



# Minutes of the Burlington City Council Meeting

Municipal Building Council Chamber, 425 S. Lexington Avenue, Burlington, NC  
7:00pm – Tuesday, April 5, 2021

The City Council of the City of Burlington held a regularly scheduled meeting in the Municipal Building Council Chamber at 7:00pm on April 5, 2022.

Mayor Jim Butler presided.

## **Council Members Present:**

Mayor Jim Butler  
Mayor Pro Tem Harold Owen  
Council Member Robert Ward  
Council Member Kathy Hykes  
Council Member Ronnie Wall

## **Staff Present:**

Interim City Manager David Cheek  
City Attorney David Huffman  
City Clerk Beverly Smith

**Council Members Absent:** None

**Call to Order:** Mayor Jim Butler

The meeting was called to order at 7:00pm.

**Invocation:** Mayor Jim Butler

**Proclamation:** National Public Safety Telecommunicators Week – April 10-16, 2022

Burlington Graham Police/Fire Communications Manager, Stephanie Chatman and Captain Todd Long were in attendance to accept the Proclamation.

## **Ceremonial Oath of Office – City Clerk**

Mayor Butler administered the ceremonial oath of office to City Clerk, Beverly Smith.

**Code of Ethics Disclosing Conflicts of Interest:** City Clerk, Beverly Smith

There were no conflicts reported.

**Approval of Minutes** March 15, 2022, City Council Meeting

Council Member Wall made a motion, seconded by Council Member Ward, to approve the foregoing minutes. The motion carried unanimously.

## **Additions to Agenda**

### ***Consent Agenda:***

**Item C:** Adopt a Resolution to Set a Date of Public Hearing – Old Glencoe Road Voluntary Non- Contiguous Annexation

**Item D:** Transdev Services, Inc., Agreement – Fixed Route and ADA Paratransit Services

**Item E:** Stormwater Drainage Policy Revisions

***New Business - Item 3:*** Reclassifications Planning and Transportation Departments

Mayor Pro Tem Owen made a motion, seconded by Council Member Wall, to approve the foregoing additions. The motion carried unanimously.

**Adoption of Agenda**

Council Member Hykes made a motion, seconded by Council Member Ward, to adopt the agenda with the additions. The motion carried unanimously.

**Consent Agenda**

- A. To approve the Notice of Intent to adopt a Resolution authorizing the extension of the lease of city-owned surplus real property to American Tower Asset Sub, LLC, at the May 17, 2022, City Council Meeting.

**Resolution#22-04**

**NOTICE OF INTENT BY THE CITY OF BURLINGTON TO ADOPT A RESOLUTION TO AMEND THE GROUND LEASE AGREEMENT WITH AMERICAN TOWER ASSET SUB, LLC**

PURSUANT to North Carolina General Statute 160A-272, the City of Burlington, North Carolina, intends to adopt a resolution authorizing the extension of the lease of City-owned surplus real property located at Hawkins Street and Lexington Avenue to American Tower Asset Sub, LLC, for the purpose of providing cellular and wireless internet service and said property proposed to be leased being more particularly described as follows:

**Lease Area**

A certain tract or parcel of land in Burlington Township, Alamance County, North Carolina, adjoin the lands of Hawkins Street, Lexington Avenue, C.T. Holt and H. Graves Holt, Velna R. Newlin, Newlin Hardware Company Inc., and Electric Equipment Sales and Service, Inc. and being further described as follows:

**BEGINNING** at an iron stake, said stake being a corner with Velna R. Newlin and Newlin Hardware Company, Inc. and lying South 32° 07' 20" East 100.30 feet from and iron stake, corner with Velna R. Newlin and Newlin Hardware Company Inc. in the south right-of-way line of Spring Street and running thence with the line of Newlin Hardware Company, Inc. North 53° 44' 10" East 216.34 feet to an iron stake, said stake being a corner with Electric Equipment Sales and Service, Inc.; thence with Electric Equipment Sales and Service, Inc., the following courses and distances: South 60° 13' East 40.84 feet to an iron stake; thence South 33° 19' 30" East 119.93 feet; thence South 32° 22' 10" East 92.03 feet to an iron stake in the west right-of-way line of Hawkins Street, thence with the west right-of-way line of Hawkins Street, South 14° 09' 40" East 103.36 feet to an iron stake at the intersection of the west right-of-way line of Hawkins Street and the north right-of-way of Lexington Avenue; thence with the North right-of-way of Lexington Avenue, South 55° 33' 50" West 207.64 feet to an iron stake, said stake being a corner with C.T. Holt and H. Graves Holt; thence with the line of the said Holt's, North 31°49' 10" West 205.85 feet to an iron stake, said stake being a common corner with Velna R. Newlin and the said Holt's; thence with the line of Velna R. Newlin, North 31° 59' 50" West 133.17 feet to the **BEGINNING**, and being shown on City of Burlington Engineering Department Drawing No. 2489-78, dated December 20, 1978 and containing 1.825Acres, more or less. See Deed Book 440, Page 785, Alamance County Registry.

**Leased Site**

The below-described property, lying in Burlington Township, Alamance, North Carolina, is a portion of the above-described Tract and is more particularly described as follows:

**BEGINNING** at a point in the North right-of-way line of North Lexington Avenue, said point lying south 55° 32' 52" West 74.08 feet from an iron stake at the intersection of the North right-of-way line of North Lexington Avenue and the West right-of-way line of Hawkins Street and running thence from said beginning point with the North right-of-way line of North Lexington Avenue South 55° 33' 52" West 133.48 feet to an iron stake, said stake being a corner with Robert J. Greeson as recorded in Deed Book 645, Page 516, Alamance County Register; thence with the line of said Robert J. Greeson North 31° 49' 10" West 95.09 feet to a point; thence a line across the lands of the City of Burlington the following courses and distances: North 55° 33' 52" East 90.56 feet to a point; thence South 34° 26' 08" East 25.44 feet to a point; thence North 85° 33' 52" East 44.55 feet to a point; thence South 34° 26' 08" East 47.27 feet to the BEGINNING and containing 11, 061 square feet as shown on that survey by George C. Love, Jr. entitled "Property of City of Burlington" dated April 3, 1994.

### **Access and Utility Easement**

Tenant retains all access and utility easement(s) from the Leased Site to the public right-of-way.

In accordance with North Carolina General Statutes 160A-272, the City of Burlington, upon confirmation by the City Council of the City of Burlington at its meeting on April 5, 2022, intends to adopt a resolution amending the existing lease to provide Tenant with the option to extend the lease for three (3) additional five (5) year renewal terms for the period starting July 1, 2027 and expiring June 30, 2042, of the above-described surplus real property.

American Tower proposes to use the Leased Property for the purpose of maintaining and operating a communication facility and all uses incidental thereto.

Compensation to the City of Burlington shall be a ground lease of \$17,622.12 per year and an increase of 3% annually, a one-time payment of thirty thousand, (\$30,000), and 50% of sublease rents.

Further information regarding the property and the proposed lease of said property may be obtained at the City of Burlington Public Works Department, 234 East Summit Avenue, Burlington, North Carolina 27215.

Adopted this 5<sup>th</sup> day of April 2022.

- B.** To adopt a Resolution authorizing the acceptance of donated fitness equipment and enter a Product Donation Agreement between the City of Burlington and Dick's Sporting Goods, Inc., for the purpose of expanding the wellness and fitness of employees of the Burlington Fire Department.

### **Resolution#22-05**

#### **RESOLUTION AUTHORIZING THE ACCEPTANCE OF DONATED FITNESS EQUIPMENT**

**WHEREAS**, Dick's Sporting Goods has offered to Burlington Fire Department closeout fitness equipment; and

**WHEREAS**, the City of Burlington Fire Department has identified a need for such equipment to provide and upgrade fitness equipment at several fire stations; and

**WHEREAS**, Dick’s Sporting Goods offers this equipment at no charge to the City upon execution of a Product Donation Agreement;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA:**

Sec. 1. That the City of Council of the City of Burlington does hereby authorize the Fire Department to execute a Product Donation Agreement to receive the fitness equipment for the purpose of expanding the wellness and fitness of employees at the Burlington Fire Department.

Adopted this 5<sup>th</sup> day of April 2022.

- C. To adopt a Resolution to set a date of Public Hearing for the April 19, 2022, City Council Meeting to consider a non-contiguous voluntary annexation of parcel located at Old Glencoe Road, PID 140418.

**Resolution#22-06**

**RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31**

WHEREAS, a petition requesting annexation of the non-contiguous area described herein has been received; and

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlington, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Municipal Building at 7:00pm on Tuesday, April 19, 2022.

Section 2. The area proposed for annexation is described as follows:

**Old Glencoe Road (PID 140418) Non-Contiguous Voluntary Annexation**

BEGINNING COMMENCING AT NC GEODETIC SURVEY MONUMENT "MEET" (NORTH 866,890.11 FEET, EAST 1,873,064810 FEET NAD 83/11, COMBINED GRID FACTOR 0.999957312); THENCE N 60° 27' 52" W 171.24' TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE SOUTHWESTERN CORNER OF THAT PROPERTY OWNED BY CLARENCE WADE COBB (DEED BOOK 3569, PAGE 275 AND PLAT BOOK 53, PAGE 6, LOT 2 ALAMANCE COUNTY REGISTRY) SAID IRON PIPE BEING IN THE NORTHERN RIGHT OF WAY OF WEST OLD GLENCOE ROAD, THE POINT OF BEGINNING; THENCE WITH THE NORTHERN RIGHT OF WAY OF WEST OLD GLENCOE ROAD THE FOLLOWING THREE (3) CALLS, 1) A CURVE TO THE LEFT HAVING A RADIUS OF 1082.50 FEET, A LENGTH OF CURVE 229.29 FEET WITH CHORD BEARING AND DISTANCE N 72° 34' 41" W 228.87 FEET TO AN EXISTING IRON PIPE, 2) N 78° 30' 58" W FOR A DISTANCE OF 783.54 FEET TO AN EXISTING IRON PIPE, 3) A CURVE TO THE LEFT HAVING A RADIUS OF 1059.29 FEET, A LENGTH OF CURVE 123.92 FEET WITH CHORD BEARING AND DISTANCE N 81° 46' 15" W 123.85 FEET TO AN

EXISTING IRON PIPE, SAID IRON PIPE MARKING THE SOUTHEASTERN CORNER OF THAT PROPERTY OWNED BY FUJI FOODS INC. (DEED BOOK 935, PAGE 747 AND PLAT BOOK 71, PAGE 54, LOT 1 ALAMANCE COUNTY REGISTRY); THENCE FOLLOWING FUJI FOODS INC. THE FOLLOWING FIVE (5) CALLS, 1) N 00° 40' 29" E 534.02 FEET TO AN EXISTING IRON PIPE, 2) N 39° 26' 05" E 117.05 FEET TO AN EXISTING IRON PIPE, 3) N 34° 27' 47" W 455.05 FEET TO AN EXISTING IRON PIPE, 4) N 67° 23' 17" W 397.33 FEET TO AN EXISTING TRON PIPE, 5) S 67° 25' 38" W 798.47 FEET TO AN EXISTING TRON PIPE, SAID TRON PIPE MARKING THE SOUTHEASTERN CORNER OF THAT PROPERTY OWNED BY MICHAEL AARON & JANICE P. DAVIS (DEED BOOK 2009, PAGE 202 ALAMANCE COUNTY REGISTRY); THENCE WITH THE EASTERN LINE OF MICHAEL AARON & JANICE. P DAVIS THE FOLLOWING THREE (3) CALLS, 1) N 16° 00' 37" E 89.94 FEET TO AN EXISTING TRON PIPE, 2) N 15° 57' 43" E 299.98 FEET TO AN EXISTING TRON PIPE, 3) N 16° 00' 51" E 249.55 FEET TO AN EXISTING TRON PIPE, SAID TRON PIPE MARKING THE SOUTHEASTERN CORNER OF THAT PROPERTY OWNED BY ALAMANCE CITY, COUNTY POLICE CLUB INC. (DEED BOOK 1353, PAGE 935 ALAMANCE COUNTY REGISTRY); THENCE WITH THE EASTERN LINE OF ALAMANCE CITY, COUNTY POLICE CLUB INC. N 15° 57' 13" E 432.10 FEET TO AN EXISTING PINCHED TRON PIPE, SAID TRON PIPE BEING ON THE SOUTHERN BANK OF THE HAW RIVER; THENCE FOLLOWING THE SOUTHERN BANK OF THE HAW RIVER THE FOLLOWING NINETEEN (19) CALLS, 1) N 54° 13' 04" E 335.00 FEET TO A CALCULATED POINT, 2) N 27° 15' 05" E 303.92 FEET TO A CALCULATED POINT, 3) N 09° 37' 55" E 440.81 FEET TO A CALCULATED POINT, 4) N 14° 54' 23" E 219.63 FEET TO A CALCULATED POINT, 5) N 28° 09' 16" E 224.87 FEET TO A CALCULATED POINT, 6) N 33° 20' 09" E 234.92 FEET TO A CALCULATED POINT, 7) N 45° 36' 09" E 148.74 FEET TO A CALCULATED POINT, 8) N 67° 05' 24" E 150.88 FEET TO A CALCULATED POINT, 9) S 85° 04' 54" E 171.89 FEET TO A CALCULATED POINT, 10) S 41° 24' 17" E 342.65 FEET TO A CALCULATED POINT, 11) S 28° 03' 18" E 134.05 FEET TO A CALCULATED POINT, 12) S 04° 08' 29" E 218.97 FEET TO A CALCULATED POINT, 13) S 31° 34' 29" E 29.89 FEET TO A CALCULATED POINT, 14) S 10° 32' 47" W 39.59 FEET TO A CALCULATED POINT, 15) S 55° 16' 13" E 244.59 FEET TO A CALCULATED POINT, 16) S 42° 20' 56" E 254.29 FEET TO A CALCULATED POINT, 17) S 36° 44' 58" E 271.39 FEET TO A CALCULATED POINT, 18) S 46° 47' 29" E 207.90 FEET TO A CALCULATED POINT, 19) S 41° 32' 44" E 108.95 FEET TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE NORTHWESTERN CORNER OF THAT PROPERTY OWNED BY JOSE ANGEL & DEBORAH PINNIZ ZAYAS (DEED BOOK 1583, PAGE 496 ALAMANCE COUNTY REGISTRY); THENCE WITH JOSE ANGEL & DEBORAH PINNIZ ZAYAS THE FOLLOWING TWO CALLS, 1) S 24° 55' 44" W 360.26 FEET TO A NEW IRON PIPE SET, 2) S 71° 37' 23" E 194.79 FEET TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE NORTHWESTERN CORNER OF THAT PROPERTY OWNED BY JAMES E. & VALERIE J. TORAIN (DEED BOOK 2388, PAGE 88 AND PLAT BOOK 70, PAGE 332, LOT 1 ALAMANCE COUNTY REGISTRY); THENCE S 05° 41' 32" W 194.13 FEET A NEW IRON PIPE SET; THENCE CONTINUING WITH JAMES E. & VALERIE J. TORAIN S 05° 41' 44" W 141.42 FEET TO AN EXISTING TRON PIPE, SAID IRON PIPE MARKING THE NORTHWESTERN CORNER OF THAT PROPERTY OWNED BY ROGER DALE ALLEN (DEED BOOK 2285, PAGE 726 AND PLAT BOOK 70, PAGE 1, LOT 2 ALAMANCE COUNTY REGISTRY); THENCE S 05° 41' 37" W 195.28 FEET TO AN EXISTING IRON PIPE; THENCE CONTINUING WITH ROGER DALE ALLEN S 69° 31' 41" E 249.58 FEET TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE NORTHWESTERN CORNER OF THAT PROPERTY OWNED BY THE ESTATE OF NANCY COX & BETTY G. HILL (DEED BOOK 360, PAGE 25 ALAMANCE COUNTY REGISTRY); THENCE WITH THE ESTATE OF NANCY COX &

BETTY G. HILL S 17° 40' 41" W 58.61 FEET TO AN EXISTING IRON PIPE; THENCE S 17° 28' 11" W 153.04 FEET TO AN EXISTING IRON PIPE, SAID IRON PIPE MARKING THE NORTHWESTERN CORNER OF THAT PROPERTY OWNED BY CLARENCE WADE COBB (DEED BOOK 3569, PAGE 275 AND PLAT BOOK 53, PAGE 6, LOT 2 ALAMANCE COUNTY REGISTRY); THENCE WITH THE WESTERN LINE OF CLARENCE WADE COBB S 15° 41' 53" W 1185.87 FEET TO AN EXISTING IRON PIPE, THE POINT OF BEGINNING, CONTAINING 129.418 ACRES MORE OR LESS AND BEING ALL OF THAT PARCEL DESCRIBED IN DEED BOOK 2444, PAGE 787 AND PLAT BOOK 71, PAGE 54 ALAMANCE COUNTY REGISTRY.

Section 3. Notice of the public hearing shall be published in the Burlington Times-News, a newspaper having general circulation in the City of Burlington, at least 10 days prior to the date of public hearing.

Adopted this 5<sup>th</sup> day of April 2022.

- D.** To authorize an agreement with Transdev Services, Inc., upon concurrence from the City Attorney and Finance & Risk Management Director to provide fixed route and ADA paratransit services within the Burlington-Graham Urbanized Area (UZA) from July 1, 2022 to June 30, 2025 with two one-ear options.
- E.** To approve the following proposed updates to the Stormwater Drainage Policy:
  - a) Increase the City participation and cap for each property from 50% City – 50% Resident to 80% City – 20% Resident
  - b) Increase the City's cap per property from \$10,000 to \$20,000
  - c) Include language to allow the City to participate in stabilization of streams by applying bioengineering solution

Council Member Hykes made a motion, seconded by Mayor Pro Tem Owen, to approve the foregoing consent agenda. The motion carried unanimously.

#### **New Business - Item 1 – St. Marks Church – Lake Cammack – Baptism Service**

Mayor Butler announced City Council will consider a request from St. Marks Church to hold an immersion baptism service in City-owned Lake Cammack at the marina on August 28, 2022, from 1:00pm until 7:00pm, contingent upon meeting all requirements of the Special Event Permit Application process.

Recreation Assistant Supervisor Caitlin Brown provided an overview of the event plans. She stated City staff is communicating with the event organizer to ensure all requirements have been met and approvals from NCDENR will be requested following City Council approval.

Mayor Pro Tem Owen made a motion, seconded by Council Member Wall to approve the request for the use of Lake Cammack contingent upon meeting all requirements of the Special Event Permit Application Process.

#### **Item 2 – Front Street Methodist Church – Lake Cammack – Mission Man Triathlon**

Mayor Butler announced City Council will consider approved the use of Lake Cammack for the swimming portion of the 17<sup>th</sup> Annual Buckner Mission Man Triathlon hosted by Front Street Methodist

Church on July 23, 2022, from 7:00am – 1:00pm, contingent upon meeting all requirements of the Special Event Permit Application process.

Recreation Assistant Supervisor Caitlin Brown provided an overview of the event plans. She stated City staff is communicating with the event organizer to ensure all requirements have been met and approvals from NCDENR will be requested following City Council approval. David Hoxie, Front Street United Methodist Church, race director, was in attendance to respond to any questions from City Council. There were no questions.

Council Member Wall made a motion, seconded by Council Member Ward to approve the request for the use of Lake Cammack contingent upon meeting all requirements of the Special Event Permit Application Process.

### **Item 3 – Reclassifications – Planning and Transportation Department**

Mayor Butler announced City Council will consider approving the following two reclassifications for organizational adjustments with the Planning and Transportation Departments:

- a) Reclassify the Director of Planning & Transportation position, Level 42, to Director of Transportation, Level 40
- b) Reclassify the Principal Planner position, Level 31, to Planning Director, Level 40

Interim City Manager David Cheek presented a request to support vacancies in the Planning Department proposing adjustments the effectively re-establish a structure with a separate director for both departments.

Council Member Wall made a motion, seconded by Mayor Pro Tem Owen to approve the reclassifications for the Planning and Transportation Departments.

### **Public Comment Period**

Mayor Butler called for public comments. There were none received.

### **City Council Comments**

Mayor Butler commented on the following:

- Duke Energy purple lights throughout the city that are defective. He urged residents to report any defective lights so they can be replaced.
- Congratulated Interim David Cheek on first month of service
- City Council plans to hire the next City Manager are in progress with an update on the hiring process at the next City Council Meeting

Council Member Wall commented on the following:

- Recent homelessness conversations with City staff and other agencies like United Way have been centered around working towards increased lighting downtown, increase in cameras, and progress towards dialogue with merchants in the downtown area and researching more about the Block by Block program in neighboring areas
- Potential use of artificial turf on Burlington Recreation and Parks fields to help with weather related cancellations

Community Engagement Manager Morgan Lasater spoke about a program Block by Block utilized in other areas like Greensboro that provide some hospitality services in downtown areas and plans to have conversations with these program leaders to learn more about those services.

Recreation and Parks Director Tony Laws responded to the inquiry on artificial turf and expenses related to the estimated costs associated with that type of replacement on athletic fields.

City Council discussed various projects that need to be considered in the near future, the potential need for bond packages for large facility projects, residential growth of the Burlington area, and asked City staff to prepare a document of potential projects at Recreation and Parks for City Council to see the overall vision in order to determine what can be accomplished.

### **Request for Closed Session**

City Attorney David Huffman called for a Closed Session to discuss the handling or settlement of the claims and lawsuits pursuant to N.C.G.S. §143-318.11(a)(3).

- Sara Lindley v. City of Burlington – 20 CvS 1354;
- Jennifer Marquis v. City of Burlington – 20 CvS 1689;
- Bradley Dixon v. BPD – 21 CvS 2331;
- Capree Ricketts v. Traffic Commission – 22 CvM 26;
- Matt Lawrence – EEOC Claim No. 435-2021-00488 and September 10, 2020 Grievance against the City of Burlington;
- Cindy Lackey and John Lackey v. COB – 21 CvS 002;
- Andrews Properties of the Carolinas, LLC, et al. v. COB, et al. – 22 CvS 418

Council Member Ward made a motion, seconded by Mayor Pro Tem Owen to enter Closed Session.

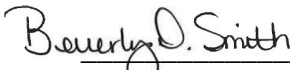
City Council returned to Open Session at 8:31pm.

City Attorney Huffman reported on the claim and settlement of Burlington city employee Matt Lawrence against the City arising out of the City's 2020 Fire Chief promotion process as more fully described in EEOC Claim No. 435-2021-00488 and in Mr. Lawrence's September 10, 2020, grievance for \$90,000 and other considerations. He asked for City Council consideration of approval by ratification the September 16, 2021, settlement of this claim pursuant to N.C.G.S. §160A-16 and Section 1.02 of the City of Burlington Charter.

Council Member Wall made a motion, seconded by Mayor Pro Tem Owen to approve by ratification as requested. The motion carried unanimously.

### **Adjourn**

Council Member Hykes made a motion, seconded by Council Member Ward to adjourn. The motion carried unanimously. The meeting was adjourned at 8:32pm.

  
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Beverly D. Smith, CMC, NCCMC  
City Clerk

April 5, 2022, City Council Meeting