

**DURHAM, NORTH CAROLINA
TUESDAY, SEPTEMBER 6, 2005
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Absent: None.

Also present: City Manager Patrick Baker, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance led by Council Member Clement.

Mayor Bell read a proclamation designating September as National Prostate Cancer Awareness Month.

Council Member Clement thanked Weaver Street Center Director Virginia Cross-Shahid and her staff along with White Rock Baptist Church for their involvement with the Weaver Street Center Block Party held on September 3.

Mayor Pro Tempore Cole-McFadden congratulated North Carolina Central University Eagles on their win at the Aggie-Eagle Classic.

Mayor Bell made comments on the annual performance evaluations for the City Manager, City Attorney and City Clerk. The Mayor noted evaluations were concluded prior to this meeting.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to adopt an ordinance setting the annual salaries of the City Manager, the City Attorney and the City Clerk was approved at 7:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Ordinance #13163

Mayor Bell made comments on the Hurricane Katrina efforts. The Mayor expressed concern and sympathy and encouraged individuals to reach out through existing reputable relief organizations – American Red Cross, noted City employees will be modifying the 7 Stars program to allow for hurricane relief donations, various city personnel are available to be deployed as requested, including those with experience in public safety, damage assessment, water utilities, debris removal and emergency communications. No deployments have been requested by local, state or federal authorities. However, one of the 911 Center operators will be working in St. Tammy's Parrish in Louisiana for the next 10 days, working as a representative of the Telecommunicator Emergency Response Taskforce of the N.C. Chapter of the National Emergency Number Association. He made comments on the long-term needs,

September 6, 2005

letters received from the USCM through the Secretary of HUD asking that the City prepare a list of houses that may be made available for at least six months in the event that persons may relocate to this area, seeking assistance from community organizations, including faith-based organizations, who desire to help by sponsoring one or more families in these houses. Assistance would include orientation to the community, clothing, food, transportation and emotional support and the city's Economic and Employment Development Office will assist with job services. Durham County's social and human services agencies will help with their full range of supportive services and will evaluate expanding this offering as needed and as property can be made available.

City Manager Baker noted the City is focusing on the needs of the evacuees who have been recently relocated to the Triangle area. He made comments on the meeting he attended today at Triangle United Way to discuss providing services to evacuees, telephone calls received from individuals wanting to make their houses available to this cause and asked his assistant to make a log and would bring that information to the group on Thursday.

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to approve contracts up to and equal to \$30,000 and to bring a list back to the City Council after the fact monthly was approved at 7:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Council Member Clement asked the City Manager to provide a report on the City of Durham's State of Preparedness regarding natural and man-made disasters at the September 8, 2005 City Council Work Session.

City Manager Baker informed Council that a report will be made at the September 22, 2005 City Council Work Session.

Returning to an earlier motion made by Council Member Catotti, she noted for clarification the motion should be for the reinstatement of prior authority to the Office of the City Manager to approve contracts up to \$30,000.

Council Member Best asked staff questions relative to the 911 representative that will be helping out for 10 days as a result of Hurricane Katrina. He noted there was a staffing question brought up during the budget and would hope this does not affect the 911 service to the citizens of Durham.

Assistant City Manager Voorhees noted the administration is discouraging employees from self-deploying and, in fact, would not approve leave for anyone who would want to do that, but have told them if people are members of recognized relief agencies that the administration would approve leave subject to the ability to continue to deliver services to our citizens and those employees would take their own personal leave/comp time to do that.

September 6, 2005

As a priority item, City Manager Baker requested that Consent Agenda #20 [Pebble Creek Condominium Association] be deferred to the September 8, 2005 City Council Work Session and that Consent #28 [Southwest Durham Transit Corridor Realignment] be placed on the General Business Agenda due to additional information that staff will present.

MOTION by Council Member Clement seconded by Council Member Catotti to accept the City Manager's priority items was approved at 7:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

There were no priority items from the City Attorney and City Clerk.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Item # 9 [Business Loans Report for June 2005] was pulled. Consent Agenda Item #20 was deferred to September 9, 2005 City Council Work Session and #28 [Southwest Durham Transit Corridor Realignment] was moved to the General Business Agenda at the request of the City Manager.

MOTION by Council Member Stith seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Stith seconded by Council Member Catotti to approve the following City Council Minutes; and

- May 26, 2005 - Special Meeting
- July 21, 2005 - Special Meeting
- August 1, 2005 - Regular Meeting

To approve City Council action taken at the July 21, 2005 City Council Work Session was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE – RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept applications for citizens to fill nine (9) vacancies with three (3) terms expiring on June 30, 2006,

September 6, 2005

two (2) terms expiring on June 30, 2007 and four (4) terms expiring on June 30, 2008 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: DURHAM BICYCLE & PEDESTRIAN ADVISORY COMMISSION –
RECEIPT AND ACCEPTANCE OF AN APPLICATION**

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept an application to fill one (1) vacancy with a term expiring on August 31, 2008 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: MULTI-JURISDICTIONAL ADVISORY BOARD – RECEIPT AND
ACCEPTANCE OF AN APPLICATION**

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy representing a major employer with a term expiring on April 1, 2006 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

**SUBJECT: CITY-COUNTY APPEARANCE COMMISSION – RECEIPT AND
ACCEPTANCE OF AN APPLICATION**

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept an application for a citizen to fill one (1) vacancy on the City-County Appearance Commission with a term expiring on April 1, 2008 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACTS

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute the list of contracts; and

To authorize the City Manager to make changes to the list of contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

September 6, 2005

| Contractor | Contract Description | Dept | CT Amount |
|--|--|-------------|------------------|
| The Environmental Group of the Carolinas | Environmental Survey Leigh Farm Road & Pat Tilley Road | Gen Ser | \$1,500.00 |
| Gibbs Grading | Ct Amendment-Adding Asbestos Report and Tip Fees | Housing | \$900.00 |
| Kevin Harrison | Soccer Referee | P&R | \$1,055.00 |
| John Harrison | Soccer Referee | P&R | \$1,055.00 |
| Anya Sippen | Soccer Referee | P&R | \$1,055.00 |
| Lourdes Otero | Basic Spanish Class II | P&R | \$1,080.00 |
| David Martinez | Basic Computer Class in Spanish | P&R | \$960.00 |
| Casey Wardlaw | Healthy Cooking Bilingual Class | P&R | \$384.00 |
| Jalil Isa | Accent Reduction for Spanish speakers | P&R | \$240.00 |
| Pedro Bolanos | Basic Computer Class in Spanish | P&R | \$1,080.00 |
| Angela Nixon | Valley Ball Referee | P&R | \$1,055.00 |
| Bryan Harland | Flag Football | P&R | \$1,055.00 |
| Stafford Berry | African Dance Instructor | P&R | \$1,250.00 |
| William Meyers | Tai Chi | P&R | \$500.00 |
| Kathleen Freeman | Toddler Art | P&R | \$500.00 |
| Russell Williams | Basketball Official | P&R | \$2,199.00 |
| Alan Gunn | Flag Football | P&R | \$1,055.00 |
| Keith Hightower | Flag Football | P&R | \$1,055.00 |
| All American Country | Error on original CT Amount | P&R | \$89.50 |

SUBJECT: BID REPORT - JULY 2005

MOTION by Council Member Stith seconded by Council Member Catotti to receive a report and to record into the minutes bids which were acted upon by the City Manager during the

September 6, 2005

month of July 2005 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

CITY OF DURHAM NORTH CAROLINA

August 11, 2005

MEMO TO: Patrick Baker, City Manager
THROUGH: Kenneth C. Pennoyer, Finance Director
FROM: Joseph W. Clark, Purchasing Manager
SUBJECT: July 2005 Bid Report

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of July 2005.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: Remove and Replace two roofs at the Williams WTP

Purpose of Bid: To repair the roofs at the Williams WTP.

Comments: Roof B (Elevator Building) and Roof C (Plant Building)

Opened: June 10, 2005

| | | |
|----------|--|--------------|
| Bidders: | Curtis Construction Company, Inc. Kinston, NC | *\$59,000.00 |
| | Owens Roofing, Inc. Raleigh, NC | \$64,988.00 |
| | CFE, Inc. Apex, NC | \$79,689.00 |
| | Guaranteed Systems, Inc. Stoneville, NC | \$82,895.00 |
| | Baker Roofing Company Raleigh, NC | \$90,351.00 |

*Awarded based on: Low Bid Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

| | | | | |
|-----------------|----|---------------|---|----|
| Total Workforce | 11 | # Black Males | 0 | 0% |
|-----------------|----|---------------|---|----|

September 6, 2005

| | | | | | |
|-----------------|---|-----|-----------------|---|-----|
| Total # Females | 2 | 18% | # White Males | 9 | 82% |
| Total # Males | 9 | 82% | # Other Males | 0 | 0% |
| | | | # Black Females | 0 | 0% |
| | | | # White Females | 2 | 18% |
| | | | # Other Females | 0 | 0% |

The SDBE Data Base was used in the solicitation of bids for this item.

2. Bid: Perkin Elmer Maintenance/Repair Agreement

Purpose of Bid: This maintenance agreement is for the South Durham WRF laboratory equipment to analyze metal in the wastewater. This is a twelve month maintenance agreement.

Comments: Perkin-Elmer is the sole source for parts, sales and service of Perkin-Elmer equipment.

Opened: June 27, 2005

Bidders: Perkin-Elmer Instruments *\$15,507.00
Norwalk, CT

*Awarded based on: _____ Low Bid Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

| | | | | | |
|-----------------|-----|-----|-----------------|-----|-----|
| Total Workforce | 941 | | # Black Males | 32 | 3% |
| Total # Females | 197 | 20% | # White Males | 635 | 67% |
| Total # Males | 744 | 80% | # Other Males | 77 | 8% |
| | | | # Black Females | 26 | 3% |
| | | | # White Females | 137 | 15% |
| | | | # Other Females | 34 | 4% |

The SDBE Data Base was used in the solicitation of bids for this item.

3. Bid: Estimated Annual Requirements for Zinc Orthophosphate

Purpose of Bid: To extend the contract for Zinc Orthophosphate Corrosion Inhibitor (65.8 tons)

Comments: This chemical is used in the water treatment process to help reduce corrosion control. CalciQuest has agreed to extend the contract for an additional twelve months.

Opened: May 14, 2005

September 6, 2005

Bidders: CalciQuest *\$24,990.84
Belmont, NC \$379.80/ton

*Awarded based on: _____ Low Bid Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

| | | | | | |
|-----------------|----|-----|-----------------|---|-----|
| Total Workforce | 16 | | # Black Males | 4 | 30% |
| Total # Females | 5 | 25% | # White Males | 7 | 45% |
| Total # Males | 11 | 75% | # Other Males | 0 | 0% |
| | | | # Black Females | 2 | 10% |
| | | | # White Females | 3 | 15% |
| | | | # Other Females | 0 | 0% |

The SDBE Data Base was used in the solicitation of bids for this item.

4. **Bid: Fitness Equipment for the Fire Department**

Purpose of Bid: To purchase training/fitness equipment for the Fire Department Training

Comments:

Opened: July 11, 2005

| | | |
|----------|-----------------------------|--------------|
| Bidders: | Prosource Fitness Equipment | *\$13,190.00 |
| | Raleigh, NC | |
| | W.R. Barontini, Inc. | \$16,865.00 |
| | Pittsburgh, PA | |
| | Legend Fitness Systems | \$17,320.00 |
| | Powell, TN | |

*Awarded based on: Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

| | | | | | |
|-----------------|---|-----|-----------------|---|-----|
| Total Workforce | 7 | | # Black Males | 2 | 25% |
| Total # Females | 1 | 15% | # White Males | 3 | 45% |
| Total # Males | 6 | 85% | # Other Males | 1 | 15% |
| | | | # Black Females | 0 | 0% |
| | | | # White Females | 1 | 15% |
| | | | # Other Females | 0 | 0% |

The SDBE Data Base was used in the solicitation of bids for this item.

September 6, 2005

5. Bid: OnBase License and Maintenance Agreement

Purpose of Bid: OnBase License and Maintenance Agreement for Technology Solutions

Comments: This is a sole source.

Opened: N/A

Bidders: Information Access Systems *\$19,548.00
Orlando, Fl

*Awarded based on: Low Bid X Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Table with 6 columns: Category, Count, Percentage, Category, Count, Percentage. Rows include Total Workforce, Total # Females, Total # Males, and various demographic breakdowns.

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

JWC:lm

SUBJECT: MAJOR SITE PLAN AND PRELIMINARY PLAT – KRONHAUS TRACT (D04-858)

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan and preliminary plat for the Kronhaus Tract, submitted by the CE Group, Inc, on behalf of David Daniel Construction, to develop 58 single-family lots on 23.658 acres zoned PDR 2.50 and F/J-B, the site is located on the east side of Old Chapel Hill Road, south of Garrett Road. PIN 0709-02-88-2564 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

September 6, 2005

SUBJECT: PROPOSED FIVE YEAR LEASE AGREEMENT BETWEEN THE CITY OF DURHAM AND M. M. FOWLER, INC. FOR DISTRICT #1 POLICE SUBSTATION – 2406 HOLLOWAY STREET

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute the five-year Lease Agreement with M. M. Fowler, Inc. for the property located at 2406 Holloway Street at a monthly rental fee of \$6,908 for the 60 month period of the lease; and

To authorize the City Manager to make changes to the lease prior to execution, provided such changes are consistent with the intent of the lease attached to this agenda item or and do not increase the monthly rental expenses was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: RESOLUTION DESIGNATING CITY MANAGER AS PRINCIPAL FOR RECEIPT OF BELATED OR OVERDUE OFFERS TO PURCHASE SURPLUS REAL ESTATE AND SETTING FORTH THE DEADLINE DATES FOR RECEIVING SUCH OFFERS

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a resolution designating the City Manager as principal for the receipt of belated or overdue offers and setting forth deadline dates for receiving such offers was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9279

SUBJECT: AMENDMENT #2 TO THE DURHAM AFFORDABLE HOUSING COALITION SUB-RECIPIENT AGREEMENT FOR FY 2004-2005

MOTION by Council Member Stith seconded by Council Member Catotti to amend the FY 2004-2005 performance based contract with the Durham Affordable Housing Coalition, Inc. (Attachment A – Scope of Services) to allow DAHC the flexibility to provide either homeownership education workshops or one-to-one housing counseling services to at least 540 households with no increase to the total agreement amount of \$77,250;

To allow fee for service payments for households served under this agreement to be retroactive effective August 1, 2005; and

To make changes to the agreement which do not increase the agreement amount, lessen DAHC's duties or extend the term beyond October 1, 2005 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

September 6, 2005

SUBJECT: CONSERVATION EASEMENT DEED AND PLAT FOR ELLERBEE CREEK STREAM RESTORATION AT HILLANDALE GOLF COURSE

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute the Conservation Easement Deed and Plat for the Ellerbee Creek Stream Restoration at Hillandale Golf Course; and

To authorize the City Manager to modify the Conservation Easement Deed and Plat provided the modifications do not increase the dollar amount of the Conservation Easement Deed and Plat and are consistent with the general intent of the version of the Conservation Easement Deed and Plat approved by City Council was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: UNSAFE BUILDINGS

MOTION by Council Member Stith seconded by Council Member Catotti to receive a presentation on Unsafe Buildings was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: NEW EAST DURHAM COMMUNITY ORGANIZATION

MOTION by Council Member Stith seconded by Council Member Catotti to receive comments from Vivian McCoy regarding several issues in their community was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: PEBBLE CREEK CONDOMINIUM ASSOCIATION

To receive comments from Dexter Smith requesting elimination of curbside trash collection in their community.

Note: By a vote of 7/0, the City Council deferred this item to the September 8, 2005 City Council Work Session at the request of the City Manager.

SUBJECT: RACHAEL MURPHEY-BROWN

To receive comments from Rachael Murphey-Brown requesting speed humps on Willowdale Drive.

September 6, 2005

Note: Citizen was not present at the 8/18/05 Work Session.

SUBJECT: SOUTHEAST DURHAM JOINT COMMUNITY COUNCIL

MOTION by Council Member Stith seconded by Council Member Catotti to receive comments from Levern Harper regarding paving S. Alston Avenue from Capp Street to Riddle Road, a left turn signal at S. Alston & Highway 55, repair road and traffic signal at S. Alston & Riddle Road and a school bus stop at Wintergreen and Baltic Street was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM JUSTICE AND FAIRNESS INTER-NEIGHBORHOOD ASSOCIATION

MOTION by Council Member Stith seconded by Council Member Catotti to receive comments from Anita Keith-Foust regarding fairness and justice for the youth in the community was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: EAST END & ALBRIGHT NEIGHBORHOODS

MOTION by Council Member Stith seconded by Council Member Catotti to receive comments from Thomas Poole regarding City's hiring policy and zoning was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: MARRIOTT AT THE DURHAM CIVIC CENTER REFINANCING

MOTION by Council Member Stith seconded by Council Member Catotti to receive a report on the refinancing of the Marriott at the Durham Civic Center was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: RADIO SYSTEM UPGRADE CHANGE ORDER REQUEST

To authorize the City Manager to negotiate and execute the current change orders for the Radio System Upgrade project; and

September 6, 2005

To authorize the City Manager to negotiate and execute subsequent change orders for the project as needed, provided the total cost of all changes does not exceed the \$707,406 remaining in the contingency.

Note: This item was approved at the 8/18/05 Work Session with a vote of 6/0.

SUBJECT: MAJOR SITE PLAN – PLAY NATION (D04-653)

MOTION by Council Member Stith seconded by Council Member Catotti to approve a major site plan for “Play Nation”, submitted by Credle Engineering Company, on behalf of Ron and Betty Haswell, to construct a 2,200 square foot retail building with ten parking spaces on a 0.42 acre site, zoned NC (D) and F/J-B, the property is located on the west side of NC 54 and across from Parkridge Road, PIN 0718-01-48-3454 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM-CHAPEL HILL-CARRBORO METROPOLITAN PLANNING ORGANIZATION (DCHC MPO) FY 2007-2013 TIP REGIONAL PROJECT PRIORITY LIST

MOTION by Council Member Stith seconded by Council Member Catotti to request that the Transportation Advisory Committee of the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization rearrange the ranking of the City of Durham projects in the DCHC MPO Regional Project Priority List for the FY 2007-2013 TIP to generally reflect the relative ranking of the top projects in the City of Durham TIP Project Priority List approved by City Council on March 31, 2005 was approved at 7:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: 2006 TRIANGLE MLK DAY OF COMMUNITY SERVICE

To name representatives for the 2006 Triangle MLK Day of Community Service.

Note: By a vote of 6/0, the City Council appointed Victoria Morgan, Erica Starnes and Nikki Starnes to the Regional Planning Committee for the 2006 Triangle MLK Day of Community Service at the 8/18/05 Work Session.

[ITEM PULLED FROM CONSENT AGENDA]

SUBJECT: BUSINESS LOANS REPORT FOR JUNE, 2005 [STATUS REPORT ON SMALL BUSINESS LOANS AND DOWNTOWN AND COMMERCIAL REVITALIZATION LOAN PROGRAM]

September 6, 2005

Council Member Best requested an update on the civil case involving Anita Bennett.

City Attorney Blinder noted the case against Anita Bennett is in pre-trial discovery which is a phase of civil litigation before you get to a full-blown trial, there have been depositions and other forms of discovery that have happened in terms of information gathering and that is still proceeding. He stated the court-ordered mediation, a required step under the rules of civil procedure before you have the trial, is scheduled for December and after that mediation anticipate proceeding to trial in a very short order after that time.

Council Member Best noted that this Council was not responsible for the cause of the small business loan mishap, but is responsible for cleaning it up. He made comments on holding staff and everyone accountable, the guidelines and committee that reviews loans, policies and procedures in place to protect the City from what happened in the past.

MOTION by Clement seconded by Mayor Pro Tempore Cole-McFadden to accept the business loans report for June 2005 was approved at 7:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA]

**SUBJECT: AMENDMENT TO AGREEMENT FOR CITY HALL AND ANNEX
RENOVATIONS - ROUGHTON, NICKELSON, DELUCA, ARCHITECTS,
PA**

Mayor Pro Tempore Cole-McFadden asked staff if the City Clerk has had to give up any of her space for any agency that is not a part of City government.

Assistant Director Nancy Mitchell of General Services replied no. She noted the Sister Cities program has moved into another space to allow more storage and office space for the City Clerk.

Mayor Pro Tempore Cole-McFadden asked the City Clerk if she is satisfied with this arrangement.

City Clerk Gray informed the Mayor Pro Tem that she received a revised plan today from General Services and was satisfied.

Council Member Stith expressed concern that there wasn't any competitive bidding for the expansion of the scope.

Assistant Director Nancy Mitchell outlined the purpose in doing this item as a contract amendment. She noted it is to get the project done as quickly as possible and take advantage of the economy and scale that we can achieve by doing both buildings simultaneously and

September 6, 2005

streamlining to a great extent the construction and stated cooperation has to happened among all the departments to get these projects done quickly, efficiently and inexpensively as possible.

Council Member Stith asked staff how would they know if they are not bidding the project and his concern would be they are receiving additional business as opposed to having competition.

Assistant Director Nancy Mitchell noted the purpose in bringing Roughton, Nichelson into the annex project is to improve the coordination that has to take place. She noted it is possible for a bid to come in lower than what is proposed by Roughton, but what would be lost would be the coordination of the construction administration if you have two separate architectural, construction firms or one construction firm with two separate contracts/contract administration firms-- you would loose a level of coordination and collaboration that would ultimately cost the project more in the long run.

Interim Assistant City Manager Julie Brenman made comments on the space planning issue. She noted this is an extension of the space planning that has already happened with departments and a lot of time and understanding would be lost between the departments if there is a new firm.

Anita Keith-Foust, of 323 W. Trinity Avenue, raised a concern with moving the compensation from \$165,970 to \$589,630 and the bond. Also, she expressed concern with the annex building because she does not know what plans are in place and the community is not being considered when these decisions are being made and no re-bidding has happened.

Mayor Pro Tempore Cole-McFadden asked staff to comment on the M/WBE participation and the representative from Roughton Nickelson what function does Ellen Casilly Architects and Yongue Architects serve on this project.

Lucien Roughton, representing Roughton and Nichelson, replied that Ellen Casilly will perform quality control and Joe Yongue will provide architectural construction administration for the project.

EO/EA Director Deborah Giles explained the process. She noted this project was presented to EO/EA Department as a contract amendment. In the contract amendment process, generally you do not readjust goals because there are no new opportunities for participation. In this case, there were no goals established on the previous contract and as a contract amendment it was originally brought forward in that regard. She stated when the question was raised staff went back and looked at the fact that the contract was being increased to a dollar value on which we would normally set goals and ran a list based on the items presented and in this particular case, the items that were available for potential opportunity were quite small. She noted staff ran a list and the goals came up small and that is not uncommon on professional service contracting and presented goals to the firm and they have met the goals that were set. Also, she discussed the formula used to establish goals.

Council Member Brown made comments in support of this item. He made comments on the building and space needs.

September 6, 2005

Council Member Catotti noted by bringing staff into an existing building and renovating it will increase efficiency of departments. Also, she made comments in support of bonds because they are the most efficient way of funding these items.

Council Member Stith urged staff to improve the database for professional services, made comments in support for a competitive situation, and noted this is not good practice.

Mayor Bell discussed the difference between RFP vs RFQ. He noted the initial item was for a RFQ and you do not look at the dollar amount. The Mayor asked staff why are we talking about the prices and what could have been done differently.

City Attorney Blinder made comments on the resolution exempting City Hall renovations project from GS 143-64.31 and that is the state law provision that in the absence of this exemption would require a RFQ process. He noted the legal option here would have been in theory to start over either with a RFP or RFQ or to do this by amendment and any of those would be legally permissible options.

Relative to the amendment, Council Member Best asked staff if they did a follow-up or comparison with other projects regarding the price, and if a RFP is prepared does staff do research to see how much it would cost.

Assistant Director Nancy Mitchell of General Services noted it was a negotiated number and staff looked at scope of project, percentage of estimated construction costs and staff was satisfied that it was a fair and competitive price. Also, she noted the design phase is estimated 10-15% of the construction cost.

Sam Cravatto, of General Services, noted the best in this current market that the City can expect in architectural services is 10%. He noted if this item was sent back out staff would not know what the price range would be until after the RFQ process was completely gone through, after the award and then staff could find out what they would do the project for and not before.

Assistant Director Nancy Mitchell of General Services noted staff is required by state law to do this as a RFQ because they do not have the option of going out for a bid.

MOTION by Council Member Brown seconded by Council Member Catotti to adopt a Resolution Exempting the City Hall Renovations Project from G.S. 143-64.31;

To authorize the City Manager to execute the amendment to the existing contract with Roughton, Nickelson, DeLuca, Architects, PA, to include increase the scope of professional services required for the renovation of the City Hall and to perform professional design services for the City Hall Annex, increasing the compensation to be paid from \$165,970 to \$589,630; and

To authorize the City Manager to increase the project contingency by \$42,370, and to negotiate and execute change orders to the Roughton, Nickelson, DeLuca, Architects, PA, contract provided the total cost of all change orders does not exceed \$25,700 and the total cost of the contract does not exceed \$615,330 was approved at 7:57 p.m. by the following vote: Ayes:

September 6, 2005

Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Clement. Noes: Council Member Stith. Absent: None.

Resolution #9280

SUBJECT: INFORMATION ON OLD NORTH DURHAM PARK AND PROPOSED IMPROVEMENTS – CENTRAL PARK SCHOOL FOR CHILDREN

To approve staff's recommendation for proposed improvements to the Old North Durham Park; and

To adopt a resolution accepting the donation of playground equipment and its installation in Old North Durham Park by the Central Park School for Children.

Based on conversations at the Work Session, City Manager Baker informed Council of additional information provided to them—proposed memo of understanding between the City of Durham and Central Park School; resolution accepting the donation of playground equipment and installation and letter from Central Park School addressed to the Mayor regarding the donation.

Mayor Pro Tempore Cole-McFadden asked staff if the City is in compliance with all rules and regulations regarding the equipment, ADA accessibility and the US Consumer Product Safety Commission.

Parks & Recreation Director Darrell Crittendon noted yes and stated the playground equipment meets Consumer Product Safety Commission's recommendations and requirements.

Mayor Pro Tempore Cole-McFadden asked staff if the area is accessible to persons with disabilities.

Parks & Recreation Director Darrell Crittendon commented on a path area that was made ADA accessible by General Services Department a year ago and noted staff is working for more accessibility by working out a deal with TROSA for accessibility on the other end of the park and a firm agreement should be in place within the next two to three months.

Mayor Pro Tempore Cole-McFadden asked staff to address the liability issue if a child is injured.

Parks & Recreation Director Darrell Crittendon noted the City is self-insured and would be governed by the same rules and regulations regarding any city park. The donation of playground equipment means that it is turned over to the City and becomes city property and is in a city park. He noted if there are student groups on the playground supervised by students during the school hour that would be the school's responsibility, any youth playing on the playground equipment during the school hours and are not associated with the school would be the City's liability; however, students in the school during school hours are the school's responsibility.

September 6, 2005

Mayor Pro Tempore Cole-McFadden asked staff if it was clear that everyone understands the equipment will belong to the City and that citizens anytime of the day, all day have access to this facility.

Parks & Recreation Director Darrell Crittendon replied yes.

Mayor Pro Tempore Cole-McFadden asked staff several questions regarding measurements of the soccer field and if there were any plans to install a basketball court in the park.

Beth Timson, of Parks & Recreation, commented on the new field to be installed, noted the existing field is not an adequate measurement, there is not a basketball court in that park and there are no plans for one.

Mayor Pro Tempore Cole-McFadden asked if there is an area that can be designated for that purpose since citizens are complaining about their children playing basketball in the street.

Beth Timson, of Parks & Recreation, noted there is not enough room around the edges for a full-size basketball court.

Mayor Pro Tempore Cole-McFadden asked if basketball goals could be installed.

Beth Timson noted most of the parks where there is room do have basketball facilities.

Mayor Pro Tempore Cole-McFadden informed the Parks & Recreation Director about the need for more basketball courts in the city of Durham.

Darrell Crittendon noted Old North Durham will not permit basketball courts based on space, but staff is reviewing all of the parks to do a master plan where space would permit for basketball facilities.

Mayor Pro Tempore Cole-McFadden asked if there is any space in Old North Durham and Bay Hargrove Street Park.

Parks & Recreation Director Darrell Crittendon replied no, but Rocky Creek Park may have space for basketball.

Richard Mullinax, of 921 N. Mangum Street, noted the YMCA would take kids who might not be financially able to come in and play basketball, swim or other activities. He made comments on the basketball court issue, how the school has been proactive in working with the neighbors and noted this park needs the playground equipment.

Anita Keith-Foust noted the City of Durham is responsible for our children and not the YMCA, urged Council to not approve this item since the plan has changed again for the field and noted the area is not ADA compliant.

September 6, 2005

Elizabeth Paley, of 112 W. Lynch Street/representing the Old N. Durham Neighborhood Association, spoke in support of this item urging Council to approve the playground equipment donation.

Dexter Richardson, representing Central Park School for Children, noted the school wants to give this playground equipment to the City of Durham because they want to have a partnership with Durham and to be a part of this community and to make a difference.

Vicky Patton, of Central Park School for Children, made comments on the master plan, partnership and in support of donation of playground equipment.

Carolyn Kirkland, Director of Central Park School for Children, noted the school would like to have a real partnership with the City of Durham and urged Council to accept the donation as an opportunity to extend a partnership.

Gene Cook, 603 E. Hammond Street, spoke in favor of playground equipment noting it will allow safe areas for children to play in while others are participating in soccer matches.

City Manager Baker stated the second motion should read: To adopt a resolution to accept the donation of playground equipment and the installation of playground at Old North Durham park.

Council Member Stith asked staff if the acceptance/installation of playground equipment would not impede the park's planning and utilization of the entire site of the park.

Park & Recreation Director Darrell Crittendon replied no.

Council Member Clement made comments in support of this item and urged staff to inform the public on the use of park facilities so there would not be any misunderstanding between the public and management of the park.

Council Member Brown made comments in support of this item.

MOTION by Council Member Clement seconded by Council Member Catotti to approve staff's recommendations as listed below for proposed improvements to the Old North Durham Park;

To adopt a resolution accepting the donation of playground equipment and its installation in Old North Durham Park by the Central Park School for Children; and

To direct the administration to provide signage/information notifying the public regarding the utilization of Old North Durham Park was approved at 8:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Resolution #9281

September 6, 2005

1. The athletic field in the park (330 ft by 180 ft) will be renovated with grading, sod, and irrigation. This field will serve tournament level and adult soccer as well as junior-level games, several of which can be played simultaneously across the width of the field. A field this size can also accommodate football, lacrosse, and rugby. With the current shortage of athletic fields in Durham, DPR staff feels that we cannot afford to reduce or lose one of the existing fields.
2. The playground will be installed by CPSC and will become the property of the City; the installation will be governed by an approved site plan and will be regulated by a Memorandum of Understanding and the terms of the Durham County grant to ensure full public accessibility to the site. The field and the playground will be separated by 100 ft and by a safety barrier of athletic netting.
3. City staff (from Real Estate) is currently negotiating an agreement with the park's eastern neighbor (TROSA) for joint use of a City parking lot and TROSA's entrance into the park site; this agreement will provide a small amount of additional parking but, more importantly, an additional entrance into the park from the residential neighborhoods.
4. The existing park access (from Foster St.) has been made accessible by a compacted screenings pathway; if funding allows, this pathway will be paved as part of bringing a water line for irrigation into the park.
5. DPR staff is exploring options for an aesthetically pleasing portable bathroom on the site. Funding is currently not available for this feature.

[ITEM MOVED TO GENERAL BUSINESS AGENDA]

SUBJECT: SOUTHWEST DURHAM TRANSIT CORRIDOR REALIGNMENT

To request that the Transportation Advisory Committee of the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization select C3 as the preferred alignment of a transit corridor in southwest Durham, as described in the Southwest Durham Alignment Evaluation report (dated June 29, 2005).

Transportation Manager Mark Ahrendsen informed Council that the Board of County Commissioners discussed this matter, took the same action that staff is recommending tonight, further directed staff to re-examine the need for the northern Durham station in the vicinity of Farrington Road at Ephesus Church Road and asked that changes to the Comprehensive Plan that support a station in that area also be considered which will be discussed at a Joint City/County Planning Committee Meeting tomorrow -- that is separate from the selection of the corridor and would not change staff's recommendation.

Council Member Catotti informed her colleagues regarding the e-mail received from the Farrington Homeowners Association outlining the same concerns about the station removal.

Mayor Bell noted Debbie McCarthy and Phillip McGill left the meeting and were not present to speak on this item.

September 6, 2005

Council Member Clement asked that the contents of Debbie McCarthy's e-mail be entered as a part of the record.

MOTION by Council Member Clement seconded by Council Member Catotti to request that the Transportation Advisory Committee of the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization select C3 as the preferred alignment of a transit corridor in southwest Durham, as described in the Southwest Durham Alignment Evaluation report (dated June 29, 2005); and

To include the contents of Debbie McCarthy's email dated September 4, 2005 as a part of the record was approved at 8:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Dear Mayor Bell and Members of City Council,

I am writing on behalf of the Farrington HARP Neighborhood Association which I have headed for 19 years. On Tuesday night you will have on your consent agenda (item 28) the realignment of the SW Durham Transit Corridor.

While we question whether the funding will actually materialize for this corridor and whether the ridership will justify its existence (and while we feel the most appropriate, least expensive and least environmentally damaging alignment would have been George King Rd.) our greatest concern is the land use use density that has been driven up explosively by the mere presence of the corridor on planning maps.

To put this in perspective, 866 dwelling units are under construction or in the pipeline for potential development in this immediate area...in a neighborhood that is still largely rural in character. A neighborhood that is environmentally sensitive and historic (New Hope Creek and Leigh Farm), racially diverse, and offers a soul refreshing greenbelt between Durham and Chapel Hill. The intense development is ironic in light of the UDO's emphasis on the "recognition of the importance of existing neighborhoods by ensuring that new development fits into the character of the area."

Traffic is a major concern as well with the intersection of Farrington Rd. and NC 54 already operating at a level of service F-. (4 changes of the stoplight are needed to get through there at peak times).

We accept the fact that I-40 will be the location for the transit corridor; but we ask that the Northern Station referenced in the TTA - TJCOG evaluation (dated June 29, 2005) be eliminated, thereby lowering the pressure for high density development in the Farrington Rd. / Ephesus Church Rd. area. We understand that the Comprehensive Plan will need to be revisited to reflect this change and will be glad to participate in that process.

At the County Commissioner's Meeting last week, both the Commissioners and Mr. Duke agreed with these recommendations. (I.e. no Northern Station and revisit the Comp. Plan to lower densities) I plan to attend the next TAC meeting to continue to encourage the elimination of the Northern Transit Station.

In light of the transit corridor item on your Tuesday night agenda, I wanted to make you aware of our neighborhood's concerns about land use issues that are driven by the corridor and particularly by the Northern Station. You should know that we have asked for a

September 6, 2005

moratorium on development along Farrington Rd. until such time as the Comprehensive Plan can be revisited.

If you would like an "up close and personal" look at the Farrington area, please give me a call and I would love to take you on a tour. You can contact me at 489-6339. And please feel free to call if you have any questions about anything I have said in this email.

Thank you all for your service to Durham.

Sincerely,
Debbie McCarthy
President, Farrington HARP Neighborhood Association

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

SUBJECT: ORDERING IMPROVEMENT UNDER ENABLING ACT AUTHORITY

Lee Murphy, of the Public Works Department, made comments on this item.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor declared the public hearing closed.

MOTION Council Member Stith seconded by Council Member Catotti to receive public comments; and

To adopt a resolution ordering a Sewer Main on Holloway Street from West Property Line of PIN 0841-14-44-3521 to Rummel Street was approved at 8:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

SUBJECT: ZONING MAP CHANGE – CHELSEA MEADOWS - (Z05-13B)

To receive public comment on zoning map change Case Z05-13B (Chelsea Meadows); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-13B out of RD and placing same in and establishing same as PDR 2.48.

Planning Department Recommendation: Approval
Planning Commission Recommendation and Vote: Approval - 14-0

Assistant Director Steve Medlin, of the City/County Planning Department, briefed Council on the staff report. He noted there is a development plan associated with this request, staff as well as the Planning Commission recommended approval of this item.

Mayor Bell opened the public hearing.

September 6, 2005

Proponent

Chuck Welsh, representing the applicant, noted he was present to answer questions.

No one spoke in opposition to this rezoning request.

The Mayor declared the public hearing closed.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive public comment on zoning map change Case Z05-13B (Chelsea Meadows); and

To adopt an ordinance amending the Zoning Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change Case Z05-13B out of RD and placing same in and establishing same as PDR 2.48 was approved at 8:32 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None. Absent: None.

Inga Willis, of PEACEFIRE Relief Effort/105 E. Chapel Hill Street, informed Council of their direct relief efforts regarding Hurricane Katrina.

Mayor Bell informed Ms. Willis that the City Manager or someone from his staff would contact her and thanked her for the role she has taken in this community.

There being no further business to come before the City Council, the meeting was adjourned at 8:37 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk