

REVISED
(See Item No. 7i)

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

Monday, February 22, 2010

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

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 5 min.
2. **State of the County Address** 30 min.
3. **Agenda Adjustments** 5 min.
4. **Announcements** 5 min.
 - "In Touch with Durham County," the Durham County Television show, airs on Cable TV Channel 8 at 8:30 a.m. and 12 noon daily, 4:00 p.m. on Mondays, and 6:30 p.m. Tuesday – Sundays. Our County Commissioners' meetings are also rebroadcast on Thursdays at 2:00 p.m., Saturdays at 9:00 p.m., and Sundays at 9:00 p.m.
 - The NC Dental Society's Missions of Mercy outreach program will hold a FREE dental clinic for adults on March 12 and 13 at the National Guard Armory, 801 Stadium Drive. Cleanings, fillings, and extractions will be provided from 7:30 a.m. – 5:00 p.m. both days. This Program is open only to adult patients whose family income is less than 200% of the Federal Poverty Index. Services will be provided on a first come, first serve basis.

5. **Keep Durham Beautiful Wins National Award for Fifth Consecutive Year**

5 min.

On December 14, 2009 Keep Durham Beautiful (KDB) received the Keep America Beautiful President's Circle Award for a fifth year in a row during the Keep America's Beautiful's National Conference held last December in the nation's capital.

To qualify for a *President's Circle Award*, Keep Durham Beautiful (KDB) met Keep America Beautiful's standards of excellence by conducting an annual Litter Index, calculating the affiliate's cost/benefit ratio, and engaging volunteers to take greater responsibility for their community environment. In addition, award recipients must conduct activities in KDB's three core focus areas of litter prevention, waste reduction and beautification/community improvement.

In 2009, Keep Durham Beautiful had 2,469 volunteers that contributed over 15,000 hours at 193 events across Durham. Volunteers came from neighborhoods and schools across Durham as well as from corporations such as GlaxoSmithKline, Quintiles, and the Duke Alumni Association. Projects included litter cleanups, road and park adoption, planting gardens and trees, and improving the community through KDB's expanded grants program.

Resource Person(s): Brian S. Haynesworth, Waste Reduction Specialist; Dorothea Pierce, Executive Director, Keep Durham Beautiful; and Sylvia Le Goff, Chairwoman, Keep Durham Beautiful

6. **Resolution Honoring John L. Atkins III, FAIA, Chairman and CEO of O'Brien/Atkins Associates**

5 min.

This resolution honors Durham resident John L. Atkins III, FAIA, Chairman and CEO of O'Brien Atkins Associates, for his recent noteworthy appointment. Mr. Atkins in well known as a strong corporate citizen and a highly respected business leader and architect.

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 present a copy to Mr. John L. Atkins III.

7. **Consent Agenda**

15 min.

- a. Property Tax Releases and Refunds for Fiscal Year 2009-2010 (accept the property tax release and refund report for January 2010 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- b. Approve Budget Ordinance Amendment No. 10BCC000054 in the Amount of \$200,000 and amend the County Tax Service Inc. Contract;
- c. Approve Budget Ordinance Amendment No.10BCC000055 in the Amount of \$200,000 and amend the contract with Turner Business Appraisers for property value discoveries;

- d. Approve Budget Ordinance Amendment No. 10BCC000056—Public Health—to recognize Funds from the Department of Health and Human Services in the Amount of \$50,000 for the Child Health Program;
- e. Approve Budget Ordinance Amendment No. 10BCC000057—Public Health—to recognize Grant Funds in the Amount of \$5,950 from Results-Based Accountability (RBA) for the Partnership for a Healthy Durham;
- f. Approve Budget Ordinance Amendment No. 10BCC000058—Public Health—to recognize Grant Funds from Duke for the Amount of \$32,964 for the Implementation of the Durham Health Innovations Grant in the Health Education Division;
- g. Approve Budget Ordinance Amendment No. 10BCC000059—Public Health—to recognize Grant Funds from the March of Dimes in the Amount of \$3,426 for the Maternal Health Program;
- h. Approve Budget Ordinance Amendment No. 10BCC000060—Public Health—to recognize Grant Funds from BCBS of NC Foundation in the Amount of \$10,000 for Project Soul in the Health Education Division;
- i. Appointment of the 2010 E&R Board Members (appoint a special Board of Equalization and Review, designate membership to this Board, appoint Chair and Vice Chair, and approve ~~the increase in~~ compensation);
- j. Advertising of Tax Liens (approve the Tax Administrator's request to begin advertising the 2009 tax liens in the month of March);
- k. Approve the Resolution of Intent to sell the Durham County Home Health Agency dba Visiting Nurse Service of Durham and direct the Public Health Director to proceed with the request for proposals;
- l. Resolution and Action regarding the Financing of the New Durham County Courthouse and Various Other Projects and the Refinancing of the County Detention Facility (approve the Installment Financing Agreement and Deed of Trust regarding the financing of the new Durham County Courthouse, parking deck, and various other projects and the refinancing of the Durham County Detention Facility in an amount not to exceed \$125,000,000 substantially as presented; approve actions to date by certain County officers; and authorize certain County officers to approve changes in such documents and execute documents and take other actions in connection therewith);
- m. Approve Capital Project Amendment No. 10CPA000012 to appropriate Approved Financing Funds for Four Capital Projects including the Durham County Courthouse;
- n. Execution of Contract Amendment with O'Brien/Atkins Associates, P.A., for Construction Administration (CA) Phase of the New Durham County Courthouse & Parking Structure Project No.: DC066 (authorize the County Manager to amend the design contract with O'Brien/Atkins Associates [OBA], P.A., to include the Construction Administration [CA] Phase and related services for the New Durham County Courthouse & Parking Structure project in the amount of \$3,564,000.00 plus additional services if necessary, estimated at \$160,380.00 for a total \$3,724,380.00, thus increasing the overall total compensation for basic design, construction administration, and additional services including reimbursement to \$11,579,409.00, pending approval of financing);
- o. Execution of Consulting Services Agreement with Mactec Engineering and Consultants Inc. for the Construction Materials and Testing and Special Inspection Services for the New Durham County Courthouse and Parking Structure Project

No.: DC066 (authorize the execution of a consulting services agreement with Mactec in the amount not to exceed \$1,150,000.00 and to execute any other related contracts including change orders, if necessary, not to exceed the budget of \$1,300,000.00 pending the approval of financing);

- p. Lease Agreement for Temporary Parking (approve the lease for parking spaces at 905 Jackie Robinson with E & L Realty, LLC in order to replace parking temporarily lost during the Courthouse construction); and
- q. Approve the Final Right-of-Way and Easement Plat for the New Durham County Courthouse and Parking Structure, which will be recorded in the Durham County Register of Deeds Office.

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

60 min.

This item was continued from the February 9, 2009, March 12, 2009, and March 23, 2009 Board of County Commissioner's meetings and referred back to staff at the August 10, 2009 meeting.

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. **Quasi-Judicial Public Hearing—Major Special Use Permit—New Middle School—Treyburn (M0900005)**

40 min.

To hold a quasi-judicial public hearing to consider a Major Special Use Permit for development of a middle school, located at 923 Snow Hill Road, and within the RR zoning district, and F/J-B and M/LR-A overlays. PIN 0835-01-38-4685, 0835-01-29-3261, 0835-02-57-2763

To direct the Planning Director to prepare an order for adoption, for 1) approval, 2) approval with conditions, or 3) denial, or to continue the hearing to a specified later meeting. (A draft order for approval with staff-recommended conditions will be available at the meeting.)

Staff Recommendation: Approval, based on the technical conformance with Ordinance requirements. Staff will make a final recommendation following the public hearing.

Resource Person(s): Steven L. Medlin, AICP, City-County Planning Director; and Michael Stock, AICP, Senior Planner

County Manager's Recommendation: The Manager recommends that the Board conduct a quasi-judicial public hearing on the proposed Major Special Use Permit and approve it, if appropriate, based on the testimony received.

10. **Quasi-Judicial Public Hearing—Transportation Special Use Permit—New Middle School—Treyburn (T0900003)**

40 min.

To hold a quasi-judicial public hearing to consider a Transportation Special Use Permit for traffic impact in association with consideration of a major site plan for development of a middle school, located at 923 Snow Hill Road, and within the RR zoning district, and F/J-B and M/LR-A overlays. PINs 0835-01-38-4685, 0835-01-29-3261, 0835-02-57-2763

To direct the Planning Director to prepare an order for adoption, for 1) approval, 2) approval with conditions, or 3) denial, or to continue the hearing to a specified later meeting. (A draft order for approval with staff-recommended conditions will be available at the meeting.)

Staff Recommendation: Approval, based on the technical conformance with Unified Development Ordinance requirements. Staff will make a final recommendation following the public hearing.

Resource Person(s): Steven L. Medlin, AICP, City-County Planning Director; Michael Stock, AICP, Senior Planner; and William E. Judge, PE, City Transportation Department

County Manager's Recommendation: The Manager recommends that the Board conduct a quasi-judicial public hearing on the proposed Transportation Special Use Permit and approve it, if appropriate, based on the testimony received.

11. **Major Site Plan and Preliminary Plat—New Middle School—Treyburn and City Park (D0800219)**

15 min.

To approve a Major Site Plan and Preliminary Plat for “New Middle School B” submitted by Coulter Jewell Thames, PA, on behalf of Durham Public Schools, for a 158,038-square-foot two story public middle school, a 2,683-square-foot concessions/restroom building, and a public park containing baseball/softball, soccer, and football fields on multiple parcels totaling 148.89 acres and zoned Rural Residential (RR), Falls Jordan Protected Area (F/J-B), and Lake Michie/Little River Critical Area (M/LR-A).

[The property is located at 923 Snow Hill Road, on the north side of Snow Hill Road, east of US 501, west of Snow Hill Drive, and south of Vintage Hill Parkway. PIN 0835-01-38-4685, 0835-01-29-3261, 0835-02-57-2763, 0835-02-57-9015]

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

County Manager's Recommendation: The County Manager recommends approval of the site plan.

12. **Execution of the Construction Contract for the New Durham County Courthouse & Parking Structure Project No.: DC066, IFB No: 10-015**

15 min.

The Board of County Commissioners (BOCC) is hereby requested to authorize the County Manager to enter into a contract with The Whiting Turner Contracting Company Inc. (TWTC) for the construction of the new Durham County Courthouse and Parking Structure to be located on 247 South Mangum and 306 South Roxboro Streets, Durham, North Carolina in the combined total amount of \$74,974,000.00 (Base Bid plus Alternate No. 1), and to execute any other related contracts including change orders, if necessary, not to exceed the construction budget of \$80,222,180.00 pending approval of financing.

On July 24, 2006, the BOCC awarded the design contract to O’Brien/Atkins Associates, (OBA), P.A., to provide architectural design services for the new Durham County Courthouse and Parking Structure. This project includes construction of a new 318,533-square-foot, 11-story building of steel frame construction with natural stone and precast concrete exterior wall and a new 298,600-square foot, 897-space, five-level parking deck of precast concrete construction. The construction of the new Durham County Courthouse and Parking Structure was advertised on November 4, 2009. The Pre-bid conference was held on November 18, 2009, and six bids were received, publicly opened and read on January 12, 2010. TWTC submitted the lowest bid price of \$74,974,000.00 (Base Bid plus Alternate No. 1).

TWTC has identified 27.54% M/WBE participation. Durham County established the following goals for the expenditure of funds with M/WBEs:

Ethnicity/Race/ Gender Industry	African American	Asian American	Hispanic American	Native American	Women- Owned
Construction Subcontracting	14.67%	N/A	2.14%	N/A	10.76%

In review of the M/WBE participation for this project, TWTC will be utilizing 7.78% African American, 0.03% Hispanic, 0.50% Asian, and 19.23% Women Owned on this project, and they have provided a responsive bid.

The Engineering Department has reviewed the bid proposals with the Purchasing Department and O'Brien/Atkins Associates, P.A., and recommends that the County proceed with base bid work plus alternate no. 1 and award the contract to TWTC. Funding for this project will be available in March 2010 through bank financing and in the Durham County Justice Building Capital Project account. Completion of this project would meet long-term needs of the court system and would address the space and design deficiencies of the current building. Adequate parking adjacent to the new Courthouse and Detention Facility will improve service delivery and convenience for users of these facilities. Construction is scheduled to be completed in 2012.

Resource Person(s): Glen Whisler, P.E., County Engineer; George Quick, Director of Finance; Ademola Shobande, Assoc. AIA, Sr. Project Manager, Engineering Department; Frank Turner, AIA; and Kevin Montgomery, FAIA, O'Brien/Atkins Associates, P.A.

County Manager's Recommendation: The County Manager recommends that the Board authorize the execution of the construction contract with The Whiting Turner Contracting Company Inc., in the combined total amount of \$74,974,000.00 (Base Bid plus Alternate No. 1), and to execute any other related contracts including change orders, if necessary, not to exceed the construction budget of \$80,222,180.00 pending approval of financing.

13. **Board and Commission Appointments**

10 min.

Michelle Parker-Evans, Clerk to the Board, will distribute ballots to the Board to make appointments to the following boards and commissions:

- Adult Care Home Community Advisory Committee
- Nursing Home Community Advisory Committee
- Open Space & Trails Commission

Resource Person(s): Michelle Parker-Evans, Clerk to the Board

County Manager's Recommendation: The County Manager recommends that the Board of County Commissioners vote to appoint members to the above-mentioned boards/commissions.