

## COUNCIL MINUTES

The City Council of the City of Raleigh met in a regular session at 1:00 p.m. on Wednesday, July 5, 2017 in the City Council Chamber, Room 201 of the Raleigh Municipal Building, Avery C. Upchurch Government Complex, 222 W. Hargett Street, Raleigh, North Carolina, with the following present.

Mayor Nancy McFarlane  
Councilor Kay C. Crowder  
Councilor Mary-Ann Baldwin  
Councilor Corey D. Branch  
Councilor David Cox  
Councilor Bonner Gaylord (via telephone)  
Councilor Russ Stephenson  
Councilor Dickie Thompson

Mayor McFarlane stated Council Member Gaylord is participating by telephone. Council Member Gaylord identified himself over the phone.

Mayor McFarlane called the meeting to order and invocation was rendered by Council Member Branch. The Pledge of Allegiance was led by Council Member Cox. The following items were discussed with action taken as shown.

### **ALCOHOLIC BEVERAGE REGULATIONS – AMENDMENT TO ALLOW CERTAIN ALCOHOL SALES TO BEGIN ON SUNDAY MORNING – ORDINANCE ADOPTED**

City Attorney McCormick indicated the North Carolina General Assembly recently passed legislation which would allow bars, restaurants and other establishments to begin selling alcoholic beverages at 10:00 a.m. on Sunday. He stated Session Law 2017-87 permits individual cities and counties to make their own decisions about implementing the provisions of that law. The proposed ordinance adds a section to the City Code to indicate the City of Raleigh chooses to implement the authority found in that law for the benefit of its businesses and citizens. Council Member Baldwin moved approval of the proposed ordinance as provided by the City Attorney. Her motion was second by Mayor McFarlane.

Council Member Thompson indicated he would have to vote against this talking about his beliefs relating to Sunday sales. The motion as stated was put to a vote which resulted in all members voting in the affirmative except Council Member Thompson who voted in the negative. The Mayor ruled the motion adopted on a 7-1 vote. See Ordinance 725.

Later in the meeting, Mayor McFarlane expressed appreciation to the City Attorney for bringing the Ordinance to the Council so quickly.

**RECOGNITION OF SPECIAL AWARDS**

**CERTIFICATES OF APPOINTMENTS – VARIOUS – PRESENTED**

Mayor McFarlane explained the Certificate of Appointment process and presented the following certificates:

Appearance Commission – Cari Jones  
Substance Abuse Advisory Commission – Elliot Palmer, Jr.  
Raleigh Historic Development Commission – Kaye Webb

**AGENCY GRANTEE PRESENTATION**

**AGENCY GRANTEE PRESENTATION – CHAMBER MUSIC RALEIGH, INC. – COMMENTS RECEIVED**

Jackson Cooper pointed out Chamber Music Raleigh Inc., is a 75 year old organization that brings artists to North Carolina, talked about the resident artist program for artists coming to the state and the program for NC artist only. He explained beginning in September the North Carolina Museum of Art will be the home to the Chamber Music Raleigh's two concert series – the visiting artist series and NC artist series. He talked about the change in the direction, Board of Directors, the permanent home, the various concerts they will be presenting stating without the support of the City of Raleigh all of this would not be possible. He stated he is the only employee and in addition to the opportunities provided to Chamber Music of Raleigh, his salary is paid. He expressed appreciation to the Council for its support of arts in Raleigh in general. He talked about his background pointing out he has been involved in the Raleigh Arts scene since he was 13 and it is wonderful to be able to come back home and work with his mentors. He again expressed support to the Council for its support of the arts and support of Chamber Music of Raleigh.

**CONSENT AGENDA**

**CONSENT AGENDA – APPROVED AS AMENDED**

Mayor McFarlane presented the consent agenda indicating all items on the consent agenda are considered to be routine and may be enacted by one motion. If a Council Member requests discussion on an item, the item will be removed from the consent agenda and considered separately. She stated the vote on the consent agenda would be a roll call vote.

Mayor McFarlane stated she had not received any requests to withdraw any items from the consent agenda. Council Member Thompson moved approval of the consent agenda as presented. His motion was seconded by Council Member Crowder and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. The items on the consent agenda were as follows:

## **SURPLUS PROPERTY – PORTION OF 2809 GORMAN STREET – AUTHORIZED FOR SALE THROUGH UPSET BID PROCESS**

A 0.46 acre portion of the property located at 2809 Gorman Street, Raleigh, NC and having REID 0082776 has been identified by the Transportation Department as surplus property. The property lies west of the western right-of-way line of Gorman Street with a street address of 2809 Gorman Street, Raleigh. The property is encumbered by existing sewer infrastructure and a portion of the property is subject to Neuse River Basin riparian buffer rules. The property is not located in a redevelopment area or part of any ongoing studies currently being conducted by the City. Eugene Wilson has submitted an initial bid of \$10,000 for the property. The proposed use of the lot would be for use as a garden and possible recombination with adjacent property at 2805 Wilcox Place for residential use that will be regulated by the current R-4 zoning classification. Applicable City Departments have reviewed the property and have no objections to the disposition. The City will retain a 30 foot wide sanitary sewer easement on the existing sewer infrastructure on the property upon the sale of the property. A report was included with the agenda packet.

**Recommendation:** Declare the property as surplus, and accept the bid of \$10,000 subject to the negotiated offer and upset bid process with condition that the winning bidder pay all advertising costs accrued during the upset bid process, dedication of a 30 foot wide sanitary sewer easement at the time of closing and authorize appropriate officials be execute all required instruments of conveyance at conclusion of the process. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

## **RALEIGH LITTLE THEATRE – BOARD OF DIRECTORS – CONFIRMED**

Included with the agenda packet is the 2017-18 Raleigh Little Theatre (RLT) board and candidates for officers of the organization. The lease agreement states that no person shall be eligible to serve as a member of the board of directors unless approved and confirmed by the City Council before taking office. The list was as follows:

Georgia Donaldson	-	President	-	Term expires 2019
Kathy Lagana	-	Vice-President	-	Term expires 2019
Sam Spilman	-	Treasurer	-	Term expires 2019
Stuart Byham	-	Secretary	-	Term expires 2019
Shelley Crisp	-	Past President	-	Term expires 2019
Wayne Booth	-	Attorney		
Dickie Thompson				
Wyatt Booth				
Lee Parker	-			Term expires 2017
Mike McGee	-			Term expires 2017
Heather Strickland	-			Term expires 2018
Ann Beal	-			Term expires 2020
Scott Falmlen	-			Term expires 2020
David Bennett	-			Term expires 2020

Kristin Cooper	-	Term expires 2018
Tim McKay	-	Term expires 2018
Patricia Madden-Renouard	-	Term expires 2018
Kristie Nystedt	-	Term expires 2018
Lisa Hoskins	-	Term expires 2019
Phyllis Parish	-	Term expires 2019
Tucker Bullock	-	Term expires 2019
Amy Bason	-	Term expires 2019
Gene Jones	-	Term expires 2020
Kirk Smith	-	Term expires 2020
Adrienne Lumpkin	-	Term expires 2020
Sejal Mehta	-	Term expires 2020
Graham Satsky	-	Term expires 2020
Chris Brown	-	No term

**Recommendation:** Confirm the board members and officers. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

#### **LITTLE RIVER DAM – RESOLUTION OF OWNERSHIP/AUTHORIZED AGENT – RESOLUTION ADOPTED**

As part of the 2006 Utility Merger with the City of Raleigh, the town of Zebulon agreed to transfer ownership of the three property tracts associated with the former Zebulon Waterworks to the City of Raleigh, including the Little River Dam. The Town retained recreational rights to the site.

On October 8, 2016, Hurricane Matthew damaged the Little River Dam. Two sections of the dam wall were reduced and the remainder of the wall is in various stages of disrepair. The town of Zebulon and City of Raleigh each requested funds from FEMA under Section 406 of the Stafford Act to repair and restore the dam. The town desires the Little River Dam to be restored due to its cultural and historical significance. Concurrently, the Public Utilities Department has determined that restoration of the Little River Dam is not necessary for the continued use of the property by the utility. Furthermore, Section 4.2 of the Utility Merger Agreement between the Zebulon and the City of Raleigh includes a provision to return portions of property ownership in these properties at no cost to Zebulon should the City determine that the site is not required for the purpose of a future Little River Water Treatment Plant.

The Public Utilities Department has determined that the City does not need that portion of the property outside of existing fenced areas with the exception of easements over buried infrastructure. To support Zebulon's efforts to repair the Little River Dam, staff has prepared a draft resolution, included with the agenda packet, affirming Town of Zebulon as the sole entity with legal rights to the dam and subsequent FEMA funds to repair and improve the Little River Dam.

**Recommendation:** Authorize the resolution and following review and concurrence of the City Attorney authorize the City Manager to execute documents necessary to fulfill the intent of the resolution. Upheld on Consent Agenda Thompson/Crowder - 8 ayes. See Resolution 483.

### **MILBURNIE DAM REMOVAL – AGREEMENT – APPROVED – MANAGER AUTHORIZED TO EXECUTE NECESSARY DOCUMENTS**

During the June 13 City Council work session, staff reviewed for Council a request for access across City property to aide in the removal of the dam structure on the Neuse River. The Milburnie Dam, a privately owned obsolete structure, last used for hydroelectricity in the late 1980's is located on the Neuse River approximately one-half mile north of Highway 64 east of Raleigh. In 2002 the North Carolina Interagency Dam Removal Task Force designated Milburnie Dam as a priority for removal. The priority designation was assigned primarily because it is a known barrier to movement of migratory fish. Restoration Systems, LLC, an environmental restoration and mitigation banking firm and Milburnie Dam removal sponsor has requested use of city property for temporary access, permanent access and long term conservation efforts. Although, the removal of the Milburnie Dam is not a City initiated project, staff has evaluated available information and determined that the City's liability risk is relatively low associated with granting the request for temporary, permanent and conservation easements.

Included in the agenda packet is a staff memorandum addressing the project background and details of the request, including a review of the Terms Sheet which will serve as the framework for a Final Agreement of the use of public property. The Terms Sheet summarizes the principal terms of agreement (party responsibility, obligations, project coordination, maintenance, indemnification, compensation, etc.) between the City of Raleigh and Restoration Systems, LLC for the private party to install structures controlling wetland water levels on City property and other adjacent properties.

**Recommendation:** Approve the terms as outlined and authorize the City Manager to execute final documents as necessary. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

### **ABC PERMITS – DESIGNATION OF LOCAL OFFICIAL – RESOLUTION ADOPTED**

North Carolina ABC law requires municipalities to designate via resolution a local official to respond to the suitability of persons requesting ABC permits. Staff recommends that the designated local official be the current and future Police Major with oversight of the Special Operations Division of the Police Department.

**Recommendation:** Adoption of a resolution to replace Resolution 2002-219 is recommended. Upheld on Consent Agenda Thompson/Crowder - 8 ayes. See Resolution 484.

**VEHICLE INFORMATION MANAGEMENT SYSTEM – MANAGER AUTHORIZED TO EXECUTE CONTRACT WITH FLEETMIND SOLUTIONS, INC.**

On June 16, 2015, authorized execution of a contract with Fleetmind Solution, Inc., to provide a real-time vehicle information management system for vehicle fleet tracking and monitoring, including radio frequency identification (RFID) technology to be utilized with the City's recycling fleet. The second phase of this program will provide the same real-time vehicle information management system for the remaining 115 Solid Waste Services fleet of vehicles, including yard waste vehicles, residential garbage collection vehicles, pup trucks and administrative vehicles. Staff recommends continuation of the program and has negotiated a contract with Fleetmind Solution, Inc. in an amount not to exceed \$795,000.

**Recommendation:** Authorize the City Manager to execute the contract with Fleetmind Solutions, Inc. in an amount not to exceed \$795,000. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

**E.M. JOHNSON WATER TREATMENT PLANT WEST – RESERVOIR RESIDUALS REMOVAL – CHANGE – ORDER #21 BENEFICIAL REUSE MANAGEMENT - APPROVED**

Two construction bids (Re-Advertised Bid Opening) were received on December 9, 2016 for the E.M. Johnson WTP West Reservoir Residuals Removal project. After many years of service, the available storage in the West Raw Water Reservoir has been greatly reduced due to the accumulation of sediment and water plant residuals. As a result of this project, the removal of the accumulated residuals from the reservoir will allow for additional raw water storage and increase the overall efficiency of the water treatment plant operation. Beneficial Reuse Management, LLC, of Chicago, Illinois was low bid in the amount of \$3,155,000.

As the project progressed, it was realized the estimated quantity of dry tons of residuals contained in the West Reservoir would exceed the estimated quantity of 15,000 dry tons of solids in the contract, so Change Order Number One was processed administratively to allow for an additional 2,000 dry tons of residuals removal so the contractor could continue the removal of the residuals from the reservoir. Change Order Number Two provides for an additional 3,000 dry tons of residual in efforts to complete the removal of the residuals in the West Reservoir which requires City Council approval.

The initial quantity of residuals contained in the West Reservoir that was used in the contract bid documents was based on water samples taken from the Reservoir and analyzed in a lab in efforts to determine the estimated quantity of dry tons of residuals. The estimate was found to be low and the change orders are being processed in efforts to keep the contractor from having to stop work and save the City the additional cost of re-mobilization for the contractor. This is a unit price contract and the additional quantity is based on the competitively bid unit prices. The total contract amount with change order numbers one and two are still significantly below the adopted budget amount of \$5,000,000.

Name of Project:	E. M. Johnson Water Treatment Plant – West Reservoir Residuals Removal
Managing Division:	Public Utilities – Capital Improvements Division
Approval Request:	Contract Change Order
Reason for Council Review:	Contract Change Order > \$500,000
Vendor:	Beneficial Reuse Management, LLC
Original Contract:	\$3,155,000 (Approved by City Council January 3, 2017)
Change Order No. 1:	\$ 416,000 (administrative)
Amount this Change Order:	\$ 624,000
Encumbered with this approval:	\$4,195,000

**Recommendation:** Authorize the City Manager to execute a Contract Change Order/2 with Beneficial Reuse Management, LLC in an amount not to exceed \$624,000. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

#### **POLICE DEPARTMENT – 5240 GREENS DAIRY ROAD – LEASE OF OFFICE SPACE – VARIOUS ACTIONS APPROVED**

The Raleigh Police Department (RPD) Family Violence Intervention Unit is currently located in 1,686 square feet at 1012 Oberlin Road under a lease with a termination date of April 20, 2018. In December 2016, the City entered into a lease with TDC Blue II, LLC for 54,954 ± square feet at 5240 Greens Dairy Road for location of RPD's detective and quartermaster divisions. RPD is now interested in relocating the Family Violence Intervention Unit to the Greens Dairy Road Property and entering into a 123-month lease in the form of a lease amendment that will add 4,194 square feet to the existing lease space at the property. The new lease term will be co-terminus with the existing lease agreement. The additional square footage will better accommodate existing staff in this unit as well as allow for potential staff growth during the lease term. Due to the length of the lease term and agreement cost approval from the Local Government Commission is also required.

The basic terms and conditions recommended for a new lease are as follows:

1. Lease Premises: 5240 Greens Dairy Road – office and facilities space containing approximately 4,194 SF.
2. Term: 123 months from 4/1/18 thru 6/30/28.
3. Base Rent: Initially \$12.75 per square foot with periodic increases.
4. Taxes, Insurance, Common Area Maintenance: In addition to Base Rent, the City shall pay its pro-rata share of the annual real property Taxes, Insurance and Common Area Maintenance and operating expenses associated with the Premises, estimated to total \$2.35 per square foot. All controllable costs shall be capped at 4.0% per year on a cumulative basis.
5. Option to Renew: The City shall have the right to renew this lease for two (2) – five (5) year periods.
6. Rent Concession: Rent abatement for a period of six (6) months.

**Recommendation:** Adopt a resolution authorizing application to the Local Government Commission requesting approval of a lease amendment to an existing lease for the property at 5240 Greens Dairy Road. Following Local Government Commission approval, authorize the appropriate City officials to execute the lease amendment. Upheld on Consent Agenda Thompson/Crowder - 8 ayes. See Resolution 492.

#### **WAKE TRANSIT PLAN – VARIOUS AGREEMENTS – CITY MANAGER TO AUTHORIZED TO EXECUTE SUBJECT TO CONCURRENCE OF CITY ATTORNEY**

The Wake County Transit Planning Advisory Committee (TPAC) has produced a series of agreements that contain the specific implementation elements identified for the City of Raleigh in the Wake County Transit Plan. More specifically, the agreements function as the instruments that guarantee the reimbursement of eligible expenses associated with any agency's or party's use of Wake Transit Tax Revenue to implement projects in the Wake County Transit Plan. On April 18, 2017 the Raleigh City Council approved the Master Participation Agreement as the overarching agreement for implementation of the Wake County Transit Plan. These project-specific agreements lay out more in-depth project implementation responsibilities for applicable parties. Any implementing agency or local government in Wake County that is expecting reimbursement from the Wake Tax District for eligible reimbursements must be a party to these agreements (as applicable).

The City of Raleigh has four initial agreements for execution. The agreements are as follows:

1. GoRaleigh Bus Infrastructure Agreement - Bus Shelters - \$500,000
2. GoRaleigh Capital Bus Acquisition Agreement - Bus Procurement (Compressed Natural Gas) - \$4,000,000
3. GoRaleigh Transit Plan Administration - Plan Administration Support - \$150,000
4. GoRaleigh Bus Operations Agreement - Bus Service Expansion - \$1,550,920

The period of performance of the agreements shall be from the execution of the agreements until December 31, 2018. The expenditure and revenue accounts for these agreements were approved as part of the adopted FY2018 Operating and CIP budgets.

**Recommendation:** Authorize the City Manager to execute the interlocal agreement, subject to review and concurrence of the City Attorney. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

#### **PARATRANSIT TRANSPORTATION SERVICE – CONTRACT WITH GOTRIANGLE – MANAGER AUTHORIZED TO EXECUTE**

GoTriangle Transit currently provides required Americans with Disabilities Act (ADA) paratransit transportation outside of the defined regular GoRaleigh paratransit service area (defined as three-fourths of a mile buffer around fixed route transit stops).



Staff recommends continuation of the existing arrangement with GoTriangle, and further recommends under terms of the new contract arrangement revisions to eliminate paratransit transfers between GoTriangle and the City, thus providing reduced travel time and improved convenience for consumers.

The total contract for three years is \$1,156,179 and will end June 30, 2020. The City contribution to the total cost of service is capped at 25%. Funding is appropriated.

Fiscal Year 18 projected costs: \$347,908

Fiscal Year 19 projected costs: \$398,163

Fiscal Year 20 projected costs: \$410,108

**Recommendation:** Authorize the City Manager to execute the contract. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

## **PARKS – MASTER SERVICE CONTRACTS FOR CAPITAL PROJECTS – VARIOUS ACTIONS TAKEN**

A Request for Qualifications was advertised April 7, 2017 for master services to provide engineering and design disciplines for department capital projects. Forty-two qualified submittals were received May 12 and evaluated by an inter-departmental team. Twelve firms were selected.

Services to be provided by the selected firms include:

- Architecture
- Landscape architecture
- Civil engineering and land survey
- Geotechnical engineering
- Structural engineering
- Mechanical, electrical and plumbing engineering (MEP)
- Abatement design and reporting

Architectural projects include facility assessment and building renovation. Site projects include site survey, amenity design, grading, site utilities and stormwater design. Geotechnical includes projects involving borings, construction material testing and special inspections. Structural projects include existing structure assessment and design. MEP projects include existing building system assessment, upgrades and HVAC unit replacement. Abatement services include asbestos and lead paint testing, abatement design and reporting. Listed below are the 12 professional services firms selected for participation in the on call program; firms identified with \* are minority- or woman-owned business enterprises; those identified with # have not previously participated in the Parks on-call professional services program.

#Davis Kane Architects	\$500,000
*#HH Architecture	\$500,000
*#in situ studio	\$500,000
#Phillips Architecture	\$500,000

#ColeJenest & Stone	\$500,000
#obs landscape architects	\$500,000
*#Froehling & Robertson, Inc.	\$500,000
#Kleinfelder	\$500,000
#Terracon Consultants, Inc.	\$500,000
#Atlantec Engineers, PA	\$500,000
#Sigma Engineered Solutions	\$500,000
#Matrix Health & Safety Consultants, LLC	\$500,000

Staff recommends contracting with each firm in an amount not to exceed \$500,000 over 3 years with optional two-year extensions with each firm. Contracts will be in the form of master services agreement and will not encumber funds at contract award. Funds will be encumbered from the capital project budgets based on statements of work issued to each selected firm.

**Recommendation:** Authorize the City Manager to execute the master service contracts with each selected firm in an amount not to exceed \$500,000 per contract. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

#### **TEMPORARY LABOR SERVICES – PEOPLEREADY, INC. – MANAGER AUTHORIZED TO EXECUTE CONTRACT**

The City contracts with an agency that provides general labor personnel on an as needed basis to assist department crews with residential collection of household garbage, recycling, and yard waste. The current contract ends July 31, 2017. A Request for Proposals (RFP) to provide general labor personnel to assist collection crews beginning August 1, 2017 was issued; two firms attended the mandatory pre-proposal conference following release of the RFP.

Proposals were received from two firms. The proposals have been evaluated and are listed below in priority order:

- (1) PeopleReady, Inc.
- (2) Avant

Staff recommends contracting with the top priority proposal at an annual cost of \$80,000 for the three year term of the contract. The contract provides for two additional one-year extensions. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

#### **HUMAN RESOURCES SELF-SERVICE ENHANCEMENT PROJECTS – ERP ANALYST, INC./CONTRACT AMENDMENT #6 – APPROVED**

Staff recommends an amendment to the existing managed services agreement with ERP Analysts, Inc. to provide functional and technical implementation services for the Human Resources Self-Service Enhancements Project that includes Open Enrollment. This project provides current and former city employees with access to annual online benefits enrollment.

Adding this functionality is essential to increase the accessibility of documents and records within the organization by eliminating paper based enrollment processes.

The additional contract funding will provide for managed services hours to implement this next key project. The amendment will not exceed \$150,000 with work to be completed by January 31, 2018.

**Recommendation:** Authorize the City Manager to execute contract amendment with ERP Analyst Incorporated. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

### **REIMBURSEMENT CONTRACT – HARGETT PLACE, INC. – MANAGER AUTHORIZED TO EXECUTE**

On May 30 developer Hargett Place, Inc. completed replacement of adjacent water and sewer mains. This replacement qualifies for reimbursement under the Urban Redevelopment Main Replacement Reimbursement Policy adopted by City Council on February 16, 2015.

This project consisted of:

- 910 linear feet of 8-inch sewer main
- 780 linear feet of 8-inch water main

This replacement qualifies for reimbursement on the basis of condition of the infrastructure replaced and capacity provided by the new infrastructure. This project is eligible for \$289,120 in reimbursement. The amount of the reimbursement has been certified by staff and the reimbursement is in accordance with City Code.

**Recommendation:** Authorize the City Manager to execute a reimbursement agreement. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

### **S-13-2016 – INFRASTRUCTURE REIMBURSEMENT CONTRACT/HARGETT PLACE, INC. – APPROVED**

This reimbursement contract is for construction of 2,195 square yards of asphalt pavement infrastructure along South East Street, East Hargett Street and South Bloodworth Street associated with development plan case S-13-2016. The pavement infrastructure has been accepted for maintenance. The total reimbursable amount claimed by the applicant \$28,823, payable to Hargett Place, Inc.

The amount of reimbursement has been certified by staff. The reimbursement is in accordance with Unified Development Ordinance Section 8.6.3. This is a priority two reimbursement located within benefit area number two.

**Recommendation:** Authorize the City Manager to execute reimbursement contract with Hargett Place, Inc. Upheld on Consent Agenda Baldwin/Thompson - 8 eyes.

**S-67-2002 – INFRASTRUCTURE REIMBURSEMENT/BELL INVESTMENTS LIMITED PARTNERSHIP – MANAGER AUTHORIZED TO EXECUTE**

This reimbursement contract is for Stream and Wetland Restoration at 0 Hammond Road and 100 Knowles Street associated with development plan case S-67-2002. The total reimbursable amount claimed by the applicant is \$17,774.13 payable to Bell Investments Limited Partnership.

The City Council agreed to the eligibility for reimbursement of this expense on May 19, 2009 through a Petition of Citizens hearing. The amount of reimbursement has been certified by staff. The reimbursement is in accordance with Unified Development Ordinance Section 8.6.3. This is a priority two reimbursement located within benefit area number two.

**Recommendation:** Authorize the City Manager to execute reimbursement contract with Bell Investment Limited Partnership. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

**PERSONNEL – NEW POSITION – AUTHORIZED**

Following an operational review of the Budget & Management Services department and upon recommendation of the new department director, an additional staff resource to the department is warranted. The position is a mid-year staff addition to augment fiscal, evaluation and strategic planning efforts within the department. The new position has been reviewed by the Human Resources department; the fiscal impact of the mid-year addition will be addressed by reallocation of existing department budget appropriations.

Budget and Management Services - Budget and Management Analyst (Job Code 0421; PG 37).

**Recommendation:** Authorize the new position as outlined. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

**ENCROACHMENT REQUESTS – VARIOUS – APPROVED CONDITIONALLY**

The agenda presented the following request for encroachments.

**South Dawson Street and West Davie Street**

A request has been received from MCNC to install 2,630 feet of underground fiber optic cable and 4 hand holes to access existing conduit.

**Louisburg Road/Perry Creek Road and Midtown Market Avenue**

A request has been received from South Carolina Telecommunications Group to install 6,253 linear feet of underground fiber optic cable and five hand holes.

Council Members received reports in the agenda packet outlining locations, etc.

**Recommendation:** Approve the encroachments subject to completion of liability agreement and documentation of proof of insurance by the applicant. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

### **BUS SHELTER PUBLIC ART PROJECT – BUDGET AMENDMENT AUTHORIZED**

With leadership by the News and Observer, the private sector has contributed funding to assist in the development of a project that would enhance quality of life in Raleigh. The funding donated will allow the City to partner on a two-phase art project to enhance the transit experience. In phase one, artists will be recruited to design artistic vinyl wraps for installation on ten bus shelters throughout the city. Phase two has not been scoped in detail, but will use remaining funds on a future single, larger-scale project. The City Council was previously briefed about this opportunity at the City Council Work Session on April 11, 2017 as a part of a larger Transit Update.

This action both accepts the donated funds and makes the accompanying budget appropriation. Both actions will allow staff to initiate a call for artists; begin the contracting process; coordinate with the Raleigh Transit Authority and Together Raleigh; and commence project implementation.

**Recommendation:** Authorize a budget amendment in the amount of \$72,000. According to accounts information included in the agenda packet. Upheld on Consent Agenda Thompson/Crowder - 8 ayes. See Ordinance 726 TF 298.

### **CONDEMNATION – WEST DREWRY LANE – RESOLUTIONS ADOPTED**

The City had previously performed a temporary repair to the West Drewry Lane drainage culvert in 2013 during the course of making repairs to a nearby sewer line along Crabtree Creek. It was discovered during the sewer repair that the existing culvert had structural deficiencies beneath West Drewry Lane and temporary repairs were immediately done. A public meeting to discuss a permanent repair solution and potential property impacts was held in April 2014. The West Drewry Lane Culvert Replacement and Bank Stabilization Project was approved as part of the Stormwater Capital Improvement Program for fiscal years 2017 – 2021. The purpose of the project is to provide a permanent and stable culvert improvement that adequately conveys flows. The proposed culvert improvements will be a 6 foot wide by 7 foot high reinforced concrete box culvert, approximately 80 feet long, that will replace the existing 72 inch corrugated metal pipe. The project also includes replacing the existing headwalls, stream stabilization to prevent erosion into the stream flowing through the new culvert, and upgrading portions of the existing sanitary sewer and water systems in West Drewry Lane. Negotiations with the following property owners to acquire the easements needed for the project have, thus far, been unsuccessful.

Name (s) of property owner (s) and Site Locations:

Gary F. Singleton	121 West Drewry Lane
George R. Hall III	207 West Drewry Lane

**Recommendation:** Adoption of resolutions of condemnation. Upheld on Consent Agenda Thompson/Crowder - 8 ayes. See Resolutions 485 and 486.

**RALEIGH UNION STATION – PROPERTY MANAGEMENT SERVICES – YORK PROPERTIES, INC. – AUTHORIZED SUBJECT TO APPROVAL BY CITY ATTORNEY**

On March 23 staff solicited proposals for asset management services for commercial lease spaces included in the Raleigh Union Station (RUS) Phase I project. Details of the services desired and structure of an agreement for the management of the RUS commercial spaces were reviewed with the City Council during the June 13 work session; staff also provided an overview of the Request for Proposals process and the methodology used to determine the selected firm during the work session.

During the work session Council requested additional information with regard to tenant upfit costs; the requested information was included in the staff memorandum included with the agenda packet.

The RUS Phase I project is the first phase of a multi-modal transportation hub in Downtown Raleigh. This transportation hub is currently under construction with an operational date scheduled for early 2018. Raleigh Union Station sits in the rapidly developing warehouse district of Downtown Raleigh. Upon full build-out, it is envisioned that the mixed use components of Raleigh Union Station will support its visitors and tenants with office space, additional amenities, and services such as grab and go food and beverages for the traveler or traditional soft goods retail spaces for local employees and a growing residential community.

The leasable spaces located within Raleigh Union Station present a number of opportunities for patrons of the facility utilizing inter-city rail and for those citizens who have made the warehouse district, where the station resides, their permanent residence.

The request for proposals defined the following key elements for inclusion in all responses:

1. Scope of Management Services
2. Scope of Accounting Services, including but not limited to, payment of invoices and rent collection
3. Proposed Mix of Tenants or Letters of Intent
4. Proposed timeline of Tenant Up-fit Construction
5. Plan to manage Grand Hall Event Space and kiosk areas
6. Three examples of similar scope of services

Proposals were received on May 2, 2017 and interviews were conducted on June 2, 2017. The three proposals and subsequent presentations were submitted from the following firms:

1. Cushman & Wakefield

2. NAI Carolantic Realty, Inc.
3. York Properties, Inc.

Staff representatives from the following areas assisted with the evaluation and presentation reviews:

1. Planning / Urban Design Center
2. Real Estate Services
3. Economic Development
4. Engineering Services
5. Budget and Management Services
6. Transportation Department

The three firms were ranked by predetermined evaluation criteria; York Properties was ranked first in proposal response and in the overall quality and clarity of their presentation.

It is requested that an agreement be executed for brokerage, property management, and event services with York Properties, Inc.

The fees for the defined services / retail spaces within the selected proposal are as follows, though may be subject to change during negotiations of final terms and scopes of services to be provided to the City:

1. Property Management Fee: The greater of \$1K/month or 4% of gross rents
2. Leasing Fees: 4% no co-broker / 6% co-broker / 2% renewal
3. Event Coordination Fee: several options available, TBD
4. Estimated prices per square foot for the leasable spaces varied by location and ranged between \$18.00 and \$26.00 per square foot.

Funding is appropriated in the operating and capital budgets.

**Recommendation:** Authorize negotiation and execution by the City Manager of an agreement with York Properties, Inc., subject to the approval of final terms and conditions by the City Manager and the City Attorney. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

### **WALNUT CREEK ATHLETIC COMPLEX RENOVATION – CITY MANAGER AUTHORIZED TO EXECUTE CONTRACT WITH ATLANTIC CORPORATE CONTRACTING, LLC**

The Walnut Creek Athletic Complex, a 105-acre park site located at 1201 Sunnybrook Road, was constructed nearly 25 years ago. This complex serves as the host venue for local softball programs as well as a tournament destination for varieties of competitive softball events in the region. This renovation project is intended to provide 9 renovated fields, fencing, turf, upgraded public restroom facilities, enhanced accessibility walkways and improved maintenance facilities. Site and facilities studies were completed with staff and consultants to determine the scope.

Additional engagement included discussion with various users and stakeholders. Source of funding for these improvements is proceeds from the 2014 parks and recreation bond referendum.

Construction bids for the project were publicly bid on April 7 and June 6, 2017. The apparent low bidder is Atlantic Corporate Contracting, LLC, North Carolina License No. 75643.

Funding of \$5,100,000 is currently appropriated in the capital budget; a budget transfer in the amount of \$500,000 is necessary from the ADA Facility Upgrades capital budget to assist with addressing accessibility aspects of the project. MWBE participation is 5% and the Business Assistance Office has documented good faith effort by the low bidder to comply with City goals.

**Recommendation:** Approve the low bid and authorize the City Manager to execute a construction contract with Atlantic Corporate Contracting, LLC., License No. 75643 in an amount not to exceed \$4,877,414. Authorize a budget transfer in the amount of \$500,000; accounting details were included with the agenda packet. Upheld on Consent Agenda Thompson/Crowder - 8 ayes. See Ordinance 726 TF 298.

#### **WALNUT CREEK ATHLETIC COMPLEX – IRRIGATION CONTRACT – BID AWARDED TO ATLANTIC CORPORATE CONTRACTING, LLC**

Project background may be viewed in the previous agenda item. The Walnut Creek Athletic Complex construction project was publicly bid on May 17, 2017. This bid and contract award is for installation of irrigation infrastructure. The apparent low bidder is Atlantic Corporate Contracting, LLC, License No. 75643.

Funding is appropriated.

Memo from Business Assistance Office regarding SDMWOB participation and good faith efforts is attached. Contractor MWBE participation is 0% with good faith efforts accepted.

**Recommendation:** Approve the low bid and authorize the City Manager to execute a construction contract with Atlantic Corporate Contracting, LLC, License No. 75643, in the amount of \$556,451 for irrigation improvements at the Walnut Creek Athletic Complex. Upheld on Consent Agenda Thompson/Crowder - 8 ayes.

#### **TRAFFIC – VARIOUS CHANGES – ORDINANCE ADOPTED**

The agenda presented the following recommended changes in the Traffic Code.

##### Valet Zone Removal – Fayetteville Street

It is recommended that the Valet Zones be removed from the east side of the 200 block and the west side of the 500 block of Fayetteville Street.



Staff recently completed a review of all Valet Zones in the Downtown area and found that both of these zones are no longer being operated. Staff is recommending their removal in order to free up more available parking as well as to alleviate confusion for citizens who sometimes park in these areas in the evenings and are issued citations. Staff has spoken with the area businesses and none of them have any plans to utilize these zones in the future.

#### Multi-Way Stops – Quail Hollow Drive/Iron Horse Road – Melbourne Road

It is recommended that multi-way stops be installed at the intersection of Quail Hollow Drive at Compton Road and at the intersection of Iron Horse Road at Old Coach Road. Quail Hollow Drive is classified as a Neighborhood Street and Compton Road, Iron Horse Road and Old Coach Road are all classified as Neighborhood Local. These intersections meet and/or exceed the criteria specified in Section Four of the Neighborhood Traffic Management Program adopted by the City Council. Affected residents have been notified of potential impacts to on-street parking.

It is recommended that a multi-way stop be installed at the intersection of Ravenwood Drive and Melbourne Road. This multi-way stop is recommended as part of the Melbourne Road sidewalk petition project. The intersection has been redesigned as part of the project and a multi-way stop is the most appropriate way to dictate right-of-way.

**Recommendation:** Approve changes and authorize the appropriate changes to the traffic code as included in the agenda packet . Upheld on Consent Agenda Thompson/Crowder - 8 ayes. See Ordinance 726 TF 298.

END OF CONSENT AGENDA

### **REPORT AND RECOMMENDATION OF THE PLANNING COMMISSION**

#### **CP-3-16 COMPREHENSIVE PLAN AMENDMENT FOR CAMERON VILLAGE AND HILLSBOROUGH STREET SMALL AREA PLANS; CAMERON VILLAGE AND HILLSBOROUGH STREET SMALL AREA PLANS REPORT – REFERRED TO GROWTH AND NATURAL RESOURCES COMMITTEE**

CP-3-16 is a proposed amendment to the 2030 Comprehensive Plan reflects the recommendations of the Cameron Village and Hillsborough Street Small Area Plans report. Map LU-3 Future Land Use and Map T-1 Street Plan would be amended. In addition, a new area plan called 4.1 Cameron Village and Hillsborough Street would replace area plans 18. Stanhope Village and 21. Wade-Oberlin. Existing policies that are still relevant in these two area plans are incorporated into 4.1 Cameron Village and Hillsborough Street in combination with the new policies and action items recommended by the Cameron Village and Hillsborough Street Small Area Plans report.

The Planning Commission recommends approval of CP-3-16. Staff suggests a public hearing date of September 5, 2017.

Cameron Village and Hillsborough Street Small Area Plan is a report is the outcome of a robust planning and public engagement process which commenced December 2014. The report has been revised three times since it was first published for public comment in April 2016: 1) revisions were completed in October 2016 to incorporate input received during the April 2016 public comment period, 2) revisions were completed in January 2017 to incorporate input received from City Council as part of the action to refer the item to Planning Commission, and 3) revisions were completed in June 2017 to reflect the recommendations of Planning Commission's review.

The Planning Commission recommends adoption of the report with revisions as presented on the project page, <http://www.raleighnc.gov/business/content/PlanDev/Articles/UrbanDesign/CameronHillsborough.html>. The Commission identified one additional revision; to alter plan language to recognize 0 Ferndell Lane as a location for a publicly accessible open space. The area plans will be presented in tandem with CP-3-16 during the public hearing.

**Recommendation:** Set a public hearing for the proposed 2030 Comprehensive Plan amendment with a September 5, 2017 date suggested; and defer action on the report until the public hearing on CP-3-16.

Planning Director Bowers pointed out these two items are very related. The Cameron Village and Hillsborough Street small area plan is a 142 page document. CP-3-16 Comprehensive Plan Amendment relates to amendments to the land use and transportation elements and it provides area specific guidance. He went through the time frame including public meeting for visioning workshop, multi-day charrette and draft plan presentation in October of 2015. He explained the Planning Commission review dates and explained the following summary of changes:

- Street connections between Daniels and Oberlin removed – Glover Lane designated as bike/pedestrian
- Recommended building height lowered to 4 and 3 stories in multiple locations.
- Roundabout option added for Oberlin and Van Dyke Avenue.
- Recommended realignment of Clark Avenue and Smallwood Drive removed
- Remnant Ferndell Connector parcel recommended for open space.

Planning Director Bowers indicated the City Council has several options. The Council could schedule the comprehensive plan amendment for a public hearing and defer action on the area plan until the hearing, refer both items to committee for further discussion or hold both items at the table for further discussion. Mayor McFarlane questioned if there are any outstanding issues with Planning Director Bowers pointing out a majority of the public comments have been addressed. Mayor McFarlane stated it has been a long time since this started and questioned if staff feels it is ready to move forward to public hearing. Planning Director Bowers pointed out a lot of things has changed since the Council last saw this issue.

Council Member Crowder talked about the number of changes explaining this is a very complicated process and she feels there are a few things that might need more conversation

therefore she would move that the two items be referred to Growth and Natural Resources Committee to talk about the issues.

Council Member Baldwin asked about the Planning Commission discussion with Planning Commission Chair Braun talking about street connections and the grid being a concern to much of the neighborhood and height is another. Council Member Baldwin asked about the height issues with Planning Commission Chair Braun talking about the four or five story proposal and staff's concern that it should be one designation. He talked about the discussions in Planning Commission pointing out this was a unanimous recommendation of the Planning Commission. He stated Planning Commission felt it was good to show that there is flexibility in the designation.

Without further discussion, it was agreed to refer the items to Growth and Natural Resources Committee.

### **SPECIAL ITEMS**

#### **DOWNTOWN PLAZA ACTIVATION – VARIOUS ACTIONS APPROVED**

In 2016 Council authorized a six-month pilot program that would allow for the private use of City Plaza to provide outdoor seating to restaurant patrons. This was part of a broader strategy that also included additional seating in all of the downtown plazas, the installation of a public art video display in Market Plaza, and increased efforts to program key spaces during underutilized times in order to provide for a welcoming and warm downtown.

Due to the six-month designation of the pilot program by Council in 2016, additional authorization for plaza license agreements is required at this time. Prior Council authorizations associated with the program are set to expire.

Staff will make a presentation providing updates to the various efforts, including a new partnership with the Downtown Raleigh Alliance, Inc.

**Recommendation:** 1) Authorize the City Manager to negotiate a license agreement with Z-Pizza to allow for continued use of portions of City Plaza for the purpose of private outdoor seating; 2) Authorize the City Manager to terminate the license agreement with the DRA for space within the City Center Parking Deck and negotiate a new license for the use of the storage cage on City Plaza; 3) Authorize staff to waive the City fees, costs, and deadlines associated with the DRA's programming of downtown plazas within the confines of the attached proposal for a period of one year.

Derrick Remer, Office of Emergency Management and Special Events gave a background starting with June 2016 in which the Council expressed the desire for additional activation of downtown plazas during non-peak hours or days. In the October to December 2016 time frame, Program Our Plazas (POP) was conducted by the Downtown Raleigh Alliance. In November of

2016 the City Council authorized the City Manager to negotiate a 6-month license to allow for private outdoor seating on City Plaza by Z-Pizza with a February 2017 effective date.

Mr. Remer pointed out the various activation components which include Block 2 Video installation, addition of tables and chairs for public use, Z-Pizza outdoor seating license agreement and partnership with DRA for ongoing programming. He went over the four components explaining the Block 2 Video series first show was New Year's Eve 2016 and they are rotating videos every three to four months. The screen is a visual piece by local Artist Matt McConnell.

Mr. Remer pointed out approximately 25 tables and 100 chairs have been added and we now have 19 silver tables and 72 silver chairs. The red tables and chairs were moved to Market and Exchange Plaza and 8 additional were purchased.

Mr. Remer stated as far as the private outdoor seating, Z-pizza current pilot license expires at the end of August. The outdoor seating area has been well received and provides a welcoming environment during non event times. The owners have worked closely with the City to remain in compliance and have submitted the required reports.

He stated using lessons learned from the POP program it is felt we should utilize DRA resources for programming activities for employees, visitors and residents. They will program at least 26 events per year and utilize Market, Exchange and portions of City Plaza as well as Moore Square Bus Station and Union Station. The City will allow for fee and deadline waivers and allow the use of the storage cage on City Plaza in exchange for current space in the City Center Parking Deck. He talked about the continuing DRA Partnership, type of events that occur at least every other week during week day lunches, after work week days and weekends nonpeak hours.

Mr. Remer went over the recommendations as included in the agenda and responded to comments from Council Member Crowder relative to the waiver of fees and deadlines pointing out the number of applications and permits. He stated the deadline for applications is 90 days in advance and for small events it does not take that long and they would not let the deadline be less than 30 days.

Council Member Baldwin completed the staff for the work. She stated she really appreciates the extra chairs and tables as it is not good to see people setting on the ground. Council Member Baldwin moved approval of the three recommended actions as included on the agenda. Her motion was seconded by Mayor McFarlane. Council Member Branch questioned if there are prohibited activities with Mr. Remer pointing out there are none. The motion as stated was put to a roll call vote which resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote.

## **REPORT AND RECOMMENDATION OF THE CITY MANAGER**

### **JULY 4 CELEBRATION – CITY MANAGER EXPRESSED APPRECIATION**

City Manager Hall pointed out we just come off of the July 4<sup>th</sup> celebration and expressed appreciation to all city employees who work so hard over the holiday weekend including police, fire, sanitation, all employees who helped provide services. He stated we do have a lot of employees who give up their holiday to work through the holiday and talked about the amount of work that went into producing The Works. He again expressed appreciation to all involved.

### **CITIZEN ENGAGEMENT TASK FORCE – WORK SESSION SCHEDULED FOR AUGUST 28, 2017**

City Manager Hall pointed out the City Council had asked to look at developing a work session agenda/time on the Citizen Engagement Task Force work.

He stated he and Assistant City Manager Adams-David had met with two separate consulting groups – open Addor Consulting and Mickey Fearn. City Manager Hall distributed bios on each group stating both have been involved and have a lot of experience in consensus, community building, etc. He stated they are very different so they will be coming at this issue with a very different view, both have worked with many cities and can offer a national prospective, talked about working with them to get their expertise, and how to design a process, etc. City Manager Hall suggested setting up a stand-alone work session to discuss this item pointing out it could be one of the 4:00 p.m. televised meeting such as the City did with the budget work sessions and UDO. He stated some dates for consideration would be Monday, August 28; Wednesday August 30; and Tuesday, September 12 which is regularly scheduled work session date. He indicated the Council does not have to make a decision at this point but asked that a schedule be announced no longer than the August 15 meeting and staff could continue working with the two groups in anticipation of the upcoming work session.

Council Member Cox questioned if there is any opportunity to have a 7:00 p.m. meeting so that more citizens could attend. Mayor McFarlane stated she does not see this as an interactive meeting. It would be in the Council Chamber, would be taped and televised.

After checking calendars, etc., Council agreed to a 4:00 p.m. August 28, 2017 work session to discuss the Citizen Engagement Task Force report. City Manager Hall indicated he would continue to work with the two groups, schedule the meeting, get materials prepared, etc.

Council Member Stephenson indicated this is a tremendous team that is being put together and expressed appreciation for everyone's work. He asked that when the Council has this work session the Council consider doing several things and presented the following statement:

5 July 2017 – Comments on Manager's Research into Citizen Engagement Facilitation

The Manager's research represents a very positive step forward in keeping with the Mayors June 6th suggestion that *"our next step be a Council work session that Includes a consultant that will facilitate an open dialogue and help bring consensus around how we proceed."*

I fully support this Initiative, and suggest that for it to be successful, Council will have to do at least two things. The first will be to commit itself to this new direction. The second will be to set aside elements of the May 2nd vote that conflict with the Mayors other June 6th statement that *"every member of this City Council understands and values the important role of the CACs have had and continue to play in citizen engagement."*

Below is an outline – in concert with the Mayors June 6th statements – for Council consideration at our next meeting for restarting the Citizen Engagement process. In the meantime, I look forward to continuing conversations about improving this new direction.

### **Citywide Process for Improved Citizen Engagement and Empowerment**

#### 1. Request for Proposal/Qualifications (RFP) Process

Engage RFP facilitators who are highly qualified in the focus areas listed below to design one or more meetings to outline the principles, scope, schedule and deliverables of an RFP for the Full Process described below. They would guide all aspects and design of meeting structure and agenda In order to promote trust in the process.

Develop a detailed consultant RFP Incorporating RFP facilitator Input and other stakeholder Input in one or more public meetings.

#### 2. Full Consultant Process

Hire the highest quality consultant team, with nationally recognized skills in these focus areas: citizen engagement and empowerment, conflict resolution and social equity. The consultant will undertake an authentic citywide citizen participation effort over the next 2+ years, incorporating the best local and national models, to develop citywide policies, structures and processes in these focus areas.

#### 3. Acknowledging the Important Role CACs Continue to Play

In order to build trust In this new direction, the following will be set aside as we go forward: empaneling a new board, replacing Citizens Advisory Councils with Citizens Engagement Councils, changing the rezoning process so that it's controlled by planning staff "from start to finish", and omitting the current practice of CAC voting.

No further action was taken.

**REPORT AND RECOMMENDATION OF THE ECONOMIC DEVELOPMENT AND  
INNOVATION COMMITTEE**

NO REPORT

**ECONOMIC DEVELOPMENT AND INNOVATION COMMITTEE – MEETING  
ANNOUNCED**

Mayor McFarlane indicated the Economic Development and Innovation committee will be meeting next on August 22, 2017.

**REPORT AND RECOMMENDATION OF GROWTH AND NATIONAL RESOURCES  
COMMITTEE**

NO REPORT

**GROWTH AND NATURAL RESOURCES COMMITTEE – MEETING ANNOUNCED**

Chairperson Crowder reported the Growth and Natural Resources Committee will be meeting on August 9 and August 23 in the City Council Chamber.

**REPORT AND RECOMMENDATION OF THE SAFE, VIBRANT AND HEALTHY  
NEIGHBORS COMMITTEE**

NO REPORT

**REPORT AND RECOMMENDATION OF THE TRANSPORTATION AND TRANSIT  
COMMITTEE**

NO REPORT

**TRANSPORTATION AND TRANSIT COMMITTEE – MEETING ANNOUNCED**

Chairperson Branch reported the Transportation and Transit Committee will be meeting next on August 22, 2017.

**REPORT OF MAYOR AND COUNCIL MEMBERS**

**CAPITAL BOULEVARD HOTEL – INFORMATION REQUESTED**

Council Member Cox talked about past comments and concerns relative to the vacated Capital Plaza Hotel on Capital Boulevard and the Brentwood neighborhood. He stated it is a rundown property and has been a blight on the area for some years. He asked that the Council direct the

City Manager and the City Attorney to look into this situation as he feels it is time for City to take some action to rid the area of blight.

Later in the meeting, Council Member Branch asked that the staff take a look at the fence around Capital Plaza Hotel as he feels there are some gaps and there may be unauthorized guests.

#### **RTN – PROBLEMS WITH AT&T UVERSE – STAFF ASKED TO INVESTIGATE**

Council Member Cox pointed out he understands many citizens cannot access RTN through their AT&T UVERSE. He stated he understands staff has looked into this but the problem still exists and it does cause concern and talked about citizen's access to the discussion on the Citizen Engagement Task Force. He stated he was just bringing this to everyone's attention.

#### **JULY 4<sup>TH</sup> – THE WORKS – COMMENTS RECEIVED**

Council Member Branch expressed appreciation to everyone involved in the great fireworks show and event put on and executed by staff. He talked about the success of the event.

Council Member Crowder expressed a happy belated birthday to our country with Mayor McFarlane expressing appreciation to all who contributed to the amazing job on the July 4 celebration.

Council Member Baldwin pointed out it was a great event and explained one could see the fireworks from her house. She stated the City has done a great job in getting people downtown by moving the July 4<sup>th</sup> celebration to the area. She questioned however if in the future the City she feels hosting the event at Dix Park may be a great idea.

#### **COUNCIL MEMBER THOMPSON – COMMENTS RECEIVED**

Council Member Thompson pointed out this is the last meeting before the City Council summer break. He expressed appreciation to Mayor and other Council Members for their expertise, energy, time and dedication in helping make the City of Raleigh such a great place to live. The comments were received.

### **APPOINTMENTS**

#### **APPOINTMENTS – VARIOUS ACTIONS TAKEN**

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

Appearance Commission – One Vacancy – Benard Thaxton – 6 (Thompson, Branch, McFarlane, Stephenson, Crowder, Cox)

Raleigh Historic Development Commission – One Vacancy – J. Gaston B. Williams – 5 (Cox, Stephenson, McFarlane, Thompson, Crowder); Jannette Coleridge-Taylor – 2 (Branch, Baldwin)



Housing Appeals Board – One Vacancy – No Nominees

Raleigh Sister Cities – One Vacancy – No nominees. The City Clerk reported the City Council appoints 3 members of the Sister Cities Board of Directors. There is one vacancy and the Board has submitted the name of William Dodge who has indicated an interest in serving. Mayor McFarlane moved that the Council appoint Mr. Dodge. Her motion was seconded by Ms. Crowder and put to a vote which passed unanimously.

Substance Abuse Advisory Board – One Vacancy – no nominees

The City Clerk reported the appointments of Benard Thaxton to the Appearance Commission, J. Gaston B. Williams to the Raleigh Historic Development Commission and William Dodge to the Raleigh Sister Cities Board. The other items will be carried over to the next meeting.

**NOMINATIONS**

**HUMAN RELATIONS COMMISSION – RESIGNATION WITHDRAWN**

The City Clerk reported the Council had received a resignation from Gail McDonald and one vacancy had been announced. She stated however Ms. McDonald wishes to withdraw her resignation and complete her present term. Without objection it was agreed to follow that course of action.

**BOARD AND COMMISSIONS – DIVERSITY – COMMENTS RECEIVED**

Council Member Baldwin talked about diversity or lack of diversity on the City's appointed boards and commissions pointing out she does not feel the Council is doing a good job in making appointments which represents the diversity of our population. She stated she raised this issue a couple of weeks ago and pointed out she does not feel that one minority on a board is a good representation. She asked that all think about it pointing out she has talked about this issue for the years she has been on city council and asked the council members to think about it. Council Member Stephenson talked about the makeup of the Raleigh Historic Development Commission. No action was taken.

**REPORT AND RECOMMENDATION OF THE CITY ATTORNEY**

**CLOSED SESSION – COMMENTS RECEIVED**

City Attorney McCormick indicated he does not have a report other than the closed session items. He stated he has two items he hopes will be considered in closed session and the City Manager has one. The comments were received.

**REPORT AND RECOMMENDATION OF THE CITY CLERK****SURPLUS PROPERTY – 612 CANDOR LANE/429 S. SWAIN STREET – RESOLUTION ADOPTED**

On April 4, 2017, the City Council declared property known as 612 Candor Lane and 429 South Swain Street surplus and authorize the sale of the property through the upset bid process with a minimum bid of \$18,000. There were a number of upset bid periods (Advertised in the N & O and City website on April 7, April 21, May 5, May 20, and June 2. submitted process has gone through a number of upset bid periods. All legal procedures have been followed.

**Recommendation:** Adopt a resolution authorizing the sale of the property to Ashkan Hosseinl for \$70,000 plus all accrued advertising cost of \$2,214.40 and authorize appropriate city officials to sign necessary instruments of conveyance.

Mr. Thompson moved approval as presented. His motion was seconded by Council Member Branch and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Resolution 487.

**SURPLUS PROPERTY – 0 TAYLOR STREET – RESOLUTION AUTHORIZING SALE ADOPTED**

On June 20, 2017, the City Council authorized property known as 0 Taylor Street surplus and authorized it for sale through the upset bid process with a starting bid of \$10,000 plus accrued advertising cost. A bid was received from Ble Sky Services Development, LLC which was advertised in the N & O and the city's website on June 9, 2017. No upset bids were received.

**Recommendation:** Adopt a resolution authorizing the sale of property to Blue Sky Services Development, LLC for \$10,000 plus advertising cost of \$432.50 and authorizing appropriate city officials to sign instruments of conveyance. Council Member Thompson moved approval as recommended. His motion was seconded by Council Member Branch and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0. See Resolution 488.

**MINUTES – JUNE 6, 2017 – APPROVED AS PRESENTED**

The City Clerk indicated Council members received in their agenda packets copies of the minutes of the June 6, 2017 Council Meeting. Council Member Stephenson moved approval of the minutes as presented. His motion was seconded by Council Member Thompson and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion on an 8-0 vote.

**CLOSED SESSION**

**CLOSED SESSION - HELD**

Mayor McFarlane stated a motion is in order to enter closed session pursuant to N.C.G.S.143-318.11(a)(5) for the purpose of instructing city staff how to proceed in the acquisition of potential land for the Fire Station 1 project and pursuant to G.S.143-318.11(a)(3) to consult with the City Attorney regarding a potential legal matter. Mayor McFarlane moved approval of the motion as read. Her motion was seconded by Council Member Crowder and a roll call vote resulted in all members voting in the informative. The Mayor ruled the motion adopted on an 8-0 vote and the Council went into closed session at 1:50 p.m.

The Council reconvened in open session at 2:15 p.m. with Mayor McFarlane indicating the Council provided instructions to staff on how to proceed in the potential land acquisition and received information on the other items as outlined and gave direction.

**RECESS**

Mayor McFarlane announced the meeting recessed at 2:15 p.m.

Gail G. Smith  
City Clerk\

jt/CC07-05-17

The City Council of the City of Raleigh met in a reconvened session at 7:00 p.m. on Tuesday, July 5, 2017 in the City Council Chamber, Room 201 of the Raleigh Municipal Building, Avery C. Upchurch Government Complex, 222 W. Hargett Street, Raleigh, North Carolina, with all Council Members present.

Mayor McFarlane called the meeting to order and the following items were discussed with actions taken as shown.

**RALEIGH HISTORIC DEVELOPMENT COMMISSION – JOINT HEARING – DEFERRED UNTIL SEPTEMBER 5, 2017**

This is a hearing to receive public comment on four proposed Raleigh Historic Landmarks and one Historic Landmark boundary change:

RHDC-initiated:

- Berry O’Kelly School, 514 Method Road
- Lillie Stroud Rogers House, 616 Method Road
- Rev. Plummer T. Hall House, 814 Oberlin Road (boundary change)

Owner-initiated:

- H. J. Brown Coffin House, 200 South Salisbury Street/105 West Hargett Street
- Fisher's Bakery & Sandwich Company, 1519 Brookside Drive

**Recommendation:** Following the hearing refer the matter to the RHDC to consider the recommendations of the State of North Carolina and any additional information received during the public hearing.

Mayor McFarlane indicated this item has been deferred until the September 5, 2017 council meeting.

**REQUEST AND PETITIONS OF CITIZENS**

**SENIOR HOUSING – REQUEST FOR TEXT CHANGE CONSIDERATION – REFERRED TO THE PLANNING COMMISSION**

Joe Whitehurst was at the meeting to proposed additional text changes relating to senior housing. He pointed out he came to the Council in February asking for some changes in the UDO relating to senior housing and the Council referred the issue staff and the Planning Commission for a potential text change relating to these items. He explained the Planning Commission Text Change Committee reviewed the items and he asked about some additional items relating to the same sections of the UDO relating to using consistent terminology as it relates to congregate care, life care and nursing homes subsections and several items which are confusing and do not

match definitions within the UDO and the industry. He went over the following proposed additions to the already existing discussion on the text change.

Section 6.2.2.C.2.b

Add back in “*and dwelling units*” following rooming units. This was what was in the original code but was dropped and staff agrees that this was not intended.

Section 6.2.2.E

Add the term “*Continuing Care Retirement Community*” to this heading as this is how this is used both in the industry and with the State of NC for permitting.

Section 6.2.2.E.1

Congregate care is noted and it appears that rest home was mistakenly not included. Add “*rest home*” to the definitions to be consistent with the industry and how Life Care/Continuing Care Retirement Communities work and to be consistent with the Rest Home definition noted in 6.2.2.F.1.

Section 6.2.2.E.2

Add in a new Use Standard Section J which would include sections 6.2.2.C.2.b and 6.2.2.F.2. A life care community and a Continuing Care Retirement are both a Congregate Care and Rest Home combined. This is how this section has been used prior to the UDO change.

Section 6.2.2.E.2.c

There should not be any min lot size for anything in the districts where these facilities can be placed.

Section 6.1.4 Allowed Principal Use Table

Allow Congregate Care and Life Care under R-6 as a *Limited Use* designation. Similar to how a Rest Home is a Limited Use in the R-6 category.

Staff had suggested that he come back to the Council to ask that these items be considered as a part of the existing proposed text change which would allow the Planning Commission to have the discussions. In response to questioning from Council Member Baldwin, Mr. Whitehouse stated these proposals are in addition to what the Planning Commission is already discussing. He talked about how these issues came about and the need for consistency. Council Member Baldwin stated as she understands the Planning Commission does not feel comfortable discussing these additional items unless directed by the Council.

In response to questions, Assistant Planning Director Crane highlighted the following from the backup information.

City Council has received a petition of citizens from Joe Whitehouse requesting additional changes to the Unified Development Ordinance be considered in conjunction with the senior housing text change already authorized by the City Council in April of

this year. That text change, TC-11-17, is now under review by the Planning Commission Text Change Committee.

#### Background

Text Change “TC-11-17 Senior Housing,” previously authorized for Grubb Ventures, LLC, was allowed to consider the following UDO changes:

- 1) Amending Section 6.1.4 of the UDO, Principle Use Table, to eliminate the Special Use Permit requirement for a Life Care Community in the R-10 and RX districts.
- 2) Modifying Section 6.2.2.E.2.c of the UDO, to reduce the minimum site acreage required for a Life Care Community in the R-6 and R-10 districts down from 5 acres to 2 acres.
- 3) Revising the open space requirements for Life Care Communities to be more consistent with the open space requirements for apartment buildings in residential districts and general development in mixed-use districts by reducing the minimum open space provisions down from 30% of the site to 10% of the site.

#### Request

The petitioner requests the text change already under consideration, TC-11-17, also include revisions to terminology/definitions in the UDO so that they are consistent within the overall context of the code as well as better match industry and state regulatory language. Additionally, the petitioner requests the City restore the residential density calculation methods set forth in the former Part 10 Development Code whereby “dwellings” that are a part of a Life Care Community or Congregate Care are considered equivalent to ½ of a dwelling unit for the purposes of residential density calculations. The Planning Commission’s Text Change Committee has already heard the petitioner’s concerns and is receptive to considering them as part of their pending matter if the Council authorizes an additional text change to that effect.

#### Next Steps

If the City Council would like to address this petition request and authorize a text change, it is recommended that the changes be incorporated as part of “TC-11-17 Senior Housing” which is already a pending matter before the Planning Commission’s Text Change Committee. This would allow all of the senior housing UDO concerns to be considered as part of one comprehensive text change instead of two separate but overlapping items.

Council Member Baldwin moved that the Council asked the Planning Commission to add these concerns to the proposal being reviewed. Her motion was seconded by Council Member Crowder and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote.

**WAYFINDING – DIGITAL INTERACTIVE – DRA REQUEST APPROVED**

Orage Quarles, III, 4405 City of Oaks Wynd indicated improving wayfinding in downtown Raleigh is a high priority for the Downtown Raleigh Alliance. He stated the Alliance has examined the market and identified a digital, interactive wayfinding kiosk that is a leader in the field. He pointed out a number of cities have or are installing this type of wayfinding including Miami, Denver, San Diego and others. These kiosk offer multiple public benefits such as information on transit, bikeshare, public announcements and data collection. He stated DRA is working with other stakeholders in the city including representatives of Hillsborough Street, Blue Ridge Road, NCSU/Centennial Campus and North Hills all of whom are pursuing interactive wayfinding.

Mr. Quarles indicated he is at the meeting representing DRA which respectfully requests Council to direct staff to work with DRA to identify potential locations for kiosks and review any regulatory issues associated with them. He stated DRA is not seeking city funding in connection with the wayfinding. He stated they will be developing design concepts for the kiosks in concert with the city's branding efforts to customize them for Raleigh and DRA looks forward to sharing these concepts with the City. He stated the kiosk company also seeks to work with local developers to add functionality to the kiosks.

Council Member Thompson indicated he has seen the demo and asked about the advertising and who would control the content with Mr. Quarles indicating DRA would control the content.

Council Member Baldwin stated she had seen the demo and was impressed; however it may be a little tall pointing out when she saw the demo she was leaving graduation ceremonies at the Convention Center and saw about 30 or so people were around looking at the demo. It attracts attention and she feels it would be good. She stated she saw these in Denver and they are pretty cool. Council Member Baldwin moved the Council direct staff to work with DRA to identify potential locations and review any regulatory issues. Her motion was seconded by Council Member Gaylord.

Council Member Cox pointed outs it is a very interesting concept but he wanted to make sure the design is compatible for people with disabilities such as people in wheelchairs with Mr. Quarles indicating they already know they would like to lower the screen for that reason. In response to questioning, Mr. Quarles pointed out DRA feels they are looking at 12 to 15 locations throughout the city. Council Member Stephenson also had questions about mobile applications with Mr. Quarles pointing out that is an option but one would have to download all of the features, etc., whereas a kiosk has a touch screen in real time. Council Member Baldwin pointed out DRA does have a mobile app but it may not be user friendly and she feels like the kiosk is a better way to get the message out. A kiosk can send directions to one's phone and DRA is working on improvements for that. Council Member Branch questioned the average cost with Mr. Quarles stating it would be in the 6 figure range. Council Member Crowder talked about the design so that one would not see the holding towers, only the kiosks. The motion as stated was put to a roll call vote which resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote.

## MATTERS SCHEDULED FOR PUBLIC HEARING

### **TRANSPORTATION BOND REFERENDUM – 2017 – HEARING – VARIOUS ACTIONS TAKEN**

At its June 20, 2017 meeting, Council set July 5, 2017 at 7:00 p.m. as the date and time for a public hearing on the proposed Fall 2017 Transportation Bond Referendum for \$206,700,000. After the public hearing, if Council desires to proceed with the Fall 2017 Referendum, it is necessary to take the following actions:

1. Adoption on second reading of the bond order authorizing \$206,700,000 Transportation Bonds;
2. Passage of a resolution calling for a bond referendum with related actions;
3. Direct the City Clerk to mail or deliver a certified copy of resolution calling for a bond referendum to the Wake and Durham County Boards of Election by July 8, 2017;
4. Direct the City Clerk to timely publish:
  - a. the final bond order as adopted in the News and Observer,
  - b. the first notice of referendum in the News and Observer, and
  - c. the second notice of referendum in the News and Observer.

Included with the agenda packet are suggested proceedings prepared by bond counsel as well as the list of projects proposed for financing with bond proceeds.

**Recommendation:** Adoption on second reading of the bond order authorizing \$206,700,000 Transportation Bonds; passage of a resolution calling for a bond referendum with related actions; direct the City Clerk to mail or deliver a certified copy of resolution calling for a bond referendum to the Wake and Durham County Boards of Election by July 8, 2017; direct the City Clerk to timely publish the final bond order as adopted in the News and Observer, the first notice of referendum in the News and Observer, and the second notice of referendum in the News and Observer.

The Mayor opened the hearing.

Karen Rindge, 3303 Clark Avenue, Raleigh, NC 27607-7033 – Ms. Rindge stated she represented the citizen organization WakeUP Wake County, which supports moving ahead with the transportation bond. They recognize this was a top citizen concern when the City conducted a community survey. As the City moves forward with the projects, most of which are road projects, they are pleased to see sidewalk, pedestrian, and transit amenities included in the projects. They realize the specifics will be hammered out as time goes on, assuming the voters support the bond referendum. One of the things the organization wanted to talk about relative to the City's redevelopment and expansion of its road corridors is that we should always think of using this as an opportunity to implement the City's Complete Streets Transportation Policy. Ms. Rindge reminded the Council that Raleigh is the only city in Wake County that has a complete streets transportation policy. WakeUP Wake County heralds the policy and uses it as a



model for other towns. As the City addresses its road projects, the organization would like to see that the City is planning for better pedestrian and bicycle access. They commend the City for doing a lot with striping for bicycle lanes, but they would like to see more investments made for separated bikeways, at a timely time. As we are becoming a more bicycle-friendly city, separated bikeways are a safer way to get more people to use bicycles and reduce pedestrian crashes. Ms. Rindge said she also knows the bond projects are looking toward integrating safe routes to schools. WakeUP Wake County supports this comprehensive view and encourages the City Council and staff to look at every opportunity for protected bikeways, bicycle lanes, and good pedestrian access.

No one else asked to be heard. Mayor McFarlane closed the hearing. Council Member Baldwin moved approval of the various recommendations as outlined. Her motion was seconded by Council Member Crowder and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Resolution 482.

### **ANNEXATION PETITIONS – VARIOUS – HEARING – ORDINANCE AND RESOLUTION ADOPTED**

This was a hearing to consider the following petitioned annexations.

<b>Location</b>	<b>Electoral District</b>
Buffaloe and New Hope Road	B
2332 Windy Woods Drive	D
6500 West Lake Anne Drive	E

**Recommendation:** Following the hearing, if the City Council wishes to proceed, it would be appropriate to adopt ordinances annexing the properties effective July 5, 2017 and to adopt resolutions placing the properties in the appropriate electoral district.

Brief discussion took place on the locations, why the annexations were requested, who made the request, etc. Mayor McFarlane stated in the future it would be helpful if the backup information included additional information on applicant's name, reasons behind the request, etc. It was pointed out all three of the annexations were owner initiated and all are within the ETJ. Planner Bynum Walter pointed out when annexation petition is received there is certain things the staff looks at. She stated in this particular situation there were no septic failures and probably the desire to develop the properties caused the petition. Council Member Gaylord questioned if there are times when the City should not annex a property. City Manager Hall talked about the City's policy on annexation and extension of water and sewer lines. He stated normally there is no controversy associated with the volunteer annexations.

#### Buffaloe and New Hope Road

The Mayor opened the hearing on the Buffalo and New Hope Roads annexation. No one asked to be heard thus the hearing was closed. Council Member Gaylord moved adoption of the ordinance annexing the property and adoption of the resolution placing the property in the appropriate electoral district. The motion was seconded by Council Member Stephenson and a

roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Ordinance 728 and Resolution 489.

#### 6500 West Lake Anne Drive

The Mayor opened the hearing. No one asked to be heard thus the hearing was closed. Council Member Baldwin moved approval of adoption of an ordinance annexing the property effective immediately and adoption of a resolution placing the property in the appropriate electoral districts. Her motion was seconded by Council Member Gaylord and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adoption on an 8-0 vote. See Ordinance 729 and Resolution 489.

#### 2332 Windy Woods Drive

The Mayor opened the hearing. In response to questioning, it was pointed out this property is approximately 1 acre in size. No one asked to be heard thus the hearing was closed. Council Member Crowder moved adoption of an ordinance annexing the property effective immediately and adoption of a resolution placing the property in the appropriate electoral district. Her motion was seconded by Council Member Stephenson and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Ordinance 730 and Resolution 489.

### **STC-02-2017 – STAR STREET – HEARING – RESOLUTION AUTHORIZING CLOSING ADOPTED**

This was a hearing a hearing to consider a request known as STC-2-2017 – Star Street.

The right-of-way known as Star Street is located west of the intersection of New Bern Avenue and South Raleigh Boulevard. The City of Raleigh has been petitioned to close the portion of Star Street extending from New Bern Avenue east approximately 200 feet to the intersection with the north-south section of Star Street. This portion of right-of-way contains the existing road and intersection with New Bern Avenue, and is approximately 1/6 of an acre. AJJS LLC is petitioning the City of Raleigh to close a portion of this public right-of-way. The closure of Star Street as proposed is consistent with the Comprehensive Plan and prior City Council approvals.

**Recommendation:** Following the hearing the Council may approve, deny or refer the matter to committee.

Jason Myers presented the case showing the map, explaining the location and the standards for determining or acting on a street closing request. He pointed out staff has identified one potential issue and that relates to Duke Progress Energy needing an easement. He talked about the applicant's proposal for development on the property. Council Member Thompson questioned if the street is closed if the same amount of property becomes an easement for the utility company. Mr. Myers explained the state law relating to street right-of-way reverting back to adjacent property owners. City Attorney McCormick indicated if the Council wishes to move forward the closing resolution would include specific easements, etc. The Mayor opened the hearing, no one asked to be heard, thus the hearing was closed. Council Member Branch moved

adoption of a resolution closing the street with the retention of the necessary easement. His motion was seconded by Council Member Crowder and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Resolution 490.

### **STC-03-2017 – BAGWELL AVENUE ALLEY – HEARING – RESOLUTION ADOPTED**

The City has been petitioned to close the right-of-way for an unnamed alley located off of Bagwell Avenue, north of Hillsborough Street. This portion of right-of-way is within an existing parking lot and is approximately 1/16 of an acre. Ferguson Properties LLC is petitioning the City of Raleigh to close this public right-of-way. The closure of Bagwell Avenue Alley as proposed is consistent with the Comprehensive Plan and prior City Council approvals.

Planner Myers explained the location, talked about the ownership of the property, access to the property and the fact that the owners had signed the petition for the closing. It was pointed out there would be access off Dixie Trail.

The Mayor opened the hearing, no one asked to be heard, thus the hearing was closed. Council Member Crowder moved adoption of a resolution authorizing the closing as advertised. Her motion was seconded by Council Member Stephenson and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Resolution 491.

### **UTILITY EXTENSION AGREEMENT – 264 INVESTMENTS – HEARING – CITY AUTHORIZED TO ENTER INTO AN AGREEMENT CONDITIONALLY**

During the June 20 council meeting a hearing was held to consider a request from 264 Investments, LLC to enter into utility extension agreement to extend a gravity sanitary sewer main to property located at 1745 Old Bunn Road. During the hearing conflicting information from the applicant and property owner was presented. It was agreed to continue the hearing to allow all parties time for additional discussion.

Staff recommends authorization of the utility extension to preclude construction of an additional pump station in proximity to an existing pump station. Maintenance of an additional station would become the financial responsibility of ratepayers should an additional pump station be constructed for the sole purpose of servicing the development.

City Manager Hall pointed out Council Members received a memo in their agenda packet updating Council on actions relating to this item.

Public Utilities Director Massengill reviewed the background information and presented a map showing an overview of the development in question as well as the requested easement. He pointed out the City purchased an easement to build a regional pump station pointing out this is an area in a part of the merger project with Zebulon. He stated the owner needs a sanitary sewer easement in order to develop the property which Zebulon has approved for development. As a

part of our merger agreement the City would be obligated to provide service to this property. He stated since the last meeting he understands the developer has made an offer to purchase the easement for \$10,000 which he feels is a very reasonable offer. He stated however the property is owned by the Bunn family heirs and there seems to be a family disagreement on the division of the property; however it is not the developer's responsibility to get involved in this family disagreement. Public Utilities Director Massengill stated if the City authorizes the agreement that does not mean that negotiations between parties would necessarily stop. They could continue to work on resolving the disagreement among themselves. He stated at this point, because of all of the efforts that have taken place, staff recommends that at the close of the hearing the Council authorize the City Manager to sign the agreement.

In response to questioning, it was pointed out the width of the easement is 30 feet and runs some 300 feet all of the piping would be underground.

The Mayor continued the hearing and asked if anyone would like to speak.

Chuck Walker, presenting the developer, pointed out they have continued negotiations with the Bunn Family since the June 20 meeting through emails and registered mail but nothing has happened since two weeks ago. He stated it is an issue or disagreement or a family matter but that is a separate issue. He stated they have done what the Council asked.

Attorney Andy Gay pointed out since the last meeting they have finalized a transaction between the parties whereby his client will purchase a small undivided interest for a tract in the middle, talked about the family attorney and how there is an agreement to resolve the issue. He talked about lawsuits between the parties involved and the developer on another tract of land. He stated this is a very complicated negotiation. He talked about the difference in how pump stations and gravity flow works, the relationship between the developer, the Bunn family members, etc. He stated they have it down to where his client will acquire 100% of the interest in the land and then there is something that can be negotiated. He stated unless there is some sort of settlement he feels this will be a long drawn out issue.

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

Mayor McFarlane stated she thought the Council provided clear direction at the last meeting but now it seems a new plan is coming forth. Mr. Walker stated his client has had no contact with Ms. Bunn or Attorney Gay.

Mayor McFarlane questioned if the agreement as requested is approved if that would stop the negotiations with Public Utilities Director Massengill pointing out the Council authorizes the agreement that it doesn't mean that negotiations would stop.

Ms. Bunn distributed copies of what she had been sent. The possibility of providing a time frame and if it hadn't been worked out between all parties by that time the city would sign the agreement as requested was discussion, Council Member Thompson moved that the Council authorize City Administration to enter into the agreement at the end of 60 days if parties have not

reached an agreement. His motion was seconded by Council Member Baldwin. Ms. Bunn objected stating as she understands the motion at the end of 60 days the City is automatically giving 264 investments the right to the easement. Public Utilities Director Massengill pointed out at the end of 60 days the city would gage where everyone is in the process. If they have not reached an agreement the staff will draft the agreement for the Manager to sign. The motion as stated was put to a roll call vote which resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote.

### **REZONING Z-1-17 – FALLS OF NEUSE ROAD – HEARING – CONTINUED UNTIL AUGUST 15, 2017**

This is a public hearing to consider a request from FON, LLC to rezone approximately 5.91 acres from Neighborhood Mixed Use-Three Stories-Parking Limited-Conditional Use (NX-3-PL-CU) to that same category, but with revised conditions. Zoning conditions limit uses; limit commercial uses to 60,000 square feet; specify 40' of tree conservation along the eastern property line; provide a transit easement and shelter; limit light poles to 20'; and allow no more than two points of access to Falls of Neuse Road.

The property is located on the east side of Falls of Neuse Road at its intersection with Strickland Road.

The proposal is consistent with the Comprehensive Plan and the Future Land Use Map. It would allow additional housing, in a corridor well-served by transit and additional flexibility for commercial uses. The Planning Commission recommends approval of the request.

**Recommendation:** The request was received by City Council on June 20, 2017. At that meeting, a public hearing was authorized for July 5, 2017. At the conclusion of the public hearing, the City Council may act on the request, refer to committee, or hold for further discussion.

Planner Bynum Walker presented the case utilizing the slides showing the existing zoning, view of the sites from various locations, what is allowed under existing and proposed zoning, Future Land Use Map, proposed conditions, and the fact that Falls of Neuse is a transit corridor. She stated this is consistent with the Comprehensive Plan but inconsistent as it relates to density. She pointed out the Planning Commission recommends approval as does the North CAC. Brief discussion took place on the connectivity with surrounding neighborhoods.

The Mayor opened the hearing.

Attorney Mack Paul representing the applicant explained this is the location of the Lazy Boy Furniture Store and when it was a two-lane road. This was one of the first commercial developments in the area and there was a lot of push back from the neighborhood; therefore, a lot of the conditions were placed on the zoning. He stated since that time the area has changed, the market has changed as has shopping habits and transportation corridors, etc. He stated the need for the footprint on the property has changed and they are presenting the proposal to balance the

site with other retail uses in the area. He stated the current zoning restricts the property to a furniture store, talked about the tree conservation area and talked about the restrictions. Council Member Stephenson pointed out he understands the proposed conditions allow a restaurant with Attorney Paul pointing out they did restrict the high impact late night uses such as bars, etc., but a restaurant would be allowed but it is not a likely use. Council Member Stephenson pointed out if the surrounding area is concerned about late night alcohol sales a restaurant would fall under the same concern. Attorney Paul indicated in the discussions with the area residents they never heard that as a concern but they tried to be proactive and prohibiting bar uses, etc.

Council Member Stephenson talked about the level of service along Falls of Neuse Road with Attorney Mack pointing out the level of service would basically remain the same.

Michael Kane, Capital Civil Engineering talked about the existing traffic, traffic under the proposed uses, increase and the fact that if it is developed at its fullest potential it would increase traffic between 4 to 10 percent depending on time of day, etc. He stated they did have transportation consultants look at the proposed uses and there were no recommendations for improvements and staff had received and approved the transportation impact analysis.

Council Member Baldwin questioned if the applicant would limit hours of operation for a restaurant to address Council Member Stephenson's concerns with Attorney Paul stating they would be willing to limit any restaurant uses to an 11:00 p.m. closing. Council Member Cox had questions concerning the reduction in the buffer from 100 feet to 40 feet and questioned if the applicant would be willing to change that from 40 feet to 60 feet. Attorney Mack Paul talked about the willingness to do that. He stated the current buffer condition allows a driveway that they do not need. He talked about the grade changes, tree conservation area, shape of the land and pointed out the typical buffer in locations such as this would be 50 feet. Council Member Thompson pointed out this is adjacent to R-4 and those residents depend on the buffer. He stated if the buffer is reduced fill could be added and suggested the possibility of not changing the buffer.

The Mayor closed the hearing.

Attorney Paul talked about the tree conservation area, pointing out there is no site plan as of yet, and some grading potentially outside the buffer. He stated in order to have a larger foot print of a building, they sought to reduce the buffer. Mayor McFarlane questioned why they removed the condition to prohibit access from Fiesta Way, Bolero Court and Madiera Court. Attorney Paul pointed they would be happy to add a condition pointing out they do not want access from any of those streets but staff had commented about the need for connectivity. Planner Myers pointed out if a condition prevents access to the residential streets there is no ability to have direct access and it ties everyone's hand in the future and it is counter to the comprehensive plan policy relative to build connectivity. Council Member Stephenson pointed out just because connectivity may be prohibited now doesn't preclude it in the future as rezonings may occur. He stated he is in favor of leaving the prohibition on connectivity.

Dialogue followed as to concerns that had been expressed with Attorney Paul pointing out he hears concerns and desires to have any restaurant closing at 11:00 p.m., access for grading if needed, reducing the buffer to 40 feet and pointed out he has no problem about connectivity but that might not go over well with the neighborhoods.

Attorney Paul pointed out he is hearing concerns and suggestions relative to requiring any restaurant to close by 11:00 p.m., changing the buffer to one of 60 feet in width and have some standards about grading, etc., in the buffer. He stated he is open to the issue relative to connectivity as he doesn't have a concern one way or the other. Various Council Members talked about the connectivity issue pointing out they would like staff to give some consideration to that issue as the Council does not want to jeopardize future connections or non-connections. The need to keep the condition about prohibiting connectivity was talked about. Council Member Cox indicated he supports keeping the prohibition on connectivity. Council Member Stephenson talked about the Comprehensive Plan policies about neighborhood preservation and again stated he would like to see more staff consideration given to that issue. Council Member Gaylord indicated no one had spoken about the connectivity issue it seems to be a problem manufactured at the table. He stated he is okay either way. Council Members weighed in on the various suggestions or comments made by Attorney Paul, and Mayor McFarlane announced that the public hearing would be held open until August 15.

#### **REZONING Z-4-17 – M E VALENTINE DRIVE – HEARING – HELD OPEN UNTIL AUGUST 15, 2017**

This is a request filed by Stanhope Center, POA and Provident Group Stanhope Properties to rezone property from Planned Development with Special Residential Parking Overlay District (PAD w/SRPOD) to Residential Mixed Use-12 Stories-Conditional Use with Special Residential Parking Overlay District (RX-12-CU w/SRPOD). The property is located along the south side of M.E. Valentine Drive, east of Concord Street.

The request is consistent with the Future Land Use Map and pertinent policies of the Comprehensive Plan. Conditions restrict certain uses, limit overall development intensity and building height, and provide for a transit easement. The Planning Commission recommends approval of the request.

This request was received by the City Council on May 2, 2017. A signed version of the conditions recommended for approval by the Planning Commission had not yet been provided, preventing a public hearing date from being set at that meeting or at subsequent City Council meetings.

The UDO states that the City Council shall conduct a public hearing following the receipt of the case from the Planning Commission, and that notice for that hearing be provided within 60 days of receipt. Council, therefore, set a public hearing date of July 5, 2017 at its meeting of June 20, 2017. As a signed version of the conditions evaluated by the Planning Commission has not been received, the case being considered at the public hearing includes the version of conditions included in the original request. Per the UDO, conditions may be amended following the public

hearing, with the provision that any changes must be more restrictive. Zoning conditions cannot be amended until the public hearing has been closed. Once the public hearing has been closed, the applicant will have 30 days to amend the zoning conditions.

**Recommendation:** At the conclusion of the public hearing, the City Council may act on the request, refer to committee or hold the items for further discussion.

Planner Bynum Walker presented the case explaining the location, showing existing zoning, views of the site, view of the site from various locations, what would be allowed under existing and proposed zoning, setback changes, proposed conditions including conditions suggested by the Planning Commission, Future Land Use Map, Comprehensive Planning analysis indicating there are no inconsistent policies identified. She pointed out the Planning Commission recommended approval on an 8-0 vote and the Wade CAC voted in support on a 31-0 vote with some provisions.

The Mayor opened the hearing.

Attorney Mack Paul asked that the hearing be held open as there is continuing work on the conditions. They are trying to get the conditions signed and get them to all parties involved and they would like an opportunity to make a presentation of those conditions. Without discussion, it was agreed to hold the hearing open and place it on the August 15, 2017 agenda.

#### **REZONING Z-5-17 – BLUE RIDGE ROAD – HEARING – APPROVED**

This was a hearing to request to rezone property from Office Mixed Use-3 stories-Urban Limited with Special Highway Overlay District-1 (OX-3-UL w/SHOD-1) to Office Mixed Use-12 stories- Urban Limited-Conditional Use (OX-12-UL-CU). The property is located south of the Blue Ridge Road and Wade Avenue interchange.

The Planning Commission has found that the request is consistent with the Future Land Use Map and pertinent policies of the Comprehensive Plan. Conditions restrict development to one of three land use scenarios and provide for a transit easement and shelter. The three development scenarios would produce either a hotel, an office building, or retail. The Planning Commission recommends approval of this request.

**Recommendation:** This request was received by the City Council on June 6, 2017. At the conclusion of the public hearing, the City Council may act on the request, refer to committee, or hold for further discussion.

Planner Bynum Walter presented the case by showing the existing zoning map, aerial views of the site, existing zoning and development, location of the hotel on Blue Ridge Road, what is allowed under existing and proposed zoning, went over the proposed conditions, pointed out this area is shown as a community mixed use on the Future Land Use Map and Community Growth Center. It is located in the Arena Area Plan and the Blue Ridge Corridor District. She went over



the Comprehensive Plan analysis and pointed out the Planning Commission recommends approval on a 7-0 vote and the Wade CAC voted approval on a 11-0 vote.

The Mayor opened the hearing.

David Brown representing the applicant stated he would be glad to make presentation or would simply answer questions. No one asked to be heard for or against the proposal. Mayor McFarlane closed the hearing. Council Member Baldwin moved approval of Z-5-17 as presented. Her motion was seconded by Council Member Crowder and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Ordinance 731 ZC 750).

### **REZONING Z-7-17 – PAINT ROCK LANE – HEARING – APPROVED**

This was a request to rezone property from Residential-4 (R-4) and Residential-6 Conditional Use (R-6-CU) to Residential-6 (R-6). The property is located north and south of Paint Rock Lane, between Madeline Way and Pine Barren Lane. The Planning Commission has found that the request is consistent with the Future Land Use Map and pertinent policies of the Comprehensive Plan.

Planner Bynum Walter presented the case by showing slides which included the existing zoning and development, aerial views of the site, views of the site from various locations, what is allowed under existing versus proposed zoning and pointed out this is a general use case so there are no conditions. The Future Land Use Map shows this as a low density residential area. She presented the Comprehensive Plan analysis and pointed out the Planning Commission voted 6-0 in support of the rezoning and the Southeast CAC voted 31 to 0 in support. Council Member Branch stated he understands the applicant has been in discussions with the homeowners association with Steve Gurganis, representing the applicant stating that is correct.

The Mayor opened the hearing.

Mr. Gurganus stated he is ready to make a presentation or would be glad to answer questions. He distributed a letter of support from the Johns Pointe Homeowners Association. No one else asked to be heard for or against the proposal thus the hearing was closed. Council Member Branch moved approval of Z-7-17 as presented. His motion was seconded by Council Member Baldwin and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Ordinance 731 ZC 750.

### **REZONING Z-8-17 – FOX ROAD – HEARING – APPROVED**

This was a request by Murdock and Gannon Construction INC to rezone 1.47 acres from Residential-4 (R-4) to Residential-10-Conditional Use (R-10-CU). The property is located northeast of the Fox Road and Malone Court intersection.

The Planning Commission found that the request is consistent with the Comprehensive Plan. Conditions prohibit the construction of the apartment building type.

Planner Bynum Walter presented the case by utilizing slides showing the existing zoning map, aerial views of the site, views from the site from various locations, what is allowed under existing versus proposed zoning, explained the conditions including prohibiting apartment buildings. The Future Land Use Map shows this as a low density residential, it is a transit stop buffer, talked about the compressive plan analysis and the fact that the Planning Commission recommended approval on a 7-0 vote and on the North CAC voted approval on a 17-1.

Council Member Branch questioned the no vote with Planner Bynum indicating she did not know the reason for the no vote.

The Mayor opened the hearing.

Matt McIntyre representing the applicant indicated he could make a presentation or would be glad to answer questions.

A representative of the Village of Fox Run Homeowners Association explained a permit they received in 2001 for landscaping along the border of their property. She talked about the monument at the entranceway and the landscaping along the frontage of their property and stating they have no objection but they would like to see the landscaping remain. No one else asked to be heard. The Mayor closed the hearing.

Council Member Cox asked about the ability to preserve the extensive landscaping with Planning Director Bowers pointing out the UDO has certain streetscape types and talked about landscaping requirements. He stated it is difficult to deal with the landscaping requirements at the zoning phase as installing streetscape, etc. is a code requirement and a condition would go against the code requirement. He talked about the possibility of an administrative alternate streetscape being approved and/or a possible code amendment. The ability to install streetscaping with the sidewalk or an amendment to the development code or the streetscape design manual was touched on. Whether an administrative alternate could be considered and whether the existing landscaping would meet the requirements of the code was discussed. Planner Bowers pointed out based on further research it has been determined that a streetscape plan is contained in an appendix in the design manual. He stated there could be a plan to show the existing landscaping, go through the adoption process, amend the streetscape design manual, etc. However he thinks this could best follow the text change process.

Lengthy discussion followed on various options and whether the developer could offer a condition or build a sidewalk and reinstall the landscaping behind that sidewalk. The location of sidewalks in the area and various proposals and whether there are other alternatives was discussed at length. Council Member Baldwin questioned if this case is approved if the Homeowners Association would be comfortable with this going through an administrative review process with the response being yes. Mr. McIntyre talked about willingness to provide a sidewalk easement behind the existing landscaping but pointed out they cannot do away with the

existing landscaping and rebuild it, as it would require some \$150,000 or more. Other discussion took place as to whether the developer would provide a condition about the landscaping and how to proceed on this matter. Council Member Baldwin moved approval of the rezoning request as recommended. Mr. Cox expressed concern pointing out he wants to make sure that the homeowners associations and the property owners understand that there is no guarantee that the landscaping would remain if it goes through administrative review. UDO limits on conditions, the fact that staff would have to ensure conditions would be compliant with the UDO, the desire to provide a sidewalk where it doesn't interfere with the landscaping and the fact that a condition could not address that concern and there is no guarantee that the landscaping would remain under an administrative approval as nothing has been submitted for approval were points of discussion. Council Member Baldwin restated her motion to approve the request which was seconded by Council Member Gaylord. Council Member Cox again asked about a condition. Whether to hold the case open or act on the motion today was vetted. Council Member Crowder pointed out she feels that staff knows what the Council is trying to accomplish as does the applicant and the homeowners and we are really looking at a matter of trust and everyone wants to meet or honor the concerns expressed by Council Member Cox. The motion was put to vote which resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Ordinance 731 ZC 750.

Council Member Cox asked the City Manager and staff to look at cases like this and give recommendations so that we do not have to have a one size fits all. He feels it is best to let the Council make the final decisions about putting in sidewalks when you have situations such as this. City Manager Hall pointed out the issue is you have staff administering the code so there isn't a lot of discretion given to staff. He stated staff tries to be as creative as possible but at this point the issue would be whether Council wants to amend the requirements for sidewalks. Council Member Cox stated he would like to see some type language which would give the Council flexibility. Council Member Gaylord expressed concern pointing out there is flexibility, Council could change the code if it so desires, pointing out here we have a situation where the Planning Commission, the CAC, the applicant and the adjacent homeowners association agreed; however the issue was brought up by the Council. He stated he does not see that the Council should change code sidewalk requirements. Council Member Cox stated his concern is that Homeowners Association wanted the landscaping to remain. Council Member Baldwin expressed concern that the Council has just passed issues relating to a bond referendum to include sidewalks and here we are talking about making landscaping a priority over sidewalks. She stated she could not agree with that.

#### **REZONING Z-3216 – HILLSBOROUGH STREET – STREET – HEARING – DENIED**

This is a public hearing to consider a request from Kathleen C. Hammon to rezone approximately 0.34 acres from Neighborhood Mixed Use-Four Stories-Shopfront (NX-4-SH) and Residential-6 (R-6), both w/Special Residential Parking Overlay District (SRPOD), to Neighborhood Mixed Use-Five Stories-Shopfront-Conditional Use (NX-5-SH-CU) and Residential Mixed Use-Three Stories-Conditional Use (RX-3-CU), both with SRPOD. The property is located at the northeast corner of the intersection of Hillsborough Street and Bagwell Avenue. Conditions limit the number and size of residential units and overall height, specify

building materials, and limit construction on the portion proposed to be rezoned RX-3-CU. The proposal is inconsistent with the Comprehensive Plan, but is consistent with the Future Land Use Map and several relevant Comprehensive Plan policies, and would provide additional housing in a corridor well-served by transit. The Planning Commission recommends approval of the request.

The request was received by City Council on February 21, 2017. The City Council considered this item on March 7, 2017 and held the public hearing open. On March 21, 2017, the hearing was again held open. On April 18, 2017, the item was referred to the Growth and Natural Resources Committee. On May 2, 2017, City Council determined that the item would return to City Council on June 20, 2017. At that meeting, the hearing was held open until July 5, 2017. The request was not discussed at the Growth and Natural Resources Committee. New zoning conditions cannot be offered until the public hearing has been closed.

**Recommendation:** At the conclusion of the public hearing, the City Council may act on the request, refer to committee, or hold the items for further discussion.

Planner Bynum Walker pointed out the applicant has requested denied. Mayor McFarlane opened the hearing and questioned if anyone was present to speak on the case. No one asked to be heard thus the hearing was closed. Council Member Gaylord moved denial of Z-32-16. His motion was seconded by Council Member Thompson. Council Member Baldwin stated she would have to vote against the denial as she feels it was a very good case, it was highly conditioned. The City and private development had spent millions of dollars to rehabilitate Hillsborough Street and she is very disappointed with the decision as we could end up with much worse than what is proposed. The motion to deny the case was put to a vote which resulted in all members voting in the affirmative except Council Member Baldwin who voted in the negative. The Mayor ruled the motion adopted on a 7-1 vote.

#### **REZONING Z-40-16 – OAK FOREST ROAD – HEARING – HELD OPEN UNTIL AUGUST 15, 2017**

This is a request to rezone property from Industrial Mixed Use-4 stories-Parking Limited-Conditional Use (IX-4-PL-CU) to Commercial Mixed Use-4 stories-Parking Limited (CX-4-PL). The property is located along the north side of Oak Forest Drive, west of Capital Boulevard. The request is consistent with the Future Land Use Map and pertinent policies of the Comprehensive Plan.

**Recommendation:** This request was received by the City Council on June 6, 2017. At the conclusion of the public hearing, the City Council may act on the request, refer to committee or hold for further discussion.

Planner Walter presented the case explaining an existing zoning and develop aerial views of this site from various location, what is allowed under existing versus proposed zoning, explain it is a general use case, talked about the comprehensive plan analysis, Future Lane Use Map, Urban Form Map, and pointed out the planning Commission 8-0 and the North CAC voted 8-0 in

support of the case. In response to questioning it was pointed out this property is located behind the Leith Car Dealership which fronts Capital Boulevard. The Mayor opened the hearing.

William Hedrick pointed out he has lived on this property since 1954. His mother who passed away in 2001 gave him the property. He would like to sell the property while he is able to do so. He stated he receives calls from people who are interested in purchasing the property most of which want to develop mixed use which seems to be what the market is calling for. He pointed out he had talked to a number of realtors and no one seems to be interested in it under the present zone therefore he is requesting the rezoning. He stated there is a need for more residential and called on the Council to agree with the Planning Commission and the neighbors and approve the rezoning.

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

Council Member Baldwin moved approval as requested. Her motion was seconded by Council Member Gaylord.

Council Member Cox stated he has no problem with CX but this is a general use case and questioned if the applicant would be willing to change to a conditional use case and exclude certain uses. Various Council members talked about concerns over what uses could go in a general CX zone such as adult establishments, bars, nightclubs, taverns, sport facilities, etc. Various suggestions were made with Mr. Hedrick stating he wouldn't want those type of establishments there but he would like to be able to sell the property. The fact that Mr. Hedrick would have to start the case over and pay an extra fee to go to a conditional use case was talked about as was the process for conversion. Council Member Baldwin moved that the Council reopen the hearing and hold it over until August 15 to allow staff an opportunity to discuss conversion with Mr. Hedrick. Her motion was seconded by Council Member Crowder and put to a vote which passed unanimously. The Mayor ruled the motion adopted on an 8-0 vote.

### **REZONING Z-46-16 – HARDEN ROAD – HEARING – HELD OPEN UNTIL AUGUST 15, 2016**

This is a request by Laurel Kilgore to rezone approximately 1.1 acres from Residential-4 (R-4) to Residential-10 (R-10). The property is located on the south side of Harden Road between Blue Ridge Road and Nancy Ann Drive.

There are no conditions proposed for the rezoning request. The request is consistent with the Comprehensive Plan. The Planning Commission found that while the request is consistent with the Comprehensive plan, the possible build-out could be at odds with adjacent land uses and that not addressing the potential conflict compromises the reasonableness and public benefit of the request. The Planning Commission recommends denial of the request.

The case was first scheduled for a public hearing on June 6, 2017 and was postponed until July 5, 2017 at the request of the applicant.

**Recommendation:** This request was received by the City Council on April 4, 2017. At the conclusion of the public hearing, the City Council may act on the request, refer to committee or hold for further discussion.

Planner Bynum Walter presented the case showing existing zoning and development, aerial views of the site from various locations, proximity to the future fire station, what is allowed under existing and proposed zoning, the Future Land Use Map calls for office and residential mixed uses, and the Urban Form Map shows urban growth center. She stated this is a general use case. The Planning Commission voted 7-2 to deny and the Northwest CAC recommended denial.

The Mayor opened the hearing.

Attorney Thomas H. Johnson, Jr., 4141 Parklake Avenue, Suite 200 indicated originally his client did not have legal representation and it is hard for one property owner to complete against the school, neighborhoods, etc. He made a powerpoint presentation showing the surrounding area and talked about the zoning and development surrounding the property. He stated the primary opponent is the school and talked about his discussions with the school officials trying to understand their concerns; however, they did not voice specific concerns and it is hard to address what you do not know. He presented photos showing other schools in the general vicinity that are surrounded by neighborhoods such as Oak City Academy, North Ridge, Martin Middle, Daniels Middle, etc., pointing out he feels this demonstrates that what they are requesting is consistent with locations of schools. Attorney Johnson presented information showing how the request meets all the requirements of the code, his opinion that it is a good transition between the uses in the area, how the adjacent school increased the intensity of development on their property through a special use permit which he feels cast the precedent for what might happen on this property. He again talked about how this relates to other schools in the area.

Attorney Tom Worth spoke in opposition to the case pointing out it is felt it is inappropriate to have a general use case for this small property. He stated about a year ago there was a meeting which was not well attended and he understands the concerns about higher density came up; however the applicant did not want to convert to a conditional use case. He indicated the Council has seen the excerpt from the June 23, 2017 letter from Sarah Kavanaugh, chair of the FCM Board of Trustees, which indicates their greatest concerns. He talked about the transitional protective yard, pointing out they would like to see a condition relative to fencing and trees. He requested that the Council deny this case in its present form pointing out everyone understands the consistency with various city plans but the unknown of what would happen to this property is the concern.

Jennifer Haygood, 4428 Harden Road spoke in opposition to a general use case pointing out the opposition is based on the fact that the lot is only 100 feet wide and it is difficult to visualize how it could appropriately develop at an R-10 category, talked about this stream in the back of the lot and again stated it is hard to visualize how it could be developed with 10 units. She stated she and the neighborhood had tried to encourage the applicant to convert to a conditional use case.

She pointed out the Meredith Woods Homeowners Association has not taken a position on the case.

Thomas West, 3412 Doyle Road, spoke in opposition pointing out the size of the property would not allow for responsible development at R-10. He talked about the portions of the property being undevelopable because of wetlands, the fire station being across the street being adjacent to a school so there would be limited ability for any off-street parking, etc., explaining he feels that because of the size and shape of the lot much of it is unbuildable and development would also create on-street parking problems.

Chris Blum, 3509 Harden Road, stated he shares 400 feet of side property line with this lot. He expressed concern as he had not seen any site plans. A woman who indicated she heads the adjacent school talked about the uniqueness of the school which is a Montessori school and talked about the approach they use.

Attorney Johnson talked about 8 units per acre, offering a 5 foot buffer, screening, the trees near the fence and the proposals that were rejected. He stated his client does not have a plan at this point. Attorney Worth pointed out the neighbors are concerned with the ability to have 10 units, talked about differences of opinion as to how to protect the adjacent school, talked about the lack of a plan which causes concern. No one else asked to be heard thus the hearing was closed.

Council Member Gaylord pointed out it is hard to address the concerns in a general use case stating the case needs to be re-filed as a conditional use case so that the concerns could be addressed. Whether the applicant would like to convert to a conditional use case was talked about after which Attorney Johnson asked that the hearing be held open to discuss potential conditions. Mayor McFarlane reopened the case pointing out it the hearing would be continued until August 15, 2017.

#### **REZONING Z-42-15 - LAKE WHEELER ROAD – HEARING – CONTINUED TO SEPTEMBER 5, 2017; ITEM REFERRED TO GROWTH AND NATURAL RESOURCES COMMITTEE**

This is a public hearing to consider a request from Ram Lavani to rezone approximately 5.21 acres from Residential-4 and Residential Mixed Use - 3 Stories - Conditional use with Special Highway Overlay District-2 and Special Residential Parking Overlay District (R-4 w/ SHOD-2 & SRPOD and RX-3 w/ SHOD-2 & SRPOD) to Residential Mixed Use-3 Stories-Conditional Use with Special Highway Overlay District-2 and Special Residential Parking Overlay District (RX-3-CU w/ SHOD-2 & SRPOD). The property is located on the east side of Lake Wheeler Road, approximately 300' south of Kirkland Road. Conditions limit housing unit density and provide a transit easement.

The proposal is consistent with the Future Land Use Map and several relevant Comprehensive Plan policies. The Planning Commission recommends approval of the request.

**Recommendation:** The request was received by City Council on June 6, 2017. At that meeting, a public hearing was authorized for July 5, 2017. At the conclusion of the public hearing, the City Council may act on the request, refer to committee, or hold for further discussion.

Planner Bynum Walter presented the case providing information on the location, aerial views, views of the properties from various locations, what is allowed under existing versus proposed zoning, proposed conditions which include a transit easement and pat and residential development on parcels currently zoned R-4 would be restricted to 14 units per acre, the Future Land Use Map, Urban Form Map, and the Comprehensive Plan analysis which indicates no inconsistent policies. The Planning Commission recommends approval on a 6-0 vote and the Southwest CAC recommends approval on a 12 to 2 vote noting that the vote was on a previous version of the rezoning that requested CX-4-CU rather than RX-3-CU. The Planning Commission's vote was based on the fact that the proposal is consistent with the Future Land Use Map and Comprehensive Plan and the proposal if approved would help meet the needs of growth by providing additional housing. The Mayor opened the hearing.

Mike Stewart, Stewart Property and Engineering, explained the request pointing out this was originally to be a hotel site. He talked about the first hearing at the Planning Commission explaining neighbors had concerns, etc., therefore the owner decided to remove the hotel consideration and go back to the residential zoning. He talked about the conversations coming from a neighbor who had not been a part of the original discussions. He stated the new proposal would be consistent with what the city rezoned the property during the UDO process. However he was not able to get the conditions signed until today.

Council Member Crowder pointed out she is very pleased with the new proposal however she would like additional information as this is very close to a designation park asking that the item be referred to Growth and Natural Resources Committee. City Attorney McCormick pointed out it would be best to leave the hearing open while the discussions at Growth and Natural Resources are taking place. Planner Walter pointed out if a hearing is continued it needs to be continued to a day certain. The Council agreed to continue the hearing until September 5, 2017, but refer the item to Growth and National Resources Committee for additional discussion as suggested by Council Member Crowder.

### **TC-3-17 – ACCESSORY DWELLING UNIT OVERLAY DISTRICT – REFERRED TO GROWTH AND NATURAL RESOURCES COMMITTEE**

TC-3-17 is a proposal to create an Accessory Dwelling Overlay District (-ADOD). Accessory dwelling units were originally envisioned during the drafting of the UDO in 2013. During the adoption process, accessory dwelling unit regulations were removed from the UDO. The Mordecai neighborhood approached the City Council and asked that accessory dwelling units be permitted. City Planning staff performed research and outreach to the neighborhood. The results were presented to the City Council in late 2016. The City Council authorized a text change to create a new overlay zoning district that would allow accessory dwelling units.



The proposed text change would add the Accessory Dwelling Unit Overlay district to the UDO. The approval of the text change will not immediately permit accessory dwelling units. If this text change is approved, neighborhoods could request the application of the overlay district via the rezoning process to permit the construction of Accessory Dwelling Units, subject to all pertinent -ADOD and other zoning regulations. This rezoning request would be similar in nature to the existing Neighborhood Conservation Overlay District, where neighbors request a rezoning for an area of at least 15 acres in size. During similar processes to apply area-wide overlay districts, the City Council has typically asked for a show of support from the property owners who will be affected.

The Planning Commission recommends approval of the request.

**Recommendation:** This request was received by the City Council on June 20, 2017. At the conclusion of the public hearing, the City Council may act on the request, refer to committee, or hold for further discussion.

Planner Charles Dillard made a detailed presentation on the proposal which he indicated would create an elective Accessory Dwelling Unit Overlay District that could be applied in any area of the city that meets the locational guidelines which calls for a minimum of 15 acres with a majority of the property owners' signatures making the request. It is a city wide proposal not specific to Mordecai or any area of the city.

Planner Dillard explained the background of the request which started in October 2015 when the Mordecai CAC petitioned the Council to consider a pilot program, talked about the legal framework outlining the currently permitted accessory dwelling options relating to healthcare structures, the 2013 Wilmington v. Hill Case and regulations on unrelated inhabitants explaining North Carolina Municipalities may restrict the number of unrelated persons living on a single parcel and Raleigh UDO permits up to four unrelated persons. Planner Dillard went through the draft proposal detailing lot specifications, building setbacks, explaining balconies and roof top patios would be prohibited on façade/roof top areas facing streets or adjacent residential streets. He explained the difference in the proposed 2013 citywide accessory dwelling unit proposal and this proposal. He gave a comparison of this proposal to peer cities. He went through the 2016 survey giving information on the results of the questions relating to whether people are in favor of accessory dwelling units pointing out there were 171 total votes. He talked about the results of the survey which indicated 65% of those responding support allowing accessory dwelling units even if no on-site parking is provided and general support for accessory dwelling units with alley access, shared driveways, separate driveways and on-street parking. He gave the results of the various questions relating to maximum floor size setbacks, design, and implementation.

In response to questioning from Council Member Baldwin, Planner Dillard pointed out if approved the Overlay could be applied if at least 51% of the involved property owners sign the petition. Mayor McFarlane questioned if a neighborhood applied and wanted different regulations if that would be possible with Planner Dillard pointing out it could be difficult. Council Member Crowder expressed concern about parking and whether the entrance to the ADU would always face the existing structure. Council Member Stephenson indicated when this

was being considered as a city-wide proposal there was concern about privacy as it relates to the neighbors and talked about the need for outside stairs and windows to face the interior of a lot. Council Member Branch questioned how this would relate to the attached garages with Planner Dillard pointing out if there is a two-story garage the top floor could be converted as long as the structure doesn't encroach into the setbacks.

The Mayor opened the hearing.

Phillip Bernard, 221 Glascock Street, indicated he had been involved in the Mordecai process. He commended staff for the good job in developing the regulations but pointed out he does not feel they are strict enough to meet the needs in Mordecai. He pointed out he thought the proposal should allow for a district to have stricter regulations. He asked the Council to encourage ADU's to be true back yard cottages, designed for one or two people. Council Member Baldwin pointed out there are a lot of garages in the Oakwood and Pilot Mills area and questioned when they would be allowed to convert. Mr. Bernard talked about Pilot Mills and Oakwood having a different character than Mordecai and talked about people saying they would build a garage with a second floor apartment. The possibility of variances being requested for specific neighborhoods and the relationship of a two-story garage in relationship to the primary dwelling was discussed.

Sarah Roholt, Mordecai Drive, indicated she participated in the Mordecai project and talked about the garages and the desire for one story units in backyards. She talked about the work of the text change committee and talked about her support for the ADU Overlay District however, has concern about this particular text change. She feels it needs more restrictions to help protect the neighboring projects. She expressed concern about the height allowance as she feels ADUs should be small units, has concern about the lighting, the maximum allowed size, landscaping, etc. She stated as far as Mordecai she would suggest that the structures be limited to some 550 square feet or at no more than 50% of the primary residence or less. She expressed concern about parking and the need for flexibility but also the need for protections of the neighbors. She called on the Council to have further study.

Stewart Cullinan, 310 Heck Street, pointed out this proposal offers choices. He talked about his parents and how this would provide the ability for them to live nearby. He called on the Council not to overburden the ADUs with exceptions, rules, etc.

Tom Barrie, a Mordecai resident pointed out he led the NCSU School of Architectural Mordecai backyard cottage project in the fall of 2014. He stated he understands and respects the views of those who have concerns about the proposal and he understands why this has ended up with different opinions, stating he understands the concerns about the specific impacts on Mordecai but talked about state and national models and best practices of ADUs. He talked about the proposed ordinance which was prepared by the Planning Department and vetted by the Planning Commission and was unanimously approved by the Planning Commission. He stated the proposal aligns with the 6 major North Carolina cities he researched including height limits, square footage, setbacks and pointed out none have restrictions on exterior lighting or require landscaping buffers and they are allowed over garages. He talked about the survey of Mordecai

residents and explained over 80% supported the height restrictions as written with an option of building over a garage. He stated what is before the Council is a model ordinance that provides the means for Raleigh communities to request an Overlay District and if Mordecai chooses to do that they can request changes to the regulations that reflect the special conditions of their neighborhood. He talked about the fact that accessory dwelling units work and talked about what is happening in other communities. He urged the Council to approve the ordinance as proposed.

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

Council Member Crowder pointed out there are a lot of good things in the ordinance but again pointed out she has concerns about parking or lack of parking and building over garages. She also has concern about lighting. She stated she feels this is a good start but does need further discussion and moved that the item be referred to Growth and Natural Resources Committee. Her motion was seconded by Council Member Branch. Council Member Baldwin talked about the need for flexibility which would allow different communities to have regulations specific to their community. The motion to refer the item to Growth and Natural Resources Committee was put to a vote which passed unanimously. The Mayor ruled the motion adopted on an 8-0 vote.

#### **TC-20-16 – CONSTRUCTION BARRIER SAFETY FENCING – HEARING – APPROVED**

This is a text change to article 7.2 of the Unified Development Ordinance. This text change would insert regulations in the UDO to require safety barrier fencing when construction activity occurs adjacent to a property zoned R-1, R-2, R-4, R-6 or R-10. The fence must be at least four feet in height and installed when construction activity occurs within 10 feet of a common property line. This text change is the product of a petition of citizens. The Planning Commission reviewed this request and recommends approval. The Growth and Natural Resources Committee reviewed this request at several meetings and recommends approval. Following the public hearing, the City Council may choose to act on the request, refer to committee, or hold for further discussion.

The Mayor opened the hearing, no one asked to be heard thus the hearing was closed. Council Member Gaylord moved approval as presented. His motion was seconded by Council Member Baldwin and a roll call vote resulted in all members voting in the affirmative. The Mayor ruled the motion adopted on an 8-0 vote. See Ordinance 732 TC 396.

#### **SUBDIVISION S-73-2016 – LOTS 21 AND 22 – HEARING – APPROVED; ITEM TO BE PLACED ON THE AGENDA AUGUST 15 TO CONSIDER PROPOSED FINDINGS AND CONCLUSIONS**

During the June 20 City Council meeting an Evidentiary Hearing was conducted for the preliminary subdivision S-73-2016, Lots 21 & 22. The hearing was continued to this meeting.

The Raleigh Historic Development Commission (RHDC) is responsible for review and recommendation regarding subdivision approvals of all historic designations. At the December 20, 2016 meeting, the RHDC recommended with a 10-1 vote that the amended subdivision application be approved. A prior subdivision request reviewed by the Certificate of Appropriateness (COA) Committee of the RHDC was also recommended for approval at the November 28, 2016 COA Committee meeting. The Committee determined that buildings that are not incongruous with the character of the landmark could be built on the proposed new lot and that easements be placed on the property to protect the house and the apartment. Since the dwelling is designated as a historic landmark, the City Council is responsible for final action of this subdivision approval.

The purpose of an evidentiary hearing is to gather more information pertaining to the request by Stoney Chance, Chance & Associates, on behalf of Stuart Cullinan, North State Street LLC, for approval of a proposed preliminary subdivision, S-73-2016, Lots 21 & 22, Addition to Idlewild Subdivision. The applicant requests preliminary subdivision approval as per Code § 10.2.5.E.3.a.i. and Code § 10.1.8. of the City of Raleigh Unified Development Ordinance.

Included in the agenda packet is the preliminary subdivision application. The evidentiary hearing for this approval is being held pursuant to Code § 10.2.5.E.3.a.i. and Code § 10.1.8 of the City of Raleigh Unified Development Ordinance.

The Mayor turned the chair over to the City Attorney to conduct the hearing.

The City Clerk swore in those who indicated they plan to speak.

Attorney Isabel Mattox (sworn) indicated Stuart Cullinan, the applicant, as well as Myrick Howard, Brandi Delany, Esther Delany, Stoney Chance, Michael Walters, Tania Tully and Sarah David are available to provide testimony. She talked about the evidence that she had presented at the last meeting and pointed out they have been working extremely hard to answer the questions Council had such as having a better understanding of the historical aspect, the future of the existing structure and a better exhibit showing the context of the proposed subdivision with the neighborhood. She stated she had submitted a draft of the preservation easement to City Attorney McCormick.

Myrick Howard (sworn) Preservation NC pointed out he is extremely pleased to have a chance to work with the Delany House. He stated a historic preservation agreement would lock down a structure and the site. The legal agreement would guarantee no demolition, no alterations, etc., without the approval of the President and Board of Preservation North Carolina. He stated the Historic Preservation Agreement provides a stronger protection than the current RHDC designation. The Historic Preservation Agreement provides permanent protection for the exterior and interior elements of the property, provides provisions for permanent maintenance, provides for legal covenants if something were to go wrong such as rights for repurchase, ensure permanent maintenance, etc. He stated he is extremely pleased to have been approached and being involved in this extremely important landmark. Mayor McFarlane questioned if Mr. Myrick is saying that the house has this historic preservation agreement designation with Mr.

Howard pointing out it will have as they will be signing the agreement. In response to questioning as to when the agreement would be signed, he stated that depends on the owner and their intentions. Attorney Mattox pointed out the agreement would be signed if the subdivision is approved. Council Member Branch questioned what happens if the subdivision is not approved, that is, would there be protection for the house with Attorney Mattox and the applicant pointing out they have offered or have made a commitment to sign the agreement upon approval of the subdivision. Why the signing could not occur prior to the subdivision approval was talked about. City Attorney McCormick appointed out the Council is way off base with the discussion about the preservation documents pointing out what is before the Council is a clear, clean and simple subdivision of property. Mayor McFarlane questioned why Mr. Howard is making a presentation if that has nothing to do with the subdivision. City Attorney McCormick indicated he felt it was because at the last meeting the discussion got off tract and Attorney Mattox was trying to respond to the questions by bringing in Mr. Howard and others.

Attorney Mattox indicated at the last meeting Council Members questioned if the applicant had community and family buy in with what is being proposed. She stated the applicant hosted an open house and had made phone calls, etc., since the June 20 meeting. She presented three notarized letters – Brandi Delany, Esther Delany and Carrie Kelly showing their support for what is being proposed.

Brandi Delany (sworn) talked about her grandparents being the owners of the house pointing out she grew up hearing stories about the events of the house. She stated she feels Mr. Cullinan proposal is the best one she knows of to save the house. She talked about Ms. Kelly having a great interest in saving the house and pointed out she had been asked to provide comments on support of saving the house. She stated however she has no comments on the subdivision.

Attorney Mattox talked about the proximity of the house to the immediately south which belongs to Carrie Kelly pointing out Ms. Delany was talking about the desire to make sure Ms. Kelly is happy as she is the closest neighbor. Attorney Mattox submitted a letter of support of the subdivision talking about her client indicating that he would maintain at least a 5 foot setback.

Stuart Collins (sworn) talked about his discussions with Ms. Kelly relating to being five foot from the southern boundary and the second house, having a distance from the curb of 24 to 30 feet, information was submitted relative to the context of the proposed subdivision to the neighborhood, an exhibit showing the various lots and sizes and the fact that the Delany House has always been on two lots and the apartment straddles the lot line.

Mayor McFarlane questioned if the property on which the Delany house is located has the protections Mr. Howard was talking about or is that just the house. Mr. Howard pointed out the property description would be included. He stated historic preservation easements in neighborhoods such as this it would include properties. He stated this neighborhood and neighborhoods like Boylan Heights were initially developed people probably purchased multiple lots and built the house therefore there would be a variety of sizes of lots, etc. He stated the easement is defined as the house was at that moment in time.

Sarah David (sworn) 500 Poke Street, Chair of RHDC, pointed out that organization supports the subdivision. The developer is willing to present the historic preservation easement and pointed out the landmark designation boundary will stay on the entire larger lot. Ms. David stated as far as what happens next, if the subdivision is approved and Mr. Cullinan wants houses on the two new lots he would have to go through the COA process which would give the public an opportunity to speak. City Attorney McCormick indicated the COA process is a quasi-judicial hearing.

Attorney Mattox presented proposed conditions for the subdivision if it is approved, talking about the front setbacks, side setbacks and the owner of Lot #1 and entering into a historic preservation easement.

Discussion followed relative to the location of the property lines and proximity to the existing house and apartment and the distances that would be between the existing and proposed houses. It was pointed out that could not be specifically answered until the subdivision is approved and a plan presented which would go through the COA process. Mr. Cullinan pointed out he cannot specifically answer questions as to the location of homes on the new newly created lots as he would need to work with RHDC to see what type houses would or could be approved.

Council Member Baldwin had questions as to what would happen if the subdivision was approved and the applicant went through the COA process for new houses and that was denied. The process that would be followed, community meetings, quasi-judicial hearing, etc., and notice requirements were discussed.

Attorney Mattox stated she had provided the City Clerk with the following exhibits:

- Exhibit G – Historic Preservation Agreement
- Exhibit H – Brandi Delany Support Letter
- Exhibit I – Esther Delany Support Letter
- Exhibit J – Carrie Kelly Support Letter
- Exhibit K – Map with Property Lines
- Exhibit L – Map
- Exhibit M – Listing of Lot Widths
- Exhibit N – Historic Aerial Map
- Exhibit O – Proposed Subdivision Conditions

No one else asked to be heard and the City Attorney closed the hearing and turned the chair of the meeting went back to the Mayor.

Council Member Baldwin moved approval of the subdivision with the three conditions submitted by the applicant. Her motion was seconded by Council Member Stephenson who stated he has set the bar high for his support and trust they will be met as it relates to community support, the preservation easement, the redevelopment of the parcels going through the COA and being approved. Mayor McFarlane expressed appreciation for getting Preservation North Carolina involved with various Council Members expressing their feeling on the proposed subdivision

with Council Member Thompson pointing out he could not support the subdivision as he feels it will ruin the appeal of the existing Delany House. Council Member Branch pointed out they house is significant to the community and he feels he has to look and take care of the next generations so he would support this with hesitation. The motion as stated was put to a roll call vote which resulted in all members voting in the affirmative except Council Member Thompson who voted in the negative. The Mayor ruled the motion adopted on a 7-1 vote.

It was pointed out the item will be placed on the August 15 agenda to consider approval of Findings of Facts and Conclusions of Law.

**Adjournment.** There being no further business, Mayor McFarlane announced the meeting adjourned at 10:50 p.m.

Gail G. Smith  
City Clerk

jt/CC07-050-17