

REVISED

(Amended Consent Agenda Item Nos. b and l; deleted the Closed Session)

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

Monday, August 10, 2009

County Commissioners' Chambers
200 East Main Street, Durham, North Carolina

"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 5 min.
2. **Installation of County Attorney** 15 min.
The Oath of Office will be administered to the newly appointed County Attorney Lowell Siler.
3. **Agenda Adjustments** 5 min.
4. **Announcement** 5 min.
The second meeting of the Durham Complete Count Committee has been scheduled for Tuesday, September 15, from 5:30 p.m. to 7:30 p.m. in the Main Library's auditorium (located on the first floor). Community organizations are invited to come to the table to discuss the census process.
5. **Resolution Honoring the Life of Parkwood Volunteer Fire Department Assistant Chief James Andrew Barringer** 5 min.

This resolution honors the life of James Andrew "Andy" Barringer, Assistant Chief at Parkwood Volunteer Fire Department. Assistant Chief Barringer was only 46 years old when he experienced a cardiac arrest event and passed away March 1, 2009 while on a ski trip in West Virginia with his son and their church group.

Assistant Chief Barringer was President of the Durham County Fire Chief's Association, a deacon at Richland Creek Community Church in Wake Forest, a devoted husband and

father, and an avid golfer. He leaves behind a legacy of involvement and dedication to his three families: immediate, fire department, and church.

He began his 29-year career with Parkwood Volunteer Fire Department in October 1980 at the age of 18, as a volunteer rookie firefighter and EMT. He progressed to Captain as a volunteer, and became a full-time employee in 1988. In 1997, he became a full-time Captain. In 2000, he was promoted to Assistant Chief in charge of Fire Operations and Personnel.

During his career, the Parkwood fire district evolved from a quiet residential community to high-tech businesses, a major shopping mall, and high-density residential areas. Calls increased from about 300 per year to nearly 5,000 per year. Assistant Chief Barringer was instrumental in ensuring that the department received the training and developed the skills to stay current with the challenge of emergency response.

We are grateful for his leadership, fortunate for his friendship, and inspired by his devotion and service to his family, church, and community.

Resource Person(s): Jeff Batten, Fire Marshal/Emergency Management Director

County Manager's Recommendation: The County Manager recommends that the Durham Board of County Commissioners approve the resolution and forward a copy to the family of Assistant Chief Andy Barringer.

6. **Resolution Honoring the Life of former Durham Mayor Chester L. Jenkins**

20 min.

This resolution honors the life of former Durham Mayor Chester L. Jenkins who passed on Tuesday July 14.

The Durham native served eight years on Durham City Council prior to his historic election as the City's first African-American Mayor in 1989. After his elected service, he directed the City's Human Relations Department.

During his tenure on City Council and as Mayor, the following achievements were realized:

- Groundwork began for the eventual construction of the new Durham Bulls stadium;
- City purchased local bus system from Duke Power;
- A successful bond referendum of \$164 million was conducted;
- Carolina Theatre was renovated; and
- Campus Hills/Holmes Recreations Center was constructed.

During his career, he held leadership roles in a number of various business, social, civic, and community organizations. He will always be remembered as a compassionate and dedicated leader who gave his talents to improve the lives of others.

Resource Person(s): Chairman Michael D. Page

County Manager's Recommendation: The County Manager recommends that the Durham Board of County Commissioners approve the resolution and forward a copy to the family of former Durham Mayor Chester L. Jenkins.

7. **Consent Agenda**

15 min.

- a. Budget Ordinance Amendment No. 10BCC000001—Recognize \$24,330 in Additional Grant Funding from Durham’s Partnership for Children—A Smart Start Initiative—to Support the Expansion of the Incredible Years Parenting Curriculum;
- b. Budget Ordinance Amendment No. 10BCC000003—Recognize \$100,000 in Grant Funding from ~~Durham’s Partnership for Children—A Smart Start Initiative—~~ **NC Department of Health & Human Services, Division of Social Services** to Support the Expansion of the Incredible Years Parenting Program and Approve the Creation of 1.0 FTE for a Community Services Consultant;
- c. Budget Ordinance Amendment No. 10BCC000004—Public Health—Recognize \$3,000 in Grant Funds from the Central NC Partnership for Public Health Education Division;
- d. Budget Ordinance Amendment No. 10BCC000005—Public Health—Recognize Grant Funds From the BlueCross BlueShield of NC Foundation for the Amount of \$75,000 for Project Access;
- e. Raleigh-Durham Airport Authority Grant Offer (accept the \$1,601,334 grant offer from the Federal Aviation Administration);
- f. Raleigh-Durham Airport Authority Grant Offer (accept the \$1,383,170 grant offer from the Federal Aviation Administration);
- g. Award of Contract for Purchase of Chemicals for the Triangle Wastewater Treatment Plant, IFB No. 10-001 (authorize the County Manager to enter into contracts with C&S Chemical for \$158,400, Mays Chemical Co. for \$81,400, and Amerochem Corporation for \$20,280, and authorize the County Manager to execute annual renewals of these contracts as funding becomes available);
- h. Receive the 2008-2009 Annual Report of the Durham Open Space and Trails Commission;
- i. Right-of-Way Agreement with Duke Energy Carolinas at Hillside High School (approve the Right-of-Way Agreement for the relocation of utility facilities with Duke Energy Carolinas, LLC related to the Hillside High School renovation);
- j. Approval of Fitness Center Lease Within Durham Convention Center;
- k. Budget Ordinance Amendment No. 09BCC000078—Bethesda Fire District—Appropriation of Fire District Fund Balance in the amount of \$11,367 to Bethesda Fire District in order to satisfy the final payment to the General Fund for reimbursement of volunteer salaries;
- l. **Budget Ordinance Amendment No. 10BCC000007—Appropriation of SWAP Funds for Legal Fees (approve the appropriation of \$120,000 of unrestricted SWAP Fund fund balance to pay legal fees and other expenses related to the operation of this fund);** ~~SWAP (approve the appropriation up to \$120,000 from the SWAP fund to pay legal fees and other expenses incurred in this transaction);~~
- m. Approval of Lease Agreement for 300 East Main Street, 2nd Floor (authorize the Manager to execute the lease); and

n. Amendment to the Unified Development Ordinance (direct the City-County Planning Director to proceed with an expedited process for the necessary amendments to the Unified Development Ordinance).

8. **Public Hearing—Zoning Map Change—New Middle School—Treyburn (Z0800034)**

30 min.

To approve a request for a zoning map change for approximately 117 acres of a 150.25 acre site located north of Snow Hill Road, west of Vintage Hill Parkway (the remaining area is in the City's jurisdiction).

Request: PDR 2.240; F/J-B (partial) and M/LR-A (partial) to RR; F/J-B (partial) and M/LR-A (partial); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the *Comprehensive Plan* and is reasonable and in the public interest in light of information presented in the public hearing and in the agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Commissioners adopt as support for their actions on the proposed zoning map change the determination that, notwithstanding its consistency with the *Comprehensive Plan*, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the agenda materials.

Staff Recommendation: Staff recommends approval, based on consistency with the Comprehensive Plan, and considering the information provided in this report.

Planning Commission Recommendation and Vote: Approval, 14-0 on December 9, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommends approval based on the information in the staff report and comments received during the public hearing.

Resource Person(s): Steven L. Medlin, AICP, City-County Planning Director and Amy Wolff, Planner

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing on the proposed zoning map change and approve it, if appropriate, based on the comments received.

9. **Public Hearing—Unified Development Ordinance (UDO) Text Change—CN Tier Parking (TC0900004)**

10 min.

Receive public comments on Text Change – CN Tier Parking (TC0900004) and adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 10, Off-Street Parking and Loading.

Resource Person(s): Steven L. Medlin, AICP, City-County Planning Director, Aaron Cain, Senior Planner, and Julia Mullen, Planner.

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing on the proposed UDO text change and, if appropriate based on the comments received during the hearing, approve the change.

10. **Public Hearing on Coordinated Transportation: FY 2009-2010 Rural Operating Assistance Program (ROAP) Grant—Application Approval**

10 min.

The Cooperative Extension Service is requesting Board approval of the Rural Operating Assistance Program (ROAP) grant to be submitted to the North Carolina Department of Transportation (NCDOT). The ROAP grant consolidates the Elderly and Disabled Transportation Assistance Program (EDTAP), Rural General Public Program, and the Work First/Employment Program into a single application package. EDTAP provides for assistance in the transportation of the elderly and disabled. Work First/Employment Program is intended to provide operating assistance for transitional Work First. The Rural General Public funds will be used to supplement existing routes that currently serve the county.

The Cooperative Extension Service is requesting the Board to hold a public hearing for the Rural Operating Assistance Program (ROAP) Grant.

Letters were sent requesting input into the application in June 2009 to over 30 Human Service and non-profit agencies, and a public hearing notice was published in The Herald Sun in July 2009. Letters were translated into Spanish and sent to the Latino and other Limited English Proficiency communities.

The application proposes \$98,978 of governmental revenue to be allocated to support coordinated transportation for Durham County elderly and disabled residents, through the Elderly and Disabled Transportation Assistance Program (EDTAP), and \$11,212 for Work First Transitional/Employment. These funds require no local match. The \$98,978 represents an increase of \$3,462 from last year's allocation.

The \$38,217 for Rural General Public Transportation (RGP) requires a 10% local match. The majority of the local match is recouped through fares, and the remaining match has been budgeted. These programs help support the transportation needs of citizens residing in the County. The program is administered by Cooperative Extension and Coordinated Transportation.

The NCDOT annually allocates funds for EDTAP, RGP, and Work First. Durham County will receive \$148,407 for FY 2009-2010. The funds have been budgeted for this fiscal year.

Resource Person(s): Delphine Sellars, Cooperative Extension Director, and Johnny Ford, Transportation Coordinator

County Manager's Recommendation: Approval of the ROAP application for submittal to NCDOT.

11. **Resolution Relative to Falls Lake Nutrient Management Strategy (FLNMS)**

15 min.

Commissioner Joe Bowser has requested that the Board discuss its August 3, 2009 decision relative to the above-captioned item. The Board adopted a resolution that was forwarded to Durham County's legislative delegation to the North Carolina General Assembly on August 3, 2009.

The NC Department of Environment and Natural Resources (NCDENR) uses a process to create, review, and approve nutrient management strategy rules for water bodies that are listed as impaired per the NCDENR Section 303(d) list. The process begins with a Stakeholder Group that advises NCDENR as to what criteria to use in creating a baseline model to determine the level at which the water body is impaired and develop a strategy to improve water quality. The Stakeholder Group is comprised of a cross-section of interested parties. NCDENR also involves the Stakeholder Group in developing the rules. Once NCDENR has drafted the rules, the rules are presented to the Environmental Management Commission (EMC) for review and approval. After a period of public comment and EMC approval, the rules review committee reviews and approves the rules, after which they are presented to the NC General Assembly.

The current state law, SL 2006-259 requires NCDENR to implement the FLNMS Rules by July 1, 2009. Proposed legislation, HB 1099 extends this deadline to January 15, 2011. SB 1020 requires the EMC to give credit for early implementation of the FLNMS. HB 1099 also contains a requirement that interim additional standards for land disturbance activities become effective on January 1, 2010 before the NC General Assembly approves the permanent rules. In early 2009, NCDENR, Division of Water Quality submitted a request to the NC General Assembly to extend the deadline for EMC adoption of the FLNMS to November 2011.

Resource Person(s): Lowell Siler, Deputy County Attorney; Glen Whisler, P.E., County Engineer; and Chris Roberts, P.E., S&E Division Manager

County Manager's Recommendation: The County Manager recommends that the Board discuss the matter and advise the staff if any additional action is necessary.

12. **Closed Session**

20 min.

~~The Board is requested to adjourn to Closed Session to consider the initial appointment of a public officer or employee pursuant to G.S. § 143-318.11(a)(6).~~

13. **Clerk to the Board Position Recruitment Process**

20 min.

Vonda Sessoms, Clerk to the Board, will retire on September 1. The position vacancy has been advertised and the application deadline expired on July 31, 2009. Staff needs direction from the Board regarding the process it desires to employ to fill the position.

Resource Person(s): Michael Page, Chairman; Marqueta Welton, Human Resources Director

County Manager's Recommendation: The Manager recommends that the Board discuss and agree upon a process so that staff can assist the Board with the recruitment and selection process.

~~2 hr. 55 min.~~ 2 hrs. 35 min.