

**THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA**

Monday, March 26, 2007

AGENDA

“Public Charge”

The Board of Commissioners asks its members and citizens to conduct themselves in a respectful, courteous manner, both with the Board and fellow citizens. At any time, should any member of the Board or any citizen fail to observe this public charge, the Chairman will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chairman will recess the meeting until such time that a genuine commitment to the public charge is observed.

As a courtesy to others, please turn off cell phones during the meeting.

7:00 P.M. Regular Session

1. **Opening of Regular Session**—Pledge of Allegiance
2. **Agenda Adjustments**
3. **Announcements**
4. **Minutes**
 - a. January 19, 2007 BOCC/Legislative Delegation
 - b. March 5, 2007 Worksession
 - c. March 12, 2007 Regular Session
5. **Proclamation for Ebonettes 35th Founders Day Observance**

Dr. Bernadette Watts, Publicity Committee Chair for the Durham Ebonettes Service Club, has requested a proclamation be issued by Chairman Ellen W. Reckhow in observance of the group’s 35th Anniversary. On March 31, the annual Founders Day Program will be held at the Durham Hilton Hotel and will feature a recognition of civic and community individuals who “dare to make a difference” in the Durham community.

The Ebonettes Service Club annually provides a variety of programs, including scholarships to high school students in Durham Public Schools, support of needy families, mentoring for youth in after-school programs, and assistance to senior citizens.

County Manager’s Recommendation: The Manager’s recommendation is that Chairman issue the requested proclamation in honor of the Ebonettes Service Club.

6. **Resolution for Alpha Kappa Alpha Sorority Inc. Centennial Observance**

Dr. Mary D. Jacobs has requested a resolution in honor of the upcoming 100th Anniversary of Alpha Kappa Alpha Inc., the nation's first Greek-letter organization established by African-American college women at Howard University in Washington, DC.

A special event will be held on April 1 at the Durham County Library from 3:00 to 6:00 p.m. to "kick off" the observance which culminates on January 15, 2008. The local branch of the sorority, Alpha Zeta Omega Chapter of AKA, was chartered on April 14, 1928 and is currently led by Mrs. Norma Martin.

Alpha Kappa Alpha Sorority includes a membership of more than 150,000 college trained women in 882 chapters in 50 states, West Africa, the Bahamas, the U.S. Virgin Islands, Germany, Korea, the Caribbean, and England. Its goal is to provide "service to all mankind" as its members promote high scholastic and ethical standards, address children and women's issues, and improve the status of women in order to empower communities.

County Manager's Recommendation: The Manager's recommendation is that Board approve the requested resolution in honor of the Alpha Kappa Alpha Sorority's Centennial Observance.

7. **"Durham Take a Stand! – Alcohol Awareness Day"**

Durham Together for Resilient Youth is working with The Durham Center, Durham Youth Council, Alcohol and Drug Council of NC, YMCA, ALE, Durham Police Department, Partnership for a Healthy Durham and others within our community to coordinate activities associated with Durham Take a Stand on April 14, 2007.

A proclamation has been prepared to proclaim April 14, 2007 as "Durham Take a Stand! – Alcohol Awareness Day".

Resource Person(s): Wanda Boone and representatives from Durham Together for Resilient Youth will receive the proclamation.

County Manager's Recommendation: The Manager recommends that April 14 be proclaimed "Durham Take a Stand! – Alcohol Awareness Day".

11. **Consent Agenda**

- a. Property Tax Releases and Refunds for Fiscal Year 2006-2007 (accept the property tax release and refund report for February 2007 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);

- b. Budget Ordinance Amendment No. 07BCC000054—Public Health—Recognize Grant Revenue of \$1,000 for the Partnership for a Healthy Durham from Quintiles Gives Back Fund of Triangle Community Foundation;
- c. Budget Ordinance Amendment No. 07BCC000055—Public Health—Recognize Grant Revenue for Syphilis Elimination in the Amount of \$14,000 from N.C. Department Health and Human Services for the Health Education Division;
- d. Approve the Revisions to the Bylaws of the Durham County Library Board of Trustees;
- e. Approve the Sale of County Surplus Property (approve the sale to Briscoe Enterprises of 312 East End Avenue for \$4,200, 811, Chalmers Street for \$3,500, and 2715 Marlin Drive for \$2,000);
- f. Contract Amendment for NexGen Digital Document Solutions (authorize the Manager to amend the contract for a not-to-exceed amount of \$60,000); and
- g. Execution of Architectural Design Service Contract with DTW Architects and Planners, Ltd., for the Renovation of the Second Floor of the Judicial Building (Project No.: DC072-48) (authorize the execution of an architectural design contract in the amount \$55,000 plus additional services and reimbursable expenses estimated at \$2,000 for a combined total of \$57,000).

12. **Public Hearing—Plan Amendment, Page Road Suburban Transit Area (A06-21)**

To conduct a public hearing on a plan amendment for Page Road Suburban Transit Area (A06-21); and to approve the requested change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Medium Density Residential (6-12 DU/Ac.), and Commercial to Industrial.

Planning Department Recommendation: Approval, based on the justification and meeting the four criteria for plan amendments.

Planning Commission Recommendation: Approval, January 9, 2007 (12-0), based on the staff recommendation and request from the Board of Commissioners.

Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing and, if appropriate based on the comments received, approve Plan Amendment A06-21.

13. **Public Hearing—Plan Amendment, US 70 Industrial (A06-22)**

To conduct a public hearing on a plan amendment for US 70 Industrial (A06-22); and to approve the requested change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Industrial to Low Density Residential (4 DU/Acre or less), Low-Medium Density Residential (4-8 DU/Acre), and Commercial.

Planning Department Recommendation: Approval, based on the request being justified and meeting the four criteria for plan amendments.

Planning Commission Recommendation: Approval, January 9, 2007 (11-1), based on the recommendation and request from the Greater Durham Chamber of Commerce.

Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing and, if appropriate based on the comments received, approve Plan Amendment A06-22.

15. **Public Hearing to Consider Allocating Economic Development Investment Funds to Capitol Broadcasting Corporation or its Subsidiaries**

The Board is requested to hold a public hearing to consider allocating Economic Development Investment Funds to Capitol Broadcasting Corporation (CBC) or its subsidiaries, for its expansion at the American Tobacco Campus. Entering into a reimbursement contract for economic development investment funds would complete the original commitment made by the Durham County Board of Commissioners almost seven years ago.

In May of 2000, the County Commissioners voted unanimously to support the American Tobacco District and its development in downtown Durham by providing approximately 1,870 parking spaces in public parking decks at a cost of approximately \$19.5 million. A public hearing was conducted by the Board which determined a need for additional public parking.

In 2003, Durham County entered into a contract with Capitol Broadcasting Corporation and its subsidiary, American Campus LLC, to design and build a 1,129 space parking deck known as the South Deck on the American Tobacco Historic District Campus at a cost of \$14,435,514. Since its completion, the South Deck has provided public parking for American Tobacco, the Durham Bulls baseball games, and other events in the downtown area.

The County of Durham further committed to build a 441-space public parking deck (known as the East Deck) on the DATA site conditioned upon Diamond View II office building being built by CBC. Of the 441 spaces, 336 would be for Diamond View II office building parking and 105 would be for Diamond View I replacement parking, as agreed in an Interlocal Agreement between the City and County. The deck also would serve as public parking for the Performing Arts Center, Durham Bulls baseball games, and American Tobacco Campus.

Development of the second phase of the American Tobacco Historic District on the downtown DATA site has required the close collaboration and coordination of four parties: the County, the City, Capitol Broadcasting Company, and Struever Bros. Inc.

County staff has worked intensively over the past three years to complete the detailed plans and agreements between the parties. During that period of time, it has been necessary to review and evaluate the structure of the County's commitment.

Given the complexity of the legal structure and the working agreements necessary to fulfill the current commitment, staff is recommending that the County consider allocating economic development incentive funds through an economic development reimbursement contract in the amount of \$6,129,610 to fulfill the original commitment. Completing the County's commitment through an economic development performance contract over the next ten years would save the County additional costs which would otherwise be incurred as owner of the deck, such as operating and maintenance expenditures, legal fees and condominium association expenses. In addition, the County would gain property tax revenue from a privately owned deck. Funds provided through a contract would be used to reimburse CBC and its subsidiaries for expenses related to acquisition of real estate, remediation of soil, installation of utilities, site preparation, and other construction activities. The new investment for the Diamond View II office building and adjacent parking deck is approximately \$35 million.

This public hearing was advertised on Friday, March 16, 2007, as required by Statute.

Resource Person(s): Carolyn P. Titus, Deputy County Manager

County Manager's Recommendation: The County Manager recommends that the Board hold the public hearing, and based upon the information received, approve entering into a performance contract in the amount of \$6,129,610 between the County of Durham and Capitol Broadcasting Company, Inc., and/or its subsidiaries to allow for the reimbursement of costs related to acquisition of real estate, remediation of soil, installation of utilities, site preparation, and other construction activities.

16. **Site Plan and Preliminary Plat—Fayetteville Road Assemblage (D06-286)**

Approve a Site Plan and Preliminary Plat for "Fayetteville Road Assemblage" submitted by Haden Stanziale, P.A. on behalf of Toll Brothers, Inc. for 276 single family lots including a multi-purpose court and tot lot on a 142.23 acre site, with 2.64% fill proposed in the floodway fringe for a road crossing, zoned PDR 2.0 and F/J-B.

This site plan and preliminary plat has been reviewed under the provisions of the Zoning and Subdivision Ordinances pursuant to Section 1.10.4B of the Unified Development Ordinance. [The property is located on the east side of Fayetteville Road, north of Scott King Road and south of Chancellors Ridge Drive. PINs 0717-02-77-1635; 0717-02-67-8912, -7189; 0717-02-66-8774-6354; 0717-02-65-5887; 0717-02-75-4622, 07117-04-75-1245; 0717-02-55-7412]

The Development Review Board recommended approval on January 26, 2007 by a vote of 8-0.

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Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

County Manager's Recommendation: The Site Plan meets all of the Ordinance requirements and unanimous approval of the DRB. The Manager recommends approval.

17. **Closed Session**

The Board is requested to adjourn to closed session to consult with an attorney regarding claims and to preserve the attorney client privilege and to prevent the disclosure of information that is confidential pursuant to N.C. Gen. Stat. § 143-318.10, and to instruct the public staff concerning the possible lease back to the County of the Oakleigh Building at Durham Regional Hospital pursuant to N.C. Gen. Stat. § 143-318.11(a)(1) & (3).