

EXHIBIT

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DURHAM



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Office of the City Clerk

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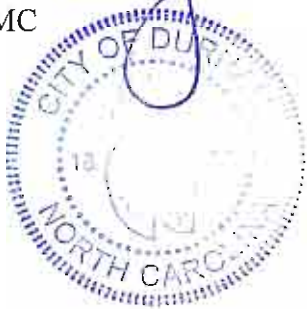
SUBJECT: DURHAM CITY COUNCIL MINUTES – DECEMBER 20, 2004

**NORTH CAROLINA
DURHAM COUNTY**

I, D. Ann Gray, duly appointed City Clerk of the City of Durham, North Carolina, do hereby certify that the attached is a true and accurate copy of the December 20, 2004 minutes of the Durham City Council, which is on file in the Office of the City Clerk at City Hall.

WITNESS my hand and the corporate seal of the City of Durham, North Carolina, this the 20th day of November, 2008.

D. Ann Gray, MMC
City Clerk



**DURHAM, NORTH CAROLINA
MONDAY, DECEMBER 20, 2004
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: Interim 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 presented a letter to Cavella Allen and Michelle Frazier for their humanitarian act on October 2, 2004 during a car accident and read a proclamation proclaiming Bill of Rights Day on December 15, 2004.

The Mayor also recognized Bill Wisner with Habitat for Humanity. Mr. Wisner acknowledged Tierney Moore, a homeowner, who presented Mayor Bell with a symbolic check in the amount of \$141,720.47 representing the 2004 property taxes on Durham Habitat built houses.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. Interim City Manager Baker informed Council that the following language should be added to Consent #24 [Upgrade for computer Aided Dispatch for 9-1-1] -- To authorize the City Manager to make changes to the contract before execution provided that changes do not increase the dollar amount of the contract and on terms and conditions not less favorable to the City. Also, he requested that Consent #33 [Civic Center Market and Economic Analysis] be referred back to the administration, provided handout for GBA #25 [Synthetic Fixed Rate Refinancing] and recognized Scott Reed who made a presentation regarding the Durham One Call Center. Finally, the Manager addressed an article in the newspaper regarding special assessment collections noting the administration has no intention of making a recommendation at this time to forgive any of those collections.

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to accept the City Manager's priority items 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.

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

Council Member Clement congratulated the Butterfly Wings Ministry at the Northeast Baptist Church for their December 17 performance and thanked the Human Relations Department/Commission for honoring him with the Human Rights Award on December 10, 2004.

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Council Member Best read a Resolution Memorializing James Ballard Brame and Council Member Brown read a Resolution Memorializing William Thomas Coman.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Consent Agenda Items 1, 21, 23, 28, 33, 50, 55, 56 and 57 were pulled.

MOTION by Council Member Stith seconded by Council Member Catotti to approve the Consent Agenda as amended was approved at 7:34 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: ASOC AMENDED BY-LAWS (SEPTEMBER 2004)

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept the Amended ASOC By-Laws (Amended September 2004) as approved by the ASOC on October 25, 2004 was approved at 7:34 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: ORDINANCE AMENDING ORDINANCE 13035 REGARDING THE ANNEXATION OF QUAIL CREEK

MOTION by Council Member Stith seconded by Council Member Catotti to adopt an Ordinance Amending Ordinance 13035 regarding the annexation of Quail Creek to correct minor technical errors on the annexation map and legal metes and bound description was approved at 7:34 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 #13051

SUBJECT: APPROVAL OF CITY COUNCIL MINUTES

MOTION by Council Member Stith seconded by Council Member Catotti to approve minutes for the November 15, 2004 regular City Council Meeting was approved at 7:34 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 MEMORIALIZING JAMES BALLARD BRAME

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MOTION by Council Member Stith seconded by Council Member Catotti to adopt a Resolution Memorializing James Ballard Brame was approved at 7:34 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 #9196

SUBJECT: RESOLUTION MEMORIALIZING WILLIAM THOMAS COMAN

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a Resolution Memorializing William Thomas Coman was approved at 7:34 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 #9197

SUBJECT: DURHAM CONVENTION AND VISITORS BUREAU – CITY COUNCIL APPOINTMENT

MOTION by Council Member Stith seconded by Council Member Catotti to re-appoint Mayor Pro Tempore Cora Cole-McFadden to the Durham Convention and Visitors Bureau with term expiring December 31, 2006 was approved at 7:34 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 CITY-COUNTY ENVIRONMENTAL AFFAIRS BOARD – REMOVAL OF MEMBER

MOTION by Council Member Stith seconded by Council Member Catotti to remove Darryl Roberts from the Durham City-County Environmental Affairs Board due to attendance requirements was approved at 7:34 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: PASSENGER VEHICLE FOR HIRE COMMISSION – RECEIPT AND ACCEPTANCE OF APPLICATIONS

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 Passenger Vehicle for Hire Commission with a term expiring on January 1, 2008 was approved at 7:34 p.m. by the following vote: Ayes:

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

**SUBJECT: RALEIGH-DURHAM AIRPORT AUTHORITY – RECEIPT AND
ACCEPTANCE OF APPLICATIONS**

MOTION by Council Member Stith seconded by Council Member Catotti to receive and accept applications for a citizen to fill one (1) vacancy on the Raleigh-Durham Airport Authority with a term expiring on January 1, 2007 was approved at 7:34 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: MAYOR'S NOMINEES FOR REAPPOINTMENT – PASSENGER
VEHICLE FOR HIRE COMMISSION AND RALEIGH-DURHAM
AIRPORT AUTHORITY**

MOTION by Council Member Stith seconded by Council Member Catotti to reappoint Shelly A. Green - Mayor's Appointee to the Passenger Vehicle For Hire Commission with a term to expire on January 1, 2007 and to reappoint Robert D. Teer, Jr. (Mayor's Appointee) to the Raleigh-Durham Airport Authority with a term to expire January 1, 2007 was approved at 7:34 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 CIVIC CENTER AUTHORITY – MAYOR'S NOMINEE FOR
APPOINTMENT**

MOTION by Council Member Stith seconded by Council Member Catotti to appoint R. Edward Stewart (Mayor's Appointee) to the Durham Civic Center Authority with a term expiring on December 31, 2005 was approved at 7:34 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 contracts as listed below; and

To authorize the City Manager to make changes to the contracts on the list 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 7:34 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.

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Contractor	Contract Description	Dept	CT Amount
Jason Davis	Basketball Official	P&R	\$1,500.00
Waldo Rogers	Basketball Official	P&R	\$1,300.00
Frank Norton	Basketball Official	P&R	\$2,000.00
Christopher Smith	Basketball Official	P&R	\$2,500.00
Brenson Boswell	Basketball Official	P&R	\$2,000.00
Tracy Euliss	Water Aerobics	P&R	\$1,364.00
Anthony Pough	Basketball Official	P&R	\$1,300.00
Edwin Dennis	Gate Opener	P&R	\$1,500.00
Raymond Dobson	Basketball Official	P&R	\$1,300.00
William Britt	Basketball Official	P&R	\$1,300.00
Andre Webb	Basketball Official	P&R	\$1,300.00
Jeffrey Norris	Basketball Official	P&R	\$1,300.00
Dennis Scott	Basketball Official	P&R	\$1,300.00
Stephen Gilmore	Basketball Official	P&R	\$1,300.00
Edwin Dennis	Light Attendant	P&R	\$1,500.00
Raymond Alston Jr	Basketball Official	P&R	\$1,300.00
Mark Webb	Basketball Official	P&R	\$1,300.00
John Avery Boys& Girls Club	Weed & Seed After School Program	Housing	\$4,012.16
GEL Environmental	Transfer Station-Core Boring-Water Sampling	Gen Ser	\$21,746.00
ComputerPlus Sales & Service	Maintenance of AS/400 System	Police	\$8,113.20

SUBJECT: BIDS – VEHICLES

MOTION by Council Member Stith seconded by Council Member Catotti to accept the bid from Benson Ford, Inc., in the amount of \$197,085 for providing the City with Vehicles (Item no. 3 – Two Police TACT Vehicles, Item no. 8 – Five 8,600 GVWR Pickup Trucks, Item no. 9 – One 8,600 GVWR Service Truck, Item no. 10 – One 8,600 GVWR Extended Cab Service Truck, Item no. 12 – One 8,600 GVWR 4X4 Service Truck, Item no. 13 – One 8,600 GVWR 4X4 Service Truck, and Item no. 14 – One 8,600 GVWR 4X4 Extended Cab Pickup Truck);

To authorize the City Manager to enter into a contract with Benson Ford, Inc., in the amount of \$197,085 for providing the City with Vehicles (Item no. 3 – Two Police TACT Vehicles, Item no. 8 – Five 8,600 GVWR Pickup Trucks, Item no. 9 – One 8,600 GVWR Service Truck, Item no. 10 – One 8,600 GVWR Extended Cab Service Truck, Item no. 12 – One 8,600 GVWR 4X4 Service Truck, Item no. 13 – One 8,600 GVWR 4X4 Service Truck, and Item no. 14 – One 8,600 GVWR 4X4 Extended Cab Pickup Truck);

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To accept the bid from Ilderton Dodge, Inc., in the amount of \$204,394 for providing the City with Vehicles (Item no. 1 – Two Compact Sedans and Item no. 11 – Ten 8,600 GVWR 4X4 Pickup Trucks);

To authorize the City Manager to enter into a contract with Ilderton Dodge, Inc., in the amount of \$204,394 for providing the City with Vehicles (Item no. 1 – Two Compact Sedans and Item no. 11 – Ten 8,600 GVWR 4X4 Pickup Trucks);

To accept the bid from Morehead City Ford, Inc., in the amount of \$94,719 for providing the City with Vehicles (Item no. 15 – One 8,600 GVWR 4X4 Crewcab Pickup Truck, Item no. 16 – One 9,200 GVWR Pickup Truck and Item no. 17 – Two 9,200 GVWR Crewcab Service Trucks);

To authorize the City Manager to enter into a contract with Morehead City Ford, Inc., in the amount of \$94,719 for providing the City with Vehicles (Item no. 15 – One 8,600 GVWR 4X4 Crewcab Pickup Truck, Item no. 16 – One 9,200 GVWR Pickup Truck and Item no. 17 – Two 9,200 GVWR Crewcab Service Trucks);

To accept the bid from the Durham Automotive Company, Inc., dba Rick Hendrick Chevrolet, in the amount of \$16,714 for providing the City with Vehicles (Item no. 4 – One Mid-Sized Passenger Van);

To authorize the City Manager to enter into a contract with the Durham Automotive Company, Inc., dba Rick Hendrick Chevrolet, in the amount of \$16,714 for providing the City with Vehicles (Item no. 4 – One Mid-Sized Passenger Van);

To accept the bid from Terry Labonte Chevrolet, in the amount of \$317,980 for providing the City with Vehicles (Item no. 18 – One 50,000 GVWR Dump Truck with Snow Plow and Item no. 19 – Three 50,000 GVWR Dump Trucks with Snow Plows and Salt Spreaders);

To authorize the City Manager to enter into a contract with Terry Labonte Chevrolet, in the amount of \$317,980 for providing the City with Vehicles (Item no. 18 – One 50,000 GVWR Dump Truck with Snow Plow and Item no. 19 – Three 50,000 GVWR Dump Trucks with Snow Plows and Salt Spreaders);

To accept the bid from University Ford, Inc., in the amount of \$1,072,540 for providing the City with Vehicles (Item no. 2 – Forty-three Police Patrol Vehicles, Item no. 5 – Six 9,200 GVWR Cargo Vans, Item no. 6 – One 4X4 Compact Hybrid SUV, and Item no. 7 – Six Compact Pickup Trucks);

To authorize the City Manager to enter into a contract with University Ford, Inc., in the amount of \$1,072,540 for providing the City with Vehicles (Item no. 2 – Forty-three Police Patrol Vehicles, Item no. 5 – Six 9,200 GVWR Cargo Vans, Item no. 6 – One 4X4 Compact Hybrid SUV, and Item no. 7 – Six Compact Pickup Trucks); and

To authorize the City Manager to modify the aforementioned contracts before execution provided that modifications do not increase the dollar amount of the contracts and the

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modifications are consistent with the general intent of the existing version of the contracts was approved at 7:34 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: BIDS – FIRE AND RESCUE PUMPER – STEVENS FIRE EQUIPMENT, INC.

MOTION by Council Member Stith seconded by Council Member Catotti to accept the bid from Stevens Fire Equipment, Inc., in the amount of \$274,034 for providing the City with a Fire and Rescue Pumper;

To authorize the City Manager to enter into a contract with Stevens Fire Equipment, Inc., in the amount of \$274,034 for providing the City with a Fire and Rescue Pumper; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:34 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: BIDS – ESTIMATED ANNUAL REQUIREMENTS FOR LIQUID SODIUM HYDROXIDE 1,000 TONS – UNIVAR USA, INC.

MOTION by Council Member Stith seconded by Council Member Catotti to accept the bid from Univar USA, Inc. in the amount of \$405,000 for providing the City with its estimated annual requirements for Liquid Sodium Hydroxide;

To authorize the City Manager to enter into a contract with Univar USA, Inc. in the amount of \$405,000 for providing the City with its estimated annual requirements for Liquid Sodium Hydroxide; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:34 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: AMENDMENT TO CLAIMS ADMINISTRATION CONTRACT

To authorize the City Manager to amend the existing contract with Key Risk Management Services, Inc., to provide for administration of claims occurring prior to November 1, 2004, at a cost not to exceed \$45,000; and

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To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Note: This item was approved at the 12/9/04 Work Session with a vote of 6/0.

SUBJECT: STREET CLOSING (SC04-23) – SET HEARING ON THE CLOSING OF 150.11 LINEAR FEET OF AN UNNAMED ALLEY SOUTH OF LAVENDER AVENUE

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a resolution to set a public hearing on the proposed closing of 150.11 linear feet of an unnamed alley south of Lavender Avenue for January 3, 2005 was approved at 7:34 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 #9198

SUBJECT: STREET CLOSING (SC04-24) – SET HEARING ON THE CLOSING OF 300 LINEAR FEET OF AN UNNAMED ALLEY EAST OF LINDBERGH STREET

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a resolution to set a public hearing on the proposed closing of 300 linear feet of an unnamed alley east of Lindbergh Street for January 3, 2005 was approved at 7:34 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 #9199

SUBJECT: SETTING PUBLIC HEARINGS FOR THE CONFIRMATION OF ASSESSMENT ROLLS

MOTION by Council Member Stith seconded by Council Member Catotti to adopt resolutions setting public hearings for January 3, 2005 for the following assessment rolls was approved at 7:34 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.

Sewer Main on Rivermont Road from Northeast Property Line of Tax Map # 767-4-17 to Northeast Property Line of Tax Map 770-2-1;

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Sewer Main on Rivermont Road from Northeast Property Line of Tax Map 767-4-17 Southwest to the Rivermont Road Outfall; and

Water Main on Marywood Drive from the East Property Line Tax Map 773-3-3 to the North Property Line Tax Map 773-5-10 and Kara Place from Marywood Drive to the end of the Cul-de-sac.

SUBJECT: STATE DEVELOPMENT ZONE TWO-YEAR EXTENSION

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute any and all documents needed relating to the re-designation of the State Development Zone for the City of Durham in its current configuration was approved at 7:34 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: UPGRADE OF COMPUTER AIDED DISPATCH FOR 9-1-1 - SUNGARD O.S.S.I.

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a contract with Sungard O.S.S.I. in the amount of \$2,541,350 for the upgrade and subsequent maintenance of the Computer Aided Dispatch system used by the 9-1-1 Center;

To establish a contingency fund for the Sungard O.S.S.I. upgrade in the amount of \$158,650; and

To authorize the City Manager to negotiate change orders for the Sungard O.S.S.I. upgrade provided that the cost of all change orders does not exceed \$158,650 and the total project cost does not exceed \$2,700,000 and to authorize the City Manager to make changes to the contract before execution provided that changes do not increase the dollar amount of the contract and on terms and conditions not less favorable to the City was approved at 7:34 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 POLICY FOR LIABILITY CLAIMS INVOLVING IMMUNITY

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a Resolution to Adopt a Policy to Waive Governmental Immunity in Limited Circumstances;

To adopt a Resolution to Establish a Funded Reserve for Claims Where Governmental Immunity Is Waived; and

To adopt a Resolution Establishing FY 2004-05 Financial Plan for the "Funded Reserve for Immunity Waiver" Fund to provide an appropriation of \$500,000 for the funded reserve for

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claims where governmental immunity is waived was approved at 7:34 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 #s 9200, 9201 and 9202

**SUBJECT: TWIN LAKES PARK FIELD RENOVATION CONSTRUCTION
CONTRACT – VALLEYCREST LANDSCAPE DEVELOPMENT, INC.**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with ValleyCrest Landscape Development, Inc. in the amount of \$428,095;

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract; and

To authorize the City Manager, or his designee, to establish a project contingency fund in the amount of \$42,810 for any unforeseen project related expenses and to negotiate and execute change orders for the project provided that the cost does not exceed \$42,810 and the total cost of the project does not exceed \$470,905 was approved at 7:34 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: CONTRACT FOR PUMP HOUSE RENOVATIONS AT LONG MEADOW
POOL – WATER & WASTE SYSTEMS CONSTRUCTION, INC.**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to enter into a contract with Water & Waste Systems Construction, Inc., in the amount of \$96,600 for Pump House Renovations, and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract; and

To authorize the City Manager, or his designee, to establish a project contingency in the amount of \$9,600 for a total project cost of \$106,200 and to negotiate and execute change orders for the project provided the cost does not exceed nine thousand six hundred dollars \$9,600 and the total cost of the project does not exceed \$106,200 was approved at 7:34 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.

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**SUBJECT: SUB-RECIPIENT AGREEMENT, GENESIS HOME, INC. \$35,826 IN
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR
INFRASTRUCTURE IMPROVEMENTS – 300 N. QUEEN STREET**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the expenditure of CDBG funds in an amount not to exceed \$35,826;

To authorize the City Manager to execute a sub-recipient agreement with Genesis Home, Inc. to conduct structural and infrastructure improvements at their facility located at 300 N. Queen Street; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the version of the agreement was approved at 7:34 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: SUB-RECIPIENT AGREEMENT WITH THE COMMUNITY BUILDERS,
INC. – CALVERT PLACE**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a sub-recipient agreement with The Community Builders, Inc., for funding to provide infrastructure improvements, architectural supervision, and legal fees for the Calvert Place development;

To authorize the expenditure of up to \$175,000 from CDBG funds; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the version of the agreement was approved at 7:34 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: CIVIC CENTER MANAGEMENT AND CATERING AGREEMENTS –
SHANER HOTEL GROUP – CITY OF DURHAM – DURHAM COUNTY**

MOTION by Council Member Stith seconded by Council Member Catotti To authorize the City Manager to execute amendments to the Civic Center Management and Catering Agreements to extend the termination dates of these agreements to February 28, 2004; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the version of the agreement was approved at 7:34 p.m. by

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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: CONTROLLED SUBSTANCE TAX DISTRIBUTION FUNDS AND
DURHAM POLICE DEPARTMENT FEDERAL ASSET FORFEITURE
FUNDS - \$88,600 - PURCHASE OF NECESSARY EQUIPMENT TO BE
USED IN POLICE INVESTIGATIONS**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the Durham Police Department Federal Asset Forfeiture Funds in an amount of \$88,600 to purchase the items described in this request that are necessary to enhance police investigations was approved at 7:34 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: AMENDED CONTRACT FOR REIMBURSEMENT OF COSTS
INCURRED FOR LAW ENFORCEMENT ASSISTANCE AND GRANT
PROJECT ORDINANCE – CITY OF DURHAM – TOWN OF CHAPEL
HILL**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute the contract for Reimbursement of Costs Incurred for Law Enforcement Assistance; and

To adopt a Grant Project Ordinance for the City of Durham and Town of Chapel Hill for Temporary Law Enforcement Assistance during Halloween was approved at 7:34 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 #13053

**SUBJECT: SUPPLEMENTAL AGREEMENT WITH KIMLEY-HORN AND
ASSOCIATES, INCORPORATED FOR DESIGN SERVICES – GARRETT
ROAD EXTENSION**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a Supplemental Agreement with Kimley-Horn and Associates, Incorporated for design services, not to exceed \$100,000 for the design of the Garrett Road Extension; and

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the version of the agreement was approved at 7:34 p.m. by

December 20, 2004

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: ENHANCEMENT AGREEMENT FOR PEDESTRIAN IMPROVEMENTS
ON HILLANDALE ROAD FROM CLUB BOULEVARD TO NC 147
UNDER PROJECT E-2971E (8.E999905) – NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION (NCDOT)**

MOTION by Council Member Stith seconded by Council Member Catotti to adopt a resolution authorizing the City Manager to enter into an agreement with the NCDOT for the construction of a concrete sidewalk, handicap ramps, crosswalk pavement markings, pedestrian signals, and other related components to improve pedestrian accessibility along Hillandale Road from Club Boulevard south approximately 1,750 feet to the existing sidewalk south of the Durham Freeway (NC 147);

To authorize the City Manager to modify the agreement before execution provided the modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the version of the agreement; and

To adopt an Ordinance Amending the General Capital Improvement Project Ordinance, Fiscal Year 2004-05, as amended, the same being Ordinance No. 12972 increasing Project 3, Federal and State Match Projects by \$65,000 for pedestrian improvements on Hillandale Road from Club Boulevard to NC 147 to be funded by Surface Transportation Program funds from the NCDOT was approved at 7:34 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 #9203
Ordinance #13054**

**SUBJECT: RENEWAL OF THE CENTRANET TELEPHONE LINE SERVICE
AGREEMENT WITH VERIZON SOUTH, INC.**

MOTION by Council Member Stith seconded by Council Member Catotti to authorize the City Manager to execute a three year contract with Verizon South Inc. in the amount of \$574,668 for the renewal of the CentraNet telephone line service agreement; and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract was approved at 7:34 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.

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**SUBJECT: HAYTI DEVELOPMENT CORPORATION (EAST MAIN STREET
REVITALIZATION PROJECT) RESOLUTION REPORT
PRESENTATION**

MOTION by Council Member Stith seconded by Council Member Catotti to receive a report on the Hayti Development Corporation Resolution was approved at 7:34 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: RESPONSE TO REQUEST FOR APPROVAL OF SUBORDINATION OF
CITY'S SECOND MORTGAGE BY CRESTVIEW ASSOCIATES, INC.
LIMITED PARTNERSHIP, CREST STREET COMMUNITY COUNCIL,
GENERAL PARTNER – CRESTVIEW APARTMENTS**

MOTION by Council Member Stith seconded by Council Member Catotti to approve the subordination and declination of the City's existing second mortgage loan to an amount not to exceed \$2.3 million, and to a mortgage position of not less than fifth (5th);

To approve the City's downgraded second mortgage loan to maintain the same terms and conditions for repayment as stated in the executed note dated August 31, 1994;

To disapprove additional funding in the amount of \$25,000 or less for the Crestview Apartments; and

To authorize the City Manager to execute a subordination agreement that does not increase the maximum dollar amount as approved by Council, lessen the obligations of the borrower(s) specified in the executed loan documents dated August 31, 1994, and/or extend the loan repayment terms beyond May 1, 2035 was approved at 7:34 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: HARVEY GOODWIN

To receive comments from Harvey Goodwin regarding the waste in the citizens (taxpayers) of Durham money.

Note: This item was deferred to the January 6, 2005 Work Session.

SUBJECT: PATRICIA MARTIN

MOTION by Council Member Stith seconded by Council Member Catotti to receive comments from Patricia Martin requesting a change of the current performance standard 8.1.8 regarding height of fences for residential neighborhoods was approved at 7:34 p.m. by the following vote:

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

SUBJECT: CONCERNED CITIZENS FOR ACCOUNTABLE GOVERNMENT

To receive comments from Charlotte Woods regarding an audit follow-up.

Note: This citizen did not appear at the 12/9/04 Work Session.

SUBJECT: SEEDS, INC.

MOTION by Council Member Stith seconded by Council Member Catotti to receive comments from Emily Boynton requesting a permit fee waiver for the installation of a greenhouse was approved at 7:34 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: CENTRAL INTERCOLLEGIATE ATHLETIC ASSOCIATION
TOURNAMENT**

MOTION by Council Member Stith seconded by Council Member Catotti to discuss the CIAA Tournament was approved at 7:34 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: CONTRACT WITH FITZGERALD AND ASSOCIATES, LLC FOR
CONSTRUCTION CONSULTING SERVICES**

To authorize the City Manager to negotiate and execute a contract with Fitzgerald and Associates, LLC, for construction consulting services in an amount not to exceed \$85,000; and

To authorize the City Manager to use project contingency funds as needed to fund the aforesaid agreement with Fitzgerald and Associates, LLC and to make budget transfers as needed.

Note: This item was approved at the 12/9/04 Work Session with a vote of 6/0.

[ITEM PULLED FROM CONSENT AGENDA]

SUBJECT: COMMUNITY PARTNERS AGAINST LEAD

To receive comments from Lorisa Seibel on the Mayor's Lead Grant Report.

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Sharon Long made comments on lead poisoning, discussed programs available to address this issue and presented Council with tee shirts.

Lorisa Seibel thanked Council for their support and made comments on the work that has been completed as a result of the Mayor's Lead Grant.

Note: No action was taken by the City Council on this item.

[GENERAL BUSINESS AGENDA]

SUBJECT: SYNTHETIC FIXED RATE REFINANCING - SWAP

Finance Director Ken Pennoyer made comments on this item discussing the swap issue, revised resolution and the reduction in term from 21 years to 15 years. He noted this transaction will be reviewed by the LGC at the Local Government Commission meeting on January 4, 2005, staff will report back to Council the decision of the LGC at the January 6 Work Session, the final structure of the deal at the February 7 meeting and the SWAP will be executed the week of February 14 as long as Council does not rescind their approval.

Several Council members expressed concern with the SWAP and the possibility of future changes in the tax code.

Finance Director Ken Pennoyer made comments on the staff review, process, risks and economic benefits for this transaction.

Council held discussion on staff research, total savings [\$8.3 million], fees, Local Government Commission and schedule.

Mayor Bell noted he supports saving 100% of savings.

After discussion of the schedule, Interim City Manager Baker noted this item will be discussed at the February 10 Work Session and Council action will be taken at February 21, 2005 City Council Meeting.

MOTION by Council Clement seconded by Council Member Stith to adopt the "Resolution Authorizing the Approval of an Interest Rate Exchange Agreement with Respect to Certain of the City's General Obligation Bonds and Providing for Certain Other Related Matters Thereto" was approved at 7:57 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Clement and Stith. Noes: Council Members Best, Brown and Catotti. Absent: None.

Resolution #9195

December 20, 2004

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

SUBJECT: REZONING MATTER CASE (P04-59) - 109 S. ALSTON AVENUE – CITY OF DURHAM – CITY/COUNTY PLANNING DEPARTMENT

To receive public comment on rezoning Case P04-59 (109 S. Alston Avenue); 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 rezoning Case P04-59 out of CT and placing same in and establishing same as GC.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval - (12-1)

City/County Planning Director Frank Duke briefed Council on the staff report.

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 by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comment on rezoning Case P04-59 (109 S. Alston Avenue); 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 rezoning Case P04-59 out of CT and placing same in and establishing same as GC was approved at 7:59 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: STREET CLOSING (SC04-26) - 97.94 LINEAR FEET OF AN UNNAMED ALLEY WEST OF GATTIS AND SOUTH OF JACKSON STREETS – CITY OF DURHAM HOUSING DEPARTMENT AND HABITAT FOR HUMANITY

City/County Planning Director Frank Duke briefed Council on the street closing.

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.

Council Member Clement disclosed that he serves on the Habitat for Humanity Board, but has no financial interest in this matter.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to receive public comments; and

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To adopt an Order permanently closing 97.94 linear feet of an unnamed alley west of Gattis and south of Jackson Streets was approved at 8:00 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 #13056

SUBJECT: STREET CLOSING (SC04-27) - 351.51 LINEAR FEET OF AN UNNAMED ALLEY EAST OF GATTIS AND WEST OF CARROLL STREETS - CITY OF DURHAM HOUSING DEPARTMENT AND HABITAT FOR HUMANITY

City/County Planning Director Frank Duke briefed Council on the street closing.

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.

Council Member Clement disclosed that he serves on the Habitat for Humanity Board, but has no financial interest in this matter.

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

To adopt an Order permanently closing 351.51 linear feet of an unnamed alley east of Gattis and west of Carroll Streets was approved at 8:01 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 #13057

SUBJECT: STREET CLOSING (SC04-28) - 180.20 LINEAR FEET OF GATTIS STREET - CITY OF DURHAM HOUSING DEPARTMENT AND HABITAT FOR HUMANITY

City/County Planning Director Frank Duke briefed Council on the street closing.

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.

Council Member Clement disclosed that he serves on the Habitat for Humanity Board, but has no financial interest in this matter.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Stith to receive public comments; and

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To adopt an Order permanently closing 180.20 linear feet of Gattis Street was approved at 8:02 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 #13058

SUBJECT: INITIAL ZONING (P04-16) – RAVENSTONE SUBDIVISION – SHERRON ROAD VENTURES, LLC, SHAW HILL, 22 INVESTORS, VIRGINIA WILLIAMS AND R L HORVATH ASSOCIATES, INC. - HILLVIEW DRIVE, NORTHWEST DRIVE, OPAL STREET, RONDELAY DRIVE, BOOKMAN STREET, CONOVER ROAD, WENHAM COURT, WAKE FOREST HIGHWAY, SHERRON ROAD AND BANDOCK DRIVE

City/County Planning Director Frank Duke briefed Council on the staff report.

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 by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive public comment on initial zoning Case P04-16 (Ravenstone Subdivision); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish R-10(D); F/J-B zoning for the property described in the staff report was approved at 8:03 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: INITIAL ZONING (P04-47 – VESTAVIA HILLS – KATHLEEN AND CLIFTON DUKE, SR. CLIFTON DUKE, JR. AND THE JOHN R. MCADAMS COMPANY, INC. – CARPENTER ROAD, FERRELL ROAD AND DOVETAIL ROAD

City/County Planning Director Frank Duke briefed Council on the staff report.

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 by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to receive public comment on initial zoning Case P04-47 (Vestavia Hills); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD, I-2; F/J-B zoning for the property described in the staff report was approved at 8:04 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore

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Cole-McFadden and Council Members Best, Brown, Catotti, Clement and Stith. Noes: None.
Absent:

SUBJECT: INITIAL ZONING (P04-50) – MANDALAY RIDGE – RAY TYNDALL, SUSAN TYNDALL ASHLEY, WILLIAM COLCLOUGH, PAMELA YOUNG, KENNETH TODD YOUNG, AND REGIONS DEVELOPMENT LLC – & U. S. 70 & AND ANGIER AVENUE, JONES CIRCLE AND LAUREL DRIVE

City/County Planning Director Frank Duke briefed Council on the staff report.

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 by Council Member Clement seconded by Council Member Catotti to receive public comment on initial zoning Case P04-50 (Mandalay Ridge); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish R-20; F/J-B zoning for the property described in the staff report was approved at 8:04 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: INITIAL ZONING (P04-55) – QUAIL CREEK – REALTY EXECUTIVES RALEIGH AND HADEN STANZIALE, P/A –MINERAL SPRINGS ROAD, BEALL STREET, YATES ROAD, SHERRON ROAD AND KAREN DRIVE

City/County Planning Director Frank Duke briefed Council on the staff report.

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 by Council Member Stith seconded by Council Member Catotti to receive public comment on initial zoning Case P04-55 (Quail Creek); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD, R-20; F/J-B zoning for the property described in the staff report was approved at 8:05 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.

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**SUBJECT: STREET CLOSING (SC04-12) - 40' WIDE SEGMENT EXTENDING
509.9 LINEAR FEET OF VICTORY BOULEVARD – BENNIE GLENN
C/O SIGNET GROUP REALTY ASSOCIATION – GUESS ROAD AND
HORTON ROAD**

City/County Planning Director Frank Duke briefed Council on the staff report. He noted this public hearing was continued from the December 6, 2004 City Council Meeting in order for the Public Works Department to provide additional information raised by a representative of Liberty Free Will Baptist Church.

Mayor Bell opened the public hearing.

Ron Horvath, representing the applicant, briefed Council on the discussion the applicant had with Pastor Cox and noted there was a procedural problem between the Public Works Department and the water and sewer extension agreement signed for the Liberty Free Will Baptist Church project in 1991. Also, he noted Pastor Cox will work with him through Public Works and Transportation to resolve future problems concerning the church and right-of-way.

Pastor L. Jack Cox, representing Liberty Baptist Church, made comments on the meeting he had with Mr. Glenn and Mr. Horvath and as a result has withdrawn his opposition to this street closing. Also, he noted that he has made a request to be heard at the January 6 Work Session to discuss concerns with the contract that was signed to develop the church.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Stith seconded by Mayor Pro Tempore Cole-McFadden to receive public comments; and

To adopt an Order permanently closing 509.9 linear feet of Victory Boulevard was approved at 8:09 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 #13059

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: 2005 LEGISLATIVE PROGRAM OUTLINE

Victoria Peterson expressed concern with 1) I. Charter Amendments/Local Bills Item # 1 - Performing Arts Theatre requesting that funds be set aside to build a vocational and trade center; 2) III. Other Item #4 - Resolution in support of the request of Durham County for increased funding from the General Assembly to meet the resource needs of the Durham County court system requesting that Representative Michaux introduce a bill that would allow the City to receive \$5 back from each person going through the court system. Also, she expressed concern with funds generated not being placed in African American banks.

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City Attorney Blinder noted the Legislative Committee will meet in late January or early February to discuss the Legislative Program.

A motion was made by Mayor Pro Tempore Cole-McFadden and seconded by Council Member Catotti to approve the item as printed.

Council Member Clement made a substitute motion to amend the 2005 Legislative Program outline to add the permission for a local option sales tax to enhance transportation funding. Substitute motion dies for a lack of a second.

Council held discussion on the resolution in support of efforts by the NCLM to obtain legislation to provide dedicated revenue sources for transportation and public transit.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Catotti to approve the 2005 Legislative Program Outline was approved at 8:24 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.

Revised December 13, 2004

2005 LEGISLATIVE PROGRAM OUTLINE

I. CHARTER AMENDMENTS/LOCAL BILLS

1. Extend for one year the deadlines under the one percent room occupancy tax, such that the date for approval of a plan for financing the Performing Arts Theatre and commencement of construction is extended from August 31, 2005 until August 31, 2006. Increase the cap on the amount of the initial proceeds of the tax that may be spent on design and engineering from \$248,000 to \$3,000,000. Also, if the deadlines are not met and the tax is repealed, allow a portion of the unexpended funds previously collected to be used to implement the Cultural Arts Master Plan – from Ms. Catotti and Economic Development Department.
2. Permit expanded use of 911 funds for purchases of radio equipment, radio towers and training of emergency communications personnel – from City Manager.
3. Modify and clarify the City's authority to adopt ordinances and guidelines regarding protest petitions, including allowing property owners that are "catty-corner" from a proposed rezoning to file a protest petition – from Ms. Catotti and City-County Planning Department.
4. Authorize the City to clear obstructions from streams and adjacent stream banks on private property located within the City limits, with prior notice to the property owner. Provide that City action to clear obstructions does not constitute "adoption" of the stream for purposes of continued maintenance – from Public Works Department.

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5. Expand the existing authority of the City to use wheel locks on illegally parked vehicles to also include vehicles that are lawfully parked on the public streets or in City parking facilities, where the vehicle has three or more parking tickets that are at least 90 days overdue – from General Services Department.

II. GENERAL LAW

1. Authorize municipalities to enact ordinances prohibiting discrimination in employment, housing and public accommodations, including necessary enforcement provisions – from Human Relations Commission.
2. Authorize municipalities to require property owners to register residential rental property with local government prior to renting the property – from Ms. Catotti.
3. Require residential property constructed prior to 1978 to be inspected for lead as part of a pre-sale housing inspection, with the results of the inspection furnished to the buyer, seller and tenants. Also, support the North Carolina Lead Abatement Tax Credit legislation to be proposed by the Department of Environment and Natural Resources to provide owners of residential property with an income tax credit or grant of up to \$500 to eliminate or control lead hazards on the property – from Ms. Catotti.
4. Require convenience stores, retail and food businesses, and eating establishments that hold an ABC permit and are located in development zones to not have alcoholic beverage sales in excess of fifty percent of the total annual sales of the business – from Mr. Clement.
5. Require the Division of Motor Vehicles to withhold issuance of motor vehicle license registration renewals from the owners of vehicles with unpaid parking tickets – from City Manager.

III. OTHER

1. Resolution in support of efforts by the North Carolina League of Municipalities to obtain legislation to provide dedicated revenue sources for transportation and public transit, such as a gasoline tax, toll roads, and motor vehicle registration fee – from Ms. Catotti.
2. Resolution in support of the comprehensive legislative program of the North Carolina League of Municipalities – from City Manager.
3. Resolution to ask the North Carolina Metropolitan Coalition to request the General Assembly to establish a Legislative Study Commission to examine the possibility of having the State reimburse municipalities for lost property and sales tax revenue resulting from the presence of nonprofits within the boundaries of the municipality – from Mr. Brown.
4. Resolution in support of the request of Durham County for increased funding from the General Assembly to meet the resource needs of the Durham County court system – from Mr. Brown.

SUBJECT: BUSINESS LOANS REPORT FOR NOVEMBER 2004

To receive the Business Loans Report for November 2004.

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Victoria Peterson requested a report on the American Tobacco Project and other companies that have received monies from the City for job incentives.

Interim City Manager Baker announced a report will be given at the December 21, 2004 Work Session on the American Tobacco project.

Mayor Pro Tempore Cole-McFadden noted Alan DeLisle of Economic Development is in the process of gathering information for a report on other companies that have received monies.

MOTION by Council Member Clement seconded by Council Member Stith to defer this item to the December 21, 2004 City Council Work Session was approved at 8:25 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: 9-1-1 SURCHARGE BUDGET ORDINANCE AMENDMENT

Victoria Peterson expressed concern with the 911 service urging Council to schedule a meeting with emergency personnel to discuss the fee structure.

MOTION by Council Member Clement seconded by Council Member Stith to adopt an Ordinance Amending the 2004-05 City of Durham Budget Ordinance, the Same Being Ordinance 12961 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.

Ordinance #13052

SUBJECT: CONTRACT FOR FLEET MANAGEMENT CONSULTING SERVICES

To authorize the City Manager to enter into a contract with Mercury Associates, Inc., in the amount of \$88,920 for Consulting Services, and

To authorize the City Manager to modify the contract before execution provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract.

Council Member Stith expressed a concern with the cost of this contract and asked the administration if this could have been an item for the Managed Competition Committee.

Nancy Law, of General Services, noted it has been reviewed as part of the Managed Competition process but has not been selected.

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Council Member Stith asked the administration to check with the Managed Competition Committee to see if this item could be moved up on the list.

A motion was made by Council Member Stith seconded by Council Member Clement to defer this item.

Council Member Best asked the administration to look at this item being conducted in-house.

SUBSTITUTE MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Brown to pull this item indefinitely **FAILED** at 8:40 p.m. by the following vote: Ayes: Council Member Brown. Noes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Catotti, Clement and Stith. Absent: None.

Council Member Stith noted he's amending his original motion to refer this item back to the administration as recommended by the City Attorney.

MOTION by Council Member Stith seconded by Council Member Clement to refer this item back to the administration was approved at 8:42 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Clement and Stith. Noes: Council Member Catotti. Absent: None.

SUBJECT: CIVIC CENTER MARKET AND ECONOMIC ANALYSIS

To authorize the City Manager to enter into a contract with C.H. Johnson Consulting to perform a market and economic analysis study for the Durham Civic Center complex, in the amount of \$73,715; and

To authorize the City Manager to modify the contract provided that modifications do not increase the dollar amount of the contract and the modifications are consistent with the general intent of the existing version of the contract attached to this agenda item.

Note: This item was pulled and referred back to the administration by the City Manager.

SUBJECT: DURHAM COUNTY PROPERTY

Victoria Peterson expressed concern about the appearance of the old Mechanics and Farmers Bank building.

MOTION by Council Member Clement seconded by Council Member Stith to discuss the condition of property owned by Durham County was approved at 8:45 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.

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**SUBJECT: INCREASE IN PROJECT CONTINGENCY FOR THE DATA
MAINTENANCE AND OPERATIONS FACILITY – WILD BUILDING
CONTRACTORS, INC.**

Council Member Stith asked staff questions relating to the contractor not compensating their sub-contractors and lien waiver.

Nancy Law, of General Services, noted the administration has not received the lien waiver from Mr. Jones but has one from the general contractor for the quantity of work that has been accomplished. She noted the administration has requested a lien waiver from Mr. Jones, but has not received that document.

Interim City Manager Baker briefed Council on the dispute between the sub-contractor [Mr. Jones] and the general contractor [Wild Building Contractors].

Attorney Blinder briefed council on the legal implication of not receiving the lien waiver.

Interim City Manager Baker noted the sub-contractor was paid pursuant to the check that was cashed; however, the sub-contractor is still claiming additional money.

MOTION by Council Member Clement seconded by Council Member Catotti to find that the DATA Maintenance and Operations Facility Project is at least 3% necessitated by new construction and that up to 3% of the capital costs of that project may be paid by impact fees collected within the same service zone and collected for the same purpose;

To adopt an Ordinance Amending Grant Project Ordinance FY 1999-00 Transit Grant Section 3 Capital Grant Superseding Grant Project Ordinance #12949 in the amount of \$750,000; and

To authorize the City Manager to execute change orders consistent with the authority granted by the City Council so long as the new contingency of \$2,108,031 and the total project budget of \$11,308,734 are not exceeded was approved at 8:51 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Best, Brown, Catotti and Clement. Noes: Council Member Stith. Absent: None.

Ordinance #13055

**SUBJECT: WALLTOWN HOMEOWNERSHIP PROJECT PHASE V -
HOMEOWNERSHIP PURCHASE PROGRAM SECOND MORTGAGE
LOAN GUIDELINES –SELF HELP COMMUNITY DEVELOPMENT
CORPORATION - \$250,000 1996 HOUSING BOND FUNDS**

To approve the Walltown Homeownership Phase V Purchase Program Second Mortgage Loan Guidelines to assist 10 families with second mortgages not to exceed \$25,000;

To authorize expenditure of \$250,000 in 1996 Housing Bond funds for this activity; and

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To authorize the City Manager to make changes to the guidelines which are consistent with this agenda item memo and do not increase the loan amount or increase the number of loans.

Evan Covington-Chavez, of Self-Help, provided background information on this item. She urged Council to reconsider going back to zero percent interest for this final phase of the Walltown Homeownership project.

Constance Stancil of the Housing Department noted the interest rate has been at zero percent ever since the City began its relationship with Self-Help on the Walltown Homeownership project and this project has five phases and it was understood at the inception that it would be zero percent over the five phases.

Council held discussion on the difference in overall payment from zero percent to two percent, the rate charged by Self-Help and other phased projects in the pipeline.

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to approve the Walltown Homeownership Phase V Purchase Program Second Mortgage Loan Guidelines to assist 10 families with second mortgages not to exceed \$25,000 each at an interest rate of zero percent;


To authorize expenditure of \$250,000 in 1996 Housing Bond funds for this activity; and

To authorize the City Manager to make changes to the guidelines which are consistent with this agenda item memo and do not increase the loan amount or increase the number of loans was approved at 9:05 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.

Relative to an e-mail that Council received from a citizen, Council Member Best asked the administration to provide a report on the Fire Department's travel policy for non-emergency calls to and from the station within a 24-hour duty at the January 6, 2005 Work Session.

Mayor Bell welcomed Jake Anderson from Boy Scout Troop #412.

There being no further business to come before the City Council, the meeting was adjourned at 9:10 p.m.


Linda E. Bratcher
Deputy City Clerk


D. Ann Gray, CMC
City Clerk