**

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a construction contract for ST-322 Maryland Ave. Bridge Removal with McQueen Construction, Inc. in the amount of \$427,777;

To establish a contingency fund in the amount of \$85,555.40; and

To authorize the City Manager to negotiate and execute change orders to the contract provided that the total contract does not exceed \$513,332.40 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

**SUBJECT: INTERLOCAL AGREEMENT WITH DURHAM COUNTY FOR THE
ADMINISTRATION AND ENFORCEMENT OF SEDIMENT AND
EROSION CONTROL REQUIREMENTS WITHIN THE CITY OF
DURHAM (ITEM 36/ PR 15998)**

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to resolve that the City Manager be authorized to execute an interlocal agreement

between the City of Durham and Durham County for the administration and enforcement of sediment and erosion control requirements by Durham County within the City of Durham at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: CONTRACT SW-40, SOUTH ALSTON AVENUE SIDEWALK PROJECT (TIP# C-5183B) (ITEM 37/ PR 15975)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to adopt a Resolution authorizing the City Manager to execute the contract for SW-40, South Alston Avenue Sidewalk Project (NCDOT TIP# C-5183B) with White Oak Construction Corp. of N.C.;

To authorize the City Manager to execute a contract for SW-40, South Alston Avenue Sidewalk Project (NCDOT TIP# C-5183B) with White Oak Construction Corp. of N.C. in the amount of \$1,639,877;

To establish a contingency fund in the amount of \$245,981.55; and

To authorize the City Manager to negotiate and execute change orders to the contract provided that the total project cost does not exceed \$1,885,858.55 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None. **RESOLUTION #10280**

SUBJECT: STORMWATER INFRASTRUCTURE REPAIRS (SD-2022-02) (ITEM 38/ PR 16033)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute Contract SD-2022-02, Stormwater Infrastructure Repairs, with Roadworks Construction Company, LLC. in the amount of \$2,353,051.85;

To establish a contingency fund in the amount of \$352,956; and

To authorize the City Manager to negotiate change orders for Contract SD-2022-02 provided that the total contract cost does not exceed \$2,706,007.85 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: FELLOWSHIP PLACEMENT AGREEMENT BETWEEN THE CITY OF DURHAM AND FUSE CORPS FOR DESIGNING A SUSTAINABLE SOLUTION TO WASTE MANAGEMENT PROJECT

(ITEM 39/ PR 15999)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute the First Amendment to the Fellowship Placement Agreement with FUSE Corps, which incorporates into the main agreement details of the proposed solid waste management project; and

To authorize the City Manager to execute an Individual Placement Agreement with FUSE Corps for an Executive Fellowship Project in an amount not to exceed \$80,000 to help design a sustainable solution to waste management at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: CONTRACT AMENDMENT WITH GRANICUS, LLC DBA GRANICUS SAAS, LLC TO UPGRADE THE GRANICUS ENCODERS AND SOFTWARE (ITEM 40/ OR 15997)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute the First Amendment to the Master Subscription Agreement between GRANICUS, LLC dba Granicus Saas, LLC and the City of Durham in the amount of \$144,385.25, for a total three-year contractual revised amount not-to-exceed \$298,858.58 at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: SECOND AMENDMENT TO PURCHASE CONTRACT FOR SIX (6) GILLIG ELECTRIC BUSES (ITEM 41/ PR 16023)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a second amendment to the Purchase Contract with Gillig, LLC for six (6) 40-foot, low-floor, heavy duty electric buses increasing the per bus price to \$1,033,424, for a total, not to exceed purchase price of \$6,200,544 at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: 2022 BICYCLE AND PEDESTRIAN ADVISORY COMMISSION ANNUAL REPORT (ITEM 42/ PR 16005)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to receive the Bicycle and Pedestrian Advisory Commission (BPAC) 2022 Annual Report at 7:49 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: CONSTRUCTION OF A TRAFFIC SIGNAL AT HILLANDALE ROAD AND HORTON ROAD (ITEM 43/ PR 16027)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a contract with Fulcher Electric of Fayetteville, Inc. in the amount of \$296,135 for the installation of a new traffic signal at Hillandale Road and Horton Road;

To establish a project contingency fund in the amount of \$44,420.25; and

To authorize the City Manager to negotiate change orders to the project provided the cost of the contract, including all change orders, does not exceed the total contract cost of \$340,555.25 at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: NUTRIENT ANALYZER SERVICE AGREEMENT WITH HACH COMPANY (ITEM 44/ PR 15856)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to authorize the City Manager to execute a service contract with Hach Company to provide on-call services for maintenance and updates of plant nutrient analyzers for a cost not to exceed \$284,802.29 for a three-year term at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: 2023 LONG SESSION LEGISLATIVE & ADVOCACY AGENDAS (ITEM 54/ PR 16048)

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to adopt the Legislative and Advocacy Agendas for the 2023 Long Session of the N.C. General Assembly at 7:49 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA]

SUBJECT: RESOLUTION IN SOLIDARITY WITH DURHAM’S LGBTQ+ COMMUNITY (ITEM 55/ PR 16052)

MOTION by Council Member Johnson, seconded by Council Member Holsey-Hyman, to adopt a resolution in Solidarity with Durham’s LGBTQ+ Community at 7:42 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council

Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None.
Absent: None.

[ITEM REMOVED FROM CONSENT AGENDA]

SUBJECT: FORMER WHEELS SKATING CENTER UP-FIT DESIGN CONTRACT WITH DTW ARCHITECTS & PLANNERS, LTD. (ITEM 24/ PR 16016)

Council Member Johnson presided over Item 24 and announced there were speakers to the item.

Gwen Silver, Durham resident, spoke as a supporter of the Wheels facility; and as an opponent of the current community outreach process and urged Council to ensure there was discussion with people of the community.

James Chavis, Durham resident, spoke in favor of Wheels and expressed concerns about not having a voice in the planning process in that three meetings from November, December 2022 and January 2023 did not include community members. He urged Council to help local youth.

Shantell Ferrell, Durham resident, expressed her thoughts about which amenities should be located at the Wheels facility and spoke in support of the skating rink, batting cage, playground equipment, party places and yoga studio. She provided the Clerk regarding Demand for District 1 and Durham NC Resident inclusion on forthcoming projects concerning District 1 and Objection to former Wheels Skating Center Up-Fit Design Contract with DTW Architects and Planners, Ltd.

Council Member Johnson asked if there were comments by Council.

Council Member Holsey-Hyman asked if staff could explain how community outreach had been conducted.

Deputy City Manager Keith Chadwell, noted there were three substantial community meetings where a myriad of iterations had been proffered and which staff has been trying to accommodate; and stated that staff intended to get the skating rink operational.

Council Member Freeman urged the coordination of community voices; and asked P&R to engage similarly with the NIS Department.

Mayor Pro Tempore Middleton stated that because a white person conducted outreach did not indicate racism; stated that no amenities were off the table, in that staff has been working on upfitting the rollerskating rink as was requested by the community; explained the outreach meetings had occurred as he had attended them; and summarized that the skating rink was alive due to responding to the community's request to reactivate the rink.

Council Member Williams indicated he would follow up with the Director of Parks and Recreation and would share the timeline and sub-committee meeting minutes with interested folks.

Mayor O’Neal stated miscommunication could be equally as harmful as no communication; explained the community members wanted to be heard and did not feel listened to; and noted that community activist James Chavis has spoken often before Council and did so to raise up the community’s voices. She also stated that it was important for the community to feel listened to and heard; and that the disconnect needed to be addressed.

Council Member Holsey-Hyman, as the Council Liaison to Recreation Advisory Committee, wanted to discuss the communication gap between staff and the community.

Council Member Freeman expressed concerns about the communication between Park and Recreation staff and communities of color.

Council Member Johnson stated she would like to hear from staff more specifics about the folks who attended the community meetings; and to reiterate what Mayor Pro Tempore and Council Member Williams had said about meeting occurring and showed significant community engagement and that it would be a mistake to delay the project. Residents from all over the City wanted Wheels to be re-activated as was evident from the public comment speakers over the last few months; and the longer Council waited, the longer it would take before the skating rink would be operational. There would be additional engagement regarding other amenities in the park.

Mayor O’Neal, prior to taking a vote, wanted the motion clarified and requested community members receive an update as to what was being done as related to future outreach/next steps which incorporated community members.

Keith Chadwell, Deputy City Manager, responded that staff had heard the dialogue; confirmed he would actively lead the effort to conduct engagement by bridging communications between community members and staff; and reiterated that according to the community, the skating rink was to be reactivated prior to the rest of the Wheels site being re-developed and the agenda item was associated with the rink.

Mr. Chavis responded that he and his community members wanted Wheels reopened and that they did not feel the communication was sufficient and requested conversations about the process and their questions answered.

MOTION by Council Member Williams, seconded by Council Member Caballero, to authorize the City Manager to execute an Owner-Architect agreement with DTW Architects & Planners, Ltd. for design and construction administration services for the Former Wheels Skating Center Up-fit Project for an amount not to exceed \$293,000;

To establish a contingency fund for the contract in the amount of \$29,300; and

To authorize the City Manager to execute amendments to the Owner-Architect agreement provided the total cost of the contract does not exceed \$322,300 at 8:16 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

Taking the prerogative of the Chair, Mayor Pro Tempore Middleton announced a revised order of the agenda: Items 49, 51, 52, 48, and 50.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

**SUBJECT: CONSOLIDATED ANNEXATION – WELCOME VENTURE PARK
(ITEM 49/ PR #16029)**

Mayor Pro Tempore Middleton presided over Item 49.

Andy Lester, City-County Planning, provided the staff report by stating for the record that all Planning Department hearing items have been advertised and noticed in accordance with state and local law, and affidavits of all notices are on file in the Planning Department.

A request for a utility extension agreement, voluntary annexation and initial zoning map change has been received from Welcome Wilson, Jr., of The Welcome Group, for three parcels of land totaling 157.37 acres and located at Hamlin and Old Oxford Roads. This annexation petition is not contiguous to the primary corporate limits. The applicant is proposing to annex and rezone the properties to facilitate the construction of up to 1,300,000 square feet of industrial space.

The current zoning is Industrial light (IL). The applicant proposes to change this designation to Industrial Light with a Development Plan (IL(D)). This request, Case Z2200004, received a recommendation of approval from the Planning Commission on October 11, 2022, by a vote of 11-0. The case was heard and continued by City Council at their January 3, 2023, meeting. Subsequent to the meeting, the applicant has committed to prohibiting gas stations, payday lenders, stores selling tobacco or related products, adult establishments and electronic gaming operations. In addition, the applicant has committed to additional landscaping along Hamlin Road. The properties are currently designated Industrial on the Future Land Use Map. The proposed (IL(D)) zoning is consistent with the designated Future Land Use.

At the January 3, 2023, City Council meeting, the applicant requested a continuance to further engage the surrounding communities. The applicant has since committed to a 50-foot buffer with evergreen shrubs along the north side of Hamlin Road, between the point aligning just east of Sweet Gale Court to approximately 60 feet east of Golden Crest Drive and committed to limiting any restaurant use with associated drive-through

facilities within 200 feet of the right-of-way of Old Oxford and Hamlin Roads. In addition, the applicant has signed a memorandum of understanding (MOU) with the community outside the scope of the zoning map change process to further meet some of the community needs.

Mayor Pro Tempore Middleton disclosed that the organization of which he is a principal is a major landowner in the area although outside of the notification area and with no financial investment or further interest in the area. Following his statement, he opened the public hearing and stated there were speakers to the item.

Patrick Byker, Attorney with Morningstar Law Group, spoke as the representative of Welcome Group, a proponent to the item; detailed the project, 157-acre business park/development called Welcome Venture Park; proffered not to allow any restaurants with drive-throughs and proffered \$30,000 in scholarship funds for construction trades at Durham Technical Community College; spoke to the community outreach process and brownfield remediation and presented a map of the parcel.

Donna Frederick, proponent, confirmed engagement had been done with a focus on jobs; appreciated the training option but urged a \$200,000 endowment be established.

Vannessa Mason Evans, proponent with options, supported the project and focused on job creation and training options; and encouraged the establishment of an endowment.

Bryan Fox, representing the Chamber of Commerce, supported the project and let the attendees know that the tenants were not yet known, which was a normal process; and was excited to see commercial development in the area.

Valarie Valentine, representing Oxford Hamlin Community Coalition, appreciated the opportunity to engage; and urged the community be involved and benefit from the project; and expressed concerns about police coverage and potential stormwater issues.

Natalie Pickett, opponent, expressed concerns about downstream flooding and stormwater issues; and supported training and educational opportunities.

Helena Cragg, Durham resident, amplified stormwater control measures and encouraged them being added into the proposal.

Jacqueline Wagstaff, virtual attendee, was acknowledged and chose not to address Item 49.

Attorney Byker spoke to the developer's construction of infrastructure and Brownfield remediation and therefore did not commit to a higher amount of the scholarship proffer.

MOTION by Council Member Williams, seconded by Mayor O'Neal, to adopt an ordinance annexing 'BDG2200004' into the City of Durham effective March 31, 2023; and to authorize the City Manager to enter into a utility extension agreement with

Welcome Venture Park, LLC at 8:46 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None

ORDINANCE #16097

MOTION by Council Member Williams, seconded by Mayor O’Neal, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Industrial light (IL)/Falls/Jordan Lake District-B (F/J-B), County Jurisdiction and establishing the same as Industrial Light with a Development Plan (IL(D))/Falls/Jordan Lake District-B (F/J-B), City Jurisdiction at 8:46 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None

ORDINANCE #16098

MOTION by Council Member Williams, seconded by Mayor O’Neal, to adopt a Consistency Statement as required by NCGS 160D-605 at 8:47 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2200004, Welcome Venture Park

Whereas the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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 Z2200004, Welcome Venture Park, is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable, as provided in the ‘Consistency with Adopted Plans’ and ‘Reasonable and in the Public Interest’ sections of the staff report; regarding the subject ‘Z2200004, Welcome Venture Park’ along with additional agenda

information provided to the City Council and information provided at the public hearing;
and

That the proposed zoning map change designation is consistent with the Future Land Use Designation as provided on the Future Land Use Map of the Comprehensive Plan in Attachment C; and

It is the objective of the Durham City Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This request promotes this by offering fair and reasonable development regulations supported by the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report; regarding the subject 'Z2200004, Welcome Venture Park' along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

SUBJECT: PUBLIC HEARING ON USE OF HOME-AMERICAN RESCUE PLAN (ARP) FUNDS (ITEM 51/ PR 16028)

Council Member Freeman presided over Item 51 and announced that a public hearing was being conducted to receive resident comments on the use of HOME-American Rescue Plan (ARP) funds.

Reginald Johnson, Director of the Department of Community Development, gave the staff report and deferred to Colin Davis, Manager of the Homeless System for presentation of the HOME ARP Funds PowerPoint.

Council Member Freeman opened the public hearing.

Prior to the break, Jacqueline Wagstaff, Durham resident, spoke in regard to Item 24, the Wheels facility and noted that the residents had not been engaged in the process and urged Council to allow residents the opportunity to be heard.

Council Member Freeman announced a break from 9:01 pm – 9:12 p.m.

Following the break, the following persons spoke:

Lorisa Seibel, Durham resident, virtually expressed appreciation for the proposal the directed funds to the homeless and noted that there was an urgent need for rental assistance in the community.

Jim Svava, representing the Coalition for Affordable Housing and Transit, virtually noted there were persons living at less than 30% AMI and spending more than 50% on their rent; supported immediate assistance to those who were facing eviction if unable to pay their rent. He proposed that counseling and other assistance with the funds.

Council Member Freeman closed the public hearing.
The item was a public hearing only; no vote was taken.

**SUBJECT: PUBLIC HEARING ON AND APPROVAL OF PROPOSED
AMENDMENTS TO THE FY 2016-2017, 2017-2018, 2018-2019,
2019-2020, 2020-2021 AND 2021-2022 ANNUAL ACTION PLANS
(ITEM 52/ PR 16007)**

Council Member Williams presided over Item 52 and announced that this was a public hearing item to receive citizen comments on the Draft Proposed HOME Amendments to the FY 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-2022 Annual Action Plans as it relates to HOME Investment Partnerships Program (HOME) funds.

Council Member Williams opened the public hearing; and announced there were speakers to the item.

Tonia McRae, 2806 Fayetteville Street, spoke to the economic struggles of the Fayetteville corridor and encouraged the funding be used for homeless, support services and improvement of the Fayetteville corridor.

Larry Hester, 229 Shalimar Drive, asked that unspent HOME Funds be spent on the Fayetteville corridor; encouraged Council to formulate policies that allowed seniors to age in place and avoid displacement from their homes.

Denise Hester, 229 Shalimar Drive, urged significant investment along the Fayetteville corridor, preserve housing for seniors, and noted that rising taxes and gentrification make seniors vulnerable.

George Spaulding, 1115 Jerome Road, urged support for transitional housing with governmental assistance along the Fayetteville corridor. He spoke to the Fayetteville Corridor Planning Group that was active in 1998, gave statistics on tax payments by residents and urged earmarking of funds for the corridor.

Marcus Greene, 1215 Antler Point, explained he owned property along the Fayetteville corridor and that he had seen the need for support through the years; noted how the community came together 25 years ago to address needs; spoke to homelessness, blight and drug use along the corridor and asked the city for funding to affect change along the corridor.

Council Member Williams declared the public hearing closed and the following motions were made:

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Johnson, to approve the Draft Proposed HOME Amendments to the FY 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-2022 Annual Action Plans for submission

to the U.S. Department of Housing and Urban Development (HUD) at 9:46 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None

MOTION by Council Member Holsey-Hyman, seconded by Council Member Williams, to authorize the City Manager to execute all administrative requirements and contractual documents for the implementation of the amended FY 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021 and 2021-2022 Annual Action Plans to reallocate funding to accurately reflect how the City of Durham utilized its federal HOME award allocations and HOME Program Income for projects/activities that have been completed, currently in progress, and are planned using the applicable funding year allocations at 9:47 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None

SUBJECT: ZONING MAP CHANGE - AMERICAN VILLAGE TOWNHOMES (ITEM 48/ PR 16026)

Mayor Pro Tempore Middleton presided over Item 48.

Andrew Lester, City-County Planning Planner, gave the following staff report:

“Staff stated for the record that all Planning Department hearing items have been advertised and noticed in accordance with state and local law, and affidavits of all notices are on file in the Planning Department.”

A request for a zoning map change has been received from Marie Farmer, of Parker Poe, for 1 parcel of land totaling 0.75 acres and located at 626 Morreene Road. The current zoning is Residential Suburban – 10 (RS-10). The applicant proposes to change this designation to Residential Suburban – Multifamily with a Text-Only Development Plan restricting the site to a maximum of five townhouse units. The applicant is proposing to rezone the properties to facilitate the construction of up to one townhouse building with no more than five units.

The properties are currently designated Low Density Residential on the Future Land Use Map. The proposed Residential Suburban – Multifamily with a Text-only Development Plan (RS-M(D)) zoning is inconsistent with the designated Future Land Use. If the proposed zoning is approved staff recommends a change to the FLUM to designate the property as Low-Medium Density Residential (4-8 DU/Acres).

This zoning request was heard by the Planning Commission on December 13, 2022. The Planning Commission recommended approval by a vote of 12 to 0.”

Marie Farmer, attorney representing the applicant, provided the property report; and explained the project consisted of five townhomes on a unique shaped parcel; the project represented an infill project on a difficult to develop site.

Following the presentation, the public hearing was closed. No speakers were in the audience to address the item.

MOTION by Council Member Williams, seconded by Council Member Freeman, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Suburban - 10 (RS-10) and establishing the same as Residential Suburban - Multifamily with a Text-only Development Plan (RS-M(D)) restricting the site to a maximum of five townhouse units at 9:54 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

ORDINANCE #16096

MOTION by Council Member Holsey-Hyman, seconded by Council Member Williams to adopt a Consistency Statement as required by NCGS 160D-605 at 9:55 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2200034, American Village Townhouses

Whereas the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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:

IN THE EVENT THAT THE MOTION TO APPROVE THE ORDINANCE IS ADOPTED,

That final action regarding zoning map change Z2200030, American Village Townhouses, is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable, as provided in the ‘Consistency with Adopted Plans’ and ‘Reasonable and in the Public Interest’ sections of the staff report; regarding the subject ‘Z2200030, American Village Townhouses’ along with additional agenda information provided to the City Council and information provided at the public hearing; and

Although the proposed zoning map change designation is inconsistent with the Future Land Use designation as provided on the Future Land Use Map (FLUM) of the Comprehensive Plan in Attachment C, the zoning change will amend the FLUM to a designation consistent with the proposed zoning change and other land use designations in the vicinity of the subject area; and

It is the objective of the Durham City Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This request promotes this by offering fair and reasonable development regulations supported by the ‘Consistency with Adopted Plans’ and ‘Reasonable and in the Public Interest’ sections of the staff report; regarding the subject ‘Z2200030, American Village Townhouses’ along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

**SUBJECT: ZONING MAP CHANGE- 1907 SOUTH MIAMI BOULEVARD
(ITEM 50/ PR 16018)**

Council Member Caballero presided over Item 50.

Andrew Lester, City-County Planning Department, made the following staff report:

The item represented a request for a zoning map change that was received from Patrick Byker, attorney with Morningstar Law Group, for one parcel of land totaling 0.178 acres and located at 1907 South Miami Boulevard. The current zoning is Residential Suburban – 20 (RS-20). The applicant proposes adding a Transitional Office Overlay (TO) to facilitate an office use on the property. This proposal is a general rezoning with no text or graphic development plan. The Planning Commission recommended approval by a vote of 10 to 2 at their December 13, 2022 meeting.

The properties are currently designated Office on the Future Land Use Map (FLUM) (Attachment C). The proposed Transitional Office Overlay zoning is consistent with the designated Future Land Use.

Following the staff report, Council Member Caballero opened the public hearing and announced there were speakers to the item:

Kenan Condor, representing the applicant Genesis Substance Abuse Services, 907 South Miami Boulevard, explained that the transitional office overlay category was ideal for a treatment center and that its use was consistent with the land use plan.

Talmage Layton, 6504 Cheek Road, spoke in opposition to the project; expressed concerns about having students in the vicinity of a rehabilitation center.

Brenda Brown, 1516 Tyonek Drive, expressed opposition to the project due to the proximity of the location to student playgrounds.

Council Member Caballero closed the public hearing.

The applicant of 610 Morgan Street addressed the opposition speakers; urged tolerance; and noted that many parishioners attend church for healing as were folks who seek healing from substance abuse.

Following discussion, the following motions were made:

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Williams, to adopt an ordinance amending the Unified Development Ordinance by taking property out of the Residential Suburban - 20 (RS-20) and establishing the same as Residential Suburban - 20 (RS-20), Transitional Office Overlay (TO) at 10:15 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None. **ORDINANCE #16099**

MOTION by Council Member Holsey-Hyman, seconded by Council Member Williams, to adopt a Consistency Statement as required by NCGS 160D-605 at 10:16 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Holsey-Hyman, Johnson and Williams. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z2200034, 1907 South Miami Boulevard

Whereas the Durham City Council, upon acting upon a zoning map change to the Unified Development Ordinance and pursuant to state statute GS 160D-605, 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 160D-605, 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:

IN THE EVENT THAT THE MOTION TO APPROVE THE ORDINANCE IS ADOPTED,

That final action regarding zoning map change Z2200034, 1907 South Miami Boulevard, is based upon review of consistency with the *Durham Comprehensive Plan* and any other officially adopted plan that is applicable, as provided in the ‘Consistency with Adopted Plans’ and ‘Reasonable and in the Public Interest’ sections of the staff report; regarding the subject ‘Z2200034, 1907 South Miami Boulevard’ along with

additional agenda information provided to the City Council and information provided at the public hearing; and

That the proposed zoning map change designation is consistent with the Future Land Use Designation as provided on the Future Land Use Map of the Comprehensive Plan in Attachment C; and

It is the objective of the Durham City Council to have the *Unified Development Ordinance* promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. This request promotes this by offering fair and reasonable development regulations supported by the 'Consistency with Adopted Plans' and 'Reasonable and in the Public Interest' sections of the staff report; regarding the subject 'Z2200034, 1907 South Miami Boulevard' along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the request is reasonable and in the public interest.

[OTHER MATTERS]

Council Member Williams addressed the importance of Council to listen, hear community members speak and to inform in a most respectful way; and when he heard inaccurate information, it was essential for him to address the inaccuracies and this was fair for all of us.

Council Member Freeman expressed frustration for community members who felt unheard by city staff.

Mayor Pro Tempore Middleton cautioned against prominent members of the community pulling in a select group and entitling them as 'the community'. He admitted that there were folks in the community whose voices were important; some community members were more vocal than others; urged caution when using the mantel of 'community' on seven people when there are 300,000 people in the city. He stated that leadership was a latin word for, 'sometimes you have to piss off your friends' and telling them the truth may be uncomfortable but that comes with leadership. Mayor Pro Tempore Middleton continued by asking if there were staff members disrespecting the public and if it was documented, then the Council should direct the City Manager to take action. Using vague, abstract, vaporous kind of references without; the burden on Council was higher than a community member just talking, and it was incumbent on Council to govern ourselves and be judicious with our language particularly about people who work for Council and if there were specific cases. He has heard five or six people being given the badge of the community and he stated, 'Any one of us have hundreds, thousands of people who support us but we still don't get to say 'I speak for the entire community' and I just think we need to be very careful of that'.

Council Member Holsey-Hyman referenced the passion of leaders within the community; and mentioned Mr. Chavis as a PAC spokesperson bringing back what the

people were saying. She encouraged better communication and respectfulness between public, staff and Council.

Council Member Caballero reminded Council that the item was on the Work Session agenda as a presentation item and asked further discussion to be conducted that day.

[ADJOURNMENT]

Seeing no additional business to come before Council, the meeting was adjourned at 10:26 p.m.

Diana Schreiber, CMC
City Clerk