

**DURHAM, NORTH CAROLINA
MONDAY, JANUARY 21, 2020
7:00 P.M.**

The Durham City Council met in a regular session on the above date and time in the Council Chambers at 101 City Hall Plaza with the following members present: Mayor Steve Schewel, Mayor Pro Tempore Jillian Johnson and Council Members Vernetta Alston, Javiera Caballero, DeDreana Freeman, Mark-Anthony Middleton and Charlie Reece. Absent: None.

Also Present: City Manager Tom Bonfield, City Attorney Kim Rehberg, Deputy City Clerk Ashley Wyatt and Assistant City Clerk LaVerne Brooks.

Mayor Schewel called the meeting to order, welcomed everyone in attendance and requested a moment of silent mediation.

Council Member Reece deferred to Scout Troops 451 and 456 to lead the Pledge of Allegiance to the Flag.

[CEREMONIAL ITEMS]

Mayor Schewel presented the Neighbor Spotlight Award to Natalie Spring of PAC 1.

Brady Surles, representing Sister Cities and Mayor Pro Tempore Johnson made brief remarks and introduced the delegation for the Council trip to Tilaran, Costa Rica.

Council Member Reece read into the record the proclamation recognizing Fred Korematsu Day of Civil Liberties and the Constitution and presented it to Dr. Tracy Tsuetaki of the Japan America Society of North Carolina.

[ANNOUNCEMENTS BY COUNCIL]

Mayor Schewel announced that people who wished to speak on McDougald Terrace would have an opportunity to speak with the Mayor following the meeting since it was not scheduled to be on the agenda.

Council Member Middleton recognized the Dr. Martin Luther King Jr. celebration that took place the previous evening; gave updates to residents regarding a conversation with Director Anthony Scott of the Durham Housing Authority and stated for the record:

“I just want to say publicly and in your hearing, and for those of you watching at home that we plan to stay kept abreast and engaged. With that said, before the folks were displaced from McDougald Terrace, they were talking to us about a lot of things and I know that this issue has rightfully commanded our attention here in Durham. But there are still some other issues and we’ve had some gun fire incidents as well in the last couple of days in Durham. And I want to send concern and regard and condolences out to those who have

been affected by gunfire. We've got to be able to walk and chew gum at the same time in this city. The conditions when those folk go back home, there will still be some conditions outside their apartments and outside of their homes that are still pressing issues. So I just want to let folk know that have sent messages to me that while this is a pressing issue and it has captured our attention, we will still focus on the other quality of life issues that affect many of the same people that are displaced every day when there are no headlines and no cameras following them around. So with that Mr. Mayor, in the spirit of Dr. King and in the spirit of Fred Korematsu, the conversation continues, the work continues, to continue to make Durham a more perfect city, if I can gloss on the term a more perfect union. I want to thank you for your continued insistence that we will not let this go and I thank you for your leadership on that."

Council Member Freeman echoed the sentiments of Council Member Middleton and spoke to concerns regarding the shared economic prosperity component and how it needed to be addressed. She also commented on the current housing and transportation accommodations for McDougald Terrace residents, the institution of public housing, and reparations for people of color.

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

City Manager Bonfield, City Attorney Rehberg, and Deputy City Clerk Wyatt had no priority items.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES (ITEM 1/ PR #13706)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to approve the City Council Minutes for November 18, 2019, November 21, 2019, December 2, 2019 and December 5, 2019, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION – APPOINTMENTS (ITEM 2/ PR #13707)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to appoint Darius J. Whitney to represent the category of a Black/African-American Male and Erin N. Carson to represent a Black/African-American Female with the terms to expire on June 30, 2021, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: EXPEDITED HEARING REQUEST FOR 505 W. CHAPEL HILL STREET (PID 114577) (ITEM 3/ PR #13723)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to approve the resolution granting the expedited hearing request for 505 W. Chapel Hill Street (PID 114577), was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

RESOLUTION 10164

SUBJECT: PARTICIPATORY BUDGETING ACCESSIBILITY RAMPS PROJECT (ITEM 4/ PR #13708)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to execute the Participatory Budgeting Accessibility Ramps Contract between Habitat for Humanity of Durham, Inc. and the City of Durham in the amount of \$169,950 for the construction of accessibility ramps in three (3) Council Wards, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: AGREEMENT WITH DURHAM COUNTY FOR THE PROVISION OF HOUSING ASSISTANCE AND RELATED SUPPORTIVE SERVICES UNDER THE HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS (HOPWA) PROGRAM (ITEM 5/ PR #13712)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to authorize the approval of a 12-month agreement with Durham County for the delivery of the Housing Opportunities for Persons with AIDS (HOPWA) program funded housing assistance and related supportive services in the amount of \$193,795; and

To authorize the City Manager, by amendment without further City Council action, to approve the addition of unexpended funds from the Durham County agreement for Housing Opportunities for Persons with AIDS signed on March 19, 2019 with an expiration date of December 31, 2019, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: CONTRACT WITH HOUSING FOR NEW HOPE, INC. FOR RAPID REHOUSING AND STREET OUTREACH SERVICES (ITEM 6/ PR #13717)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to authorize the expenditure of \$234,000 in Emergency Solutions Grant funds and \$169,900 in Dedicated Housing Funds; and

To authorize the City Manager to execute a contract with Housing for New Hope, Inc. in the amount of \$403,900 to provide rapid rehousing and street outreach services to households experiencing homelessness, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: SECOND AMENDMENT TO HOUSING FOR NEW HOPE, INC. RAPID REHOUSING CONTRACT 2019 (ITEM 7/ PR #13720)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to execute the second amendment to the Housing for New Hope contract to end on December 31, 2019, reduce the amount of funding to \$266,353.67, remove Housing for New Hope's match requirement, and update terms of required insurance, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: INTERLOCAL SOFTWARE USAGE AGREEMENT FOR SHARETHERIDENC.ORG (ITEM 8/ PR #13704)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to resolve to authorize the City Manager or his designee to execute an Interlocal Software Usage Agreement between the City and GoTriangle for the ShareTheRideNC system, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: SERVICE CONTRACT WITH KONE, INC. TO SERVICE, MONITOR AND MAINTAIN THE NEW ELEVATOR EQUIPMENT WITHIN POLICE HEADQUARTERS (ITEM 9/ PR #13709)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to execute a service contract with Kone, Inc. to service, monitor and maintain the new elevator equipment within Police Headquarters for a term of five (5) years in the amount not to exceed \$90,000, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: PROPOSED CONVEYANCE OF PROPERTY LOCATED AT 2404 LINCOLN STREET TO ARTHUR TRICE (ITEM 10/ PR #13711)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to declare City-owned property located at 2404 Lincoln Street (parcel #116783) surplus;

To authorize conveying the property to Arthur Trice as permitted by Section 86 of the City's charter; and

To authorize the City Manager to convey the property by non-warranty deed, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: UNIVERSAL RELEASE OF N.C. R-41, N.C. R-52, AND N.C. R-54 RESTRICTIVE COVENANTS AND REVERSIONS (ITEM 11/ PR #13713)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to execute the document entitled Release of Covenants and Termination of Reversionary Interests for N.C. R-41, N.C. R-52, and N.C. R-54, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: INTERLOCAL AGREEMENT WITH THE DURHAM HOUSING AUTHORITY TO PROCURE SECURITY CAMERAS AND LIGHTING (ITEM 12/ PR #13716)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to resolve to authorize the City Manager to execute the interlocal agreement with the Durham Housing Authority to reimburse up to a total maximum contribution of \$171,083 toward the costs of security cameras and LED lighting, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: DESIGN-BUILD SERVICES AMENDMENT WITH LECHASE CONSTRUCTION SERVICES, LLC FOR THE CITY HALL HVAC AND ELECTRICAL RENOVATIONS PROJECT (ITEM 13/ PR #13718)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to negotiate and execute a Design-Build Amendment for final design and construction services with LeChase Construction Services, LLC for an amount not to exceed \$3,861,000;

To establish a contingency in the amount of \$375,000; and

To authorize the City Manager to negotiate and execute amendments or change orders on the City Hall HVAC and Electrical Design-Build contract, provided the cost of all amendments or change orders and the original contract does not exceed the total contract cost of \$4,563,388, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

SUBJECT: CONTRACT ST-303 PAVEMENT PRESERVATION PROJECT 2020 (ITEM 14/ PR #13714)

MOTION by Council Member Middleton, seconded by Mayor Pro Tempore Johnson, to authorize the City Manager to execute a contract for ST-303 Pavement Preservation 2020 with Slurry Pavers, Inc. in the amount of \$2,600,866;

To establish a contingency fund in the amount of \$260,086.60; and

To authorize the City Manager to negotiate and execute change orders to the contract provided that the total contract cost does not exceed \$2,860,952.60, was approved at 7:32 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT, OUTDOOR LIGHTING (TC1900002) (ITEM 17/ PR #13722)

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

Text Amendment TC1900002 was a privately-initiated request to amend Unified Development Ordinance (UDO) paragraph 7.4.2B.2, Outdoor Lighting, Applicability. Under the current ordinance, outdoor lighting that is used exclusively for recreational activities, was at least 100 feet from residential uses, and was not illuminated during late hours and was exempt from the lighting standards set in place by Section 7.4. The amendment, if approved, would allow lighting that operated during late hours to maintain its exemption from the standards of Section 7.4, provided that a minor special use permit was issued. Per the proposed text amendment, review criteria for the minor special use permit related to lighting (glare, traffic safety, economic effect, and compatibility with adjacent property)

would have to be adequately addressed in the minor special use permit hearing. Even with the approval of a minor special use permit, lighting that was illuminated during late hours would still have to be an exclusively recreational use and be at least 100 feet from residential uses to maintain its exemption from Section 7.4. Finally, with the approval of a minor special use permit, the expansion of the allowable hours of illumination would be capped at 5:00 a.m. for Friday and Saturday, and 3:00 a.m. for Sunday through Thursday, and this expansion of hours of illumination would only be available to development on parcels in the Industrial (I), Industrial Light (IL), and Industrial Park (IP) zoning districts.

Mayor Schewel opened the public hearing and asked if there were any speakers to the item.

Mayor Schewel asked if certain changes were made pursuant to comments made by the Planning Commission.

Mr. Kolosna replied that changes were made pursuant to comments made by the Planning Commission.

Mayor Schewel asked about the recommendation that the distance between the lighting and residential property should have been 300 feet instead of 100 feet.

Mr. Kolosna stated that site specific assessments were best suited for that type of analysis.

Mayor Schewel asked if the Board of Adjustment could deny a Special Use Permit based on the differences in the distance requirement.

Mr. Kolosna stated that they could deny the request, but that was why each application needed to be reviewed on a case by case basis.

Keith Burns, attorney for the applicant, spoke to the lighting and Special Use Permit concerns, stating that the applicant was requesting to extend the prescribed lighting hours only if the Special Use Permit was granted for a Top Golf facility at Page Road and I-40.

Todd Waldo of Dallas, Texas, was the applicant and provided context on the development of a 46-acre piece of land in South Durham.

Council Member Freeman asked for clarification on the 100-foot distance vs the 300-foot distance requirement.

Mayor Schewel advised that the 100-foot was the minimum requirement, but when applying for the special use permit, an increase could be required.

Mr. Young confirmed.

Council Member Reece thanked Mr. Young and his staff for taking the Planning Commissioners' feedback into consideration.

Council Member Freeman noted that while she still had concerns about using a text amendment to address situations on a case by case basis, she planned to support the item.

Seeing no additional speakers, Mayor Schewel declared the public hearing closed.

MOTION by Council Member Middleton, seconded by Council Member Alston, to adopt the appropriate consistency statement as required per NCGS 160A-383, was approved at 7:50 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

UNIFIED DEVELOPMENT ORDINANCE
TEXT AMENDMENT CONSISTENCY STATEMENT
BY THE DURHAM CITY COUNCIL REGARDING
TC1900002, Outdoor Lighting

WHEREAS the Durham City Council, upon acting on a text amendment to the Unified Development Ordinance and pursuant to NCGS § 160A-383, is required to approve a statement describing how the action is consistent with the Durham Comprehensive Plan; and

WHEREAS the Durham City Council, upon acting on a text amendment to the Unified Development Ordinance and pursuant to NCGS § 160A-383, is required to provide a brief statement indicating how the action is reasonable and in the public interest.

NOW THEREFORE, BE IT ADOPTED BY THE DURHAM CITY COUNCIL AS APPROPRIATE:

That final action regarding text amendment TC1900002, Outdoor Lighting, is based upon review of, and consistency with, the Durham Comprehensive Plan and any other officially adopted plan that is applicable, as provided in the "Issues" and "Consistency with the Comprehensive Plan; Reasonable and in the Public Interest" sections of the memo to the City Manager, dated January 21st 2020, regarding the subject "Unified Development Ordinance Text Amendment Outdoor Lighting (TC1900002)," along with additional agenda information provided to the City Council and information provided at the public hearing; and

It is the objective of the Durham City Council to have the Unified Development Ordinance promote regulatory efficiency and consistency and the health, safety, and general welfare of the community. The text amendment promotes this by offering fair and reasonable regulations for the citizens and business community of the City of Durham as supported in the "Issues" and "Consistency with the Comprehensive Plan; Reasonable and in the Public

Interest” sections of the memo to the City Manager, dated January 21st, 2020, regarding the subject “Unified Development Ordinance Text Amendment, Outdoor Lighting (TC1900002),” along with additional agenda information provided to the City Council and information provided at the public hearing. Therefore, the amendment is reasonable and in the public interest.

MOTION by Council Member Middleton, seconded by Council Member Freeman, to adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 7, Design Standards, was approved at 7:50 p.m. by the following vote: Ayes: Mayor Schewel, Mayor Pro Tempore Johnson and Council Members Alston, Caballero, Freeman, Middleton and Reece. Noes: None. Absent: None.

ORDINANCE #15597

[OTHER MATTERS]

Mayor Schewel allowed the attendants of the meeting to speak on the housing situation at McDougald Terrace and other public housing matters.

Chris Tiffany, a resident, expressed concerns regarding health matters that have affected him at different housing complexes throughout the city.

Ashley Canaday, McDougald Terrace Resident, stated the she was frustrated with how residents of McDougald Terrace were still displaced in hotels; how children had limited meal options; and the overall way in which the housing issue had been handled from the beginning.

Velvet Harris, McDougald Terrace Resident, likened the confinement of living in the hotels to being in a jail cell. She also asked for concrete information as to how long residents would need to stay in hotels.

LaSandra Ormond, a resident, advised that she went to her apartment at McDougald Terrace to get an update on repairs and did not see any significant changes. She also stated that she was unhappy with the conditions at the hotel and having to keep her 3 children in one room as opposed to having their own space.

Laura Bettye, a resident, asked for mental health services several times a week for the residents that were living in the hotels as the situation was becoming increasingly more stressful as time went on.

Tiffany Griffin, a local psychologist in the community acquired over 50 signatures from other local business owners that stood in solidarity with the McDougald Terrace resident. She said that an actionable plan should have been put in place.

Larry Hunter, McDougald Terrace Resident, advised that he went to his apartment at McDougald Terrace to get an update on repairs and saw plumbing and mold issues still existed.

Jackie Wagstaff, a resident, stated that she had been using her personal vehicle to visit the various hotels where residents were staying to provide them updates on their situation. She expressed frustration that more action was not being taken.

Michelle Metzler, a resident, asked why the residents of McDougald Terrace did not have an item on the printed agenda instead of some other matters. She also expressed concern for the health of the children staying in hotels.

Brittany Bass, a resident, called for solutions regarding housing as a whole in the city. She stated that she felt uncomfortable walking downtown due to gentrification.

Azaria Lunsford advised Council that a news crew that came to her home at the Hoover Road site and that the crew became ill after their visit. She also advised that she and her four children were still residing there.

Mayor Schewel thanked everyone for their comments and for coming to the meeting. He acknowledged how frustrating the uncertainty of when they would be returning home was for residents and advised that there would be funds that the city would be able to support the Housing Authority in order to make their housing decent and livable.

[ADJOURNMENT]

Being no additional business to come before Council, Mayor Schewel adjourned the meeting at 8:21 P.M.

LaVerne Brooks
Assistant City Clerk

Ashley Wyatt, CMC
Deputy City Clerk