COUNCIL MINUTES

The City Council of the City of Raleigh met in regular session at 1:00 p.m. on Tuesday, November 1, 2016 in the City Council Chamber, Raleigh Municipal Building, Avery C. Upchurch Government Complex, 222 West Hargett Street, Raleigh, North Carolina, with the following present:

Mayor Nancy McFarlane
Mayor Pro Tem Kay C. Crowder
Councilor Mary-Ann Baldwin
Councilor Corey D. Branch
Councilor David N. Cox
Councilor Bonner Gaylord
Councilor Russ Stephenson
Councilor Dickie Thompson

Mayor McFarlane called the meeting to order at 1:04 p.m. Invocation was rendered by Rabbi Eric Solomon of Beth Meyer Synagogue, and the Pledge of Allegiance was led by Councilor Gaylord. The following items were discussed with action taken as shown.

COMMUNITY CONVERSATIONS – MEETINGS ANNOUNCED

Mayor McFarlane read the following statement into the record:

> At the October 4th City Council meeting, I provided an update on the progress of the Community Conversations. These meetings are designed to create a safe space for open, honest conversation with the community to allow the City to hear directly from the public about concerns they have related to how government interacts with the community and government services.
>
> Through these conversations, we hope to bring to light many of the challenges that face our community; this includes the community relationship with the Raleigh Police Department and other City departments, as well as access and opportunity related to affordable housing, transportation, and jobs and the role of race in our community.
>
> As previously announced, we will begin with two citywide conversations. The first will be on Monday, November 14th from 6:30 – 8:30 p.m. at the Marbles Kids Museum and the second will be on Wednesday, November 16th from 6:30 – 8:30 p.m. at the Millbrook Exchange Community Center. These will followed by five district meetings.
>
> These are important discussions that will enlist the help of all who participate to begin to identify meaningful and achievable solutions to challenges facing our community. I encourage everyone to participate and take part in securing Raleigh's future as a community where everyone feels safe and valued.

RECOGNITION OF SPECIAL AWARDS

APPOINTMENTS – VARIOUS – CERTIFICATES OF APPOINTMENT PRESENTED

Mayor McFarlane presented Certificates of Appointment to Priscilla Peace, who was recently reappointed to the Housing Appeals Board, and Christopher Bostic, who was recently reappointed to the Stormwater Management Advisory Commission. Ms. Peace stated she has the pleasure of serving her third term on the Board. She said this is a great opportunity that she does not take lightly and she is happy to serve.

PROCLAMATION – 1970 BROUGHTON HIGH SCHOOL STATE 4A FOOTBALL CHAMPIONSHIP REMEMBRANCE DAY – PROCLAIMED

Mayor McFarlane asked Mr. Thompson to join her at the podium and called forward Coach David Riggs of Broughton High School. The Mayor read aloud a proclamation proclaiming November 27, 2016 "1970 Broughton High School State 4A Football Championship Remembrance Day" in Raleigh, in honor of the 46th anniversary of the team's win. The proclamation noted the 1970 Broughton High School football team was the last to have played a game at the Devereux Meadow field, and that the team's championship season was chronicled in the book "Play With Your Hearts," written by Coach Riggs. Mr. Thompson, a member of that 1970 team, asked Coach Riggs' wife Marie to come to the podium as well, stating she was an integral part of the 1970 team and was their biggest cheerleader and supporter. He said Coach Riggs had a way of coaching that made every team member feel special and important. Mr. Thompson thanked the coach for being a wonderful mentor and role model to all the players, adding he has made a difference in the lives of hundreds of players, including Mr. Thompson himself. Mayor McFarlane also read aloud a letter of congratulations from the Mayor. The letter noted Coach Riggs was only 23 years old and a first-year head coach when Broughton won the state football championship 46 years ago, and it was the last Raleigh high school to do so.

Later in the Council meeting, under Report and Recommendation of the City Council, Mr. Thompson thanked Mayor McFarlane for the special recognition of his coach and team. They were having an anniversary celebration and team members will be flying in from all over the country. He said it will be very special for him to be able to read that proclamation to them.

AGENCY GRANTEE PRESENTATION

AGENCY GRANTEE PRESENTATION – INTERNATIONAL FOCUS, INC.

Bearta Al-Chacar, Vice President and International Festival Chair of International Focus, Inc., stated that the festival was formed in 1986. At a time when tensions about race and ethnicity are high, the festival celebrates what unites us: art, history, and culture. The City of Raleigh has consistently shown tolerance, understanding, and respect and has welcomed its international community and businesses with open arms. On October 14, approximately 3,000 students attended the festival to witness the naturalization ceremony of 150 new U.S. citizens from over 50 countries. Of over 1,100 exit surveys taken this year, over 75% of them rated the International Festival outstanding. International Focus, Inc. continues to involve the Raleigh

Arts Commission; Shop Local Raleigh; the Raleigh Parks, Recreation, and Cultural Resources Department; area schools; and artists from North Carolina. The organization tries to bridge together the international community in Raleigh, a growing city with much to offer. Their 2017 goal is to increase school involvement by providing cultural talks to schools and businesses. Ms. Al-Chacar asked for the City Council's continued support through funding, especially through the Raleigh Arts Commission and reduced rates at the Convention Center. The International Festival runs on volunteer power and sponsorship, and there is a lot of growth potential. She stated the group is privileged to be part of an open-minded, affluent community and on behalf of the international community, she offered a sincere "thank you" to the City of Raleigh, the Raleigh Arts Commission, and the citizens of Raleigh. Mayor McFarlane said she agrees that the festival has great potential for growth in the future and she looks forward to it.

CONSENT AGENDA

Mayor McFarlane presented the Consent Agenda, indicating all items are considered to be routine and may be enacted by one vote. If a Councilor requests discussion on an item, the item will be removed from the Consent Agenda and considered separately. The vote on the Consent Agenda will be a roll call vote. Mayor McFarlane announced the Council members had received a revised annual budget review schedule which added work sessions that had been inadvertently omitted from the agenda packet. In addition to this correction, she had received the following requests to withdraw items from the Consent Agenda: Street Closing – STC-05-2016 – Washington Terrace (Branch); Municipal Agreement – Raleigh BikeShare Program – North Carolina Department of Transportation (Crowder/Gaylord/Thompson); and Commercial Loading Zone – 3000 Block of Hillsborough Street (Gaylord). Without objection, those items were withdrawn from the Consent Agenda. Mr. Thompson moved approval of the Consent Agenda as amended. His motion was seconded by Ms. Baldwin and a roll call vote resulted in all Council members voting in the affirmative. The Mayor ruled the motion adopted on a vote of 8-0. The items on the Consent Agenda were as follows.

CITY COUNCIL 2017 MEETING SCHEDULE – APPROVED

Included with the agenda packet was a proposed schedule for meetings of the City Council during calendar year 2017. The annual schedule reflects the regular, work session, and committee meeting structure stipulated by the City Council during the January 2016 annual retreat.

The City Council traditionally meets in regular session on the first and third Tuesday of each month. Day of the week changes to the proposed schedule include a shift to Wednesday, July 5 due to the Independence Day holiday and to Wednesday, October 11 due to the 2017 municipal elections. The calendar also reflects a shift from the traditional summer break in August to a July-August break, a calendar revision which was also discussed during the January 2016 annual retreat. As a result of the summer break shift, Council will meet the first week in July and not convene again until the second Tuesday work session in August.

Recommendation: Adopt the 2017 meeting schedule. Upheld on Consent Agenda, Thompson/ Baldwin – 8 ayes.

2017 BUDGET REVIEW SCHEDULE – APPROVED

The annual budget review schedule includes dates that are statutorily required (City Manager's proposed budget presentation and required public hearing) as well as those that have historically been used in the annual budget process by the City Council (work sessions and the pre-budget public hearing). The schedule informs and notifies the public of the upcoming budget review process.

The Council and the City Manager may revise or add to the schedule at a later date. The following schedule is proposed for the FY 2017-18 budget review process:

- Pre-Budget Hearing by City Council: January 3, 2017, 7:00 p.m.
- City Council Budget Work Sessions:
  - February 27, 2017, 1:00 pm
  - March 15 2017, 100 pm
  - April 5 2017, 4:00 pm
- Presentation of Proposed Operating Budget and Proposed Capital Improvement Program: May 16, 2017
- Public Hearing on budget proposals: June 6, 2017, 7:00 p.m.
- City Council Budget Work Sessions:
  - June 5, 2017, 4:00 pm
  - June 12, 2017, 4:00 pm
  - June 19, 2017, 4:00 pm (if needed)
  - June 26, 2017, 4:00 pm (if needed)

Adoption of the Annual Operating Budget for FY 2017-2018 and the Capital Improvement Program is required by July 1, 2017.

Recommendation: Adopt the 2017 annual budget review schedule. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

SALE OF SURPLUS PROPERTY – TWO SEWER FLUSHER TRUCKS AND ONE COMPOST SCREENER – AUTHORIZED; RESOLUTION ADOPTED

Equipment which has reached the end of useful life includes two sewer flusher trucks assigned to Public Utilities and one compost screener utilized at the yard waste center and assigned to Solid Waste Services. The residual value of each of the units is estimated to exceed $30,000. The equipment has been replaced and is now considered surplus. City Council authorization is required for the sale of publicly-owned property when the value exceeds $30,000. A resolution authorizing the sale was included with the agenda packet.

Recommendation: Adopt the resolution to authorize the sale of surplus property. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes. See Resolution 398.

DONATION OF REAL PROPERTY – 0 OAKDALE DRIVE – ACCEPTED

Staff has been contacted by Trailwood Partners which desires to donate approximately 2.19 acres of real property to the City. The property is wooded, unimproved, and will be useful for the planned extension of Western Boulevard.

Transportation Department staff has reviewed the request and recommends accepting fee simple ownership of the 2.19 acres by donation. The property is located within proposed right-of-way which would be necessary for the future extension of Western Boulevard.

Recommendation: Accept the donation of approximately 2.19 acres of real property located at 0 Oakdale Drive. Authorize staff to conduct all necessary transactions to complete title conveyance. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

TRANSFER OF PRIVATE WATER SUPPLY SYSTEM – OXFORD PARK COMMUNITY – ACCEPTED

The Oxford Park community consists of 25 single-family homes, each served with individual water and sewer connections. Each home is individually metered. Streets in the subdivision are owned and maintained by a homeowners association and as such the water mains located within the street right-of-way are currently owned by the private homeowners association. Existing water meters are the only assets currently owned by the City. The Oxford Park Homeowners Association has requested that the water system and associated easements be dedicated to the City for ownership and operation. The system meets City standards for public ownership and the Public Utilities department, which is ultimately responsible for water quality to each meter, agrees that this system should be owned and operated by the City.

Recommendation: Accept the water system for public ownership and maintenance subject to execution of easements and transfer of construction drawings documenting the water system. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

COMMUNITY DEVELOPMENT ANNUAL ACTION PLAN – PUBLIC HEARING SCHEDULED FOR DECEMBER 6, 2016

The U.S. Department of Housing and Urban Development (HUD) requires entitlement communities under the Community Development Block Grant (CDBG), HOME Investment Partnership (HOME), and Emergency Solutions Grant (ESG) programs to conduct two public hearings annually. The first hearing occurs at the beginning of the process associated with the preparation of the Annual Action Plan; the purpose of the initial hearing is to obtain citizen views and input on housing and community development needs to include priority non-housing community needs. The second hearing is held prior to submission of the Annual Action Plan during the month of May to meet HUD program deadlines.

Recommendation: Authorize a public hearing for December 6, 2016. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

PARKS, RECREATION AND CULTURAL RESOURCES – BEST BUY FOUNDATION COMMUNITY GRANT AWARD – ACCEPTED; BUDGET AMENDED

The City has been awarded a $5,000 Community Grant from Best Buy to support the Raleigh Digital Connectors program. The funds will be used to purchase laptops and other computer related accessories for participants in the program. There is no City match required. On June 10, 2016 the grant application was administratively approved for submittal by the Grants Committee. A budget amendment in the amount of $5,000 is necessary to appropriate the grant proceeds; accounting details were included with the agenda packet.

Recommendation: Accept the grant and authorize a budget amendment in the amount of $5,000. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes. See Ordinance 641 TF 286.

TRANSIT MANAGEMENT SERVICES – TRANSDEV SERVICES, INC. – CITY MANAGER AUTHORIZED TO EXECUTE CONTRACT

Staff received three proposals for a five-year management contract for GoRaleigh transit services on September 23, 2016. A review committee consisting of staff from the Transit and Transportation Planning offices evaluated three firms using criteria listed in the published request for proposals. The evaluation criteria included financial management, project understanding, project organization, proposed management team, proposed maintenance plan, experience, and references. Based on the evaluations, the committee selected TransDev Services, Inc.

The scope of services include providing staff consisting of a general manager, maintenance manager, collective bargaining services, human resource and payroll services, accounting, and the hiring of all labor for the operation and maintenance of the GoRaleigh fixed route bus and facilities system. The term of the contract is from January 1, 2017 to December 31, 2021. The Raleigh Transit Authority reviewed and approved the recommendation at the October 13 meeting.

Name of the Project:	Transit Management Services
Managing Division:	Transportation – Transit
Reason for Council Review:	Contract amount >$150,000
Cause of Contract:	Management services for GoRaleigh
Vendor:	TransDev Services, Inc.
Amount of This Contract:	$2,047,411
Budget Transfer:	N/A
Encumbered With This Approval:	$392,605

Recommendation: Authorize the City Manager to execute a contract in an amount not to exceed $2,047,411. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

PETITION DRAINAGE AND CULVERT PROJECTS – NARRON CONTRACTING, INC. – CONTRACT AMENDMENT NUMBER TWO – CITY MANAGER AUTHORIZED TO EXECUTE AMENDMENT

In February 2016, the City Council approved a construction contract with Narron Contracting to construct various drainage repair and assistance projects throughout the City, including stormwater system repairs at Octavia Street, Royal Troon Drive, and Lewis Circle. This contract was amended in August 2016 to address an emergency repair at Alexander Drive and White Oak Road caused by the failure of the storm drainage system within the right-of-way. Extreme rainfall from late July and early August resulted in failure of the culvert below Alexander Drive, resulting in a shutdown of the roadway due to the threat of further collapse. During construction of this emergency repair, additional work to the public sanitary sewer system was required. In addition, in order to affect a full repair, additional work to the stormwater system outside of the right-of-way is necessary.

Staff recommends approval of amendment number two to this contract to provide for these unanticipated overages at the current contract prices and to allow the additional time necessary to complete this work. Funding for these repairs is available in the Stormwater System Repairs account, which was more substantially funded following the recent stormwater fee increase which greatly assists with providing emergency funding for unanticipated projects of this nature.

Contract History:	
Name of Project(s):	Petition Drainage and Culvert Projects
Managing Division:	Engineering Services – Stormwater Management
Approval Request:	Contract amendment
Reason for Council Review:	Contract amount >$500,000
Original CIP Project Budget:	$585,083
Vendor:	Narron Contracting, Inc.
Prior Contract Activity:	Original Contract $160,083 (Administrative)
Amendment One:	$320,000 (Administrative)
Amount of This Amendment:	$105,000
Encumbered With the Approval:	$585,083
Budget Transfer Required:	None

Recommendation: Authorize the City Manager to execute the contract amendment in an amount not to exceed $105,000. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

STORMWATER QUALITY COST SHARE – 1201 WATAUGA STREET – PETITION FOR FUNDING ASSISTANCE APPROVED

The Stormwater Quality Cost Share policy provides a funding mechanism to assist organizations and citizens in improving water quality through the installation of stormwater best management practices on private property beyond what is required by environmental regulations. The practices supported by the policy are aimed at reducing non-point source pollution from stormwater runoff, increasing water conservation measures, minimizing soil erosion, reducing

flood damage, and reducing nutrient loads. Since adopted in 2009, the City Council has approved allocation of $250,000 per year for these projects.

A petition for funding assistance for the installation of a 1,790-gallon underground cistern at a residential property located at 1201 Watauga Street has been reviewed by the Stormwater Management Advisory Commission. When reviewing requests, the Commission considers the estimated project cost, water quality benefits, past requests for similar practices, available funding, and project sustainability. This cistern will capture stormwater runoff from a residential rooftop for irrigation use, thereby reducing pollutant loads to local streams, specifically Pigeon House Branch, and conserving potable water. The property owner has agreed to the required ten-year maintenance term for the project. This project is comparable to past requests for cisterns in scope and cost.

The Commission recommends approval of this request, which totals $12,647 and includes a City contribution not to exceed $11,383 from the Stormwater Quality Cost Share program, a part of the annual capital improvement program. The City contribution is 90 percent of the total estimated cost, based on this location being within a priority water quality target area as provided in the policy. The total cost estimate is based on quotes from several contractors and technical advice offered by staff.

This recommendation for approval is contingent upon the property owner ensuring the project complies with all applicable City standards, ordinances, and regulations.

Recommendation: Approve the petition request for a City contribution not to exceed $11,383. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

FIRST AID, CPR, AND EMERGENCY MEDICAL TRAINING SERVICES – CONTRACT AWARDED TO SOUTHEASTERN EMERGENCY EQUIPMENT; CITY MANAGER AUTHORIZED TO EXECUTE CONTRACT

The City utilizes contractual services to provide first aid, CPR, and emergency training services to full-time and part-time staff in the Parks, Recreation, and Cultural Resources department. Following a request for proposals process, staff received two proposals to provide services through October 2021. Staff evaluated the proposals based on a scoring system and Southeastern Emergency Equipment received the highest score. Staff recommends awarding Southeastern Emergency Equipment a service contract in an amount not to exceed $167,000 over the five-year period.

Name of Project:	First Aid, CPR and Emergency Medical Training Services
Managing Division:	Parks, Recreation, and Cultural Resources Department – Resources Division
Approval Request:	Contract award
Reason for Council Review:	Contract award >$150,000
Vendor:	Southeastern Emergency Equipment
Encumbered With This Approval:	$20,000 (remainder of FY17)

Recommendation: Authorize the City Manager to execute the contract in an amount not to exceed $167,000. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

KIWANIS PARK IMPROVEMENTS – PROFESSIONAL SERVICES – CITY MANAGER AUTHORIZED TO EXECUTE CONTRACT WITH KIRWAN ARCHITECTURE, PLLC

Kiwanis Park improvements include renovations to the Neighborhood Center, as well as providing a new picnic shelter, comfort station, sport courts, and playground, while improving site connectivity, accessibility, parking, and baseball field drainage. RFQs were submitted by 11 firms with Kirwan Architecture selected, and staff negotiated a professional services contract in the amount of $168,000. Staff has negotiated a professional services contract with Kirwan Architecture for Kiwanis Park.

Name of Project:	Kiwanis Park Improvements
Managing Division:	Parks, Recreation, and Cultural Resources Department – Design Development Division
Approval Request:	Contract award
Reason for Council Review:	Contract award >$150,000
Original Project Budget:	$100,000 $68,000
Design Fee Proposal:	$168,000
Vendor:	Kirwan Architecture, PLLC
Prior Contract Activity:	N/A
New Project Budget:	$168,000
Currently Encumbered (% of estimate):	0%
Amount of This Contract:	$168,000
Encumbered With This Approval:	$168,000

Recommendation: Authorize the City Manager to execute a contract in an amount not to exceed $168,000. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

POLICE DEPARTMENT – LEASE OF OFFICE SPACE – 5240 AND 5226/5230 GREENS DAIRY ROAD – VARIOUS ACTIONS APPROVED; RESOLUTION ADOPTED

The City currently leases 44,262 square feet at 4501 Atlantic Avenue for location of Police's detective and quartermaster divisions. The lease is set to expire on June 30, 2017. In light of the recent sale of this site, and undetermined future space availability and growth potential at this facility, it was determined that other space alternatives should also be investigated. A market survey of available lease options was conducted, followed by a review and selection of two preferred sites. Lease proposals were subsequently requested and received from 4501 Atlantic Avenue, LLC, owners of 4501 Atlantic Avenue, and TDC Blue III, LLC, owners of 5240 and 5226/5230 Greens Dairy Road for the City's consideration.

The basic terms and conditions recommended for a new lease for detective and quartermaster divisions at 5240 Greens Dairy Road and amendment/extension to the existing lease for the Northeast District Station at 5226/5230 Greens Dairy Road are as follows:

5240 Greens Dairy Road – New Lease:

- Lease Premises – 5240 Greens Dairy Road –office and facilities space containing approximately 54,905 square feet.
- Term – 11 years from July 1, 2017 through June 30, 2028.
- Base Rent – Initially $12.75 with periodic increases.
- In addition to base rent, the City shall pay its pro-rata share of the annual real property taxes, insurance, and common area maintenance expenses associated with the premises estimated to total $2.45 per square foot.
- Option to Renew – The City shall have the right to renew this lease for two five-year periods.
- Rent Concession – Rent abatement for a period of 12 months.

5226/5230 Greens Dairy Road – Existing Lease Amendment/Extension:

- Lease Premises – 5226/5230 Greens Dairy Road –office and facilities space containing approximately 23,840 square feet.
- Amendment/Extension Term – 79 Months from December 1, 2021 through June 30, 2028.
- Base Rent – Initially $12.75 with periodic increases.
- In addition to base rent, the City will continue to pay its pro-rata share of the annual real property taxes, insurance, and common area maintenance expenses associated with the premises.
- Option to Renew – The City shall have the right to renew this lease for two five-year periods.
- Rent Concession – Rent abatement for a period of six months.

Included with the agenda packet was a resolution prepared in accordance with the requirement for Local Government Commission approval of this lease.

Recommendation: Authorize execution of a new lease and amendment to the existing lease at 5226/5230 Greens Dairy Road, with general terms to be finalized by the City Manager and City Attorney. Adopt the resolution authorizing application to the Local Government Commission requesting approval of the lease. Following Local Government Commission approval authorize the City Manager to execute the lease agreement. Upheld on Consent Agenda, Thompson/ Baldwin – 8 ayes.

EAST COLLEGE PARK – PROFESSIONAL SERVICES – JDAVIS ARCHITECTS, INC. – CONTRACT AMENDMENT NUMBER THREE – CITY MANAGER AUTHORIZED TO EXECUTE CONTRACT AMENDMENT

The City is under contract with JDavis Architects to perform landscape architecture and land planning services for redevelopment focus areas. The original scope of work associated with improvements to the East College Park area has expanded to incorporate landscape architecture

and engineering services required to facilitate development options approved by City Council on June 7, 2016.

Landscape architecture and engineering services required as a result of the scope change include advancing development concepts in East College Park into the implementation phase. In addition, services involving parcel recombination, platting of five townhome subdivisions, design and construction documents for stormwater improvements, as well as design and construction documents for new sidewalks are included with the revised contract scope.

Contract History:

Name of Project:	East College Park Multidisciplinary Design Services
Managing Division:	Housing & Neighborhoods – Community Development Division
Request Reason:	Contract amendment >$150,000 (policy)
Vendor:	JDavis Architects, Inc.
Prior Activity:	$150,000 (Administrative)
Amendment Number One:	$95,000 (Council Approval – May 21, 2015)
Amendment Number Two:	$0 (Administrative-time extension)
Currently Encumbered:	$245,000
Budget Transfer:	N/A
Amount of This Amendment:	$381,300
Encumbered With This Approval:	$626,300

Recommendation: Authorize the City Manager to execute the contract amendment. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

NEUSE RIVER RESOURCE RECOVERY FACILITY – SOLAR DEVELOPMENT – CITY MANAGER AUTHORIZED TO EXECUTE 20-YEAR LEASE AGREEMENT WITH TO PVN MANAGEMENT, LLC

Staff issued a Request for Proposals (RFP) in November 2015 seeking proposals from solar developers interested in leasing a 53-acre site at the Neuse River Resource Recovery Facility. The RFP generated a high level of interest: there were 45 requests for the RFP, 18 firms in attendance at the mandatory information session, and two proposals received.

As the Council may recall, staff negotiated with and reached agreement on terms with the first-ranked applicant, SunEnergy1 of Mooresville, NC; then, in July 2016, SunEnergy1 decided to permanently withdraw their application. Subsequently, staff began negotiations with the second-ranked applicant, PVN Management, LLC, ("PVN") a Delaware-incorporated firm with offices in New York and California.

Staff recently completed negotiations with PVN. The structure of the proposed lease is substantially similar to the City's three existing solar lease agreements. The proposed agreement leases a 53-acre portion of the Neuse River Resource Recovery Facility located south of Old Baucom Road and west of Mial Plantation Road in Raleigh (the "Leased Premises") to PVN

Management, LLC, ("PVN") for the development of a solar photovoltaic system (the "System"). The lease would provide the Leased Premises to PVN for a term of 20 years, commencing with the system's commercial operation. For the portion of the system less than or equal to five megawatts (MW), PVN will pay the City rent in the amount of $10,000 per MW per year if interconnection costs are less than or equal to $600,000; or $8,000 per MW per year if interconnection costs exceed $600,000.

For any portion of the system above five MW, PVN will pay the City rent in the amount of $7,500 per MW per year. For the proposed 10 MW/13 MW system, rent is estimated at $87,500 per year. Rent will escalate at 1.5 percent per year thereafter. The addition of this system will more than quintuple the size of the City's solar portfolio, from 2.2 MW to 15.2 MW.

Recommendation: Authorize the City Manager to execute a 20-year solar development lease agreement, with general terms to be finalized by the City Manager and City Attorney. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

SUPERVISORY CONTROL AND DATA ACQUISITION SYSTEMS (SCADA) – CITI, LLC – CITY MANAGER AUTHORIZED TO EXECUTE CONTRACT

Supervisory control and data acquisition (SCADA) is a system for remote monitoring and control that operates with coded signals over communication channels. The control system may be combined with a data acquisition system by adding the use of coded signals over communication channels to acquire information about the status of the remote equipment for display or for recording functions. The Public Utilities department utilizes a SCADA system for the purpose of monitoring and controlling the treatment processes at Water Treatment and Resource Recovery Facilities as well as at remote water booster stations and sewer pump and lift stations.

The system is comprised of numerous programmable logic controllers (PLCs) that communicate via network with specialized software that converts the data into a format that operators can use to monitor system performance. On August 25, 2016, two proposals were received to provide SCADA system installation, programming, troubleshooting, and maintenance service for the Resource Recovery plants and remote facilities. CITI, LLC was selected based on firm's qualifications, project understanding, and firm's organization, experience and certifications. A two-year contract has been negotiated in the amount of $270,000 with an option to renew for three additional one-year terms.

Name of Project:	SCADA for Resource Recovery Facilities
Managing Division:	Public Utilities – Resource Recovery Division
Approval Request:	Contract award
Reason for Council Review:	Contract >$150,000 (policy)
Fiscal Year 17 Budget:	$135,000
Actual Contract Amount:	$270,000
Vendor:	CITI, LLC
Prior Contract Activity:	N/A

Recommendation: Authorize the City Manager to execute the contract in the amount not to exceed $270,000. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

PERSONNEL CHANGES – TRANSPORTATION DEPARTMENT – VARIOUS POSITION RECLASSIFICATIONS - APPROVED

Earlier this year City Council authorized a reorganization of the former Public Works department which resulted in a division and reallocation of various services and resources to form the Transportation and Engineering Services departments.

A new Transportation Director joined the City in August. Following evaluation, the following position reclassifications have been determined to be necessary in support of the functions assigned to the new department. The reclassifications below have been reviewed by the Human Resources Department. The fiscal impact of the reclassifications will be absorbed within existing approved salary and benefit appropriations for FY 2017.

Transportation
Equipment Operator I, vacant position, (Job Code 004011); PG 26; (Position Control Number 00003274) to Communications Specialist (Job Code 000459; PG 34) to develop and manage a communication strategy for the Transportation Department in coordination with Communications Department.

Maintenance Worker I, vacant position, (Job Code 004409); PG 25; (Position Control Number 00003310) to Senior Staff Analyst (Job Code 000445; PG 37) to fill a void in coordinating the operational and financial performance activities for the director and the department.

Equipment Operator II, vacant position, (Job Code 004012); PG 27; (Position Control Number 00003348) to Staff Assistant (Job Code 000434; PG 34) to fill a void in supporting the Transportation Director with a staff resource to provide day-to-day administrative support.

Recommendation: Authorize the position reclassifications. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

BUDGET AMENDMENTS AND TRANSFERS – VARIOUS – ORDINANCE ADOPTED

Council members received in their agenda packets a list of budget amendments and/or transfers to cover items as outlined on the agenda. The information included account codes, amounts, etc.

Recommendation: Approved as outlined. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

2014 SIDEWALK IMPROVEMENTS – GROUP A (BLOODWORTH STREET, BLOUNT STREET/ HOKE STREET/PERSON STREET, MILLBROOK ROAD, OAKWOOD AVENUE, AND RALEIGH BOULEVARD) – BID AWARDED TO BROWE CONSTRUCTION COMPANY; CITY MANAGER AUTHORIZED TO EXECUTE CONTRACT

Bids were received on Monday, October 10, 2016 at 3:00 p.m. for the 2014 Sidewalk Improvements – Group A project, with Browe Construction Company, Inc. submitting the low bid of $959,989. Minority and Women-Owned Business (MWBE) participation is 75 percent. The engineer's estimate for the project was $1,173,404, resulting in the low bid being below the engineer's estimate by 18.2 percent. Funding is available in the annual sidewalk project account. Staff recommends approval of Browe Construction Company's bid of $959,989.

Name of Project:	2014 Sidewalk Improvements – Group A Project
Managing Division:	Engineering Services – Design and Construction
Approval Request:	Bid award
Reason for Council Review:	Formal bid award >$500,000
Original CIP Project Budget:	N/A (petition project)
Revised CIP Project Budget:	N/A
Vendor:	Browe Construction Company, Inc.
Budget Transfer:	None
Prior Contract Activity:	N/A
Encumbered With This Approval:	$959,989

Recommendation: Approve and authorize the City Manager to execute the contract with Browe Construction Company, Inc. in the amount not to exceed $959,989. Upheld on Consent Agenda, Thompson/Baldwin – 8 ayes.

TRAFFIC – VARIOUS CHANGES – ORDINANCE ADOPTED

The agenda presented the following recommended changes to the Traffic Code. Ordinances adopted by the City Council authorizing the following traffic changes will become effective seven days after Council action unless otherwise indicated.

Speed Limit Reduction – Fiesta Way/Tylerton Drive/Glendower Road

It is recommended that the speed limit be reduced from 35 mph to 25 mph on Fiesta Way, Tylerton Drive, and Glendower Road from Leesville Road to Tylerton Drive. Fiesta Way is classified as Neighborhood Local while Tylerton Drive and Glendower Road are classified as Neighborhood Street. Fiesta Way, Tylerton Drive, and Glendower Road are all constructed to typical residential street standards. Staff has received a signed petition representing at least 75 percent of the residents or property owners along each street in support of a speed limit reduction.

No Parking Zones – New Hope Crossing Homeowners Association Community

It is recommended that seven No Parking Zones be established within the New Hope Crossing Homeowners Association (HOA) on Toccopola Street, Standing Rock Way, Tucca Way, Charny Drive, and Mantua Way. A request was received from Solid Waste Services and the two HOAs inside New Hope Crossing to have sections of Toccopola Street, Standing Rock Way, and Tucca Way converted to No Parking Zones in order to allow adequate distance for Solid Waste Services and emergency vehicles to maneuver around traffic islands to access the residences in this community. Currently, Solid Waste trucks are unable to access these properties and have to send smaller trucks to empty the dumpster, which is becoming inefficient. The proposed change would alleviate this issue. The HOAs have further requested that sections of Charny Drive and Mantua Way be converted to No Parking Zones in order to alleviate congestion when cars are parked along both sides of the street, preventing traffic from flowing safely in both directions.

Recommendation: Approve as recommended and authorize the appropriate changes in the Traffic Code as included with the agenda packet. Upheld on Consent Agenda, Thompson/ Baldwin – 8 ayes. See Ordinance 642.

END OF CONSENT AGENDA

STREET CLOSING – STC-05-2016 – BOOKER DRIVE AND NORTH FISHER STREET (PORTIONS) – RESOLUTION OF INTENT ADOPTED; PUBLIC HEARING SCHEDULED FOR DECEMBER 6, 2016

On September 1, 2015 City Council was presented a master plan from DHIC for the redevelopment of Washington Terrace and approved the commitment of up to $6.8 million in housing bond funds for the first phase of affordable rental housing consisting of 162 family units. Earlier this year, City Council approved a commitment of $2.2 million for the second phase of affordable rental housing consisting of 72 units for elderly. The master plan replaces the existing street pattern with a grid street pattern to create development blocks. To effectuate the new grid street pattern, the City has received a petition from representatives of the property owner, DHIC, to consider closing portions of Booker Drive and North Fisher Street.

The subject right-of-way, known as Washington Terrace, is bounded by Milburnie Road to the north, Hill Street to the west, Oakwood Avenue to the south, and North Raleigh Boulevard to the east. All properties are under common ownership. Portions of the right-of-way for Booker Drive and North Fisher Street would be closed with the intent of dedicating additional right-of-way and realigning Booker Drive and North Fisher Street as noted in preliminary Subdivision Plan S-18-2016.

The proposed right-of-way closure has been reviewed against the adopted Comprehensive Plan, and meets various test criteria for right-of-way closure including:

- The closure will not compromise the integrity of the City's street network nor lead to a significant loss of vehicular or pedestrian activity;
- The closure will not impair the ability to provide utility service;

- The closure will not adversely impact the health, safety and welfare of the community, including access by emergency vehicles;
- The closure does not conflict with adopted Historic Development Commission policy; and
- The closure is in the public interest.

Additional information was included with the agenda packet.

During the Evening Session there is a Request and Petitions of Citizens (Item A.2) which is related to this Consent Agenda item.

Recommendation: Authorize a public hearing for December 6, 2016.

Mr. Branch stated he had had conversations with citizens and was working on this issue with DHIC and staff. There were some concerns with street alignment. He made a motion to move ahead with the public hearing, but to also refer the item to the Safe, Vibrant, and Healthy Neighborhoods Committee for further discussion and work to address the concerns that had been expressed.

Mr. Stephenson seconded the motion and thanked Mr. Branch for reaching out to all parties to find a win/win solution. Mr. Stephenson has met with DHIC and has talked to the neighbors about their concerns. He believes there is an opportunity for a solution, and suggested a small change in the alignment of Fisher Street so it offsets from Delany Drive. He has discussed this in person and via e-mail with Gregg Warren, President of DHIC. Mr. Warren has looked at this with his design team and in an e-mail to Mr. Stephenson last night, stated "We can most certainly work between now and December 6 to see if an option that suits all can be found." Mr. Stephenson agreed with Mr. Branch that the public hearing should be scheduled for December 6, but that the alternate alignment for Fisher Street by sent to the Safe, Vibrant, and Healthy Neighborhoods Committee. Since the Committee's regular meeting date falls on Election Day, an alternative date must be selected. Mr. Stephenson said he thinks the third part of Mr. Branch's motion was that staff meet with DHIC and make sure any adjustments made during site plan review are handled in a way that do not impact the development process so DHIC can move forward with this project.

Ms. Baldwin said she would like to hear from Gregg Warren because her conversation with him was a little different. She wanted to hear Mr. Warren's opinion as to whether Mr. Stephenson's proposed solution will work and if there would be an impact on, and potential delay in, the project.

Mr. Warren explained that his statement to Mr. Stephenson about looking at options was not intended to imply that DHIC is endorsing the realignment; DHIC is merely looking at it. He said any realignment will significantly delay this project. DHIC's public participation process on this project last year is unmatched in the City. They hired Courtney Crowder's team to reach out to the community. There were multiple meetings, door hangers, a mailing list of over 800 people, and newsletters vetting the plan. All of this was an effort to arrive at a consensus plan in December 2015 among all residents who attended the public meetings. DHIC moved forward

with construction and infrastructure plans accordingly, and they are getting ready to start construction. Thirty-five buildings were boarded up and 63 houses were moved to the south of this site as they got ready to undertake the work. Mr. Warren stated any street realignment project will kill the tax credits that have been awarded to the Booker Park North and The Village at Washington Terrace projects. DHIC recognizes the residents of Madonna Acres have concerns and they will continue to work with them on traffic calming measures and other issues. DHIC went through a very detailed process in good faith. A subdivision plan that approves the realignment of the streets has been approved, as has a site plan. They have secured $40M in financing with help from the City of Raleigh. The City has been behind this project from the beginning, and DHIC is very appreciative of that. Mr. Warren stated DHIC believes it has made an extraordinary and good faith effort to reach out to the community and on that basis, they are ready to move forward and build some much-needed affordable housing in the community.

Mr. Branch asked if a committee meeting held next week would delay anything. Mr. Warren responded not necessarily. DHIC is prepared to meet with the residents and discuss options absent a City Council committee meeting. He reiterated they will continue to explore options with residents, so he does not see how a committee meeting will add anything to that approach.

Mr. Stephenson said comments had been made about whether Council will be endorsing an alternate approach. He said he and Mr. Branch are not asking for that at all; they are merely asking to go forward with the public hearing, but in the meantime, look at an alternative to decide whether the costs in time and money are too great to weigh against the benefits of an alternative. They want to do what Mr. Warren's statement said, *i.e.*, work between now and December 6 to see if an option that suits all can be found.

Ms. Baldwin made a substitute motion to schedule the street closing for December 6; direct the City Manager's office to work with the team that has come together and offered solutions such as installation of a median, right in-right out, realignment of crosswalks, and three-way stops signs at Fisher Street and Booker Drive; make those proposed solutions part of the public hearing; and ask staff and DHIC to continue to work with the community up to the date of the public hearing. Mr. Thompson seconded the motion, adding that nothing should be done that would jeopardize DHIC's funding for these two very important project. Mr. Branch commented that everyone is in agreement with that, and the only difference between his motion and Ms. Baldwin's is that she removed referral of this item to committee, even though Mr. Warren clearly stated that a committee meeting would not hurt the project. A roll call vote resulted in all Council members voting in the affirmative except Mr. Stephenson, Mr. Cox, and Mr. Branch. The Mayor ruled the motion adopted on a vote of 5-3. See Resolution 400.

RALEIGH BIKESHARE PROGRAM – MUNICIPAL AGREEMENT – NORTH CAROLINA DEPARTMENT OF TRANSPORTATION – CITY MANAGER AUTHORIZED TO EXECUTE AGREEMENT; BUDGET AMENDED

The City is in the process of implementing a bikeshare program. To facilitate this program, the City has received a Congestion Mitigation and Air Quality (CMAQ) grant for $2 million through the Capital Area Metropolitan Planning Organization (CAMPO) to cover the costs of

constructing a system. The required local match for this grant was allocated in the current Capital Improvement Program.

As reviewed in *Manager's Update No. 2016-41* (October 14), staff has proceeded to implement the bikeshare program with adoption of the FY17 Capital Improvement Program (CIP) and Operating Budget, including costs associated with one additional staff member to be hired in the Transportation Department effective January 1, 2017 to oversee the program. Staff has also continued to develop locations for potential station sites as outlined in the implementation plan that was previously presented to the City Council. That plan provided a framework for 30 station locations; staff from the Urban Design Center is now working to identify site-specific locations based on those recommendations.

Request for Interest (RFI) process was recently initiated to solicit potential vendors; responses were received responses from five vendors, all of whom have existing systems deployed in cities across the United States. Information from the RFIs will assist with development of a formal Request for Proposals (RFP) for a system vendor; the RFP is scheduled to be released later in 2016.

Council previously requested an update regarding potential funding partners for the bikeshare program. Three companies have expressed interest in being major or secondary sponsors of this program, generating approximately $250,000 per year for three years. Commitments from these corporate sponsors will not be finalized until a vendor is selected, which will then provide certainty to potential sponsors about logos and compatibility with the recommended bicycle and station design.

Per Council's direction, staff applied for $200,000 in funding from Wake County through the Major Facilities Capital Projects grant program to supplement current City appropriations; the project ranked eighth out of fifteen projects with funding available for only the top six project proposals.

The North Carolina Department of Transportation has prepared a municipal agreement to provide the CMAQ funds to the City in order to proceed with implementation. A budget amendment and transfers totaling $2,098,800 is necessary to appropriate the funding. Accounting details were included with the agenda packet.

Name of Project:	Raleigh BikeShare Program
Managing Division:	Transportation – Transportation Planning
Approval Request:	Contract approval
Reason for Council Review:	Municipal agreement
Original CIP Project Budget:	$425,000
Vendor Name:	North Carolina Department of Transportation
Amount of This Contract:	$1,673,800
Budget Action:	Yes
Encumbered With This Approval:	None (reimbursement)

Recommendation: Authorize the City Manager to execute the municipal agreement and authorize a budget amendment and transfer totaling $2,098,800.

Mr. Gaylord asked for clarification because it was implied in staff's memorandum that County funding has not been secured, but it is his understanding that this is an agenda item for the Wake County Board of Commissioners meeting on November 21. Mayor McFarlane said that is also her understanding from one of the Commissioners.

Ms. Crowder stated she pulled this item from the Consent Agenda to illustrate that as the City proceeds with the implementation of BikeShare program, it is without any participation from the funding partners who said they were on board with the City when the first vote began for this program. When the program was voted on, there were representatives from Wake County and various businesses, including some who have received business incentive money from the City. None of the funding partners have indicated their intention of fulfilling their prior pledges. Ms. Crowder believes that moving forward with the BikeShare program at this time represents an equity issue for our community. In her opinion, the City still has other more important priorities such as affordable housing, public transit needs, sidewalks, and many other unfunded needs across the City. She stated she is therefore, once again, voting against proceeding with the BikeShare program in Raleigh at this time.

Mayor McFarlane made clear that the motion will be to accept the CMAQ grant of $2M to fund the program. Mr. Thompson said he is in favor of accepting the grant. This is a good program, but the City needs to be very progressive in obtaining the promised funds from its funding partners. The only reason he voted for the program the first time is that the City was promised $200,000 from Wake County and sponsorships. While he believes the City will receive those funds, it is time for those partners to "show the money." Mr. Stephenson concurred with Mr. Thompson's comments and said the City needs to get its sponsors and funding partners lined up now.

Ms. Baldwin moved to approve the recommendation as presented. Her motion was seconded by Mr. Gaylord and a roll call vote resulted in all Council members voting in the affirmative except Ms. Crowder. Mayor McFarlane ruled the motion adopted on a vote of 7-1. See Ordinance 641 TF 286.

COMMERCIAL LOADING ZONE – 3000 BLOCK OF HILLSBOROUGH STREET – ORDINANCE ADOPTED

It is recommended that a small section of metered parking located on the south side of Hillsborough Street just east of Concord Street be changed to a Commercial Loading Zone, and that a portion of Friendly Street on the west side be converted from No Parking to a Commercial Loading Zone and a Two Hour Parking Zone. The owner of the Stanhope Apartments has requested that three metered spaces located at the west end of the parking lane on Hillsborough Street near the intersection of Concord Street be changed to a Commercial Loading Zone in order to provide a safe place for delivery vehicles to load and unload. It was further requested that a Commercial Loading Zone and a Two Hour Parking Zone be installed on the west side of Friendly Drive at the south end of the street. The Stanhope does not have a loading dock on any

street frontage, and delivery vehicles are often forced to park in a travel lane to unload, which creates unsafe conditions for both the delivery drivers and passing motorists. The proposed change would alleviate this issue. This request is supported by the Hillsborough Street Community Service Corporation.

Mr. Gaylord stated this item is associated with an item from which he previously had been excused.

Ms. Baldwin moved to approve the commercial loading zone as presented. Her motion was seconded by Mr. Thompson and carried by a vote of 7-0 (Mr. Gaylord excused). See Ordinance 642.

REPORT AND RECOMMENDATION OF THE PLANNING COMMISSION

TC-15-16 – MAXIMUM AREA DEVOTED TO LIMITED COMMERCIAL USES IN RX AND OX DISTRICTS – PUBLIC HEARING SCHEDULED FOR DECEMBER 6, 2016

This request amends the Limited Use Standards within Article 6.4. of the Raleigh Unified Development Ordinance for the following Commercial uses/categories in RX and/or OX districts: Office, Beauty/Hair Salon, Copy Center, Optometrist, Personal Service, Eating Establishment, Retail Sales, as well as deletes Section 6.7.3.F. "Nonresidential Accessory Service" from the UDO in its entirety.

The allowances for the inclusion of limited uses in the RX and OX districts were intended to be ancillary to the primary use. The maximum square footages/percentages were intended to be cumulative thereby ensuring that the predominate uses in the RX district were either residential and/or civic and that retail/eating establishments were not the primary use of an OX parcel. The proposed changes would reflect the intent and ensure appropriate land uses in these districts.

The Planning Commission recommends approval of the request. Staff suggests a public hearing date of December 6, 2016.

Planning Commission Chairman Eric Braun presented this item, stating the Planning Commission voted unanimously to approve the request. The request clarifies how limited commercial uses in Residential Mixed Use and Office Mixed Use districts are calculated so that it is a cumulative maximum, not a per parcel calculation. Ms. Crowder asked Mr. Braun to repeat his last statement, and Planning Director Ken Bowers responded. He explained staff is trying to align the standards with the intent of the ordinance, which is that OX and RX are primarily for office and residential uses with retail as a supporting role. The idea is that a developer would have to build a mixed use building of a certain size to get enough scale to put in retail. Upon further review of the language, staff realized the intent was not fully reflected in the standards and it would potentially be possible to produce a freestanding retail building in OX or to build it larger. This text change will bring the language into better alignment and clarify how retail was meant to be used in these districts.

Ms. Baldwin moved to schedule a public hearing for text change TC-15-16 on December 6, 2016. Her motion was seconded by Mr. Stephenson and approval was unanimous. The Mayor ruled the motion adopted on an 8-0 vote.

TC-16-16 – DWELLING UNITS IN CONGREGATE CARE – PUBLIC HEARING SCHEDULED FOR DECEMBER 6, 2016

This request amends Section 6.2.2.C. of the Raleigh Unified Development Ordinance, Congregate Care, to expressly allow Dwelling Units to be one of the continuums of care housing options provided within a Congregate Care facility, as the "independent living" noted within the definition was intended to allow for individual dwelling units to be included within the continuum of care spectrum of housing choices.

The Planning Commission recommends approval of the request. Staff suggests a public hearing date of December 6, 2016.

Planning Commission Chairman Eric Braun presented this item and reminded the Council it was discussed as part of a zoning case at the last Council meeting. Essentially, the text change will clarify the UDO language to reflect how this issue was dealt with in the prior zoning code, as it was never intended to change that process.

Ms. Baldwin moved to schedule a public hearing for text change TC-15-16 on December 6, 2016. Her motion was seconded by Mr. Gaylord and approval was unanimous. The Mayor ruled the motion adopted on a vote of 8-0.

REZONING Z-15-16 – FALLS OF NEUSE ROAD CONDITIONAL USE DISTRICT – PUBLIC HEARING SCHEDULED FOR DECEMBER 6, 2016

This is a request to rezone property from Residential-4 with Urban Watershed Protection Overlay District (R-4 w/UWPOD) to Commercial Mixed Use – 3 stories – Parking Limited – Conditional Use with Urban Watershed Protection Overlay District (CX-3-PL-CU w/UWPOD).

The request is inconsistent with the Future Land Use map and multiple policies of the Comprehensive Plan and could allow development incompatible with the surrounding area. Frontage designation is being requested, but the Urban Form Map does not envision a zoning frontage at this site.

The Planning Commission recommends denial of the request. Staff suggests a public hearing date of December 6, 2016.

Planning Commission Chairman Eric Braun presented this item, stating the Planning Commission's recommendation for denial was unanimous, 9-0. Mayor McFarlane announced that attorney Tom Worth had requested to speak on this case.

Tom Worth, Esq., P.O. Box 1799, Raleigh, NC 27602-1799 – Attorney Worth stated he represents the petitioner. He asked the Council to refer this rezoning to the Growth and Natural

Resources Committee, or any other committee the Council deems appropriate, for further discussion. Since the Planning Commission meeting last week, the petitioner reviewed the case and strengthened it. They are ready to submit conditions today, tomorrow or Thursday that strengthen the streetscape, increase the tree conservation area (TCA) from 12% to 16% with objectives to go beyond that, reduce the retail component, and revisit with staff in the interim the City's opposition of the petitioner's condition to have work force and affordable housing in this case. They want to address the City's opposition to that condition, but want to preserve that component of the rezoning.

Ms. Crowder asked if the new conditions would align the rezoning request with the Comprehensive Plan. Attorney Worth responded the request currently satisfies 67 provisions of the Comprehensive Plan, but there are eight provisions it does not satisfy. They believe these changes will reduce that number from eight to five or less and that at least three of the new conditions will satisfy City staff. Attorney Worth said staff has acknowledged only 21 provisions, not 67, and four of those revolve around affordable housing. He said the answer to Ms. Crowder's question is yes and they will move the case forward to consistency. Attorney Worth stated their objective is reasonable and in the public interest.

Ms. Baldwin said that during the Planning Commission meeting, different commissioners cited different parts of the plan they objected to. She asked if the proposed changes would satisfy those objections or address the concerns. Attorney Worth responded the changes will not satisfy the recurrent comment from one particular commissioner about satisfying the 40% TCA provision of the City Council. The petitioner has indicated it would be improper to have that in the conditions because it is presently part of the Raleigh City Code, and they are not permitted to put anything in their conditions that will replicate the City Code. Attorney Worth said what he heard from the Planning Commissioners generally were concerns about inconsistency with the Comprehensive Plan.

Mr. Cox stated there had been a lot of discussion in this case about private agreements, but he has not heard of any private agreements being brought forward to preserve the 40% TCA. He pointed out such agreements can be made without duplicating what is in the City Code as a condition. Attorney Worth asked if Mr. Cox was familiar with any rezoning case requiring a 40% TCA. Mr. Cox said he is not personally aware of any, but there are a number of private agreements, the details have not been released, that Attorney Worth has put forward as a reason for pursuing this case. Mr. Cox concurred with the Planning Commission's review that this case is inconsistent with the Comprehensive Plan, the Small Area Plan, and the Future Land Use Map. He said he did not hear anything at this time that convinces him that those concerns will be overcome by sending this case to committee.

Mr. Cox moved to schedule the public hearing for rezoning Z-15-16 for December 6, 2016. Attorney Worth asked if Mr. Cox had examined the 67 provisions that the petitioner has met, and Mr. Cox replied affirmatively. His motion was seconded by Mr. Branch.

Ms. Baldwin asked Mr. Stephenson if he would take this rezoning case into the Safe, Vibrant, and Healthy Neighborhoods Committee because Ms. Crowder has a very heavy workload in the Growth and Natural Resources Committee.

Mr. Stephenson stated he has studied the various iterations of the Certified Recommendation, as this case has been to the Planning Commission five times. It has been a major expenditure of City taxpayer dollars, staff time, and Board and Commission time, yet we are still at a unanimous vote in opposition. Mr. Stephenson's understanding of the project is that the petitioner wants a 50,000+ square foot anchor tenant that can be within 60 feet of adjacent low-density residential use with no buffer uses in between as required by Comprehensive Plan Policy 5.4. The closing statement in staff's report is that there are outstanding items pertaining to forestation and most significantly, traffic impacts. There are open items on infrastructure sufficiency that go to UDO Section 8.2.2, which states that if an intersection is below a certain level of service (LOS), it is inconsistent. Durant Road will be operating at LOS F. Mr. Stephenson said if Attorney Worth can tell him right now that he will come back with a project that will reduce traffic trips so there will no longer be a LOS F at Durant Road, he would be interested in taking this case into his committee, but other than that, he would not.

Attorney Worth advised Mr. Stephenson he is misinformed in several respects and that is one of the reasons they would like this case to go to committee. The petitioner has a traffic impact analysis (TIA) that has been accepted by the North Carolina Department of Transportation. There will be a LOS F at Durant Road if this property is not developed. The intersection is in a failure mode, but will be an improved failure mode with the expenditure of a couple of million dollars of off-site improvements as a result of this case. Attorney Worth stated the LOS for all other intersections will be improved by this case over a no-build and over a build of office and residential mixed use as the Future Land Use Map suggests.

Mr. Cox said the Council has not considered a case of office mixed use with conditions. Most rezoning cases come with conditions. For the petitioner to think that OX in the general case would be approved is "a bit of a stretch." He said a TIA has been considered, but the petitioner did not move forward with another TIA because he capped vehicle trips at 10,500 per day, which is a significant impact to this area. He reiterated his motion to schedule a public hearing on this matter for December 6 so these matters can be discussed at the hearing. Mr. Cox does not believe that sending this item to committee will suffice to resolve the issues that are before Council.

Mayor McFarlane called for the vote, and Mr. Cox's motion passed unanimously. The Mayor ruled the motion adopted on a vote of 8-0.

REZONING Z-25-16 – LEESVILLE ROAD CONDITIONAL USE DISTRICT – PUBLIC HEARING SCHEDULED FOR DECEMBER 6, 2016

This is a request to rezone property from Industrial Mixed Use – 3 Stories – with Special Highway Overlay District-2 and Airport Overlay District (IX-3 w/SHOD-2 & AOD) to Residential 4 – Conditional Use – with Special Highway Overlay District-2 (R-4 with SHOD-2).

The proposal is inconsistent with the Future Land Use Map, the Urban Form Map, and several policies of the Comprehensive Plan.

The proposal is consistent with surrounding existing land uses and is a significant reduction in the existing potential for development intensity. The proposal offers conditions for airport noise protection for residential uses.

The Planning Commission recommends approval of the request. Staff suggests a public hearing date of December 6, 2016.

Planning Commission Chairman Eric Braun presented this item, noting the Planning Commission recommended approval by a unanimous vote. The subject site is near the intersection of Leesville Road and Wynalda Way.

Ms. Crowder moved to schedule a public hearing on rezoning Z-25-16 for December 6, 2016. Her motion was seconded by Mr. Branch and carried unanimously. Mayor McFarlane ruled the motion adopted on a vote of 8-0.

REZONING CASES – CONDITIONS RELATED TO AFFORDABLE HOUSING – REPORT REQUESTED

Planning Commission Chairman Eric Braun raised an item that was not included on the agenda. He reported that at the end of the Planning Commission's discussion of rezoning Z-15-16 – Falls of Neuse Road Conditional Use District, the Commission recommended the City consider eliminating the UDO provision (Section 10.2.4.e.2.i) relating to the character of housing which, in the City Attorney's opinion, prohibits conditions related to affordable housing.

Mayor McFarlane asked City Attorney Tom McCormick to comment. City Attorney McCormick explained one of the criteria a petitioner is not allowed to include as a condition in a conditional use zoning case is the character of the people who will be living in the development he builds. The City Attorney's office interprets "character" as "income level" and advised the Planning Commission that the best way to solve that, if Council so desires, is to amend the UDO to clarify that if a petitioner in a rezoning case wants to have a condition about affordable housing, he may do so.

Planning Director Ken Bowers said if the Council is ready to authorize a text change, staff will come back to Council with appropriate language from the Planning Commission. If Council needs more time before authorizing a text change and in order to better understand what is being requested, it can hold this item at the table or refer it to committee.

Ms. Crowder asked if Council reviewed a project it liked and the project had an affordable housing component, Council could approve the rezoning, but if there was a similar project in another area and Council liked the project but not the affordable housing component, Council could deny the rezoning because it did not want an affordable housing component in that project. City Attorney McCormick replied that all staff is saying is if there is a situation where a zoning applicant would like to include as a condition that he will provide a certain level of affordable housing in his project, he would be able to do that by condition. A rezoning applicant can already do this by private covenant. It would not be grounds for Council to deny someone else's

case because he did not include such a component. He reminded the Council members they are not allowed to tell a rezoning applicant what conditions to put on a case.

Mr. Thompson said he did not see this item in today's packet information. Planning Commission Chairman Braun responded it was in the Commission's meeting minutes. He is not sure how the Council agendas are put together, and apologized for this being omitted. Mr. Thompson requested more time to consider the recommendation. Mr. Cox said he liked the idea of finding more ways to move forward with affordable housing, but he also needs more time to think about the recommendation. He suggested it be a Council work session item. Ms. Baldwin asked if this could be brought back to the next Council meeting. The Mayor said she was going to suggest that it be brought back to a future meeting, perhaps the next meeting unless staff needs more time, and added that the Planning Commission's recommendation seems simple to her. Mr. Stephenson commented he supports the text change if it is done correctly. If it promotes one-off ad hoc bargaining proposals which are not coordinated with the City's affordable housing policy, he envisions the City entering a "gray zone" with no sound basis for types and locations of affordable housing. This aspect of the proposed text change needs to be examined. He had discussed this recommendation with Deputy City Attorney Ira Botvinick, who told him that even if this was done as an offered condition in a rezoning case, the City could get itself in trouble with the state statutes about inclusionary zoning, because at the point the Council accepts that condition it becomes a binding requirement of the project. This aspect also needs to be examined.

City Manager Ruffin Hall said there are two topics being discussed here: (1) the UDO and the planning and zoning process, and (2) the relationship to the City's affordable housing policy. He suggested Council could refer this item to staff to bring back a summary and presentation of the issues, and asked that Council allow time for the Planning Department and Neighborhoods and Housing Department to work together on the issue. After receipt of the information, Council could move forward with a directive about the text change. Mayor McFarlane said the presentation does not have to be brought back in two weeks. Ms. Baldwin agreed, but said staff should be expedient.

SPECIAL ITEMS

REZONING Z-10-16 – OLD POOLE ROAD – ORDINANCE ADOPTED

The following item appeared on the October 18, 2016 agenda:

> This was a request to from TK Desco, LLC, to rezone approximately 1.81 acres from Office Mixed Use – 3 Stories – Conditional Use and Residential-6 (OX-3-CU and R-6) to Commercial Mixed Use – 3 Stories (CX-3). The property is located on Old Poole Road, east side, south of its intersection with Poole Road. The public hearing was held on September 6, 2016, and continued to September 20, 2016, at which time the item was referred to the Growth and Natural Resources Committee. During the October 4, 2016 meeting, the Growth and Natural Resources Committee recommended that the Council request the applicant to visit the southeast Citizens Advisory Council meeting on

> October 13, 2016 to further discuss Z-10-16 and possibly add conditions, and to place the item on this agenda for consideration.

During the October 18 meeting, it was reported that the applicant had until October 20, 2016 to submit conditions. Council received a report with the agenda packet.

Senior Planner Bynum Walter reported that the applicant had submitted a new condition that prohibited bars, nightclubs, taverns, and adult establishments. At the last Council meeting, Council expressed concern that the adjoining church had not been involved in the public process. Letters had been mailed to the church, but church representatives had not connected with the right person. Since then, the applicant has reached out and connected with the pastor of the church, who is here today. She said there has been good communication between those two parties, although she was not directly involved. Council could act on the rezoning case today if it so desired.

Mr. Branch said he had read the conditions and spoken with the church pastor. He moved to approve the rezoning. Mr. Stephenson seconded the motion and a roll call vote resulted in all Council members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Ordinance 643 ZC 736.

REZONING Z-21-16 – LUMLEY ROAD CONDITIONAL USE DISTRICT – PUBLIC HEARING SCHEDULED FOR DECEMBER 6, 2016

The following item appeared on the October 18, 2016 Council agenda:

> This is a request to rezone property from Office Mixed Use – 7 Stories – Parking Limited with Airport Overlay District and Special Highway Overlay District-2 (OX-7-PL w/AOD and SHOD-2) to Office Park – 12 Stories – Conditional Use with Airport Overlay District and Special Highway Overlay District-2 (OP-12-CU w/AOD and SHOD-2). The proposal is consistent with the Future Land Use Map and most pertinent policies of the Comprehensive Plan.
>
> The proposed rezoning is reasonable and in the public interest. The proposal would allow for the development of a mix of uses consistent with the Urban Form Map. Conditions provide measures to mitigate impacts on adjacent and surrounding uses, specifically limits on intensity.

During the October 18 meeting it was reported the applicant would like an opportunity to add a condition.

Senior Planner Bynum Walter reported that the applicant had submitted amended conditions that offer a transit easement. Staff has signed conditions in hand and Council could schedule a public hearing if it is ready to do so.

Ms. Baldwin moved to schedule a public hearing on December 6, 2016 for rezoning Z-21-16. Her motion was seconded by Mr. Thompson and carried unanimously. The Mayor ruled the motion adopted on a vote of 8-0.

Z-11-16 – NORTH ROGERS LANE CONDITIONAL USE DISTRICT – PUBLIC HEARING SCHEDULED FOR JANUARY 3, 2017

Council received this item from the Planning Commission on September 6, 2016. This is a request by Stewart Marlowe, Andrew Peatross, and Dep Property Investments, LLC to rezone approximately 14.28 acres from Planned Development District (PD) to Residential Mixed Use – 4 stories – Conditional Use (RX-4-CU). Conditions prohibit non-residential uses. The Planning Commission recommends approval of this request on the condition that the applicant secures private agreements with homeowners associations within the Anderson Point Planned Development for open space allocations.

In the event either of the above alternatives is reached (private open space agreements or public dedications) and documentation of such agreements is in hand at the time of this meeting, Council must schedule the case for public hearing, as the 60-day public hearing scheduling deadline is November 5, 2016. If the agreements or public dedications are not reached and documented, Council may choose to refer the item back to the Planning Commission for further review.

Senior Planner Bynum Walter reported the applicant has made good progress on the private agreements and the City Attorney's office has suggested a public hearing be scheduled for the first Council meeting in January.

Mr. Branch moved to schedule a public hearing on January 3, 2017 for rezoning Z-11-16. His motion was seconded by Mr. Stephenson.

Ms. Crowder commented that this case seems extremely complicated. As she understands it, the applicant is going to use land for public space that was not originally part of the Anderson Pointe Planned Development. Planner Walter said she believes the land is already included in the Planned Development (PD) and it is just a matter of setting it aside formally as part of the PD's open space. The concern is that if the land is removed and included as part of the rezoning, it would be very difficult to accommodate the open space requirements of the existing PD. Mayor McFarlane asked if the subject parcel would be removed from the PD. Planner Walter replied affirmatively, but noted that the open space would remain in the PD. Ms. Crowder asked if this type of arrangement had ever been done before. City Attorney Tom McCormick replied the City has never done this exact thing before because it has never had a case with these exact issues. These parcels have different ownership histories, which makes the case complicated and is the reason staff needs more time to sort things out to ensure the transfers of the properties are properly documented. The private agreements would go with the property(ies).

Mayor McFarlane called for a vote on Mr. Branch's motion to schedule the public hearing, and the motion passed unanimously. The Mayor ruled the motion adopted on an 8-0 vote.

REPORT AND RECOMMENDATION OF THE CITY MANAGER

HOMEOWNER REHABILITATION LOAN PROGRAM MODIFICATIONS – APPROVED AS AMENDED

The Homeowner Rehabilitation Program has been administered by the Housing and Neighborhood Department's Community Development Division for over 25 years and is funded by federal HOME Investment Partnerships (HOME) and Community Development Block Grant (CDBG) grants. The primary objective of housing rehabilitation is to retain existing residents while improving the housing stock. Both HOME and CDBG funds have federally-imposed requirements with flexibility to structure the terms of financial assistance.

Modification of the loan terms under the current Homeowner Rehabilitation Program is requested in response to homeowner feedback received during the Neighborhood Revitalization Strategy Area (NRSA) planning process last year as well as during the latest two meetings with homeowners in the NRSA that concluded in September.

To support a targeted approach to neighborhood revitalization and to encourage greater participation in the Homeowner Rehabilitation Program, special incentives in this HUD-designated target neighborhood are needed. The recommended modifications to the loan terms are:

- Modify the loan terms under the Homeowner Rehabilitation Program, as requested by the homeowners in the Neighborhood Revitalization Strategy Area (NRSA), as follows:
    - Increase maximum loan amount from $45,000 to $90,000.
    - Decrease the time before loan forgiveness from 15 years to five years for elderly homeowners (62 years of age and older, as defined by HUD) and/or disabled. (Non-elderly can continue to benefit from the existing 15-year forgivable term).
    - Increase the area median income (AMI) limit for forgivable loans from 50 percent AMI to 80 percent AMI, adjusted for household size, for both elderly and non-elderly homeowners.
- Offer the modified loan terms to homeowners within the Neighborhood Revitalization Strategy Area (NRSA).

Recommendation: Authorize the modifications to the loan program.

City Manager Ruffin Hall commented that this is an opportunity the City has after engaging residents in the area regarding how to address some of their concerns moving forward in that particular neighborhood. Staff believes this is a positive development in that direction.

Assistant Housing and Neighborhoods (H&N) Director Niki Jones presented this item, thanking staff for putting together the process and neighborhood residents for their participation. He

noted one of the most important things in the NRSA plan is to ensure that current homeowners in the area can remain there. One of the biggest tools the City has to accomplish that goal is the Homeowner Rehabilitation Program. Although that program has been in existence for a very long time and has helped many people, it has not been updated in the last 10 years or so. Staff is asking Council to update the program in a very specific area within the NRSA to exist as a pilot program. This enhanced rehabilitation program will do three things: (1) raise the current maximum loan amount from $45,000 to $90,000; (2) decrease the time before loan forgiveness from 15 years to five years for elderly homeowners; and (3) increase the area median income (AMI) limit for forgivable loans from 50% to 80% for all homeowners.

The Council members asked questions about the presentation to ensure their understanding of the proposed modifications to the Homeowner Rehabilitation Program. Mr. Cox asked if any prioritization is done so that homeowners in greater need financially receive a higher score when they are evaluated. Assistant H&N Director Jones replied staff has thought about that. Staff is not sure of the level of participation because this is a pilot program. If there is a high level of anticipation as they hope, they may have to prioritize. Mr. Branch asked how long this will run as a pilot program, and Assistant H&N Director Jones said he is not sure; it will depend on the level of participation. Mr. Branch asked if the pilot program could be limited to three years, and Assistant H&N Director Jones responded affirmatively. Mr. Thompson requested that staff provide a progress report at the end of the first year.

Mr. Thompson moved approval of the modifications to the Homeowner Rehabilitation Loan Program with the understanding that there will be a three-year time limit on the pilot program and that staff provide a progress report to Council at the end of the first year. His motion was seconded by Mr. Branch and approval was unanimous. Mayor McFarlane ruled the motion adopted on a vote of 8-0.

AGENCY GRANT PROCESS – OPTION 2 APPROVED; BUDGET NOTE REQUESTED

The Other Outside Agency grants process provides funding to non-profit organizations for programs and projects that fall outside the parameters of the established Arts, Human Services or Community Enhancement grant programs. Staff will provide a brief overview of FY17 agency grants and, in preparation for the FY18 agency grant process, will provide options for revising guidance in the area of funding agencies from multiple grant categories. Included with the agenda packet was an excerpt from the adopted budget with information on annual grant appropriations.

Recommendation: Revise the guidelines for the annual grant process.

City Manager Ruffin Hall announced this would be an update on the agency grant process and a request for guidance relative to application parameters. He reminded the Council that various changes had been made to the grant application process over the last couple of years to organize the process in a way that would improve the level of applications and improve the review process. Staff has noticed the City is receiving duplicate applications, *i.e.,* applications in multiple categories. If this trend continues, it will create issues for the Council relative to the

Other Outside Agency category. The application process has just opened and the deadline is January 2017.

Grants Program Administrative Manager Kirsten Larsen provided the following information about agency grant funding with the assistance of a PowerPoint presentation.

FY17 Total Agency Appropriations – $5.1 Million

Arts Agency Appropriations	$2.77M
Human Service Appropriations	$1M
Community Enhancement Appropriations	$175K
Other Outside Agency Appropriations	$1.18M

Arts Grants

- Support arts programming within the City
- FY17 budget: $1.79M
- Arts Grant Program Funding Categories
  - Operating Support (FY17 grants = 19)
  - Program Support (FY17 grants = 11)
    - Must be arts programming (carried out within Raleigh)
  - Innovation Grants (FY17 grants = 0)
  - Excluded: The Arts Grant Program does NOT fund capital projects.

Human Service Grants

- The City of Raleigh policy on the funding of human service agencies reflects the desire to provide supplemental funding to agencies for support of programs that address human needs within the City, especially the needs of the targeted groups below.
- Serve targeted groups
  - Youth
  - Elderly
  - Persons with handicaps or disabilities
  - Substance abusers
  - Homeless individuals
- FY17 budget: $520K

Community Enhancement Grants

- Community enhancement grants are for public services
- Serve households with incomes below 80% of median household income for the area (federal regulation)
- Priority given to:
  - Homeless individuals
  - Individuals with incomes at or below 30% AMI (average median income)
  - Low-income youth
  - Persons who are disabled
  - Victims of domestic violence
  - Persons living with HIV/AIDS
  - Seniors

- FY17 budget: $175K (funded through Community Development Block Grant (CDBG) funds)

Other Outside Agency Grants

- City was receiving agency requests for funding throughout the year outside the agency grant and budget processes
- Established with FY15 budget process to capture requests that fall outside parameters of the City's other established grant programs
- Intended to provide consistency and transparency (arts, human services, and community enhancement)
  - ♦ Requires all agencies to out an application and go through standardized process
- FY17 budget: $1.1M

Number of Agencies Awarded Funding in Multiple Grant Categories

FY15 – 4
FY16 – 3
FY17 – 7 (in two grant categories)

FY17 Agency Award Details

- 4 agencies received Human Services and Other Outside Agency grants, including Advance Community Health, Boys and Girls Club, Transitions LifeCare, and Triangle Family Services
- 2 agencies received Human Services and Community Enhancement grants, including Interfaith Food Shuttle and StepUp Ministry
- 1 agency (Wake Enterprises) received Human Services and Arts grants

Questions for Council

- Does the City wish to allow agencies to apply in multiple categories?
- If so, what is the potential impact?
- The grant processes for all categories are ramping up now, so staff requests guidance from Council so information can be shared with potential applicants.

Options

1. Agencies **may only apply** for Other Outside Agency (OOA) grants when the service/ program **does not qualify** for one of the other three categories

and/or

2. Agencies that **qualify** for Arts, Human Services and/or Community Enhancement grants **can apply** through OOA but for **capital-related funding only**

Next Steps

- FY18 OOA applications available now
- December 2016 – January 2017: All grant category applications due
  - ♦ January 13, 2017: OOA applications due

- February budget work session: Staff provides Council with an initial look at agency grant requests

Mayor McFarlane confirmed with Grants Manager Larsen that the OOA grant application process had opened. Grants Manager Larsen added that even though it had opened, no communication has been sent yet to the agencies. City Manager Hall stated the City was still within the timeframe of being able to communicate the expectations to the applicants. The Mayor said staff and the Council had discussed several times in the past six years that the City should provide clarity in the process for everyone so it is fair to everyone. Her opinion of the Arts and Human Resources grants is that it is only fair to staff and the applicants that an applicant only apply for one or the other, not both. She asked if the City still needed the Other Outside Agency grants, and if there were many grant applications that did not fall into one of the other three categories. Grants Manager Larsen responded there are still a few applications that don't fall inside the other grants. Affordable housing is one; economic development and capital requests are additional examples.

Ms. Crowder asked if the problem the City is trying to solve is agencies double-dipping. The Mayor and Grants Manager Larsen replied "yes." Mr. Thompson said he agrees that agencies should only be able to apply for one grant. Ms. Crowder asked into which category alliances like the Hillsborough Street Community Services Corporation and Downtown Raleigh Alliance would fall. Grants Manager Larsen responded OOA grants, because those groups are in the economic development category.

Ms. Baldwin commented the recurring theme is capital campaigns and the City does not have a "neat bucket" to address that. She believes that should be what OOA grants are for, for example, the Food Bank, the Teen Center, and the Boys and Girls Club. Mayor McFarlane said that is basically Option 2, and Mr. Gaylord and Ms. Crowder said that sounds reasonable.

Mr. Thompson, seconded by Ms. Baldwin, moved to approve Option 2. Approval was unanimous, and the Mayor ruled the motion adopted on a vote of 8-0.

City Manager Hall confirmed with the Mayor and Council that Option 2 is only for capital requests even though there may be duplicate applications, because one application is for operating expenses and one is for capital projects. The Mayor said Council does not mind considering separate requests for capital funds and operating funds from one agency.

Ms. Baldwin requested a budget note relative to increasing Human Services funding. Mayor McFarlane said she had already considered increasing their funding since all the capital funding requests would be going through the OOA process. However, she has no objection to a budget note to be discussed during budget work sessions. City Manager Hall stated staff would interpret from this discussion that there are existing categories in OOA right now that are operating, so this will be for new requests, and the Mayor replied affirmatively. City Manager Hall said staff will put this together and bring it back to the Council at its February work session.

REPORT AND RECOMMENDATION OF THE ENVIRONMENTAL ADVISORY BOARD

ENVIRONMENTAL ADVISORY BOARD – FY16 ANNUAL REPORT – RECEIVED; FY17 WORK PLAN – APPROVED

The Fiscal Year 2016 Annual Report and the proposed Fiscal Year 2017 Work Plan will be presented.

Recommendation: Receive the annual report and approve the annual work plan.

Laurel Passera, outgoing Chair of the Environmental Advisory Board (EAB), presented this item. She stated the Board had a very productive year, including a very successful Environmental Awards ceremony. The next awards ceremony is scheduled for April 25, 2017. The EAB partnered with the City of Oaks Foundation for the awards ceremony and fundraising during the event. They raised enough funds to give out $8,000 in grants for urban farms and grants in the City. The EAB reviewed the City's solar permitting and related policies and prepared a report that should be forthcoming in the next month or two. The Board elected Anya Gordon as its next Chair and Rob Gelblum as Vice Chair. EAB Chair Passera thanked Mr. Cox for attending several of their meetings this year; Mr. Gaylord for presenting at their Urban Agriculture Panel last year; the tremendous work of the City staff in the Office of Sustainability; and the Council members for their ongoing support.

Ms. Baldwin, seconded by Mr. Gaylord, moved approval of the recommendation as presented. The motion carried unanimously and the Mayor ruled the motion adopted on a vote of 8-0.

REPORT AND RECOMMENDATION OF THE PUBLIC ART AND DESIGN BOARD

PUBLIC ART AND DESIGN BOARD – FY17 WORK PLAN – APPROVED

The Public Art and Design Board will present the Fiscal Year 2017 Work Plan. A report was included with the agenda packet.

Laurent de Comarmond, Chair of the Public Art and Design Board, presented the Board's annual work plan for fiscal year 2017 and a brief summary of what the Board accomplished this past year. He said last year was quite a year for public art, beginning with approval of the Raleigh Arts Plan. Many of the Plan's goals and objectives are aligned with this Board's work plan goals. The Percent for Art program for Capital Improvement Program projects was increased from 0.5% to 1%. Funding was also allocated to initiate a public art master plan. The master plan will guide the Board's long-range planning and will include Dix Park as a major opportunity for public art. Last year, a new director was hired to lead the Raleigh Arts office. The Board is excited to work with Sarah Powers and appreciates her bold vision for Raleigh in conjunction with Public Art Coordinator Kim Curry-Evans, who has an impressive record of bringing projects from concept to reality. Board Chair de Comarmond highlighted a few projects that were completed last year or are currently under design. The Central Communications Center,

located at Raleigh Boulevard and Westinghouse Boulevard, displays a14' tall suspended granite sculpture with a light runnel, pavers, and benches. Market and Exchange Plazas are examples of using a very small budget effectively. The public art allocation was used to design the planters and railings for Exchange Plaza. The Block Gallery Two outdoor video projection will soon be installed on Market Plaza. It was commissioned by the Raleigh Arts Commission and will complement the Block Gallery in City Hall. The public art enhancements at Moore Square will blend the green space of the park with outdoor rooms designed for the community. The public art allocation was used for the design fee while fabrication of the outdoor rooms will come out of the construction budget. Thomas Sayre, a public artist and founder of the design firm Clearscapes, is designing the public arts elements for the plaza canopy at Raleigh Union Station. "The Breath of Gods" is an exterior canopy that provides filtered shade on Union Station's plaza. The imagery comes from 17th century maps depicting the breath blown by the gods of the universe, a metaphor for the winds providing power for transportation. The design fee was paid for by the public art allocation while the funding for the fabrication and installation will be pursued. Board Chair de Comarmond said the Public Art and Design Board works on a wide range of projects, both large and small, that have an impact on our daily lives and contribute to the City's image as a sponsor of public art.

Mayor McFarlane mentioned that when Council members increased the percent for art, they discussed working with the North Carolina Museum of Art in a partnership for joint projects. Raleigh Arts Administrator Sarah Powers and Public Art Coordinator Kim Curry-Evans assured her from the audience that the Arts office has plans for that.

Mayor McFarlane moved approval of Public Art and Design Board's FY17 work plan. Her motion was seconded by Mr. Gaylord and carried unanimously. The Mayor ruled the motion adopted on an 8-0 vote.

REPORT AND RECOMMENDATION OF THE ECONOMIC DEVELOPMENT AND INNOVATION COMMITTEE

NO REPORT.

REPORT AND RECOMMENDATION OF THE GROWTH AND NATURAL RESOURCES COMMITTEE

UDO HEIGHT LIMITS AND BUILDING SETBACKS – CONCERNS – TEXT CHANGE AUTHORIZED

Committee Chair Crowder reported the Committee recommends that the City Council authorize staff to initiate a text change on driveway/parking setbacks in residential zoning districts. A copy of the draft ordinance was included with the agenda packet. The Committee also recommends that, as part of the text change process, staff review special cases where adjacent parcels share space with provisions that allow them to function without conflict.

Committee Chair Crowder explained this was brought forward at the last Council meeting when Mr. Gaylord pointed out that some communities already have a "zippered effect" and the City

wants to ensure it doesn't cause any hardship on those developments. Mayor McFarlane asked if developments that are designed that way would be exempt in the text change so if something happened to their driveways, property owners would be allowed to replace the driveways as they are configured now, even though they would not conform to this text change. Committee Chair Crowder asked staff to come forward to explain further.

Assistant Planning Director (APD) Travis Crane stated this involves a couple of different topics. One is what would happen if a driveway is currently considered nonconforming, and that can be addressed through the text change. If a driveway does not meet the proposed standards, language could be written into the ordinance stating that all new driveways must meet the standards moving forward and existing driveways, as of the adoption date of the ordinance, would not be made nonconforming. The second topic discussed by the Committee was how driveway setbacks could be accommodated when subdivisions are planned to have an offset space between lots, perhaps in a more urban setting. That, too, could be addressed through the text change.

Mr. Gaylord commented that in most cases, 3-1/2 feet of driveway setback would be fine, but there will be specific circumstances staff will need to explore because they could create impacts. For example, a property owner could build a garage in his front yard with the garage door facing the street, making the house a "snout house." The alternative could be for the driveway to extend past the house into the rear yard with the garage placed in the rear yard. Mr. Gaylord believes a neighbor would probably think the rear yard garage is preferable. If that requires an encroachment into the 3.5' setback, where there could be general agreement that there is a waiver or variance in that condition, staff should explore that as well.

Committee Chair Crowder confirmed with APD Crane that the Committee discussion was left open to explore such situations. Mayor McFarlane asked if this ordinance would apply only in R-4 and R-6 zoning districts, and APD Crane said while the Committee did not speak to applicable zoning districts, it is staff's understanding that it would apply to all residential zoning districts. The Mayor asked if it would apply to cottage courts. APD Crane said they are a little different because they have communal parking, but staff could explore that option. The Mayor stated she does not want this to be applicable to cottage courts. Mr. Gaylord pointed out that some townhouses are designed in such a way that a 3.5' setback would not be possible. Mr. Stephenson noted that according to the presentation made by Assistant Planning Administrator Eric Hodge, the text change would take these things into consideration.

On behalf of the Committee, Chairperson Crowder moved the recommendation be upheld. Her motion was seconded by Mr. Branch and a roll call vote resulted in all Council members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote.

SIDE YARD SETBACKS – R-4 AND R-6 ZONING DISTRICTS – TEXT CHANGE AUTHORIZED

Committee Chair Crowder reported the Committee recommends that the City Council authorize staff to initiate a text change on side yard setbacks for R-4 and R-6 zoning districts, including the

type of fencing required, *i.e.*, four-foot, bright orange safety/barrier fencing. A copy of the proposed changes was included with the agenda packet.

Committee Chair Crowder explained this item related to a Request and Petition of Citizens from Sara Wilson that expressed concerns about a building contractor next to her property. Her yard was being backed into, fences were torn down, shrubbery was torn down, and trees were damaged. This fencing required by this text change will allow machinery operators to easily see the line of demarcation between properties.

Mr. Thompson moved approval of the recommendation. His motion was seconded by Mr. Stephenson and approval was unanimous. The Mayor ruled the motion adopted on a vote of 8-0.

GROWTH AND NATURAL RESOURCES COMMITTEE – MEETING ANNOUNCED

Committee Chair Crowder announced the Growth and Natural Resources Committee will meet on November 9 at 3:00 p.m.

REPORT AND RECOMMENDATION OF THE SAFE, VIBRANT, AND HEALTHY NEIGHBORHOODS COMMITTEE

NO REPORT.

REPORT AND RECOMMENDATION OF THE TRANSPORTATION AND TRANSIT COMMITTEE

NEIGHBORHOOD TRAFFIC MANAGEMENT PROGRAM POLICY – VARIOUS RECOMMENDATIONS – APPROVED

The Committee recommends the following:

- Adoption of the reformatted and revised Neighborhood Traffic Management Program with the following amendments:
    - Sections 5.3, 6.3, and 7.1 - re-written to reflect the "Option 2" flowchart.
    - Section 7.2.2 – add the following phrase at the end of the sentence: "…or under one year's time, whichever is less."
    - Section 8 – add the following sentence: "The minimum qualifying score is 40 points."
- Implement new processes for Traffic Calming projects with an evaluation of impact of practices in Weekly Letter no later than January 1, 2018.
- Refer Section 6 of policy, Neighborhood Streetscape project, to Transportation and Transit Committee for additional review.

- Refer development of Raleigh specific language related to multi-way stops to the Transportation and Transit Committee for discussion.
- Request a report from staff regarding marketing opportunities prior to the end of 2016 for consideration of a pilot program for the FY18 Budget.

Copies of staff's memo outlining the recommendations, the Option 2 flowchart, as well as the reformatted and revised Neighborhood Traffic Management Program were included in the agenda packet.

This item remains in Committee for further discussion.

Committee Chair Baldwin distributed copies of the Neighborhood Traffic Management Program policy that showed the proposed changes and read the following statement:

> Based on discussion at our October 25 meeting, we'd like to recommend that the City Council adopt the revised Traffic Management Program Policy as previously presented with the following modifications:
>
> - Additional definitions, renderings, and photos to increase the usability by the public.
> - Increase the minimum qualifying score to 40 points.
> - Modify the public input outreach process to replace the petition process with a mailed ballot.
> - Add a provision requiring signage and postcards to notify the neighborhood and surrounding area about the initial exploratory meeting.
>
> We recommend that the City Council direct staff to bring back specific text modifications that would outline requirements for alternative designs for streetscape projects, and that would also permit temporary improvements. We would ask that staff not advance streetscape projects until that language is in place.
>
> The Committee also would ask that staff bring back a recommendation for a pilot program to test various communication strategies in addressing speed in time for consideration for the FY18 budget deliberation.
>
> Last, we would ask that the City Council refer the development of a multi-way stop policy to the Transportation and Transit Committee.

Committee Chair Baldwin pointed out that the last item was not before the Transportation and Transit Committee at this time. Four-way stops are used liberally as a traffic calming measure and the Committee would like to develop more criteria for that. Mr. Thompson added that multi-way stops are an effective and less expensive tool than other options for traffic calming.

Mr. Branch, seconded by Mr. Cox, moved approval of the recommendation. Approval was unanimous, and the Mayor ruled the motion adopted on an 8-0 vote.

REPORT OF MAYOR AND COUNCIL MEMBERS

TRAFFIC – INTERSECTION OF FAWN GLEN DRIVE AND NEW HOPE ROAD – COMMENTS RECEIVED

Mr. Cox reported that last Thursday evening, he had attended a public meeting regarding the many accidents that have occurred over the years at the intersection of Fawn Glen Drive and New Hope Road. These accidents have resulted in numerous vehicles hitting the home of Carlo Bernarte and his family. Mr. Cox heard how the accidents have impacted the Bernarte family and the neighborhood, leading to sleepless nights, anxiety, and worry. Overwhelmingly, these accidents have involved intoxication and speeding. Mr. Cox stated the situation has been completely unacceptable and inexcusable. There is no excuse for these accidents and people must behave responsibly. The situation is not safe for the Bernarte family and others who live in the area. Mr. Cox said the city and state Departments of Transportation have examined several options, which they presented at the meeting on Thursday. Mr. Cox supports the option he considers to be the most practical and effective, which is closing Fawn Glen Drive and protecting the area with a guard rail to deflect vehicles that veer off the road. He said that ensuring safety is the City's top priority and he hopes this option will provide that safety while minimizing impacts to the neighborhood. He deferred to the City Manager regarding what the next steps should be.

City Manager Hall informed the Council that this item is with the North Carolina Department of Transportation. There are steps NCDOT needs to take first to identify the funds and do the work. It is his understanding NCDOT is expediting those steps, and the City's traffic engineering staff is working closely with them. Anything the Council needs to do relative to City-owned streets will come back to Council for consideration. Mr. Cox asked that staff keep the neighbors in this area informed relative to selection and timing of a solution to the problem.

TRANSPORTATION INFRASTRUCTURE – BELTLINE AND SIX FORKS ROAD AREA – MEETING ANNOUNCED

Mr. Stephenson noted he had attended several Midtown CAC meetings recently. That area, just outside the Beltline and around Six Forks Road, is designated as one of the City's regional growth centers on the Future Land Use Map. There are several development projects coming forward in the area and there is a lot of concern about how the City will provide adequate transportation infrastructure there. He has a meeting with City Manager staff and District A Councilor Thompson at 2:00 p.m. on November 8 to discuss how to be more proactive in providing transportation infrastructure in this area and what mobility options are in place to support it.

AFFORDABLE HOUSING – COMMENTS RECEIVED; INFORMATION REQUESTED

Mr. Branch reported he attended a meeting last week about affordable housing. He thanked staff, the City Manager, the Assistant City Managers, Housing and Neighborhoods Director Larry Jarvis, and the Housing and Neighborhoods Assistant Directors for attending. A recurring theme is the City's need and number for affordable housing. The City has already added increased the property tax rate by one cent and are increasing product through 4% and 9% loans

and tax credits. Mr. Branch asked staff to provide Council, at a January February work session or the Council retreat, with the number of affordable housing units needed based on the City's population and growth, and development in the City. He would like to know how far behind the City is with regard to affordable housing, and how the situation could be mitigated.

Mr. Stephenson reported he had attended the statewide annual North Carolina Affordable Housing Conference on October 12 and 13and sat in on a panel moderated by Tyler Mulligan, a law professor at the UNC-Chapel Hill School of Government. The main presentation of interest was made by Jeff Staudinger of Asheville, who received an award at the conference the next day for the Outstanding Affordable Housing Professional. Asheville has a successful incentive-based program that entices market rate developers to incorporate affordable housing within their projects. The program uses a synthetic tax increment financing (TIF) fund as a grant back to them and to reduce fee rebates. Mr. Stephenson hopes the City can look into this program. Karen Latta with the City of Durham is working on similar project. Mr. Stephenson said he made a video of the presentation and will post it on the Web so the other Council members can see it.

Ms. Baldwin said two things piqued her interest in affordable housing. One was an affordable housing workshop. The other was an article by Danny Kadis about affordable housing best practices in different communities throughout the country. She would like to take what Mr. Branch suggested a step further. In addition to finding out the need and the number, Ms. Baldwin would like to know how the City could incentivize the private sector in order to further a cooperative way of making this happen. She would like to ask Housing and Neighborhoods to look at ways this could be done, including public-private partnerships and incentivizing the private sector, then come back to the City Council with options. The Council could then talk to the development community to see if any of these things could happen. She would also ask the Raleigh Chamber of Commerce if they would incorporate a program on affordable housing.

Mayor McFarlane commended Housing and Neighborhoods, and the City Council, for what has been done to date relative to affordable housing. Everyone has voiced their commitment to this issue. Ms. Baldwin concurred. She thanked Housing and Neighborhoods Director Larry Jarvis and his team, and said since she has been on the City Council, major strides have been taken and everyone should be proud of that.

CHAVIS PARK – FUNDING GAP – BUDGET NOTE REQUESTED

Mr. Branch asked for a budget note regarding what is necessary to close the gap on the Chavis Park funding.

SIDEWALKS – NEIGHBORHOODS WITH SCHOOLS – POLICY AND EVALUATION METHODS AND CRITERIA – INFORMATION REQUESTED

Ms. Crowder stated she would like to know what the City's policy is for evaluating and scoring neighborhoods with schools relative to sidewalk installation, for example, whether neighborhoods with schools score higher than those without.

COUNCIL WORK SESSION – NOVEMBER 8 – CANCELED

Mayor McFarlane stated the Council's next work session is scheduled for Tuesday, November 8, from 4:00 to 6:00 p.m., which is Election Day. She had been talking to other Council members about it and several had other commitments that day. She said it seemed the general consensus was to cancel the work session. Without objection, she canceled the work session and asked staff to incorporate any items slated for discussion on November 8 into future Council meetings.

ARTS – ARTWORK OF THOMAS SAYRE – COMMENTS RECEIVED

Mr. Thompson reported that last Sunday at his church, Hayes Barton United Methodist Church on Fairview Road, the dedication of the new family life center was held. He encouraged everyone to see the new building, noting that it contains some extraordinary artwork by Thomas Sayre involving earth-cast panels, stainless steel, and mirrors. Ms. Baldwin commented that Mr. Sayre's exhibit at the Contemporary Art Museum is stunning.

APPOINTMENTS

APPOINTMENTS – VARIOUS ACTIONS TAKEN

The Deputy City Clerk read the following results of the ballot vote:

Arts Commission – One Vacancy – Arrington Clark – 8 (Baldwin, Branch, Cox, Crowder, Gaylord, McFarlane, Stephenson, and Thompson).

Board of Adjustment – Two Vacancies – Alternate Members – Jamie McCaskill – 5 (Baldwin, Branch, Gaylord, McFarlane, Thompson). Mr. Cox, Mr. Stephenson, and Ms. Crowder nominated David Smyth and Keisha Lovelace. The Deputy City Clerk reminded the Council members they could carry all three names forward since new nominations had been received, or they could appoint Mr. McCaskill because he received five votes, and carry the other two names forward. Council decided on the latter, since the Board of Adjustment needed an alternate member appointed as soon as possible.

Civil Service Commission – One Vacancy – At-Large Member – Phillip Rubin – 7 (Baldwin, Branch, Cox, Crowder, McFarlane, Stephenson, and Thompson).

Human Relations Commission – One Vacancy – Mr. Cox nominated Mary Lucas.

Parks, Recreation, and Greenway Advisory Board – One Vacancy – No nominees.

NOMINATIONS

CIVIL SERVICE COMMISSION – VACANCY ANNOUNCED

The Deputy City Clerk reported that a letter of resignation had been received from Cheryl Grissom. No nominations were made.

ENVIRONMENTAL ADVISORY BOARD – JUSTIN SENKBEIL – REAPPOINTED

The Deputy City Clerk reported the term of Justin Senkbeil is expiring. He is eligible for reappointment as far as length of service. Ms. Baldwin moved to suspend the rules and reappoint Mr. Senkbeil. Her motion was seconded by Ms. Crowder and carried unanimously. The Mayor ruled the motion adopted on a vote of 8-0.

SUBSTANCE ABUSE ADVISORY COMMISSION – TRENT CANADY – REAPPOINTED

The Deputy City Clerk reported the term of Trent Canady is expiring. He is eligible for reappointment as far as length of service and would like to be considered for reappointment. Mr. Branch moved to suspend the rules and reappoint Mr. Canady. His motion was seconded by Ms. Crowder and approval was unanimous. The Mayor ruled the motion adopted on a vote of 8-0.

REPORT AND RECOMMENDATION OF THE CITY ATTORNEY

City Attorney Tom McCormick reported he two items for closed session.

REPORT AND RECOMMENDATION OF THE CITY CLERK

MINUTES – VARIOUS – APPROVED AS PRESENTED

Council members received in their agenda packets copies of minutes of the October 4, October 11, and October 18, 2016 Council meetings. Ms. Crowder moved approval of the minutes as presented. Her motion was seconded by Mr. Branch and put to a vote. The motion carried unanimously and the Mayor ruled the motion adopted on an 8-0 vote.

TAXES – RESOLUTION ADOPTED

Council members received in their agenda packets a resolution adjusting, rebating, and/or refunding penalties, exemptions and relieving interest for the late listing of property for ad valorem taxes. Adoption of the resolution was recommended. Ms. Crowder moved to adopt the resolution as presented. Her motion was seconded by Mr. Branch and a roll call vote resulted in all Council members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Resolution 399.

PRELIMINARY ASSESSMENT ROLLS – VARIOUS – RESOLUTIONS ADOPTED SCHEDULING PUBLIC HEARINGS FOR DECEMBER 6, 2016

The following preliminary assessment rolls were presented. Adoption, which would set a public hearing to consider confirmation of cost on Tuesday, December 6, 2016, was recommended.

- Water Assessments– Craftsman Drive Improvements (PU 2013-1) Assessment Rolls 1353 and 1353-A

- Sewer Assessments – Knollrock Drive Improvements (PU 2014-1) Assessment Roll 1354
- Sewer Assessments – Coronado Drive Improvements (PU 2014-2) Assessment Roll 1355
- Sewer Assessments – Pinecroft Drive Improvements (PU 2014-4) Assessment Roll 1356

Ms. Crowder moved approval of the recommendation as presented. Her motion was seconded by Mr. Branch and a roll call vote resulted in all Council members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Resolutions 401, 402, 403, 404 and 405.

CLOSED SESSION

Mayor McFarlane moved to enter closed session pursuant to NCGS 143-318.11(a)(3) for the purpose of consulting with the City Attorney regarding the following items: review of two potential legal matters involving the City, and pursuant to NCGS 143-318.11(a)(6) in order to conduct the annual performance review of the City Manager. Her motion was seconded by Mr. Thompson and carried unanimously. The Mayor ruled the motion adopted on a vote of 8-0. Council entered closed session at 2:42 p.m.

Council reconvened to regular session at 3:52 p.m. Mayor McFarlane announced the Council had discussed two items referred by the City Attorney and had conducted the City Manager's annual evaluation. The Council took action to amend the City Manager's contract as follows: (1) provide a 3.5% salary increase; (2) increase severance pay from nine months to 12 months; and (3) add five days to the total of executive leave provided, for a new total of 10 days.

RECESS

Mayor McFarlane announced there being no further business before the Council, the meeting was recessed until 7:00 p.m. It was 3:53 p.m.

The City Council of the City of Raleigh met in regular reconvened meeting on Tuesday, November 1, 2016 at 7:00 p.m. in the City Council Chamber, Raleigh Municipal Building, 222 West Hargett Street, Avery C. Upchurch Government Complex, Raleigh, North Carolina, with all Council members present. The Mayor called the meeting to order at 7:03 p.m. and the following items were discussed with action taken as shown.

BOY SCOUT TROOP 395 – RECOGNIZED

Mayor Meeker welcomed Boy Scout Troop 395 from White Memorial Presbyterian Church and thanked them for attending the meeting. Mr. Thompson told the Scouts he had also been a member of Troop 395.

REQUESTS AND PETITIONS OF CITIZENS

HILLCREST CEMETERY – REQUEST FOR ASSISTANCE WITH INITIAL CLEANUP – REFERRED TO OTHER VOLUNTEER CEMETERY GROUPS

Ruby P. Greene, 2101 Lyndhurst Drive, Raleigh, NC 27610, Chair of the Friends of Hillcrest Cemetery, highlighted the following prepared statement and presented copies to the City Council:

> The Friends of the Hillcrest Cemetery Restoration would like to help restore and maintain this cemetery located at 1905 Garner Road. It is well within the City limits; in fact, it is within walking distance of the state capitol. Garner Road is a gateway thoroughfare into the City of Raleigh and should reflect the pride we have for the appearance of our City.
>
> Hillcrest is one of the oldest cemeteries in Raleigh where black folk are buried. But through benign neglect, it has fallen into disrepair and it is an eyesore and should be an embarrassment for the City, who prides itself on its appearance as the Stately City of Oaks.
>
> The Friends of Hillcrest Cemetery Restoration have volunteered to have the grass cut on a regular basis during the growing season, beginning in 2017. We plan to make other necessary improvements as well. However, the Bailey Drive side of the cemetery is so overgrown that we really, really need professional help. We are willing to contribute our sweat equity and do some of the work ourselves, but we would like for the City of Raleigh to help with the initial cleanup.
>
> The whole left side of the cemetery, left of the driveway, looks like a jungle and you can see headstones in the thicket. It did not get this way overnight, but through benign neglect it was allowed to become overgrown. There should have been some City ordinance that would have forced the owners to keep up the property. I hate to think that because of where it is located made a difference and this was not a priority.
>
> But in spite of that, the City should now take a little responsibility for this sad state of affairs and help the Friends with the initial cleanup. We would like to partner with the

City. If you will clean up the left side from the driveway all the way to the Bailey Drive side, since you do, in fact, own the lot on the corner of Bailey Drive and Garner Road, we will clean up the Calloway Drive side and remove all the smaller bushes and invasive vegetation throughout that side of the cemetery. We simply do not have the equipment or the resources to cut down large trees, but the City does.

It would not be a bad idea for the whole City Council to take a short drive down Garner Road, perhaps on your lunch hour, so you can actually see what we are up against. Basically, we are asking you to do four things:

First, we need the City to establish the property line on the Bailey Drive side of Hillcrest Cemetery, since the City owns the lot on the corner of Bailey Drive and Garner Road that abuts the cemetery. We would like for you to cut back all brush, undergrowth, and trees that encroach on the property line along that complete side of the cemetery. The property extends beyond your lot but it looks like a jungle out there.

Second, there are large pine trees at the back of the cemetery and another large tree with branches that extend over the driveway. We would like for the City to cut back these branches, like Duke Energy does for branches over its power lines, but do not cut down the whole tree.

Third, there is a large tree growing near the driveway on the Calloway Drive side of the cemetery. Actually, it is a double tree growing from a single trunk. We would like for the City to remove this tree and grind the stump.

Fourth, there are two other large trees growing within the cemetery. We would like for the City to remove these trees and grind the stumps. There is a large magnolia tree in the middle of the cemetery. We want to preserve this tree and it will probably become a focal point.

The Friends of the Hillcrest Cemetery Restoration will have the grass cut all the way to the property line around the complete perimeter of the cemetery for the months of April, May, June, July, August, September, and October, beginning in 2017. We will continue to remove smaller bushes and invasive vegetation so as to make the job of mowing a little easier.

We have long-range goals as well. The City may wish to plant crape myrtle trees along the Bailey Drive side to further establish the property line and enhance the beauty of the cemetery. We would like to restore the stone columns at the entrance of the cemetery. We would like to see if a historical marker could be obtained from the state. If not, we will install proper signage. We would like to pave the driveway throughout the cemetery. We would like to install a fence around the property. We will solicit funds from the community at large and perhaps apply for grants that might generate funds for these long-term goals.

All of this will add greatly to the beauty and pride we feel for the area and instead of an eyesore, the Hillcrest Cemetery will become a treasure.

Thank you very much for considering these requests. We hope you will find it in your Parks and Recreation Budget or some other budget to fund these requests.

City Manager Hall stated this is a private property matter and the agenda packets contained information about the request.

Mr. Branch asked if the issues relative to the City-owned property had been addressed. Parks Superintendent Wayne Schindler explained the City owns one parcel of land on the corner of Bailey Drive. It is a FEMA buyout lot that was acquired a number of years ago. Staff is trying to confirm the property line between the City-owned property and the cemetery property so they can determine what can be done in terms of cleaning the undergrowth beneath trees along the property boundary. That has not been done to date, but the City can work on cleaning up the lot if Council so desires.

Ms. Crowder asked if the City's property is in disrepair and needs to be cleaned. Parks Superintendent Schindler replied that is subjective. There are trees and undergrowth along the property line. The undergrowth can be removed if it is an aesthetic issue for the adjacent property owner.

Mayor McFarlane stated she would not be in favor of removing the trees. Mr. Gaylord pointed out that staff's memorandum in the agenda packet stated the City will cut back the vegetation that is encroaching from City property over the property boundary at Bailey Drive. He believes the City should take of its own property even though it obviously cannot do the same on someone else's private property. Mr. Branch agreed the City should clean up its own property, not just here, but all over the city.

Ms. Crowder said the Method Oak City Cemetery and Friends of Oakwood Cemetery each put together a collaborative group of people who work twice a year to come out and clean the cemeteries. It has taken a while to get that done, but they have been very effective in gathering support and donations for trying to accomplish the same goals as those of the Friends of Hillcrest Cemetery. She suggested it might be helpful for the Friends of Hillcrest Cemetery speak to these other two groups to learn strategies for how to move forward with the goals for a private cemetery and the care of that cemetery. Ms. Greene commented from the audience that they have spoken to them and are getting together a group of friends for Hillcrest Cemetery.

TRAFFIC – PROPOSED ALIGNMENT OF FISHER STREET WITH MADONNA ACRES SUBDIVISION – COMMENTS RECEIVED

Bruce Lightner, Dr. Pauline Goza, and Representative Yvonne Lewis-Holly had asked to be placed on the agenda to discuss a proposed alignment of Fisher Street with Madonna Acres. This relates to a DHIC proposal coming to the City Council (redevelopment of Washington Terrace, preliminary subdivision plan S-18-2016) and street closing STC-05-2016 – Booker Drive and North Fisher Street (Portions).

Dr. Pauline Goza, representing the Madonna Acres Community Association, read the following statement into the record:

> Good evening. My name is Dr. Pauline Goza and I represent the Madonna Acres Community Association. Based on the results of the 1:00 p.m. Council meeting today, DHIC is on the December City Council agenda to have a public hearing about the Booker Drive and North Fisher Street closings. It came to our attention that people may believe the Madonna Acres community is not supportive of having affordable housing near our neighborhood. For the record, nothing could be further from the truth. Many of our residents came from Washington Terrace. Some were the original occupants of Washington Terrace. In fact, we are bordered on both sides by affordable housing and we have never objected to that.
>
> The challenge is, how do we provide a much needed common good without jeopardizing a national historic district and an intact, longstanding model community? Madonna Acres is where two of your own, former Councilman John Winters and former Mayor Clarence Lightner, defined their commitments for being partners with the City, the community, and the private sector. Mr. Winters developed affordable housing for certain residents of Raleigh who were otherwise being excluded. Mr. Lightner was a founding father of DHIC.
>
> First of all, we want to thank DHIC for what we believe are their well-intentioned efforts in keeping Washington Terrace's rents as affordable as possible. From the onset of this project, we provided input on many of the issues that needed to be incorporated into the design documents. Our major request was that Fisher Street nor Booker Street be aligned with Delany Drive. We are feeling disenfranchised, as representatives from our community have attended many of the DHIC community meetings and we were surprised when we reviewed the master plan and saw that none of our input was taken seriously, mainly:
>
> 1. Avoid aligning any street extensions with Delany Drive.
> 2. Remove the discriminatory plan of segregating the rental units in the back of the proposed new complex. Integrate the rental units into the Washington Terrace community as DHIC promised and sold to its stakeholders and the community.
> 3. Make sure that Washington Terrace is in the name of every section or phase of the complex, which will make the entire community a cohesive and identifiable community.
> 4. Reconsider placement of the retirement housing closer to the local business district.
>
> I had a presentation where we had an architect take a look, and he said what we were asking was doable, and doable in a timely manner, yet DHIC refuses to even consider it more than lip service. This is not the first time we have asked DHIC to review the connection between the two communities. Based on our results, we will take this matter as far as we need to, to get the results.

TRAFFIC – SIGNAL LIGHTS AT THE INTERSECTION OF GLENWOOD AVENUE, WEST WHITAKER MILL ROAD, AND FAIRVIEW DRIVE – REQUEST FOR CHANGES – REFERRED TO ADMINISTRATION FOR REPORT

Laurie McDowell, 401 West Whitaker Mill Road, Raleigh, NC 27608, highlighted the following prepared statement and presented copies to the City Council. She used a PowerPoint presentation, and color photos that were attached to the statement she distributed, to help illustrate her comments.

> My name is Laurie McDowell and I live at 401 West Whitaker Mill Road. I represent residents of the Five Points/Hayes Barton neighborhood who are concerned about traffic, as well as pedestrian safety, at the intersection of Glenwood Avenue (US 70), Fairview Road, Whitaker Mill Road, and Glenn Avenue in Raleigh. We have been experiencing problems with traffic that backs up along Whitaker Mill Road for blocks at peak hours.
>
> The lights at the intersection were replaced a few months ago, and this change is greatly appreciated, but traffic entering the intersection to turn left onto Glenwood Avenue from Whitaker Mill Road does not have a protected left turn arrow. The left turn lane allows for four or five cars, and when that lane is full, cars who want to turn right onto Glenwood cannot get through. The photos in the PowerPoint show the traffic, including emergency vehicles and City buses, backed up for several blocks along Whitaker Mill Road.
>
> Residents of Five Points have contacted both the NCDOT and the City of Raleigh about this intersection. The NCDOT will not provide a protected left green turn signal until the City of Raleigh resolves the right turn lane "capacity issue" by extending and additional right lane further back from the intersection, which would allow more vehicles to pass the vehicles trying to turn left.
>
> In an e-mail to Edie Jeffreys, John Sandor of the NCDOT – Division Five department, stated: "Based on some preliminary analysis performed on this intersection, there is a definite impact to the traffic along US 70 to have a left turn phase installed for Whitaker Mill Road. An issue was also observed in the analysis along Whitaker Mill that was causing capacity problems for the Whitaker Mill approach as well. As you know, Whitaker Mill is a City street and any deficiencies would have to be improved by the City of Raleigh. As a result of this issue, I'm not agreeable to taking time away from US 70 until the capacity problem has been addressed by the City."
>
> Jed Niffenegger of the City of Raleigh Engineering has proposed extending the right turn lane, but said there is no funding in his department for it. (Ms. McDowell directed Council's attention to one of the photos attached to her statement that showed the area to be widened.) In an e-mail to Ms. Jeffreys, Mr. Niffenegger stated "As John (Sandor) mentioned, a protected left turn could help the side street delay. That said, it would impact the delay on Glenwood. A more reasonable fix is to increase storage/capacity. Traffic is like water and more goes through a bigger hose. In our investigation, we noticed Whitaker Mill flared right before the intersection and then goes back to a single

lane. Several hundred feet back, it widens again. (Ms. McDowell directed Council's attention to a photo. She stated there is a pullout along Whitaker Mill in front of Hayes Barton Church, which appears to be a bus pullout, although there is no bus stop there. This pullout is not connected to the church driveway or parking lot.) An idea we had was to widen the road to allow for more storage (see attached). This would help minimize delay; however, it would cost a significant amount. My programs are operationally-based and therefore not funded for improvements such as this. That said, it is prudent for me to share this with our Planning Department and see if we could get LAPP funding or a small project to help out." (**Clerk's Note:** LAPP is the Locally Administered Projects Program of the North Carolina Capital Area Metropolitan Planning Organization.)

Another issue with the intersection is that because of the backups and the difficulty people have turning left or right off Whitaker Mill Road onto Glenwood, people in cars and people in large trucks, including tractor trailers carrying building supplies for the infill development, and cement trucks from the facility on Pershing Road, cut through the neighborhood streets to get to Glenwood, or to Capital Boulevard via the Fairview Road flyover bridge. These drivers frequently drive through the neighborhood too fast for our narrow streets. This neighborhood was built in the 1920s and the streets were not designed for such traffic. Five Points is a pedestrian-friendly neighborhood with kids walking to school and residents walking to the businesses at Five Points, and the increased traffic is a safety issue for pedestrians.

When the Fairview Road flyover bridge is closed for the work on Wade Avenue/Peace Street and Capital Boulevard intersections, even more vehicles will be on Whitaker Mill Road trying to take a left to get through the intersection. Construction is expected to take 18 months and to start soon.

My neighbors and I request funding which would extend the Whitaker Mill Road right turn lane and we request an expedited scheduling of the work in preparation for the additional vehicles that will be traveling through the intersection when the Fairview Road bridge is closed.

City Manager Hall stated this is obviously an item that has some funding implications as well as traffic system prioritization. Staff can examine the issue and bring a report back to the City Council, if Council so desires.

Mayor McFarlane asked if this is something that staff has looked at, whether it has been determined to be a concern, and whether it is on a priority list. Senior Transportation Engineer Jed Niffenegger explained this is an NCDOT intersection that the City maintains. City staff often makes recommendations to NCDOT and has recommended that a protective phase be installed there. Staff did some analysis and thought they could install a protective phase without impacting Glenwood Avenue too significantly. There will be an impact but in their professional view, it would not be too significant. Since it is an NCDOT intersection, NCDOT makes the final determination. Staff took the alternative approach of flaring out and widening the throat of Whitaker Mill Road to help with capacity.

Mr. Branch asked, based on the diagrams, if there is any impact to the homes. Engineer Niffenegger replied there is not, because the right-of-way is extremely wide at that location. The concerns would be related more to drainage. Staff, including Transportation Planning Manager Eric Lamb, has talked about the possibility of this being a minor Capital Improvement Program (CIP) project. Mr. Gaylord commented it appears to be a relatively inexpensive fix and he would like staff to continue to work on it. He also asked that staff look at the adjacent large grove of trees to determine if they would be affected.

Engineer Niffenegger pointed out it feels rather uncomfortable to drive through that intersection. City staff will continue to push NCDOT for a protective phase and believes they can implement that with minimal delay. NCDOT's concern is with the main street and ultimately, it is their decision.

Mr. Stephenson confirmed with the City Manager that staff will perform more research regarding the cost and scheduling and bring a report to the City Council in the future. City Manager Hall said the report will include potential funding options and prioritization.

PARKING – RESIDENTIAL PARKING PROGRAM PROPOSAL FOR OAKWOOD, MORDECAI, AND BLOUNT STREET HISTORIC DISTRICTS – REFERRED TO ADMINISTRATION FOR REPORT

Sara Rex, 210 Pace Street, Raleigh, NC 27604, stated she lives in the Blount Street Historic District. Representing the Mordecai and Oakwood neighborhoods and the Person Street Business Partners, she was present to discuss a residential parking proposal for historic districts. She stated there is already permit parking in place for when neighborhoods get busier and busier and residents are impacted by parking needs. She showed a PowerPoint slide that contained the following information (rules for existing residential parking permit program):

<u>What the City Has Now</u>

- Four blocks (or eight sides of blocks) that have 75% support
- Sign is installed, visible within 200 feet of spot
- Any car parked closer than five feet to driveway is ticketed (permit or not)
- Any car parked on the whole street without a permit during designated times is ticketed
- Cost approximately $20 per year for permit
- Guest passes available

Ms. Rex said she and her neighbors in their historic district found that the rules associated with this program did not quite accomplish all the goals they need. They have tried to develop a plan that would accomplish those goals and are presenting it as a possible alternative. They recommend a new category unique to historic districts; the following PowerPoint slides outlined the proposed regulations and advantages.

<u>Proposed Historic District Permit Program</u>

- A new category unique to historic districts
- Only three changes to the current program offered by the City
- Marked by spots painted on street or curb

- Closer than five feet to drive if resident desires (two to five feet)
- Minimum signage – sign would read:
  - Permit parking only
  - In marked spots
  - 5:00 p.m. to 10:00 p.m.
- One sign on each end of block (visible for 200 feet)

Why Add a New Category? (slides showed samples of the variations below)
- Variations in driveways of historic areas
  - No curb
  - Granite curb
  - Irregular curb
  - Narrow driveways
  - Double driveways
  - Trees encroaching
  - Zero lot lines

Less Signage (Historic district residents do not want a lot of signage)
- Must be visible for 200 feet
- This would allow one sign at each end of a regular-size block

Easier to Enforce
- Very difficult to determine five feet from drives in historic neighborhoods
- Clear markings; ticket those without permit

Allows More Parking
- Pace Street between Blount Street and Person Street
- Busy restaurants (The Station, Krispy Kreme, Person Street Pharmacy, Standard Foods, Wine Authority, Yellow Dog Bakery, soon to be Crawford & Sons)
- Adjacent college with students who use street parking
- Current permit program
  - Busy day at noon has approximately 29 spaces filled
  - Current permit program **reduces this to 17 legal spaces**

Ms. Rex stated this parking proposal has been reviewed by residents of Mordecai and Oakwood, and the Person Street Business Project. They have also talked to City of Raleigh Parking Administrator Gordon Dash.

Mayor McFarlane said she believes Boylan Heights already has a residential permit parking program in place. Ms. Rex replied the point of this is that the historic districts she noted today are not the only ones facing vibrancy and growth, where parking has become a big problem. There are other historic districts in areas of great growth do not have a parking program. Their thought was that if Council approves this proposal, it could be applicable to other areas. They recommend starting with their district, then applying it to other districts if the program is positive and works.

Mayor McFarlane asked about the process for residential parking permit programs. Parking Administrator Gordon Dash explained eight contiguous block faces are required at a minimum, and at least 70% to 75% of the affected residents must be in agreement with the program. The Mayor asked what would happen if, for example, a house is being renovated and a dumpster takes up two parking spaces. Parking Administrator Dash replied staff would have to make adjustments. Mayor McFarlane asked if spaces are left for delivery vehicles and work vehicles, or if all the spaces are permitted. Parking Administrator Dash said the typical residential parking permit program allows two hours of parking unless the vehicle drivers has a parking permit. If a driver has a permit, he may park in the designated parking area all day. There are no reserved spaces on the streets in residential areas. Ms. Crowder asked if residents who live in the designated residential parking area must pay for the permit, and Parking Administrator Dash replied affirmatively.

Mr. Stephenson asked if the rules for two-hour visitor parking and all-day parking for residents with residential parking permits in the existing residential parking permit program would apply if an individual space is marked on the pavement as suggested under the proposal that was presented today for historic districts. Ms. Rex responded that is not what they propose. Mr. Stephenson asked they are proposing a reserved space parking program. Ms. Rex said they are not proposing reserved spaces for individuals, but for areas.

Mayor McFarlane asked if the program would be developed first and the buy-in from interested residents would come later, or if the residents would first indicate interest in a residential parking program and the City would then develop the program. City Manager Hall suggested separating the question into two pieces. First, does a particular area want to move forward with the residential parking program in its current form? It has an existing set of parameters and conditions and an approved process, etc. Second, some of the proposed changes put forward by Ms. Rex et al. that represent differences from the existing program need more attention and review. Staff would need to bring a report to Council regarding the historical and legal contexts to consider. Mayor McFarlane said the Council would like a report on those suggested changes to the existing residential parking permit program and their implications.

ZONING – ALLOW SINGLE FAMILY HOMES AND MOBILE HOMES AS PERMITTED USES IN MANUFACTURED HOUSING ZONING DISTRICTS – TEXT CHANGE AUTHORIZED

Jorge Estrada and Antonio Salazar had asked for placement on the agenda in order to request a text change that would allow single family homes and mobile homes to be permitted uses in a manufactured housing zoning district.

Antonio Salazar represented Jorge Estrada. He explained that Mr. Estrada bought two lots at 4906 and 4908 Pine Drive in Raleigh. When he tried to get a permit to build on the vacant lot at 4906 Pine Drive, he discovered the only thing he could build there is a child care center, not a single family home. They are asking permission to build a single family home on the lot. The old zoning allowed a single family home to be built there, but the new zoning does not.

Assistant Planning Director (APD) Travis Crane explained the subject property is zoned Manufactured Housing (MH), which has a fairly narrow use palette and ironically, does not allow for a single family home, even though it is primarily a residential zoning district. The request before Council is to amend the zoning code to allow for single unit living in the MH zoning district. It would be a fairly simple text change and staff could bring it back to Council quickly, along with a full report. MH allows for a manufactured house development of at least 10 acres. It would allow for fairly limited utilities, day care, and parks. A single family manufactured home would be allowed if a lot was at least 10 acres in size, but the subject property is not 10 acres.

Mr. Gaylord pointed out this is a normal single family neighborhood and he is in favor of the text change. Ms. Crowder asked how many MH districts are in the City that might be affected by the proposed text change, and APD Crane said there are not a lot of them. Mr. Branch asked if MH is an industry standard. APD Crane replied it is a fairly standard zoning district, but he does not know if the way the City treats it is standard. Ms. Baldwin asked if a City-initiated rezoning would make more sense than a text change. APD Crane said it would if the rezoning was only for this property, but staff believes if there is an issue for this property, it is likely the same issue would exist for other MH zoning districts in the City and the Council may want to address it globally. Ms. Baldwin said she is unsure of the implications of a text change, and APD Crane noted this is the only residential zoning district that does not allow a single family home. Ms. Baldwin asked about the rationale behind the development of this district. APD Crane said he is not certain and would have to look at Planning staff's notes with the consultant for development of the district. Mr. Branch commented he is in agreement with authorizing a text change, but wants the issue looked at citywide.

Mr. Gaylord moved to authorize staff to draft an appropriate text change to allow single family housing in the MH district and to look for unintended consequences while doing so. His motion was seconded by Mr. Stephenson.

Mr. Thompson suggested the motion should include that staff notify everyone in the neighborhood about the text change. APD Crane asked if he meant notification only for this localized area or anyone who owns property in an MH district, and Mr. Thompson replied he meant for this particular neighborhood. APD Crane pointed out that would be a deviation from how staff treats most text changes, but they can do that. When regulations are changed, staff does not provide notice to everyone within that zoning district because the zoning could be applied across a fairly large area. Typically, staff provides notice through the newspaper as required by law and through the City's Web site. Mr. Thompson stated he views this as a rezoning. APD Crane said it changes the use in the district, and Mr. Thompson said in his opinion, that is a rezoning. APD Crane confirmed with the Council that notification is to be provided only to the people in this neighborhood. Ms. Crowder confirmed with APD Crane that if staff is drafting a text change that affects everyone in the City, then anyone owning property in an MH district must be notified. Mayor McFarlane pointed out Council will be waiting for a report back from staff, including how large an area this will affect. Ms. Crowder said she is trying to understand why staff is being asked to provide two notifications, which is not a standard the City usually uses. Mr. Thompson responded that Council does not know what the other neighborhoods look like; they may not look like this single family neighborhood. In his

opinion, if anyone is going to rezone property in a single family neighborhood, everyone needs to be notified. Until it receives staff's report, Council does not know how many neighborhoods might be affected by the text change. Ms. Crowder disagreed with Mr. Thompson's opinion that this is a rezoning; she said it is a text change and she wants staff to follow the City's standard for notification.

Mr. Stephenson asked if the neighborhood would be "signed" if Council moves forward with the text change. APD Crane replied the City typically does not erect signs around the City for text changes. Mr. Stephenson said he agrees with Mr. Thompson that this is a change in entitlement, which indicates it could be considered a rezoning. He also agrees with the other side, *i.e.*, if Council is concerned about the rights and notification of the people whose entitlements will be changed, notification should not be limited to this one neighborhood. He said the City should be consistent with its process for text changes. Mr. Thompson said he does not object to notifying everyone who might be affected by this text change, even if it is thousands of people. The Mayor said she thinks staff is trying to point out that if the text change process is followed, everyone will be notified. Mr. Gaylord confirmed with APD Crane that the normal text change process does not include direct mail notice. He understands this text change has a neighborhood impact and while it is not a "huge deal" to notify residents of this neighborhood, he does not want the City to get into a situation where it is mailing out notifications for every text change. Mr. Gaylord said his guess is that the omission of single family homes as a permitted use in the MH district was an oversight. APD Crane commented that is a fair statement. He noted that within the past year, the City Council approved a change to this very zoning district to allow for civic uses like churches. Mr. Gaylord asked if direct notification was sent out for that text change and APD Crane said it was not.

Mayor McFarlane called for the vote on Mr. Gaylord's motion and all Council members voted in the affirmative except Mr. Thompson. The Mayor ruled the motion adopted on a vote of 7-1.

LEESVILLE ROAD WIDENING PROJECT – PROPERTY DAMAGE AT 11416 LEESVILLE ROAD – COMMENTS RECEIVED

Scott Benrube, 11416 Leesville Road, Raleigh, NC 27613, read the following statement into the record concerning damages incurred at his property as a result of the Leesville Road widening project:

> I am disappointed that I have to address you again on this to review what has transpired in the past. On July 13, 2012 I was first contacted by Susan Mullins, representing the City of Raleigh, concerning the Leesville Road improvement project and the effects of the project on my residence. Ms. Mullins, along with a representative from Kirkland Appraisal hired by the City, came to our property and explained to my wife and me what we would be compensated for as a result of the project. When I questioned Ms. Mullins about the possibility of other unexpected damages, she guaranteed that if anything happened in addition to what was specified in the Description of the Proposed Taking agreement, the construction company hired, or the City, would fix the problem.

On October 8 2012, I received a check with a letter signed by Ms. Mullins. The check represented compensation for a list of real estate interests, along with instructions to contact Tim Sudano, the City's Project Engineer, if I had any concerns regarding the project. I was also provided with a document outlining the City's obligations upon completion of the project.

On February 25, 2014, I received a letter from Devere Construction Company. In the letter, it states that if by "our forces or one of our subcontractors inadvertently causes damages," Tim Sudano should be contacted.

When I first came before the Council, I presented circumstances that led to the damages to my property. At that time, the City manager was instructed to address these problems. Two months later, I came before this Council again because all issues were not corrected. Councilwoman Baldwin suggested that the Stormwater Department examine the situation. Unfortunately, I received a letter from the department stating that since my property lies just outside of the City limits, the property does not qualify for City assistance.

I was then forced to file a claim against the City in small claims court. The Assistant City Attorney first filed an extension, then after a new date was set, filed a motion to dismiss. After hearing the motions and my responses, the judge sent the case to Circuit Court to decide on the motions. The Circuit Court judge dismissed one action, but required me to file an amended complaint adding my wife as a complainant, as well as explaining why the City of Raleigh has waived sovereign immunity. I filed the amended complaint and I await a response from the Assistant City Attorney as to when this case will once again come before the judge.

In the judgment of *State v. Smith*, 289 NC 303 (1976), by entering the contract the governmental body waives immunity and consents to be sued for damages for breach of the contract.

I come before you this evening in hopes that my requests will be granted. If not, I will be returning to address the Council once again and continue to peruse all legal avenues available to me.

Mayor McFarlane asked City Attorney Tom McCormick if he had any comments. He replied that the matter is in litigation and it would not be appropriate for him to comment at this time. Mr. Benrube said it could be taken out of litigation very easily, since he just refiled the amended motion and someone is supposed to get back to him about when the matter would be heard. The City Attorney informed the Council his office had just received the filing today, and he did not think the matter should be discussed at this meeting.

MATTERS SCHEDULED FOR PUBLIC HEARING

ASSESSMENT ROLLS – PAVING ASSESSMENT ROLLS 941 AND 941A AND SIDEWALK ASSESSMENT ROLLS 419 AND 419A – FALLS OF NEUSE ROAD WIDENING AND REALIGNMENT PHASE I – HEARING CONTINUED – RESOLUTIONS CONFIRMING CHARGES ADOPTED; BUDGET AMENDMENT ADOPTED

During the October 4, 2016 Council meeting, a hearing was held to consider adoption of resolutions confirming charges associated with Paving Assessment Rolls 941 and 941A and Sidewalk Assessment Rolls 419 and 419A related to improvements made to Falls of Neuse Road. The charges would be according to those outlined in Resolutions 2016-363, 364, 365, and 366, all of which were adopted on September 6, 2016. Questions were raised concerning the charges, possible exemptions, and access. The hearing was continued and it was directed the item be placed on this agenda for further consideration.

Assessment materials, including staff reports addressing citizen concerns and a Council request made at the October 4 meeting to define access, were included with the agenda packet. Following the requested review, staff recommends the assessment roll be confirmed as previously presented.

Following the hearing, the Council may take action to approve the assessments, refer the assessments to committee, or hold the assessments at the table. Should Council adopt the assessments, a budget amendment in the amount of $350,584 is necessary to appropriate funds for City-owned properties on the assessment rolls. Accounting details were included with the agenda packet.

Rich Kelly, Engineering Services Director, stated that after the October 4 Council meeting, staff talked to property owners and performed further analysis of the appropriateness of the assessments, and the results will be presented this evening for Council consideration. In a further effort to reduce any confusion, each assessment roll is being presented individually instead of as one combined item as was done previously. Engineering Services Director Kelly said that City Assessment Program Manager Jimmy Upchurch had prepared a brief presentation to help describe the assessment process and illustrate some of the issues associated with specific properties under consideration this evening.

Assessment Program Manager Upchurch stated that at the October 4 meeting, Council directed staff to look at the City's exemption policy as it refers to access. There were questions from various property owners about whether they had access or could be exempt under the City's exemption policy. Staff was asked to define "access." A slide of the exemption policy in the City Code and a slide of the definition of reasonable access taken from a City Engineer's memorandum contained the following information:

Paving/Sidewalk Assessments
City Code Sections 6-2021(d)(4) and 6-2022(b)(4)
If a lot abuts on a street or road (sidewalk) to be built or improved but physical or topographic restrictions prevent reasonable access thereto from the lot, then no assessment shall be made. In the event that such a lot later gains access formerly thought impossible to the street (sidewalk) which was improved, the owner will be charged a fee equivalent to the amount the lot would have been previously assessed.

Definition of "Reasonable Access"
(As taken from memorandum by City Engineer dated August 1989)
"We believe that a consistent and practical standard to define 'reasonable access' from a topographic point of view can be based on the *feasibility of a property owner being able to construct a driveway from the grade point at the right-of-way line to the natural grade point at the 30-foot building setback line, without exceeding a maximum allowable driveway slope of 25%*. This sets a maximum elevation differential of 6 feet between the grade point of the right-of-way line and the natural grade at the 30' setback line in order for the adjacent lot to be defined as having reasonable access. This standard is considered applicable to both street and sidewalk applications. It is feasible for pedestrians to use a 25% grade (4:1 slope)." (Emphasis added on slide.)

Mr. Cox asked if staff takes into consideration the property's access to a side road that in turn has access to the improved street, and Assessment Program Manager Upchurch said they did not. The assessment is eligible to the property's frontage that abuts the improved street. It is not defined by where the property owner gets his driveway access. In order to be able to provide this exemption per this City Code section, staff must look at the abutting footage of the property to the street that is improved and whether it is feasible for the property owner to be able to construct a driveway and meet the 25% driveway slope.

Mr. Stephenson asked if reasonable access has to be directly across the abutting right-of-way frontage or if it could be through a more circuitous route that gets to the property. Assessment Program Manager Upchurch replied it has to be a reasonable access to the street that the City is assessing. The assessment is applicable to the footage of the property to the new roadway. It is the ability to gain an access, a driveway, to that street.

Mr. Thompson confirmed with Assessment Program Manager Upchurch that a property owner whose house is on a corner lot would still be assessed if he already had an existing driveway on the street that was not improved. Mr. Upchurch added that the assessment is based on the property owner's ability to construct a driveway to the improved street and meet the 25% grade. Mr. Thompson asked if it would make any difference if the improved street was an NCDOT street and the NCDOT refused to issue a driveway permit. Assessment Program Manager Upchurch replied the City Code does not specify that as a restriction; it only addresses the feasibility of the property owner to construct a driveway to the improved street.

Assessment Program Manager Upchurch said the second part of the topographical and physical restriction exemption relates to physical conditions. Conditions are considered to be physically

impacted if there are fences or walls without gates that cover the entire property frontage along that side of the lot.

Assessment Program Manager Upchurch stated only one property owner at the October 4 hearing questioned the assessment he was being charged.

McConnell Property

Assessment Program Manager Upchurch showed a slide of the assessment map with the McConnell property highlighted in yellow, and a slide of an aerial view of the property. Mr. McConnell was assessed for 562 feet of abutting frontage. At the October 4 hearing, he indicated his driveway access is off Holmes Hollow Road on the front side of his lot, which used to be Old Falls of Neuse Road. When this project was done, the City realigned Falls of Neuse Road through the back of Mr. McConnell's property. The City has provided two driveway accesses along the back side of his property and these accesses were shown on slides. Mr. McConnell had also indicated that the second driveway access was constructed for the Fire Department. While there is an access easement across Mr. McConnell's property that is dedicated to the Fire Department, the driveway is on Mr. McConnell's property. There are no topographic or physical restrictions on this property. Staff recommends approval of the assessment for Falls of Neuse Road Widening and Realignment Phase I as presented.

Mr. Thompson asked if the McConnell property is inside the City limits. Assessment Program Manager Upchurch replied it is outside the City limits and any assessment confirmed for the property would not be due until it is annexed into the City limits. This does not indicate the City is going to annex the property, merely that if the property is annexed the assessment would become due and payable at that time. City Attorney McCormick added that the assessment would not become a lien against the property until such time as the annexation would occur. Assessment Program Manager Upchurch noted the assessment would be a matter of record for real estate attorneys who do title searches to uncover this potential encumbrance on the property.

Mayor McFarlane announced the continued hearing was open for public comment. There were no speakers; thus, the hearing was closed.

Ms. Baldwin made a motion to confirm Paving Assessment Rolls 941 and 941A and Sidewalk Assessment Rolls 419 and 419A as presented, and approval of any associated budget amendments. Her motion was seconded by Mr. Gaylord and a roll call vote resulted in all Council members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Resolutions 406, 407, 408 and 409 and Ordinance 641 TF 286.

ASSESSMENT ROLLS – PAVING ASSESSMENT ROLLS 947 AND 947A AND SIDEWALK ASSESSMENT ROLLS 424 AND 424A – FALLS OF NEUSE ROAD WIDENING AND REALIGNMENT PHASE II – HEARING CONTINUED – RESOLUTIONS CONFIRMING CHARGES ADOPTED

During the October 4, 2016 Council meeting, a hearing was held to consider adoption of resolutions confirming charges associated with Paving Assessment Rolls 947 and 947A and Sidewalk Assessment Rolls 424 and 424A related to improvements made to Falls of Neuse

Road. The charges would be according to those outlined in Resolutions 2016-371, 372, 373, and 374, all of which were adopted on September 6, 2016. Questions were raised concerning the charges, possible exemptions, and access. The hearing was continued and it was directed the item be placed on this agenda for further consideration.

Assessment materials, including staff reports addressing citizen concerns and a Council request made at the October 4 meeting to define access, were included with the agenda packet. Following the requested review, staff recommends the assessment roll be confirmed as previously presented.

Following the hearing, the Council may take action to approve the assessments, refer the assessments to committee, or hold the assessments at the table.

Assessment Program Manager Jimmy Upchurch reviewed with Council the properties whose owners questioned at the October 4 hearing the assessments they were being charged.

River Oaks Homeowners Association Property

Assessment Program Manager Upchurch stated Gene Senecal, representing the River Oaks Homeowners Association, had indicated on October 4 that there was a very large retaining wall across a large portion of this property that provided them no access. He showed a slide of the assessment map with the River Oaks HOA property highlighted in yellow, and a slide of an aerial view of the property. The total footage of the HOA's property on Falls of Neuse Road is 733 feet. At the far north end of the property there is a private driveway access, a private road, that goes onto the property. The retaining wall starts almost at the parking lot on the lower end of the property and goes along the pool and the tennis courts. There are no obstructions at the northern end of the property and no topographic problems or fences that would prevent access to that portion of the property. The City constructed a full street-type driveway onto the HOA's property at the northern end. Additional slides included another aerial view showing the retaining wall, a street view of the driveway access/private road onto the property showing they have full access to their property.

Bunn Property

Assessment Program Manager Upchurch Jimmy said that Lonnie Bunn's property is adjacent to the River Oaks HOA property. He showed a slide of the assessment map with Mr. Bunn's property highlighted in yellow, and a slide of an aerial view of the property. The property is located on the corner of Falls of Neuse Road and Kings Grant Drive. Mr. Bunn's driveway access is off Kings Grant Drive and he was not provided a driveway cut off Falls of Neuse Road. Assessment Program Manager Upchurch indicated on the aerial view the location of an ornamental subdivision wall at the lower southeast corner of Mr. Bunn's property. Staff had looked again at Mr. Bunn's property relative to the driveway access and topographic restrictions, and did not find that it was unreasonable for him to be able to construct a driveway at the maximum 25% grade.

Mr. Stephenson asked where Mr. Bunn could build a driveway where NCDOT would allow it and Mayor McFarlane reminded him that was not the issue. Assessment Program Manager Upchurch stated staff did not investigate that with NCDOT; they only looked at the topography

of the land to determine if it was feasible that a driveway could be constructed and stay within the 25% slope maximum.

Mr. Cox confirmed with Assessment Program Manager Upchurch that staff acknowledges there is a berm from the end of the wall to the end of Mr. Bunn's property, and the berm is at least as high as the wall. Mr. Cox pointed out there is also a drainage ditch that runs the entire length of the property. Assessment Program Manager Upchurch exhibited a photo of the property at the corner of Falls of Neuse Road and Kings Grant Drive which shows, relative to the sidewalk, that there is walkable access to Mr. Bunn's property because the wall stops short of his property. Mr. Cox said Mr. Bunn would have to walk through what appears to be landscaping, and the question arises as to who owns the landscaping, Mr. Bunn or the HOA. He said it looks like landscaping that is provided by the HOA. Mayor McFarlane said the issue is whether Mr. Bunn has the ability to have access to Falls of Neuse Road within the 25% slope maximum. Mr. Cox questioned whether Mr. Bunn really has access, for example, whether there is a landscape easement on the property that would allow walking. He reminded the Mayor that on the back half of the property, there is a berm as high as the wall that runs the entire length of the property.

Assessment Program Manager Upchurch indicated on the slide the end of the wall and beginning of the berm, and said it is difficult to see this from the street side of the property. With regard to access to the sidewalk, he indicated on another slide a small two foot-wide access between the berm and the wall, and said the criteria in the exemption policy is that the physical obstruction must be along the entire property frontage. Therefore, staff did not believe the property qualified for an exemption relative to the sidewalk. With regard to the paving assessment, staff does not consider an earthen berm as a permanent restriction to exempt property from a street assessment. The exemption policy specifically indicates that fences with no walls that are constructed along the right-of-way line are not considered. Mr. Cox questioned whether it was harder to remove a wooden fence than a four-foot tall berm that is probably four to five feet wide at the base. Assessment Program Manager Upchurch replied staff has not considered an earthen berm to be a permanent restriction. Mayor McFarlane stated the issue is not interpretation of the City Code; the issue is application of policy interpretations equally to everyone across the City.

Ray Property

Assessment Program Manager Upchurch stated that on October 4, Mr. Ray was represented by Robert Wilson, a resident who lives on his property. He showed a slide of the assessment map with Mr. Ray's property highlighted in yellow, and a slide of an aerial view of the property. The property has 1,600 feet of abutting footage along Falls of Neuse Road. The main access onto the property is by Rocky Toad Road, which is a private access road that provides access to the lot. He also has two other driveway accesses along his property as a result of the improvements. All three accesses go directly onto Falls of Neuse Road. Within the City's exemption policy, there are no other exemptions that are applicable to this parcel. Mr. Ray's property is outside the City limits, so any assessment would not be due until such time as the property is annexed into the City limits.

Mayor McFarlane announced the continued hearing was open for public comment and the following people spoke.

Gene Senecal, 1320 Kings Grant Drive, Raleigh, NC 27614 – Mr. Senecal read the following statement into the record:

Good evening, Madam Mayor, City Council, staff. I am President of the River Oaks HOA. On Tuesday, October 4 I spoke here in opposition of the assessment levied against the River Oaks HOA as well as two of its residents whose residences are located at the intersection of Kings Grant Drive and Falls of Neuse Road. At the conclusion of the discussion, Council directed staff to re-examine and review their findings.

Yesterday, October 31, I, along with Councilor Cox and Mr. Lonnie Bunn, one of the assessed residents, met with Chief of Staff Lou Buonpane and several members of City staff to review their findings. There were several areas of concern discussed, which ultimately remained unresolved. The meeting concluded with Messrs. Buonpane and Cox recommending that this matter be forwarded to committee for further discussion.

After that meeting, I went back to my office to review my files for any information pertinent to this matter. What I discovered was documentation filed in 1988 with Wake County for River Oaks by Cuprite Development. Therefore, I would like to submit as reference a copy of Wake County Book of Maps for 1988, page 836. The recorded survey on that page clearly states that "Lots 1, 45 and 46 will not have access to SR 2000." Those so happen to be the same properties the City of Raleigh is proposing an assessment for, for roadway and sidewalk improvements, because the City of Raleigh believes they have access. I believe that this documentation shows clear intent that no access was ever planned nor was it ever provided. The rules the City is using may have changed but the spirit and intent shown in the documentation have not. Therefore, this documentation alone should qualify these properties as exempt and I request that you refer this to committee for further consideration.

Before I conclude, I would again like to remind you all that Falls of Neuse Road is one of the most heavily traveled streets in North Raleigh. It is used by tens of thousands of travelers every single day. These travelers are commuters, school buses, emergency and commercial vehicles. The travelers come from near and far, each reaping the rewards and benefits of the widened thoroughfare. In the meantime, the residents of the communities bordering the widened and improved road are held hostage every day to the traffic, waiting for just the slightest break in the steady stream of traffic to get on a road that typically hits a pinch point as close as Ravens Ridge Road. There have been several days where traffic has backed up as far as Dunn Road.

So I ask you, why should this small handful of people who are most negatively affected be assessed at all? The City should be apologizing and thanking them for their patience and understanding.

I would like to suggest the City review and reconsider its process of assessing the homeowners for sidewalk and thoroughfare improvements. These improvements are not exclusively used by these people, yet they bear the lion's share of the cost for them. This is just not equitable.

Thank you for your consideration.

Mr. Senecal distributed copies of the map he referenced.

Lonnie Bunn, 1329 Kings Grant Drive, Raleigh, NC 27614-9358 – Mr. Bunn stated that at the October 4 public hearing, it was his understanding that City staff would revisit the assessment on his property, among others. He learned at the meeting with City staff yesterday morning that this had not been done. He asked if staff had visited the property and was told they used GoogleMaps to make their decision. Councilor Cox requested that staff visit the property and make a determination, and a staff member visited his property after yesterday morning's meeting. Mr. Bunn spoke to the staff representative, who was surprised the natural berm is as tall as it is. The staff member said GoogleMaps does not show that and he took several pictures. Now Mr. Bunn hears that because the berm is less than 30 feet from the right-of-way, it doesn't qualify for an exemption. Mr. Bunn asked about the reasonableness of removing an earthen berm with 30-foot tall trees growing out of the berm and was told that is not part of the Code and is not something staff would consider. Mr. Bunn stated this is not an appropriate explanation and should not be used for staff's determination. He asked the Council to consider the fairness of such an arbitrary decision and to reconsider the assessment.

Robert Wilson, 1216 Rocky Toad Road, Raleigh, NC 27614-6800 – Mr. Wilson stated he lives on a farm with Randy Ray, and Rocky Toad Road is an access to the property. The property is in Wake County and Assessment Rolls 947A and 424A are labeled as outside the City limits. Liens will be put on these properties, but he has always said that it is still the person's money, no matter what happens down the road. Mr. Wilson said Randy Ray is being assessed over $60,000 and he (Mr. Wilson) does not think that is fair. He said Phase I of the improvements is beautiful and is the way this highway was meant to be. It was built over new land and no one spoke against the assessments. Phase II came through a neighborhood and went through people's front yards. The properties that abut the road and are on the assessment roll were there a long time ago, when there was only a little dirt driveway that came out and met Falls of Neuse Road. Mr. Wilson said when the improvements were made, a little driveway access was built to the property. He showed a slide of that access and said they don't use it because people came in there and threw trash on that part of the land. The reason the sidewalk looks like it does is that the five new telephone poles were not installed in the correct spots. He showed the tripping hazard on the sidewalk, and another access point that comes right into the center. Mr. Wilson showed another slide, indicating a loon turn on the road which he thinks is out of place and not lined up correctly, and more slides of the sidewalk. Mr. Wilson said he is asking that Assessment Rolls 947A and 424A not be applied to Mr. Ray's property. Randy Ray has already given enough; the entire widening for the west side came along Mr. Ray's property, and nothing on the other side was affected because he was able to give that to the whole.

No one else asked to be heard; thus, the hearing was closed.

Mayor McFarlane stated this is never fun and no one ever wants to pay assessments. Staff, not the Council, interprets the City Code and how it is applied. Council had asked staff to re-review the assessments to see if any of these parcels were eligible for exemptions, and Council needs to

ensure the assessments are applied fairly. Staff had stated they had never in the past considered an earthen berm to be an obstruction. She asked if it was fair to consider that now when other property owners in the past had paid for assessments because their berms were not considered an obstruction. The Mayor said to her, it is a matter of parity and making sure the rules are applied equally to everyone in the City. Ms. Baldwin stated she agrees with the Mayor. The Council must set consistent policy and if exceptions are made, then the policy does not matter.

Mr. Cox said when the membership of the Council changes, new councilors bring a new perspective. He thinks the question of reasonable access should take into consideration obstructions such as earthen berms. Maybe in the past, the City assessed people who should not have been assessed because they had an earthen berm along their property, but two wrongs don't make a right, as his mother used to say. He views this from the perspective of the interpretation of "reasonable." When one looks at the berm and wall that run the entire stretch of Mr. Bunn's property, Mr. Bunn clearly does not have reasonable access. The other issue Mr. Cox sees involves reasonable access to Falls of Neuse Road. One of his concerns, which he said is a "fuzzy area," is the map with the deed restrictions that Mr. Senecal distributed which states that Lots 1, 45 and 46 will not have access to Falls of Neuse Road. He thinks that has to be weighed in terms of reasonableness as well. Mr. Cox said he will vote "no" in terms of this assessment.

Mr. Gaylord agreed the Council needs to be reasonable. He believes if the Council is going to change a policy in future, it needs to do so prospectively, not retrospectively. Council cannot pick and choose who it will retrospectively allow to circumvent a policy. That would ultimately be unfair and unreasonable to all the assessments that have been charged. He said he would be sympathetic to looking at best practice with regard to assessments in the future, but in the interest of fairness, Council needs to follow its existing policy for the time being.

Mr. Thompson asked if the deed restriction had anything to do with what the City's decision would be. City Attorney McCormick replied it is not a deed restriction, but a note on the subdivision plat. He thinks it is intended to give notice to the property owners of Lots 1, 45 and 46 that most likely, NCDOT will not allow them to have access onto Falls of Neuse Road.

Mr. Stephenson said he agrees with staff's interpretation of the City's assessment policy, but thinks the policy may be out of date, especially when it says the City will assess if there is reasonable access to a constructed driveway to the abutting improved right-of-way and a fence is deemed an obstruction but an NCDOT prohibition of a driveway access permit is not considered a much stronger prohibition. In terms of fairness, someone can erect a fence and not be assessed, but someone who can't, by law or NCDOT rules, hope to every build a driveway access. He does not see how the City could state that someone in that scenario still has reasonable access. Mr. Stephenson would like to have more conversation about best management practices and see what other cities do in order to get a sense of whether Raleigh's policies are similar to those of other municipalities. He thinks there may be merit to the berm situation and would like to hold this assessment until Council reviews the policy.

Mr. Cox said he would agree with that. These properties are outside the City limits and since the City will not be collecting that money any time soon, he sees no harm in holding the assessments until the policy is reviewed by Council. Mr. Gaylord stated he does not advocate holding the

assessments but is comfortable investigating the policy and how Council could improve it. As a matter of fairness, Council should abide by the policy as is, then vet it later to ensure that in the future the Council is as fair as it can be. Mr. Cox responded that is the point; Council should vet the policy in order to be fair. He said the Council should not be unfair to these particular individuals until it has looked at the policy. Mayor McFarlane stated the Council is not being unfair to these individuals, because it is applying a policy that has been in place. Mr. Gaylord has suggested looking at the policy going forward. These properties are not even in the City limits right now and City policy would not apply until they are annexed. Ms. Crowder asked if there is a reason should expedite review of the policy now, and Ms. Baldwin replied there is inconsistency.

Mr. Branch asked what will happen when Council is faced with the next assessment that is outside the City limits and Council has these same questions. He asked how long Council would hold the assessments if it decides to hold them. The Mayor responded that redoing a policy can take a long time. Mr. Thompson said he agrees with Mr. Gaylord. The road improvements have been completed and the property owners have gained the benefits from it. The policy is in place and Council should follow the policy. However the policy should be reviewed in the future, especially the fact that NCDOT will not allow a driveway permit for certain properties, which does not seem fair to him. Mr. Stephenson commented that much of the discussion tonight concerned the word "reasonable." With regard to the cases before the Council, he asked if it is unreasonable to not take action now since the assessments will not be applied any time soon, and revisit the policy in the future.

Mr. Gaylord moved approval of Paving Assessment Rolls 947 and 947A and Sidewalk Assessment Rolls 424 and 424A as presented and that Council authorize staff to investigate the assessment policy and return to the Council with recommendations for best practice. Ms. Baldwin seconded the motion.

Ms. Crowder asked if Council needed to give staff more direction. Mayor McFarlane replied that staff should look at the issue of NCDOT denying driveway access permits and whether that constitutes "unfairness"; what constitutes physical impediments; and why, in the past, staff has not considered earthen berms to be an impediment.

A roll call vote on Mr. Gaylord's motion resulted in all Council members voting in the affirmative except Mr. Cox. The Mayor ruled the motion adopted on a 7-1 vote. See Resolutions 410, 411, 412 and 413.

ASSESSMENT ROLLS – PAVING ASSESSMENT ROLLS 946 AND 946A AND SIDEWALK ASSESSMENT ROLLS 423 AND 423A –JONES SAUSAGE ROAD WIDENING AND REALIGNMENT/ ROCK QUARRY ROAD PART B – HEARING CONTINUED – RESOLUTIONS CONFIRMING CHARGES ADOPTED; BUDGET AMENDMENT ADOPTED

During the October 4, 2016 Council meeting, a hearing was held to consider adoption of resolutions confirming charges associated with Paving Assessment Rolls 946 and 946A and Sidewalk Assessment Rolls 423 and 423A related to improvements made to Jones Sausage Road

and replacement of the existing bridge on Rock Quarry Road over Big Branch Creek near its intersection with Jones Sausage Road). The charges would be according to those outlined in Resolutions 2016-367, 368, 369, and 370, all of which were adopted on September 6, 2016. Questions were raised concerning the charges, possible exemptions, and access. The hearing was continued and it was directed the item be placed on this agenda for further consideration.

Assessment materials, including staff reports addressing citizen concerns and a Council request made at the October 4 meeting to define access, were included with the agenda packet. Following the requested review, staff recommends the assessment roll be confirmed as previously presented, with the exception of Paving AR 946, Lot 42 and Sidewalk AR 423, Lot 42. Staff recommends removing assessments for Lot 42 based on verification of a recorded conservation easement.

Following the hearing, the Council may take action to approve the assessments, refer the assessments to committee, or hold the assessments at the table. Should Council adopt the assessments, a budget amendment in the amount of $350,584 is necessary to appropriate funds for City-owned properties on the assessment rolls. Accounting details were included with the agenda packet.

Assessment Program Manager Jimmy Upchurch reviewed with Council the properties whose owners questioned at the October 4 hearing the assessments they were being charged.

Triangle Greenways Council Property

Assessment Program Manager Upchurch stated that on October 4, attorney Dave Permar, representing Triangle Greenways Council, requested exemption from assessments due to the dedication of a conservation easement on the property. The conservation easement agreement restricts any further development of the property; it must remain as a natural habitat. Staff confirmed the deed of easement was recorded at the Wake County Register of Deeds office. He showed an aerial view of the property and said all 30 acres is dedicated as conversation easement. Council took an action on this property in 2009, finding that based on that dedication there would be no benefit to the property with the Rock Quarry Road improvements. Staff recommends Council grant Mr. Permar's request and remove Lot 42 from the assessment rolls for the Jones Sausage Road/Rock Quarry Road project.

Jefferys Property

Assessment Program Manager Upchurch said this property is located at the intersection of Rock Quarry Road and Rockwood Drive. He showed a slide of the assessment map with the Jefferys property highlighted in yellow, and a slide of an aerial view of the property. Mr. Jefferys owns two rental houses on the property and on October 4, he indicated he was requesting a waiver of the assessment based on fairness. Staff reviewed the exemption policy with the conditions of the lot and determined the lot is not eligible for any exemptions other than what staff applied. Mr. Jefferys has driveway access directly from Rock Quarry Road onto his property. Assessment Program Manager Upchurch showed a slide of that driveway access to the first rental house.

Stephens Center Property

Assessment Program Manager Upchurch stated that on October 4, Mr. Mike Stewart represented The Stephens Center. This large parcel of land is located at the intersection of Jones Sausage Road and Rock Quarry Road. Assessment Program Manager Upchurch showed a slide of the assessment map with The Stephenson Center property highlighted in yellow, and a slide of an aerial view of the property. The property has approximately 1900 feet of frontage on Jones Sausage Road. Mr. Stewart had indicated a large portion of this parcel is floodplain and wetlands and are unusable areas, and therefore requested that the property be exempt from assessment. The aerial view showed the vacant piece of land that is approximately 20 acres in size. It is currently used to store equipment. The property owner also owns the adjacent property to the south. Assessment Program Manager Upchurch showed a map of the floodplain on the property with buildable and non-buildable areas. Other slides showed access to the property. There is a full street-type driveway entrance from Jones Sausage Road. Further down Jones Sausage Road, the City provided a second driveway cut onto the property and a third driveway cut for future use. The property is outside the City limits, so assessments would be due upon annexation. It is zoned Commercial Industrial Mixed Use. Assessment Program Manager Upchurch stated that under the current assessment exemption policy, non-residentially zoned properties are not eligible for exemptions.

Mayor McFarlane announced the continued hearing was open for public comment. There were no speakers; thus, the hearing was closed.

Ms. Baldwin made a motion to confirm Paving Assessment Rolls 946 and 946A and Sidewalk Assessment Rolls 423 and 423A with the removal of Lot 42, the Triangle Greenways Council property, and approval of any associated budget amendments. Her motion was seconded by Mr. Gaylord and a roll call vote resulted in all Council members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Resolutions 414, 415, 416 and 417 and Ordinance 641 TF 286.

STREET CLOSING STC-04-2016 – MCDOWELL STREET ALLEY – HEARING – APPROVED; RESOLUTION ADOPTED

This was a hearing to consider a petition to close an unnamed public right-of-way located in downtown. The subject right-of-way is an alley which crosses the block bound to the north by West Davie Street, to the east by Gale Street, to the west by McDowell Street, and to the south by Cabarrus Street.

Following the hearing, if the Council wishes to proceed, it would be appropriate to adopt a resolution closing the street as requested.

Transportation Planning Manager Eric Lamb showed the location of the McDowell Street alley on a map. He said it is currently part of a parking lot and is undistinguishable as an alleyway. Based on staff's review, it meets all criteria for closure

Mayor McFarlane opened the public hearing. No one asked to be heard; thus, the hearing was closed.

Ms. Baldwin moved to adopt a resolution closing the street as requested. Her motion was seconded by Mr. Gaylord and a roll call vote resulted in all Council members voting in the affirmative. The Mayor ruled the motion adopted on a vote of 8-0. See Resolution 418.

TEXT CHANGE TC-2-16 – EXEMPTIONS FROM ACTIVE STORMWATER CONTROL MEASURES – HEARING – ORDINANCE ADOPTED

This was a hearing to consider amendments to Section 9.2.2.A of Part 10A of the Raleigh Unified Development Ordinance to amend those sites and uses that are exempted from the active stormwater control requirements of the code. This text change requires all new development or redevelopment to assess the impact of these developments on stormwater. Following the hearing, the Council may take action to approve, deny or refer the item committee.

Planning Administrator Eric Hodge presented this item with the assistance of a PowerPoint presentation. Slides included the City's current stormwater regulations and exemptions contained therein; timeline; requirements. This text change primarily addresses the stormwater exemptions that are afforded certain types of lots and developments under today's regulations.

Current Regulations

- Projects currently exempt
  - Subdivision of less than 1 acre in total size used for single family or duplex dwelling
  - Lots existing prior to May 1, 2001 used for single family or duplex dwelling
  - Lots than .5 acre existing prior to May 1, 2001 (any use)
- Specific recombinations are exempt of they meet 3 conditions (TC-6-15)
  - At least one dwelling remains in place
  - Lots will be used for single family detached houses
  - No more than 2 lots or 1/2 acre in aggregate size and less than 24,000 sf total of impervious surface

The City has been working on changes to the stormwater regulations. In 2013, the Council directed City staff to look at small lot exemptions. The Stormwater Management Advisory Commission (SMAC) began work on that and worked on it for a little over two years, then delivered recommendations to the Planning Commission. TC-6-15 was passed last fall with certain restrictions placed on recombinations which had some unforeseen and unintended consequences. There have been approximately 60 cases for residential development that had previously been exempt, but because they modified the lot line or reduced the number of lots in some cases, they now had to be in full compliance with the stormwater regulations that would typically only apply to subdivisions in excess of one acre. The Board of Adjustment has heard 60 cases to date and has granted the same number of variances.

Timeline

January 2013	City Council directors Stormwater Management Advisory Commission (SMAC) to evaluate these "small lot exemptions"
March 2013 – May 2015	SMAC deliberates possible alternatives for these exemptions

September 2015	TC-6-15 passes, creating a specific exemption for recombinations but it creates unintended issues for the majority of recombinations ♦ In conjunction with adoption of TC-6-15, City Council authorizes a text change that incorporates SMAC's permitted changes and treats all recombinations similarly
March 2016	Planning Commission opens discussion on new text change, TC-2-16; item referred to Text Change Committee
June 2016	Staff holds a stakeholder meeting with builders and neighbors
September 2016	Planning Commission recommends to City Council that TC-2-16 be scheduled for public hearing
October 2016	City Council sets public hearing date
October 2016	Staff holds a stakeholder meeting with builders and neighbors

Planning Administrator Hodge said TC-2-16 subjects lots that had previously been exempted to maximum impervious surface limitations.

Requirements

- All previously exempted lots are subject to impervious surface limits based on zoning*
  - ♦ R-1 20%
  - ♦ R-2 25%
  - ♦ R-4 38%
  - ♦ R-6 51%
  - ♦ R-10 or denser 65%

  * Percentages based on the dwelling units/acre values found in *Soil Conservation Service, Technical Release 55*. These values are commonly used for watershed studies to determine runoff generated by land use.

- All affected lots with existing structures to remain would receive additional 400 sf "by-right" allowance for small expansions
- Two options for exceeding impervious limits
  - ♦ Applicant can provide a stormwater impact analysis showing no adverse impact on downstream properties for storms through the 100-year storm
  - ♦ Applicant can capture runoff volume difference between proposed development and impervious limit. Volume difference could be captured for the 90th percentile storm (1.4" of rainfall in 24 hours)
- If treatment option is chosen, applicants must provide:
  - ♦ Maintenance plan to City and homeowner
  - ♦ As-built drawings to the City
  - ♦ Easement to allow access to device
  - ♦ 24% payment to replacement fund

  ** These are consistent with current requirements for approved stormwater devices

- After stakeholder meetings, the following changes were incorporated:

- Annual inspection reports can be submitted by the owner to the City directly (does not require seal of design professional)
- Easement can be recorded by deed and City will provide a template
- City staff will publish a planning tool for builders/owners to see effect that increasing impervious could mean for potential devices

Mr. Gaylord asked if staff looked at stormwater regulations for other municipalities, and Planning Administrator Hodge replied affirmatively. Chapel Hill has similar regulations and Asheville is in the planning stages of crafting a similar ordinance. Stormwater Development Manager Ben Brown added that Stormwater staff is looking at other cities' ordinances as well. Mr. Thompson asked what the frequency is for updating the 100-year floodplain topographic maps. The City has experienced a couple of 100-year floods in the past 16 years. Stormwater Development Manager Brown replied staff is currently in the middle of a FEMA floodplain map update. The 90-day appeal period just expired on October 4. FEMA and the State of North Carolina are committed to map maintenance and updates every two years, but it has been more than two or three years since the last update. He said the preliminary maps matched a lot of the flooding that staff saw, so they are happy with the preliminary maps that just closed. Council will hear more about that in the future.

Mayor McFarlane opened the public hearing and the following people spoke.

Stefanie Mendell, 3225 Oak Grove Circle, Raleigh, NC 27607-6700 – Ms. Mendell read the following statement into the record:

> I am here tonight on behalf of myself and many neighbors to respectfully request that City Council pass TC-2-16, with enactment as quickly as possible.
>
> I think we can all agree that houses and accessory structures are trending larger these days, and we know that the City is promoting increased density to deal with growth. As a result, the amount of impervious surface has been increasing in residential areas, along with associated stormwater runoff problems.
>
> Earlier this year, I was asked to collect examples of this for Mr. Gaylord's District E neighborhood meeting. People submitted a number of examples, a few of which can be seen in the photos I have distributed to Council. But a number of people also responded to say that they didn't want to come forward because they didn't want to cause hard feelings with neighbors or because they felt vulnerable with construction going on around them.
>
> Many of us who live on Oak Grove Circle are particularly concerned. In late 2013/early 2014, a brick ranch home on a double lot at the top of our street was demolished and replaced by two large houses. These two homes, with their associated driveways and parking areas, essentially filled up both lots. During construction and since completion, several downhill neighbors began experiencing, and continue to experience, major problems from stormwater runoff, including structural issues and severe erosion. One downhill neighbor spent more than $12,000 to repair the damage.

Let me emphasize that I am not talking about runoff from exceptional hurricane-related storms. And let me emphasize that we were not experiencing these problems until the amount of impervious surface was substantially increased on our street.

Our small street has had another tear-down this year, with two more likely in the future. It's easy to see similar scenarios if you drive around our city.

While my property has not been impacted, at least not yet, I have participated in stakeholder meetings with City staff, residents, and developers to discuss this problem and review the proposed text change. While builders have some objections to TC-2-16, property owners have some issues with it as well. The 65% allowance in R-10 seems high. And we question the additional 400 square foot allowance for all zonings. But we understand that the text change represents a compromise.

We know it isn't a perfect solution, but we can't wait for a perfect solution. Tear-downs are simply occurring with too much frequency and speed. We need action now.

I'd like to ask everyone who was able to come out tonight to support passage of TC-2-16 to please stand.

Approximately 25 people stood in response to Ms. Mendell's request.

Francine Durso, 928 Ravenwood Drive, Raleigh, NC 27606-1636 – Ms. Durso stated she is a member of the Stormwater Management Advisory Commission, but she is speaking tonight as a public citizen. She has served on SMAC for nearly 10 years and served as Chair for first the first two years when it was created in 2004. Ms. Durso is a civil engineer and works in stormwater management and water resources. She said she wanted to point out a few things Mr. Hodge already covered. This issue was referred to SMAC in January 2013. SMAC worked on this significantly and for nearly two years. During that time, they had extensive discussions, looked at what other cities were doing, and looked at a lot of alternatives. The text change went through a lot of review discussion, and scrutiny, and the Commission did not arrive at its recommendations on a whim. She pointed out the percentages contained in the recommendations are based on science. They are from a federal publication that talks about percent of impervious surface on different types of zoning. The numbers have been used by hydrologists and civil engineers for several decades. Ms. Durso said she spoke to the Text Change Committee of the Planning Commission in June and reiterated many of the same things she just said to the Council. She quoted from the City's mission statement: "We are a 21st Century city of innovation focusing on environmental sustainability. We conserve and protect our environmental resources through best practices and cutting edge technologies. We also support policies and programs that protect, preserve, and enhance Raleigh's existing neighborhoods and support the improved quality of life in neighborhoods." Ms. Durso said her point is that we need to be a city of innovation today and approve TC-2-16. She said let's innovate by protecting neighborhoods from increased flooding and by following good science. Otherwise, we will be following the status quo, which is using the same reasons and arguments we've often heard as to why things should not be changed.

Marsha Presnell-Jennette, 618 Stacy Street, Raleigh, NC 27607-4036 – Ms. Presnell-Jennette read the following statement into the record:

> I support TC-2-16 to help address Raleigh's stormwater issues. Frankly, Raleigh has a lot of catching up to do to successfully manage our stormwater. I really appreciate what Francine just said. I appreciate that Raleigh wants to be the kind of city that grows and develops with attention to being a good steward to the environment. That's what world class cities around the world are doing.
>
> Changes are occurring in older neighborhoods and there are many situations where new construction is having a negative impact on neighboring properties. While TC-2-16 will not address all the issues, these guidelines help ensure better management with less damage from stormwater runoff onto neighboring properties.
>
> (Ms. Presnell-Jennette distributed photos of her back yard showing erosion damage along Beaverdam Creek.) My husband and I have lived in our house for about 25 years and we have a stormwater stream that runs through our backyard. Our lot line goes to the opposite side of the stream. We've seen the stream rise and almost breach the bank during Hurricanes Fran and Floyd. In the past three to four years, we have observed significant changes to the stream. Almost a year ago, a large oak tree that grew on the side of the bank fell due to undercut erosion. It has become rather common to see clay-red water from silt runoff coming through the stream. The stream's bank has eroded on both sides. (Ms. Presnell-Jennette described the photos of the erosion and lost vegetation in her back yard.) The speed of the erosion is phenomenal and very sad to witness. On the opposite side of the stream, two houses were built where one had been. The lot was reconfigured and divided to accommodate two large houses with significantly paved surfaces to accommodate vehicles and patios. The gentle slope on both sides of the stream has changed significantly in a short period of time. These changes have not happened as a result of major hurricanes. It reflects development that is occurring and adding more impervious surfaces, as well as heavier rainfall. We know we will have more rainfall with global warming.
>
> Raleigh needs to pass TC-2-16 as one of the necessary elements to proactively manage the stormwater and keep our neighborhoods friendly. We deserve assurances that the City is doing what the mission statement asks us to do.

David Jones, 3229 Anderson Drive, Raleigh, NC 27609-7855 – Mr. Jones stated he is representing the Midtown CAC. The Midtown neighborhood is mostly hills and creek valleys, and stormwater runoff is a huge concern for the homeowners. His neighborhood, Anderson Forest, has suffered major flooding in the last four months, some due to Hurricane Matthew. A severe thunderstorm as recently as July caused some of the worst flooding in the Big Branch Creek area since Hurricane Fran. On behalf of the Midtown CAC and his neighbors, Mr. Jones urged adoption of TC-2-16.

Betty Brandt Williamson, 3113 Georgian Terrace, Raleigh, NC 27607-6623 – Ms. Williamson stated she is a Raleigh native and has attended many meetings of the Raleigh

City Council and Wake County Board of Commissioners over the past 20 years. She recently attended a Raleigh Board of Adjustment (BOA) meeting regarding a stormwater variance case and witnessed homeowner and citizen of Raleigh being treated poorly, unlike anything she has seen before. Notice of this meeting was delivered to the homeowner less than one week before the BOA meeting and it arrived in a Berkshire Hathaway envelope, not an official City of Raleigh envelope. This appears to not be in accordance with guidelines for notification. The attorney for the applicant would not allow the citizen to speak by constantly objecting by saying the citizen was not an expert. When the citizen attempted to read a document from his stormwater expert, the attorney again objected. A neighbor got to the podium to speak about infill development and its impacts, and the attorney interrupted again. The BOA Chair told the neighbors who were there to show opposition to the variance that the only reason these variances were on the agenda was because of an oversight or omission in the adopted Unified Development Ordinance guidelines. Ms. Williamson noted this particular case was moved from the first case on the agenda to later on the agenda so the applicant's attorney could be there, but when the homeowner requested a delay so his expert witness could be there, the request was denied. While a homeowner of many decades cannot offer opinions because he is not a stormwater expert, the BOA members, who also are not stormwater experts, can speak and make decisions that impact neighboring property owners. Ms. Williamson said she knows the City is growing and is encouraging density. In the past 14 months, within easy walking distance in her neighborhood, there have been six tear-downs with eight single family homes being constructed, resulting in more impervious surface leading to increased stormwater runoff. All but two of these tear-downs are across the street from Beaver Dam Greenway, and four of these home sites have no curbs and gutters on the street. Ms. Williamson urged the City Council to pass TC-2-16 tonight, with enactment as quickly as possible.

John Sanders, 2719 Cooleemee Drive, Raleigh, NC 27608-1515 – Mr. Sanders paraphrased his written statement for the record:

> Good evening. I am a long-time Raleigh resident and owner of John C. Sanders and Company. My company specializes in building custom homes, and renovations and additions. I would like to comment on some of the aspects of TC-2-16 and specifically ask that we not pass the proposed text change and instead, refer it to committee where we can continue to work with staff to make improvements.
>
> Our goal is to have a text change that improves our City's stormwater, benefits our neighborhoods, and benefits the development community. We are looking for a win-win. In the past, builders and City staff have butted heads on these types of issues. We have tried to take a different approach, be at all the meetings, be very involved, and give good input. I have met a lot of the neighbors. I think we are getting to a very good text change, but I think we need a little bit more time.
>
> A few things on TC-2-16:
>
> 1. All lots throughout the City will have an impervious limit. R-4 will be limited to 38% of impervious without a stormwater device.

a. Additions will be granted an additional 400 square feet if they are over 38%.

2. There is a big difference between being at 38% impervious versus 39% impervious. Even if you are only having to control 1% more stormwater, you will have to do the following:

   a. Hire a stormwater engineer.
   b. Enter into a surety agreement with the City.
   c. Install a stormwater device.
   d. Record a lifetime easement to the City giving access to the device.
   e. Have a yearly inspection.
   f. Submit a yearly report to the City.

   All for being 1% over.

3. I would suggest we look at a multi-optioned approach. These options can create a scaled approach. We could still start at a 38% limit, but choosing the options will increase your impervious limit up to an agreed-upon maximum.

Option 1
Incorporate best practices that give the homeowner an incentive to build stormwater-friendly homes, a similar concept to the "Hero" standards from Duke Power. You can raise your impervious limit by:

a. Installing heavy erosion control measures during construction.
b. Keeping signature trees on existing lots to absorb runoff. One of the downsides of best management practices is that you will clear-cut the property to install a stormwater device.
c. Keeping impervious surfaces away from the property lines.
d. Draining gutters and driveways to the interior of the property.
e. Creating swales to mitigate water runoff.

Option 2
Use impervious products to lower your impervious percentage.

Option 3
Pay a stormwater fee to offset impervious overages.

a. There are going to be projects that are outliers:
   (i) It will be very difficult on some additions to be under the 38% + 400 sf. I have attached a survey of a property we are getting ready to start. It is an addition; we are adding 600 square feet and are already over the 38% limit.
   (ii) Installing a stormwater device might be more harmful to an untouched landscape.

Option 4
Install a stormwater device, surety agreement, and recorded easement when the impervious percentage is too high and cannot be reasonably reduced by the other options.

Duke Power's Hero Program
The more efficient home we build, the more of a payback we receive from Duke Power. We receive credits for:

a. Sealed crawlspaces.
b. Better windows.
c. Better insulation.
d. Tighter homes with better framing techniques.
e. Higher efficiency heating and cooling systems.

Etc.

This model works. All the builders here probably participate and we are building more efficient homes.

We could do the same thing with the stormwater. If the builder chooses, he could incorporate some best practices to improve the home's "score."

Barbara Church, 820 Runnymede Road, Raleigh, NC 27607-3106 – Ms. Church stated her neighborhood has already been seriously impacted by stormwater runoff, especially since 2000 when the small houses started being torn down and the lots covered with enormous houses. She supports TC-2-16. Ms. Church asked who would enforce the ordinance once it is adopted with the percentages. She said there is an egregious example down the street from them, built by TJF Builders. She cannot say what percentage of the lot is being covered, but now a swimming pool covers the enormous back yard. It appears to her that about 75% of the former pervious surface is now being covered.

Mayor McFarlane told Ms. Church there is currently no percentage limit on impervious surface coverage, which is why it is now being considered in this text change.

Mark Kirby, 3424 Bellevue Road, Raleigh, NC 27609-7102 – Mr. Kirby stated he has been a builder in Raleigh for 25 years. He has also built a number of homes in Chapel Hill and has a great deal of experience with Chapel Hill's impervious surface limits. Mr. Kirby spoke against the text change as written, but said he has a great deal of sympathy for residents. As a resident, he has been on the downside of stormwater and sees the need as a community for the implementation of those rules. Mr. Kirby gave two examples relative to houses he built in Chapel Hill. In two cases, the rules led them to flow spreaders, which required the removal of very large caliper trees in order to install the stormwater devices. Their clients weren't happy, the neighbors weren't happy, and the town wasn't happy. Chapel Hill has now backed away from a number of those rules and is going more toward what they have been proposing, which is more of a graduated system that they believe we are not very far away from being able to codify. They have had a number of discussions with neighbors, whom they believe agree with them on these

things, and City staff. Mr. Kirby said with respect to zoning, this ordinance is clearly focused on infill property. There is a tremendous amount of infill properties in Raleigh that don't meet Raleigh's current zoning code. He often works on four lots that would not be able to be platted today as R-4 lots. They would be required to be platted as R-6 or some other designation. There are many oddly-shaped properties that would make these regulations difficult. He is afraid the proposed regulations would result in more clear-cutting of lots, which is one of the unanticipated negative consequences. He suggested if the text change was sent to committee for brief period, it could be adjusted to prevent and forestall a lot of those frustrations.

Richard Gephart, 1924 Carrbridge Way, Raleigh, NC 27615-2576 – Mr. Gephart stated he is a builder in the area and has been building in Raleigh for 15 years. He also builds in other nearby jurisdictions. Some of the advocates for TC-2-16 have stated Raleigh should be on the leading edge of technology, and he agrees. Mr. Gephart said painting this with a broad brush of 38% of the lot being the point where stormwater devices are required is not the leading way to go about this; it should be on a sliding scale. He has built in the Swift Creek critical area, where they had a very low limit and had to keep the house on the north side of the lot because the lake was on the south side. The only way to maintain the view, the only acceptable way to have a driveway to the house and meet that low limit was to clear-cut the two-acre lot. A good acre of that could probably have been saved by being able to have some type of impervious surface to access the house at a location from the road in back of the house. He would like to see work continue on the text change.

Frank Liggett, 3007 Wycliff Road, Raleigh, NC 27607-3038 – Mr. Liggett stated he is a landscape architect. He thinks stormwater work needs to be done, but he has concerns about this text change and specifically, the tree canopy in Raleigh. He is afraid that in some of the older neighborhoods where things are dense and there is not a lot of open space, trying to force underground stormwater devices would result in a lot of digging, trenching, grading, and pipe-laying that would destroy critical root zones of the urban canopy. He is not against a stormwater ordinance, but it worries him there is no mention of tree preservation in this text change, and that is an important part of the quality and character for the City of Raleigh. Mr. Liggett expressed concern that for new construction especially, this proposal incentivizes builders to clear-cut a lot, put the house as close to the street as possible, frontload a garage, install the shortest driveway, and limit the impervious surface to either get under the 38% or have enough room to put the stormwater device in the back yard, rather than work to preserve the existing trees and the character of the existing lot and neighborhood.

Terri Snyder, 1316 Westfield Avenue, Raleigh, NC 27607-6839 – Ms. Snyder stated she has been a homeowner since 1977 and is in favor of the text change. She has been involved in a lot of meetings and discussions about saving trees in Raleigh. She has been told there is nothing much they can do and there is no way they can have regulations to preserve trees on lots less than two acres in size. Ms. Snyder sees builders clear-cutting almost all the lots in her neighborhood and building huge homes with very little pervious material. Builders have mentioned today that this text change would cause them to clear-cut more lots, yet she sees no protection for trees now. She doesn't understand how this text change will cause more clear-cutting because she's already seeing it done.

Sophia Kathariou, 3412 Wade Avenue, Raleigh, NC 27607-4046 – Ms. Kathariou stated the previous speaker articulated her thoughts. She sees exactly the same thing; beautiful lots are clear-cut, the old and not-so-old existing homes are removed, and the space is laid completely bare to make way for huge, bulky homes with no green space whatsoever. Ms. Kathariou asked if staff could explain what a stormwater device is, what would be involved if one was installed, and if trees would have to be taken out if one was installed.

Stormwater Development Manager Ben Brown explained an infiltration BMP (best management practice) could be completely underground or it could be a rain garden landscaped area that takes stormwater from the impervious surface area and lets it soak into the ground over a period of 24 to 48 hours. It would be a matter of digging a certain size hole and filling it with topsoil, not the clay soil we usually have here. These are smaller, greener type devices that can be landscaped. An alternative device is one that is totally underground with concrete vaults, etc. The volume control option is for encouraging infiltration. Stormwater Development Manager Brown said he cannot speak to why two acres is the cut-off point for tree preservation.

Mr. Gaylord asked if trees could be placed on top of stormwater control devices. Stormwater Development Manager Brown replied that smaller trees, shrubs, and landscaped areas would be possible for certain devices, like a rain garden. It would be difficult to install a stormwater device around a champion tree. A rain garden does not have to take up the whole yard. The text change speaks to capturing the difference between the limit and the overage. For example, if your impervious surface limit is 38% and you are building to 41%, you are capturing that overage of 3%.

Ms. Crowder commented she finds it ironic that developers are talking to Council about tree-saving. While some builders do save trees, most of what she sees going on currently is does not involve much tree-saving. It is important to remember how many people appear before Council to talk about stormwater problems, and the problems are related to regular rainfall, not hurricanes. The City has infill standards that it needs, but at the same time, Council needs to talk about the stormwater problems they bring. She said TC-2-16 is an excellent start for a text change for stormwater.

Mr. Gephart agreed it is ironic that builders are talking about saving trees. The builders who are here tonight are the ones who want to save trees and do the right thing. He said the option most builders are going to choose is to take the 38%, clear the lot, and install the retention device. That will be the easiest and fastest thing to do, and will probably save them money in the long term. Mr. Gephart said what we're asking for is an option for those who do a lot of in-town development to have a way to keep that percentage, keep some of the character trees and do some other things on the property, and not have to install a BMP.

Mayor McFarlane pointed out this has been discussed for four years. She asked if the topic of tree-saving ever came up. Stormwater Development Manager Brown replied the option of going over the limit by keeping champion trees did not come up, nor did the potential that the text change might result in removal of heritage trees.

Mr. Thompson asked if the City currently recognizes pervious pavers or concrete. Stormwater Development Manager Brown replied affirmatively and said they can be used under TC-2-16 to get a discount in impervious area.

Mr. Gaylord said a point was made earlier that he had not considered. In order to minimize the percentage of impervious area, it seems the easiest way is to move the house all the way up to the street, put in a front-facing garage, and shorten the driveway as much as possible. He asked Stormwater Development Manager Brown if he agreed, and Mr. Brown said he could see that. Mr. Gaylord said because of that, he would like this text change to have one turn in committee so it could be talked through and addressed.

Ms. Snyder said that earlier during the hearing, one of the Council members commented "our policies aren't perfect, but the can always be tweaked." This is why she thinks the City needs TC-2-16 now. It's not perfect, but residents are desperate because the tear-downs are happening at an alarming rate throughout the City. Residents want the text change now.

No one else asked to be heard; thus, the hearing was closed.

Mayor McFarlane asked if the development community was involved during the four years this issue was worked on, and Stormwater Development Manager Brown said they were. There were development representatives at the SMAC meetings when this was discussed for two years and they were also present at all Planning Commission meetings, Text Change Committee meetings, and stakeholder meetings.

Ms. Crowder moved to approve TC-2-16 as written. Her motion was seconded by Mr. Branch.

Mr. Stephenson agreed with moving forward with TC-2-16 and commented additional adjustments that can be made over time to improve it, if necessary. This is one more piece of the overall green infrastructure puzzle. A number of properties are subject to these rules and what is being presented here is in proportion to what others are already doing. With neighborhood streams, he sees the cumulative effect of stormwater runoff impacts and someone downstream is paying the price. He doesn't think anyone at the table would say this is a perfect text change, but it is a good step forward. Mr. Gaylord said he is concerned about the unintended consequences of the text change and still thinks it should be discussed in committee.

Mr. Thompson said he has only been a Council member for one year and therefore has not looked at this for four years like most of the other members. He said we're all about saving trees. He represents north Raleigh, where there are severe stormwater issues. Hearing the comments made tonight, he does not think that holding the text change for another two weeks or another month would worsen the situation. It would be worth it to wait for another month, study it further, and give the three new Council members an opportunity to look at it.

Mayor McFarlane asked if the state had a hand in the two-acre rule and if it was a state statute. City Attorney McCormick replied the City has enabling legislation for its tree ordinance. If he recalls correctly, the two-acre rule is in the City's enabling legislation from the state. He will check on that for the Council. The Mayor asked if there is anything to preclude the City from

looking at something specifically aimed at saving heritage trees on a lot less than two acres in size. City Attorney McCormick replied the City already has provisions for saving champion trees, but not in connection with how that meshes with stormwater controls. He does not know if champion trees differ from heritage trees. Staff can look at that during the two-week delay Mr. Gaylord wants, if Council so desires. Ms. Baldwin asked if there is a different way to incentivize that. City Attorney McCormick said he is sure that can be done, but it would require crafting the appropriate language.

Mr. Cox stated the Council should pass TC-2-16 and look at tweaking it later after seeing the results. He said he lived this himself. Shortly after moving into his home, he discovered his neighbors had put a very large addition onto their house and the next thing he knew, his backyard was turned into a river. Mr. Cox had to pay thousands of dollars to install stormwater control devices because his neighbor said "it's not his rain, it's God's rain."

Mayor McFarlane proposed a friendly amendment to Ms. Crowder's motion to ask staff to look at a potential program that would work with TC-2-16 to preserve champion trees. The amendment was accepted. Ms. Baldwin asked that the neighborhood and development community be involved with that as well. Ms. Crowder said she thinks both groups have been worked with on this text change, and Ms. Baldwin said she just wants to make sure work continues.

A roll call vote on the amended motion resulted in all Council members voting in the affirmative. The Mayor ruled the motion adopted by a vote of 8-0. See Ordinance 644 TC 385.

REZONING Z-14-16 – ACC BOULEVARD CONDITIONAL USE DISTRICT – HEARING – ORDINANCE ADOPTED

This was a hearing to consider a request from VNSN, LLC to rezone approximately 1.72 acres from Planned Development (PD) to Office Mixed Use–3 Stories-Parking Limited – Conditional Use (OX-3-PL-CU). The property is located on ACC Boulevard, south side, west of Brier Creek Parkway. Following the hearing, the Council may take action to approve, deny or refer the item committee.

Senior Planner Bynum Walter presented this item with the assistance of a PowerPoint presentation. This property is part of the Alexander Place PD. Slides included a map showing the existing zoning; an aerial view of the property; views of the site from ACC Boulevard and Brier Creek Parkway; existing v. proposed zoning (entitlements are currently very limited under the PD; developer wants to increase the entitlement to allow for potential residential, potential increased retail, and potential significant increase in office density); proposed conditions (prohibits detention centers, jails, prisons, plant nursery, produce stands, cemetery, and outdoor sports or entertainment facility of any size); Future Land Use Map (designates site as Regional Mixed Use); Urban Form Map (site is located in the Growth Center in the Brier Creek area); Comprehensive Plan analysis (request is consistent with Plan policies); and recommendations (Planning Commission recommended approval 7-0; North CAC supported the proposal 1-0).

Mayor opened the hearing and the following person spoke.

Matt McIntyre, 4932-B Windy Hill Drive, Raleigh, NC 27609-5198 – Mr. McIntyre stated he is representing the rezoning applicant and would be happy to answer any questions.

No one else asked to be heard; thus, the hearing was closed.

Mr. Stephenson moved to approve the rezoning request as presented. His motion was seconded by Mr. Branch and carried unanimously. Mayor McFarlane ruled the motion adopted on a vote of 8-0. See Ordinance 643 ZC 736.

REZONING Z-16-16 – 8710 CYPRESS CLUB DRIVE – HEARING HELD OPEN TO NOVEMBER 15, 2016

This was a hearing to consider a request from The Cypress of Raleigh Owners Association, Inc. to rezone approximately 48.057 acres from Residential – 6 stories – Conditional Use (R-6-CU) to Planned Development (PD). The property is known as 8710 Cypress Club Drive and is located on the south side of Strickland Road, west of Harvest Oaks Drive, north of Forum Drive, and east of Lead Mine Road. Following the hearing, the Council may take action to approve, deny or refer the item committee.

Senior Planner Bynum Walter presented this item with the assistance of a PowerPoint presentation. Slides included a map showing the existing zoning; an aerial view of the property; views of the site from Strickland Road, Harvest Oaks Road, Forum Drive, and Lead Mine Road; existing v. proposed zoning (only change is allowance of an apartment building); Future Land Use Map (request is consistent); Urban Form Map (no relevant urban form designation here); aerial image of site concept; Comprehensive Plan analysis (no inconsistent policies were identified); and recommendations (Planning Commission recommended approval 10-0; North CAC supported the proposal 28-0).

Mayor McFarlane asked Senior Planner Walter to indicate on the Future Land Use Map the front, side, and rear of the property so she would know where the setbacks will be. Senior Planner Walter did not have that information. She said the original site plan had been approved under the old zoning code, but that plan cannot be built now because it would not conform to the Unified Development Ordinance. Senior Planner Walter said a copy of the original site plan was in the agenda packet, and she pointed out how far away the two new buildings will be from Lead Mine Road.

Mayor McFarlane opened the hearing and the following people spoke.

Mack Paul, Esq., Morningstar Law Group, 1330 St. Mary's Street, Raleigh, NC 27605-1375 – Attorney Paul stated he was present on behalf of The Cypress of Raleigh Owners Association, Inc. He said the applicant still has a valid site plan and the remaining buildings can be built per that site plan. They will be sunsetting early next year and the applicant wants to make sure he has a plan that matches the final build-out of The Cypress. Additionally, the existing buildings are now nonconforming, so the applicant wants to put into place a rezoning that matches the built environment. This happened during the conversion to the Unified Development Ordinance (UDO). Unlike the UDO remapping process, where every residential

property was reviewed individually, all of the R-zoned commercial properties converted at one time. This is one of those unique situations where a multi-family development is in an R-6 zone, which is what led the applicant here tonight. Attorney Paul said one of the reasons they are doing a PD is because of setbacks. The applicant can customize the setbacks in a PD. These are private, internal streets, and building setbacks are established to public streets. This would have made them measure the setbacks relative to Lead Mine Road and Strickland Road. By exempting and customizing setbacks through the Planned Development, they can maintain a built environment that relates the buildings to these interior driveways. The rezoning will allow the PD to be built out per the original site plan.

Mayor McFarlane asked how many feet the buildings will be from Lead Mine Road. Attorney Paul replied there is a tree conservation area along Lead Mine Road and the approved site plan would show the measurement. The rezoning only says the buildings don't have to be oriented to Lead Mine Road and altered from where they are located. The site plan legend can assess the exact distance, but the applicant's engineer is not here tonight. A speaker from the audience approximated the distance to be 120'.

Mayor McFarlane said Attorney Paul referred to the streets as private roads, and he reiterated the internal streets are private. Mayor McFarlane asked Assistant Planning Director (APD) Travis Crane if the City still allowed private roads. APD Crane replied in a typical context, no; however, in a Planned Development there is the ability to customize regulations through the adoption of a master plan. Mayor McFarlane confirmed with Attorney Paul there are only two buildings in this site plan.

Attorney Paul said as they got to the public hearing, they uncovered a relevant state statute. This is a condominium structure and as a result, they have to provide another public notice of the hearing. They asked the Council to hold the public hearing open until November 15 to allow them to provide this additional notice, which is ancillary to the City's process.

Joe Whitehouse, 6109 Iris Drive, Raleigh, NC 27612-6506 – Mr. Whitehouse stated that staff has been great and helped them correct this mistake that came about when the R-zoning was changed. He thanked the Council for having staff help them.

Bob Leak, 8601 Cypress Lakes Drive, Unit 408, Raleigh, NC 27615-2122 – Mr. Leak stated he and his wife moved to Raleigh in 1959. He went to work for the state government as an industry hunter and later joined the Research Triangle Park Foundation, where he was president for four years. He has been very actively engaged in development in this area for a long time. His wife worked for Carolina Power & Light Company, so they are interested in growth and development. They have been proud residents of The Cypress of Raleigh for the past eight years, and it is one of the finest continuing care retirement communities in the state. It has enhanced Raleigh's quality of life significantly. Mr. Leak said he represents more than 300 senior citizens who own homes at The Cypress. As owners, they want to ensure the zoning accurately reflects the community they belong to. Therefore, they respectively request that Council grant the rezoning they are seeking so The Cypress can continue to provide a much-needed service to Raleigh's growing elderly population.

No one else asked to be heard. Without objection, Mayor McFarlane announced the hearing would be held open to November 15.

REZONING Z-19-16 – FALLS OF NEUSE ROAD CONDITIONAL USE DISTRICT – HEARING – ORDINANCE ADOPTED

This was a hearing to consider a request from Falls Office Partners, LLC and Dunn Investments, LLC to rezone approximately 9.79 acres from Planned Development with Urban Watershed Protection Overlay District (PD w/UWPOD) to Office Mixed Use – 4 stories – Conditional Use with Urban Watershed Protection Overlay District (OX-4-CU w/UWPOD). The property is located on the east side of Falls of Neuse Road, south of Dunn Road. Following the hearing, the Council may take action to approve, deny or refer the item committee.

Senior Planner Bynum Walter presented this item with the assistance of a PowerPoint presentation. Slides included a map showing the existing zoning; an aerial view of the property (access is from Dunn Road); views of the site from Falls of Neuse Road, including its intersection with Whittington Drive and its intersection with Dunn Road; existing v. proposed zoning (adds a residential entitlement of 19 dwelling units/acre with a maximum of 190 dwelling units, and deletes office use); current Master Plan provisions (MP-1-94) (currently calls for Office use); proposed conditions (include transition requirements – 50 feet on the south side and 100 feet on the east and southeast sides adjacent to the single family lots, which is above and beyond the setbacks required by Code); Future Land Use Map (site designated as Neighborhood Mixed Use); Urban Form Map (no urban form designation on this site); Comprehensive Plan analysis (a number of policies are not consistent, including Conditional Use District Consistency, Connectivity, Flag Lots, and Falls of Neuse Corridor Lots); and recommendations (Planning Commission recommended approval 7-0; North CAC supported the proposal 33-1).

Slide of Proposed Conditions (Summary)

1. Site use restricted (to Congregate Care).
2. Building height limitation specified (4 stories/55 feet).
3. Maximum block perimeter (4,900') and stub length specified (900'); no additional cross-access to be required, but pedestrian access to be provided from Falls of Neuse Road to Dunn Road.
4. Number of residential units capped (190 aggregate, dwelling and/or rooming).
5. Minimum setback from adjoining residential properties specified (100').
6. Parking lot lighting fixture height limited (20'); full cut-off fixtures specified.
7. Tree Conservation Area average width (55') specified on Falls of Neuse Road.
8. Transit easement and infrastructure offered.
9. Retaining wall materials specified.
10. Exterior elevation materials specified.

Senior Planner Walter said Condition #3 basically sets aside a lot of the block perimeter and connectivity requirements of the Unified Development Ordinance and asks that Council approve something different. The condition asks for a larger block perimeter and longer stub length, and asks that cross-access requirements be waived. Instead of these things that are usually required by Code, the applicants are promising a pedestrian connection to Falls of Neuse Road.

Mayor McFarlane opened the hearing and the following people spoke.

Isabel Worthy Mattox, Esq., P.O. Box 946, Raleigh, NC 27602-0946 – Attorney Mattox stated she is present tonight with her client, Barry Metcalf of Aspen Senior Living. Their development team includes Corey Howell and Richard Brown of Kimley-Horn and Associates. Attorney Mattox said they have worked very hard on this case to bring it to a place where it is compatible with the neighborhood. They had a number of neighborhood meetings and meetings with HOA leadership. As a result, she thinks they have the approval of most of the neighbors; the North CAC supported the proposal by a vote of 33-1. This project brings many benefits to the City. It provides housing diversity; serves the City's aging population; and brings a transit shelter (she noted this project is a low traffic generator). Attorney Mattox said they are asking for special dispensation under TC-8-16. They don't really have frontage on Whittington Drive. There is a strip of property owned by a private lot owner that runs the entire frontage of Whittington Drive, so they have no control over that. It is also encumbered by a landscape easement. With regard to Falls of Neuse Road, NCDOT will not allow them to have access onto Falls of Neuse Road and the City of Raleigh does not want them to have access there, either. That leaves them with the flag lot and the Dunn Road connection, which is what causes some inconsistencies with the Comprehensive Plan. Given the specified use of the property, they do not think there will be a lot of traffic generated there. The transit easement is on Falls of Neuse Road. There will be a pedestrian access from Falls of Neuse Road to the site; a person could walk from the site to Falls of Neuse Road and get on the bus.

Bob Fry, 1409 Coolmore Drive, Raleigh, NC 27614-9124 – Mr. Fry stated he lives within 100 feet of this site and received a letter notifying him of tonight's meeting. A few months ago, under controversial zoning case Z-1-14, the Mayor met with a number of homeowners in River Oaks. At that meeting, he suggested this is exactly the type of use we need for this site. It is the most compatible use because it is not a traffic generator. The people who live there at the facility do not travel during peak hours and when they do travel, very few will be driving because the facility is age-qualified. It is the type of use that will utilize WakeMed and the numerous grocery stores located within a mile of this location. Mr. Fry said this is probably one of the best land plans he has seen in his many years of doing land development. He asked an engineer friend to do a site line study. If a helium balloon was raised to the height of the facility's 55-foot roof, he would not see it because of the tree preservation. Forestation will be maintained and the landscape buffers will be maintained. Mr. Fry congratulated and thanked the developer for coming to the homeowners and letting them speak to every aspect of the building and site. He strongly urged the Council to approve this rezoning request. The applicant will meet pre-development stormwater runoff post-development. Mr. Fry said he wants this facility as his neighbor,

Tim Niles, 11509 Midlavian Drive, Raleigh, NC 27614-6950 – Mr. Niles commended the developer for being the first along this corridor to go out of his way to make sure they comply with UDO Section 9.1.9 and keep the land 40% forested and not cut anything down.

Byron Reid, 1413 Whittington Drive, Raleigh, NC 27614-8756 – Mr. Reid provided the Deputy City Clerk with a copy of his written statement and paraphrased it for the record:

My name is Byron Reid and I live at 1413 Whittington Drive in Raleigh, also known as Lot 101 in the Woodspring subdivision. Lot 101 includes a spite strip running the length of Whittington Drive adjacent to the proposed development. As such, I am the most affected citizen you will hear from on the Z-19-16 petition, as our back yard directly abuts the property in question. I want to be clear that I oppose this rezoning request. To me, the facility proposed in the Z-19-16 petition itself is not the issue; it is the size of the development in proportion to adjacent single family homes that is against current zoning laws.

In a letter to Council dated October 25, a copy of which I attached to the brief remarks I make this evening, I outlined concerns for building elevation, lighting, drainage, and landscaping across the easement. I will not reiterate those details here. However, I wish to make public safety issues and ethical concerns the focus in my remarks.

I believe that having only one point of access into a 190-occupant building contradicts Council's longstanding policies and the block perimeter rule to create clear and direct harm for police, ambulance, and fire personnel who have to access this site. Whenever the adjacent properties on Dunn Road are developed, bringing even more traffic to the single point of access from Dunn Road, my concerns for congestion only escalate. It is clear to me that allowing the Z-19-16 development with only one entrance will ultimately compel the Planning Commission, City Council, and the Transportation Department to attempt to take our land through eminent domain, as was threatened in the past, to create a second point of access from Whittington Drive. The Planning Commission as much as said so, stating that offers of cross-access to adjacent parcels shall be made with Raleigh UDO Section 8.3.5.D, and I quote: "Site access will be provided via Dunn Road and/or Whittington Drive."

The Planning Commission has known for years than an entrance from Falls of Neuse Road to the undeveloped parcels in question would NOT be allowed by NCDOT, and yet you continue to make changes to the UDO and FLUM (**Clerk's Note:** Future Land Use Map) that allow even larger building capacities with attendant traffic concerns. For this Planning Commission, City Council, and Transportation Department to grant this rezoning request, knowing full well that the development does not meet criteria as outlined in the zoning laws, and then to subsequently explore options for taking our land after the fact to bring the properties into compliance with prevailing zoning laws, is unacceptable.

A homeowner should not be punished to accommodate the interests of any private developer. If the development of these parcels needs access to Whittington Drive for ANY purpose, now or in the future, then this matter needs to be settled now before any rezoning is approved.

When you consider the 33-1 vote at the CAC, you deserve to know that this seemingly overwhelming support was inspired by the fear, propagated by prominent members of the CAC, that if the Z-19-16 petition was voted down, Mr. Mullins would be free to purchase the property and attempt to put in another Publix-type development. It's sad that Raleigh

citizens voted based on fear of what this City Council might approve at some point in the future, instead of focusing on good and proper land use development that fits the character of our neighborhoods.

In conclusion, if rezoning is granted, I will seek the assistance of this City Council to ensure the development takes steps to minimize both the direct and indirect impairment these activities will have on our property. On buying our home in 2005, we knew and accepted the adjacent land was zoned R-4. For more than 10 years, through a series of overlays and the 2030 Comprehensive Plan, we have watched in dismay as each has diminished the value of our home. I look forward to working with you to protect our interests in the future.

Mayor McFarlane asked if there is a proposal to gain access to the property through Whittington Drive. Senior Planner Walter referred the Mayor to Condition #3, which she spoke about earlier, specifies that the block perimeter as it stands now would be acceptable to Council. It provides a longer stub length than what is allowed and sets aside the cross-access requirements that the Code has in place now. Instead of the requirements, the applicant will provide direct pedestrian access to Falls of Neuse Road and Dunn Road from the interior of the site. Ms. Crowder asked if the answer to the Mayor's question could be a simple yes or no. Senior Planner Walter said the way the conditions are written, there would be no connection to Whittington Road. Mayor McFarlane said her question is whether or not there is a desire on the part of the City to gain access to this development in the future through Whittington Drive. Senior Planner Walter said if Council approves the proposed conditions, it could not be done. Mr. Reid reminded the Council he quoted the Planning Commission report in his remarks. He asked what guarantee there is that a connection to Whittington Drive would not happen in the future. Attorney Mattox stated Planner II Doug Hill clarified at the CAC meeting that there was a typo in the Planning Commission report. She does not know if a revised report was ever issued. Attorney Mattox said a connection to Whittington Drive was never discussed with this development.

Ms. Baldwin asked if any consideration was given to purchasing this home as had been in the previous case. Attorney Mattox said there was some conversation about possibly purchasing the home, but her client decided not to move forward with that course of action. The private property owner owns the strip, which is subject to an HOA landscape easement, and they determined that getting the ability to connect across Whittington Drive was not going to be a feasible option.

Attorney Mattox asked to rebut a couple of points Mr. Reid made. Mr. Reid said the structure is very large, but the applicant is proposing a building height of 55', which is only five feet higher than a three-story building. With regard to distance from the neighborhood, there will be a 100' buffer separating the facility from any residential property. The applicant has also done a photometric study on light, showing that the demarcation of darkness is approximately 100'+ from any residential homes. There is no plan to connect to Whittington Drive for this project. The applicant has met with representatives from the Public Works Department and they have generally been supportive of the applicant's access proposal for this site; she thinks is largely due to the use proposed for the property.

No one else asked to be heard; thus, the hearing was closed.

Ms. Baldwin moved approval of rezoning Z-19-16 as presented. Her motion was seconded by Mr. Branch and carried unanimously. The Mayor ruled the motion adopted on an 8-0 vote. See Ordinance 643 ZC 736.

REZONING Z-20-16 – JEFFREY'S GROVE SCHOOL ROAD AND CREEDMOOR ROAD CONDITIONAL USE DISTRICT – HEARING – ORDINANCE ADOPTED

This was a hearing to consider a request from Elmer T. Sprinkle, III to rezone approximately 2.13 acres from Residential-4 (R-4) to Residential-10 – Conditional Use (R-10-CU). The property is located on the west side of Jeffrey's Grove School Road, west of Creedmoor Road. Following the hearing, the Council may take action to approve, deny or refer the item committee.

Senior Planner Bynum Walter presented this item with the assistance of a PowerPoint presentation. Slides included a map showing the existing zoning; an aerial view of the property; views of the site from Creedmoor Road and Jeffrey's Grove School Road; existing v. proposed zoning (increases the number of dwelling units per acre from four to 10 and reduces all setbacks); proposed conditions (apartment building type prohibited; maximum building height limited to two stories and 35'; minimum building setback of 30' from the property to the west; minimum building setback of 20' from property to the north as long as it is zoned R-4); Future Land Use Map (site designated as Medium Density Residential); Urban Form Map (no urban form designation on this site); Comprehensive Plan analysis (request is consistent); and recommendations (Planning Commission recommended approval 7-0; North CAC opposed the proposal 0-18).

Mayor McFarlane asked if there are plans to purchase the property to the north and Senior Planner Walter said there are not; it is just vacant. The Mayor asked why the CAC opposed the rezoning. Senior Planner Walter said every time this case was presented to the CAC, it followed a rezoning case on Creedmoor Road the neighbors were very concerned about and that is in committee right now. Also, the CAC was concerned about traffic at Jeffrey's Grove School and how the turning movement would work at the intersection of Jeffrey's Grove School Road and Creedmoor Road. The Mayor asked where this parcel has access. Senior Planner Walter replied it has frontage on both Jeffrey's Grove School Road and Creedmoor Road and access will be decided at the time of site plan review. Mr. Thompson commented he doubts they will be allowed to have access on Creedmoor Road.

Mayor McFarlane opened the hearing and the following person spoke.

Michael Birch, Esq., Morningstar Law Group, 1330 St. Mary's Street, Raleigh, NC 27605-1375 – Attorney Birch stated he was present on behalf of the property owner, Skip Sprinkle. In terms of access, he said the plan shows an existing drive on Creedmoor Road and another on Jeffrey's Grove School Road. When the property undergoes development, it will be subject to the *City of Raleigh Street Design Manual* and access guidelines. Given the subject property's proximity to the intersection of Jeffrey's Grove School Road and Creedmoor Road, it is not outside the distance for an access point, so it has always been their assumption their access point

would have to be as far away from that intersection and on Jeffrey's Grove School Road, not Creedmoor Road. There have been conversations with the property owners to the north whose property is zoned R-4. The ownership has been transferred through estates but those property owners are not ready to join the case; that is why the setbacks are based on the zoning. Attorney Birch anticipates someone, whether it is his client or someone else, may petition to rezone that property to the north for higher density. In terms of the setbacks, he illustrated on the existing zoning map the location of the 30' setbacks. He also showed the location of the tree conservation, stormwater, and sanitary sewer areas on the property to the west. The house will sit in a manner and area similar with the others lots along Ponderosa Road. Taking into account his client's setbacks, the setbacks of other properties, and the distance, there will be approximately a 175' setback between the structure on his client's property and any structure on the property to the west. Moving east on the property to the west, there will be about a 140' setback from any structure on his client's property to the structures on the property to the west. The building was reduced from three stories to two stories and building height is capped at 35'. All this is predicated on the property to the north changing from R-4. If it doesn't change from R-4, there will be a 20' setback. If it does change and increases its intensity, there will be a normal district setback, which is 10' to the side.

Mr. Stephenson asked if vegetative buffering is required for the 20' and 30' setbacks. Attorney Birch explained that because the new rezoning is R-10 and the lot is adjacent to other low-density residential properties, there are no neighborhood transition regulations. This property is over two acres in size, so it will have tree conservation requirements, but those setbacks are lot line-to-building setbacks. Looking at the aerial view photo, Mr. Stephenson said it looks like you could pave right up to the property line, only 15' from the house on the property to the north. Attorney Birch said he does not know the distance from the house on the property to the north to the subject property. Mr. Stephenson asked again if the property owner had any plans to do any planting in the 20' setback. Attorney Birch replied not at this point; not without a site plan to know what the site layout looks like. They have tree conservation requirements and he thinks some of them will be along Creedmoor Road because it is a thoroughfare, and they will have additional needed around the perimeter. The thought is that the R-4 property to the north, which is currently a rental property, will increase its zoning and redevelop so as not to retain a buffer there that no longer makes sense, given its Future Land Use Map designation of Medium Density Residential, which encourages something more than 14 units per acre.

Mayor McFarlane confirmed with Attorney Birch that the property on the corner across from Jeffrey's Grove School Road and Creedmoor Road was just rezoned for mixed use development. She asked if the R-4 property above it is for sale. Attorney Birch replied many conversations have been held, but because that property was held by one person and then transferred through the estate to the person who owns it now, they are not in a position to join the rezoning case. Those conversations are continuing. Ms. Crowder asked how big the site would be if those two properties were combined. Attorney Birch said he thinks the property to the north is just under one acre, so there is the potential that a newly-recombined lot would be three acres in size. Council members continued to ask questions about the neighboring properties and their existing structures, and Attorney Birch illustrated his responses on the existing zoning map, as they tried to determine the cumulative impact on Jeffrey's Grove School Road. Attorney Birch said since the conditions on this case prohibit apartments, single family detached homes and townhouses

are the two allowable uses on the property. As stated in the staff report, the traffic impact would be seven additional trips in morning 19 in the afternoon. He noted there is a protected left-hand turn lane for motorists turning left onto Jeffrey's Grove School Road from Creedmoor Road. He showed a picture of the pull-out street lane that goes to Millbrook Road.

No one else asked to be heard; thus, the hearing was closed.

Mr. Stephenson moved approval of rezoning Z-20-16 as presented. His motion was seconded by Ms. Baldwin and approval was unanimous. The Mayor ruled the motion adopted on an 8-0 vote. See Ordinance 643 ZC 736.

ADJOURNMENT

There being no further business before the City Council, Mayor McFarlane announced the meeting adjourned at 10:19 p.m.

Leslie H. Eldredge
Deputy City Clerk