

**DURHAM, NORTH CAROLINA
MONDAY, MARCH 21, 2022
7:00 P.M.
DRAFT MINUTES**

The Durham City Council met for a City Council meeting virtually via Zoom and in-person in the Council Chambers at 101 City Hall Plaza, with the following members present: Mayor Elaine O’Neal, Mayor Pro Tempore Mark-Anthony Middleton and Council Members, Javiera Caballero, DeDreana Freeman, Jillian Johnson and Leonardo Williams. Absent: None.

Also Present: City Manager Wanda Page, Deputy City Attorney Don O’ Toole, City Clerk Diana Schreiber, and Deputy City Clerk Ashley Wyatt.

[CEREMONIAL ITEMS]

Council Member Caballero read into the record the March for Meals Month Proclamation and presented it to Jason Peace of Meals on Wheels Durham.

[ANNOUNCEMENTS BY COUNCIL]

Mayor Pro Tempore Middleton reported that he and Council Members Freeman and Williams attended the Nation League of Cities Conference in Washington, DC; suggested applying ARPA funds be used to assist residents with delinquent water bills; spoke to the At-Large Vacancy process that had been underway; and encouraged interested residents to apply and wished Mayor O’Neal a Happy Birthday.

Council Member Freeman thanked Mayor Pro Tempore Middleton for the overview of their time at the National League of Cities Conference and congratulated Mayor O’Neal on the birth of her grandchild that morning.

Mayor O’Neal thanked both Mayor Pro Tempore Middleton and Council Member Freeman for their remarks.

Council Member Williams also remarked on the experience he had at the National League of Cities Conference and spoke encouraging words to the residents of Durham, based on what he had learned there.

PRIORITY ITEMS BY THE CITY MANAGER, CITY ATTORNEY AND CITY CLERK

City Manager Page noted that, Item had additional information included.

City Clerk Schreiber and Deputy City Attorney O’Toole had no priority items.

[CONSENT AGENDA]

SUBJECT: DURHAM CITY-COUNTY APPEARANCE COMMISSION – APPOINTMENTS (ITEM 1/ PR #15264)

MOTION by Council Member Freeman, seconded by Council Member Caballero, to reappoint Thomas J. Flynn to the Durham City-County Appearance Commission with the term to expire on April 1, 2025; and to appoint Leah F. Selvy to the Durham City-County Appearance Commission with the term to expire on April 1, 2025 (Due to the term expiration of Thomas J. Flynn and the resignation of Lyn McClay), was approved at 7:20 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, and Williams. Noes: None. Absent: None.

SUBJECT: AUDIT SERVICES OVERSIGHT COMMITTEE - 2021 ANNUAL REPORT (ITEM 2/ PR #15258)

MOTION by Council Member Freeman, seconded by Council Member Caballero, to receive the 2021 Audit Services Oversight Committee annual report, was approved at 7:20 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: ACRA FITTS-POWELL AFFORDABLE RENTAL PRESERVATION GRANT AGREEMENT (ITEM 3/ PR #15279)

MOTION by Council Member Freeman, seconded by Council Member Caballero, to authorize the City Manager to enter into a grant agreement with ACRA in an amount not to exceed \$356,142 funded with Affordable Housing Bond funds. This amount includes an additional \$15,000, approved by the Community Development Department, for the temporary relocation of the tenants that currently reside at the Project, was approved at 7:20 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: AMENDMENT #1 TO CONTRACT #17648 WITH MOSS+ROSS LLC FOR COMMUNICATIONS CONSULTING SERVICES (ITEM 4/ PR #15270)

MOTION by Council Member Freeman, seconded by Council Member Caballero, to authorize the City Manager to amend contract #17648 with moss+ross LLC to provide communications consulting services to extend the contract term by 18 months and increase the budget by \$150,000, funded with Dedicated Housing Funds, increasing the total contract value from \$150,000 to \$300,000, was approved at 7:20 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: DURHAM CITY-COUNTY INTERLOCAL AGREEMENT FOR CONTINUATION OF THE GANG REDUCTION STRATEGY (ITEM 5/ PR #15282)

MOTION by Council Member Freeman, seconded by Council Member Caballero, to authorize the City Manager to enter into an Interlocal Agreement with Durham County in an amount not to exceed \$170,745 for the continuation of the Gang Reduction Strategy, was approved at 7:20 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson and Williams. Noes: None. Absent: None.

SUBJECT: RESOLUTION AUTHORIZING THE VIRTUAL CITY AUCTION (ITEM 6/ PR #15265)

MOTION by Council Member Freeman, seconded by Council Member Caballero, to adopt a resolution authorizing the Virtual City Auction to be held on April 3, 2022 at 6:00 p.m. Eastern Standard Time (EST), was approved at 7:20 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson and Williams. Noes: None. Absent: None.

RESOLUTION #10251

SUBJECT: CONTRACT SW-87, BRAGTOWN SIDEWALK IMPROVEMENTS 2022 (ITEM 7/ PR #15200)

MOTION by Council Member Freeman, seconded by Council Member Caballero, to authorize the City Manager to execute a contract for SW-87, Bragtown Sidewalk Improvements 2022 with SA Hauling & Utilities, LLC in the amount of \$1,431,150; to establish a contingency fund in the amount of \$71,557.50; and to authorize the City Manager to negotiate and execute change orders to the contract provided that the total contract cost does not exceed \$1,502,707.50, was approved at 7:20 p.m. by the following vote: Ayes: Mayor O’Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, and Williams. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: PUBLIC HEARING ON THE FY2022-23 BUDGET AND FY2023-2028 CAPITAL IMPROVEMENT PLAN (CIP) (ITEM 10/ PR #15262)

John Allore, Director of Budget and Management Services, introduced the item To conduct a public hearing to receive comments on the development of the FY2022-23 Budget and FY2023-28 Capital Improvement Plan (CIP).

Mayor O’Neal opened the public hearing to receive comments on the development of

the FY2022- 23 Budget and FY2023-28 Capital Improvement Plan (CIP) and called for any speakers to the item.

Council Member Freeman noted that the public comment period was opened until after the final Budget Public Hearing in June.

Stella Adams, a resident of Durham, spoke to the need for the budgetary process to be equitable for both past and present actions done to the historical neighborhoods in the City and expressed a need for improved access to transit.

Danette Wilkins, a resident of Durham, spoke in opposition of the Shot Spotter proposal and called for it to be removed. She cited information that she believed indicated that the technology did not work.

Chi Vo, a resident of Durham, spoke in support of the recommendations made by the Open Space and Trails Commission to hire a full time employee to address open space needs.

Laura Stroud, a resident of Durham, spoke in support of the recommendations made by the Open Space and Trails Commission to hire a full time employee to address open space needs.

Larisa Siebel, a resident of Durham, addressed the increased need for Affordable Housing and preventing evictions. She requested that Council allocate 6 million dollars in funding for those causes.

Brittany Price, a resident of Durham, spoke in opposition to the Shot Spotter technology and asked that Council look for different avenues to address gun violence.

Angela Vick-Lewis, a resident of Durham, spoke to the homelessness issue that was happening in the city and asked for continued funding for the Hotel to Home program and to the non-profits in the City. She also stated that she was aware of a local veteran that was homeless due to not being able to sign up in time for a shelter while he was serving the country.

John Tallmage, Executive Director of Bike Durham, spoke to the need for increased pedestrian and cyclist safety and requested that the City Manager's authority be increased to sign higher value contracts without Council approval.

Austin Hopper, a resident of Durham, called for investing in more resources to increase the speed and delivery of notification to residents on various projects.

Council Member Caballero thanked Ms. Vick-Lewis for her comments and expressed concern for the eviction crisis that the city was experiencing.

Council Member Williams echoed the concern regarding evictions in the City; called

on private sector entities to collaborate on public-private partnerships to solve community issues; spoke to the different perspectives that residents had on the shot spotter proposal; and requested that residents try to keep an open minded on various ways to curb gun violence.

Mayor Pro Tempore Middleton thanked all the speakers for their opinions on the budget and stated that the CEO of Shot Spotter was going to be coming to Durham to answer all of Council's questions regarding the technology.

Council Member Freeman thanked the speakers for their comments and echoed the need for equity in all aspects of the budget and within the city.

Mayor O'Neal thanked Council and the residents for providing their opinions on the budget. She also thanked staff for assisting with the onboarding of Council Member Williams and herself.

**SUBJECT: CONSOLIDATED ANNEXATION - CARVER STREET ASSEMBLAGE
(ITEM 11/ PR #15275)**

Alexander Cahill, Senior Planner, stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law, and the affidavit of the notice were on file in the Planning Department and provided the following staff report:

A request for a utility extension agreement, voluntary annexation and initial zoning map change had been received from Tim Sivers of Horvath Associates for seven parcel(s) of land totaling around 134 acres and located around Cub Creek Road, Carver Street, and Old Oxford Road. The annexation petition was for a contiguous expansion of the existing corporate limits. An eighth parcel located at 937 Old Oxford Road was already within the city limits, and was included in the associated zoning application. The intent of the contiguous annexation petition was to connect to City utilities, and facilitate the construction of residential units.

The current zoning for the seven parcels was Residential Suburban-20, and for the eighth parcel already within the city was Residential Suburban-20 and Residential Urban-5. The applicant proposed to change the designation of the 8 parcels to Planned Development Residential 7.000 to allow for the construction of up to 821 residential units with a mix of single-family, apartments, and townhomes.

The history and evolution of the proposal was important context for the Council and the community. At the Planning Commission public hearing in August of 2020, the Bragtown Community Association, as well as community members from the Bragtown neighborhood, gave a presentation about the potential harms the proposal at the time could have potentially caused. The community members identified the lack of affordable housing, lack of environmental protections, lack of engagement, and lack of investment in a historically marginalized and traditionally underserved neighborhood as concerns. At that time, a different developer was involved with the proposal.

Since that public hearing, the applicant and a new developer with a background in affordable housing development worked to address the concerns by adding a significant contribution of affordable housing inventory with 198 income-restricted units, increasing environmental protections, and engaging in a community engagement effort with the Bragtown Community that led to substantive changes to the proposal based on community input.

At the public hearing on January 27, 2022, the applicant made several additional proffers to further strengthen the proposal in response to community member input. These included:

Revision to text commitment #13 to clarify the pool and clubhouse are being built and used in the income restricted component of this development. This does not prohibit the applicant from building additional pools, clubhouses, or amenities for the market rate component of the project, but ensures the income restricted units have access to their own amenities.

New text commitment #22 to ensure no trees were being removed in the floodplain except as necessary to construct the allowed active open spaces and utility connections. This is modified from the original commitment that no trees were to be removed from the floodplain, but was revised in order to accommodate the trail and utility connections. Staff determined this was a minor revision and maintains the intent of the commitment as discussed with the Planning Commission.

New design commitment #5 to ensure at least 40 of the units will be alley-loaded.

New text commitment #23 and graphic commitment to provide a 150-foot stream buffer along the stream along the northwest portion of the site.

Mayor O'Neal opened the public hearing and called for any speakers to the item.

Mayor Pro Tempore Middleton acknowledged that the organization that he led invested land in the area of the proposed item; however, he did not have any conflict of interest in hearing or voting on the item.

Council Member Freeman questioned the amount of units.

Mr. Cahill stated that the applicant was better suited to speak to the reasons behind the number of units proposed.

Patrick Byker, an attorney representing the applicant, spoke to the numerous text commitments that included but were not limited to; affordable housing and infrastructure improvements and the unanimous vote of approval by the Planning Commission.

Vanessa Evans, a resident of Durham and President of the Bragtown Community Association, spoke in support of the item and called on the Council to support the item as well.

Donna Fredrick, a resident of the Bragtown neighborhood of Durham, spoke in support of the item and thanked the developer and staff for how they had communicated with the residents on their plan for affordable housing.

Ivone Gomez, a resident of Durham and business owner, spoke in favor of the item and asked Council for their support.

Ana Maria Salazar, a resident of Durham, spoke in favor of the item and stated that she believed that the project would bring economic benefits and opportunities to the community.

Stella Adams, a resident of Durham, spoke in favor of the item and appreciated the income restricted component of some of the units.

Matthew Council, a resident of Durham, spoke on behalf of his neighborhood that resided on Cub Creek Road, and stated the limited access for emergency vehicles to reach their neighborhoods as the basis for their foundation. He also requested that Council only approved the item if they committed to the traffic improvements notated in the Traffic Impact Analysis.

Crystal Sterling, a resident of Durham and of Cub Creek Road, spoke in opposition of the item. She stated that the developers were not having to adhere to the same standards that the homeowners would have had to if they were looking to do the same development.

Onofrio Castiglio, a resident of Durham, spoke in opposition because the developer did not intend to improve Cub Creek Road.

Rebecca Painter, a resident of Durham County, opposed the proposed density of the item.

Mayor O'Neal declared the public hearing closed.

Council Member Johnson asked why the developer was not required to add improvements to Cub Creek Road.

Bill Judge, Assistant Director of Transportation, stated that the portion of Cub Creek Road in question was property of North Carolina Department of Transportation.

Mayor Pro Tempore Middleton expressed his support for the item and commended the Bragtown neighborhood activists for seeing their requests come to fruition.

Council Member Williams thanked the residents for being involved in the process and to the developer for adhering to their requests for improvements to their neighborhood. He also asked if there was another source of funding for other projects.

Mr. Cahill responded that there was an engagement ambassador program to develop different ways to acquire resources.

Council member Johnson noted that the case was a great example of how community engagement was able to lead to better development outcomes.

Council Member Caballero expressed her support for the item; however, she highlighted the difference between the project before them and others; which was that the developer needed approval from Council and other projects did not. She also spoke to how larger development firms were able to make proposals that smaller firms were not.

Council Member Freeman expressed concern for the Cub Creek Road residents and called on the City-County Planning Department to look into possible solutions.

MOTION by Council Member Williams, seconded by Council Member Freeman, to adopt an Ordinance annexing 'Carver Street Assemblage' into the city of Durham effective March 31, 2022; and to authorize the City Manager to enter into a utility extension agreement with Kelley Development Company, LLC, was approved at 9:39 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, and Williams. Noes: None. Absent: None.

ORDINANCE #15916

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to adopt an Ordinance amending the Unified Development Ordinance by taking property out of the Residential Suburban-20 (RS-20); Falls/Jordan Watershed Overlay District-B (F/J-B) (County Jurisdiction) and Residential Suburban-20 (RS-20), Residential Urban-5 (R-5), Falls/Jordan Watershed Overlay District-B (F/J-B) and establishing the same as Planned Development Residential 7.000 (PDR 7.000), Falls/Jordan Watershed Overlay District-B (F/J-B) (City jurisdiction), was approved at 9:41 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, and Williams. Noes: None. Absent: None.

ORDINANCE #15917

MOTION by Mayor Pro Tempore Middleton, seconded by Council Member Freeman, to adopt a Consistency Statement as required by NCGS 160D-605, was approved at 9:42 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, and Williams. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
ZONING MAP CHANGE CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL
REGARDING Z1900009, Carver Street Assemblage

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 Z1900009, Carver Street Assemblage, 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 and Attachment U, 'Criteria for FLUM Change'; regarding the subject 'Carver Street Assemblage, Z1900009' 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 4, 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.

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, the applicant's responses to the Community Goals & Objectives & Public Interest Statements in Attachment L; regarding the subject 'Carver Street Assemblage, Z1900009' 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: CONSOLIDATED ITEM - TROSA MAIN CAMPUS EXPANSION (ITEM 12/ PR #15277)

Mayor O'Neal opened the public hearing and called for the City Clerk to swear in all witnesses. She also asked if any Council Members heard any information other than what had been provided by staff and if they needed to recuse themselves for any reason.

No Council Members responded.

Robin Schultze, Senior Planner, stated for the record that the Planning Department hearing item had been advertised and noticed in accordance with state and local law and that affidavits of all notices were on file in the Planning Department and provided the following staff report:

Requests for a major special use permit (M2100001), and a major site plan (D2100306) had been received from CJTpa representing TROSA Residential Inc. to construct a two-story dormitory addition. The addition was to be approximately 17,480 square feet on the existing 13.20-acre TROSA Main Campus Site, located at 1820 James Street, which was zoned RS-M (Residential Suburban – Multifamily) and located within the Urban Tier. While the use of the site was not to change, the expansion of a college or university use required the issuance of a major special use permit (MSUP) pursuant to Unified Development Ordinance (UDO) Section 5.1.2, Use Table.

When a site plan was associated with a required major special use permit, that site plan shall be considered a major site plan, which required governing body approval. If Council approved the major special use permit, then the Council would also consider the approval of the associated major site plan, case D2100306. The site plan item did not require a public hearing, but it did require a separate vote for approval.

If Council elected to deny the major special use permit, the associated major site plan was not to be approved, as the site plan would not have been in compliance with applicable UDO standards.

Mayor O'Neal opened the public hearing and asked for any speakers to the item.

Patrick Byker, an attorney representing the applicant, provided the Council with the credentials of the applicant team/ witnesses. He outlined the plans for the proposed expansion and asked Council for their support.

Former Mayor Bill Bell provided historical background on TROSA as a former Durham County Commissioner and as a former Council Member of the City of Durham. He asked Council for their support on the Major Special Use Permit.

Mayor O'Neal asked if there were any questions for the witness. There were none.

Former Mayor Nick Tennyson echoed the comments made by former Mayor Bell and advocated for the project. He characterized TROSA as a model corporate citizen of Durham.

Mayor O'Neal asked if there were any questions for the witness. There were none.

Grant Gardner, President of the Tuscaloosa-Lakewood Neighborhood Association in

Durham, spoke in support of the item and stated that TROSA had always addressed any resident concerns over the course of their time in the neighborhood.

Mayor O'Neal asked if there were any questions for the witness. There were none.

Dan Jewell, Civil Engineer, spoke to the sound nature of the project such as lighting, light fixtures, signage, utilities, and recalled his professional credentials.

Mayor O'Neal asked if there were any questions for the witness.

Council Member Johnson asked if the map provided was the current site.

Mr. Jewell advised that the map was a Master Plan.

Lyle Overcash, Senior Project Manager and Transportation Engineer, addressed the transportation aspect of the project. He stated that after his review of the expansion there were minimal changes to the transportation component except additional parking being created and a minor increase to traffic, but it was not significant.

Mayor O'Neal asked if there were any questions for the witness. There were none.

Jarvis Martin, Real Estate Appraiser, concluded that homes in close proximity to TROSA facilities and those further away from the facility showed no difference in sales prices or resale value based on his 2 year analysis.

Mayor O'Neal asked if there were any questions for the witness.

Council Member Williams asked if the expansion was going to have an impact on the upcoming tax valuation.

Mr. Jarvis stated that tax valuation was not a part of his analysis.

Mr. Byker summarized all of the testimony made by the witnesses, entered exhibits A-E into the record, and asked for the project's approval.

Mayor O'Neal called for any opponents to the item.

Seeing no additional comments, Mayor O'Neal closed the public hearing and asked staff for their recommendation.

Mr. Schultze stated that staff recommended the approval of the item.

MOTION by Council Member Caballero, seconded by Council Member Freeman, to approve the Major Special Use Permit for case M2100001, TROSA Main Campus Expansion, was approved at 10:27 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson, and

Williams. Noes: None. Absent: None.

MOTION by Council Member Williams, seconded by Council Member Caballero, to approve the Major Site Plan for case D2100306, TROSA Main Campus Expansion, was approved at 10:28 p.m. by the following vote: Ayes: Mayor O'Neal, Mayor Pro Tempore Middleton and Council Members Caballero, Freeman, Johnson and Williams. Noes: None. Absent: None.

OTHER MATTERS

There were no other matters.

ADJOURNMENT

Seeing no additional business to come before Council, Mayor O'Neal declared the meeting adjourned at 10:30 P.M.

Ashley Wyatt, NCCMC, CMC
Deputy City Clerk

Diana Schreiber, NCCMC, CMC
City Clerk

