THE BOARD OF COUNTY COMMISSIONERS DURHAM, NORTH CAROLINA

Monday, January 25, 2010

7:00 P.M. Regular Session

MINUTES

Place: Commissioners' Room, second floor, Durham County Government

Administrative Complex, 200 E. Main Street, Durham, NC

Present: Vice-Chairman Ellen W. Reckhow, and Commissioners Becky M. Heron, Brenda

A. Howerton, and Joe Bowser

Absent: Chairman Michael D. Page

Presider: Chairman Page

Opening of Regular Session—Pledge of Allegiance

Motion to Excuse Chairman Page

Commissioner Heron moved, seconded by Commissioner Howerton, excuse Chairman Page from the meeting.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow

Noes: None Absent: Page

Announcements

Vice-Chairman Reckhow announced that "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. She added that the Durham 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.

Vice-Chairman Reckhow noted that a file had been placed at each Commissioner's station, which contained information regarding Ethics training for local governmental officials provided by UNC School of Government.

Commissioner Heron suggested that citizens visit the Durham County Library website to learn about its upcoming events.

Minutes

Vice-Chairman Reckhow referenced revisions to the December 7, 2009 Worksession Minutes, which had been placed at the Commissioners' stations.

Per Commissioner Bowser's request, the Commissioners discussed revising the following sentence in the December 7 Minutes: "Commissioner Heron disagreed with Commissioner Bowser's comments about farmlands polluting Durham's lakes and streams."

Commissioner Heron invited Commissioner Bowser to attend a Farmland Protection Advisory Board meeting, which is held at 8:00 a.m. every third Thursday at Cooperative Extension.

The Board consented to revising the sentence to state, "Commissioner Heron stated that steps are being taken to reduce pollution from farmland in Durham County."

Commissioner Howerton moved, seconded by Commissioner Heron, to approve as corrected the December 7, 2009 Worksession Minutes and as submitted the December 14, 2009 Regular Session Minutes of the Board.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow

Noes: None Absent: Page

Resolution in Support of the Victims of the Haiti Earthquake

On January 12, 2010, a 7.0 magnitude earthquake struck the island nation of Haiti killing tens of thousands and devastating its economy. There is an urgent need for immediate and ongoing financial assistance to provide medical treatment, food and water, and to rebuild the country's infrastructure.

Commissioner Howerton acknowledged North Carolina Central University representatives that were in attendance.

Commissioner Howerton requested that a resolution be prepared to demonstrate the Board's support for victims of the tragedy. She read the following resolution into the record:

RESOLUTION

WHEREAS, on January 12, 2010, an earthquake damaged the entire island of Haiti with an intensity of 7.0, along with a multitude of aftershocks including a 6.1 on the Richter scale on January 20, 2010; and

WHEREAS, seismologists have observed that this was the most powerful and catastrophic quake to hit the nation in the past 200 years; and

WHEREAS, according to the Haitian Government cited by the European Commission, according to an AP report, an estimated 200,000 people perished on January 12; and

WHEREAS, more than two million people are estimated to have been displaced as a result of the initial earthquake; and

WHEREAS, Haitian Governmental buildings have been destroyed and key personnel have been killed, thus inhibiting world relief efforts which includes loss of life to the UN diplomats staff, further making readied relief difficult to reach those who are in need; and

WHEREAS, for many years to come, Haiti will need the collective efforts of many nations and people of goodwill to provide compassion and financial aid to help rebuild the nation's infrastructure, hospitals, schools, and government services for its people; and

WHEREAS, the County of Durham hosts many Haitians attending its universities and colleges, as well as non-governmental organizations that have supported and served Haitians missions for many years:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, recognize and appreciate those Haitians and those of Haitian descent as well as organizations which support the betterment of life and liberty and the pursuit of happiness in the country of Haiti and its citizens.

BE IT FURTHER RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby call upon all citizens of Durham County to remember those whose lives were lost in this unimaginable natural disaster as well as the survivors and relations in our thoughts, meditations, and prayers.

BE IT FURTHER RESOLVED that we, the members of the Durham County Board of Commissioners, encourage all Durham citizens to support Haiti's earthquake victims by assisting in various reputable relief efforts now undertaken by reputable and verified organizations.

This the 25th of January, 2010.

/s/ All Five Commissioners

Vice-Chairman Reckhow invited Isabelle Figaro, President of the Duke Haitian Student

Association, and Dr. Jean Casimir, former Haitian Ambassador to the United States, forward for remarks.

Ms. Figaro and Dr. Casimir expressed gratitude for the resolution expressing the Board's support of the Haitian community and continued efforts of relief.

Consent Agenda

Commissioner Bowser moved, seconded by Commissioner Howerton, to approve the following consent agenda items:

- a. Approve the Contract Renewal with Cox & Company in the Amount of \$62,500 for ONETAX Office Software;
- c. Authorize the Execution of an Interlocal Cooperation Agreement with the City of Durham to reauthorize the Durham Bicycle and Pedestrian Advisory Commission;

- *d. Approve Budget Ordinance Amendment No. 10BCC000048— Hazardous Materials Emergency Planning Grant Agreement to recognize \$9,000 in grant funding from the NC Department of Crime Control and Public Safety and request authorization to execute the grant agreement so that it can be forwarded to the NC Department of Crime Control and Public Safety, and the Local Emergency Planning Committee can conduct its project;
- *e. Approve the Durham County Local Emergency Planning Committee (LEPC) roster as presented;
- *f. Accept the Property Tax Release and Refund Report for December 2009 as presented and authorize the Tax Assessor to adjust the Tax Records as outlined by the Report; and
- *h. Property Tax Releases and Refunds for Fiscal Year 2009-2010 (accept the property tax release and refund report for November 2009 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report).

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow

Noes: None Absent: Page

Consent Agenda Item No. d. Approve Budget Ordinance Amendment No. 10BCC000048—Hazardous Materials Emergency Planning Grant Agreement to recognize \$9,000 in grant funding from the NC Department of Crime Control and Public Safety and request authorization to execute the grant agreement so that it can be forwarded to the NC Department of Crime Control and Public Safety, and the Local Emergency Planning Committee can conduct its project.

DURHAM COUNTY, NORTH CAROLINA FY 2009-10 Budget Ordinance Amendment No. 10BCC000048

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2009-10 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	Current Budget	Increase/Decrease	Revised Budget
GENERAL FUND			
Intergovernmental	\$448,843,214	\$9,000	\$448,852,214
Expenditures:			
Function			
GENERAL FUND			
Public Safety	\$45,053,026	\$9,000	\$45,062,026

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

^{*}Document(s) related to this item follow:

This the 25th day of January, 2010.

<u>Consent Agenda Item No. e.</u> Approve the Durham County Local Emergency Planning Committee (LEPC) roster as presented.

LEPC 2010 MEMBERSHIP ROSTER

David Marsee, Chair Durham County Fire Marshal/Emergency Management

Stan Parker, Vice Chair RTI International

Susan Page, Secretary Durham County Fire Marshal/Emergency Management

Thomas Ayers City of Durham, Public Works
Cindy Bailey Durham County Animal Control

Bruce Biehl Brenntag

Tim Bothe American Red Cross

Michael Boucher VA Hospital

John Collins Glaxo-Smith-Kline Colin Falato HEPACO Inc.

Johnny Ford Durham County Cooperative Extension

Ben Fulmer DuPont
Dean Gadoury BASF Corp

Mavis Galantis Durham Emergency Communications Center

Sue Guptill Public Health Department
Wade Gulledge Durham Public Schools
Debbie Hatfield NC Emergency Management

Paul Johnson NIEHS

Dr. John Lambeth NC Central University
Ralph Love Office of the Sheriff

Randy McCray Parkwood Volunteer Fire Department

Michael Pirrello Cree Incorporated
Jack Ramsey The Durham Center
Carolyn Reilly Shamrock Environmental
Bill Robbins Sumitomo Electric

Peter Self Eisai

Mike Shiflett Inter-Neighborhood Council/CERT/DBAC

Mike Smith Durham County EMS
Jay Sprankle Nortel Networks

David Swain

Jessica Thompson

Ricky Tuttle

Aaron Weinbaum

Durham Fire Department

Duke University Hospital

NC Emergency Management

Durham Regional Hospital

<u>Consent Agenda Item No. f.</u> Accept the Property Tax Release and Refund Report for December 2009 as presented and authorize the Tax Assessor to adjust the Tax Records as outlined by the Report.

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the attached report details releases and refunds for the month of December 2009.

Releases & Refunds for 2009 Taxes:

Real Estate	\$417,627.15	
Personal	\$ 75,055.91	
Motor Vehicles	\$ 26,486.61	
Vehicle Fees	\$ 660.00	
Solid Waste	\$ 360.00	
Total for 2009 Taxes and Fees	\$520,189.67	

Prior years' (2001-2008) releases and refunds for December 2009 are in the amount of \$714,227.28. The total current year and prior years' releases and refunds amount to \$1,234,416.95.

(Recorded in Appendix A in the Permanent Supplement of the January 25, 2010 Regular Session Minutes of the Board.)

<u>Consent Agenda Item No. h.</u> Property Tax Releases and Refunds for Fiscal Year 2009-2010 (accept the property tax release and refund report for November 2009 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the attached report details releases and refunds for the month of December 2009.

Releases & Refunds for 2009 Taxes:

Real Estate	\$ 56,067.90
Personal	\$162,380.79
Motor Vehicles	\$ 30,728.23
Vehicle Fees	\$ 730.00
Solid Waste	\$ 180.00
Total for 2009 Taxes and Fees	\$250,086.92

Prior years' (2006-2008) releases and refunds for November 2009 are in the amount of \$7,857.30. The total current year and prior years' releases and refunds amount to \$257,944.22.

(Recorded in Appendix A in the Permanent Supplement of the January 25, 2010 Regular Session Minutes of the Board.)

Consent Agenda Items Removed for Discussion

<u>Consent Agenda Item No. b.</u> Amend Contract with Tax Management Associates Inc. (TMA) by \$90,000 and approve Budget Ordinance Amendment 10BCC000047 to recognize \$145,000 in Additional Revenue associated with the Contract.

Per Commissioner Bowser's request, County Manager Mike Ruffin elaborated on the contract.

Kim Simpson, Tax Administrator, explained the revenue collected per the efforts of TMA and how Durham City pays for its portion.

County Manager Ruffin and Ms. Simpson clarified for Commissioner Bowser that TMA's purpose is to audit listings that proprietors failed to report to Tax Administration.

> Commissioner Bowser moved, seconded by Commissioner Heron, to approve Consent Agenda Item No. b.

The motion carried with the following vote:

Bowser, Heron, Howerton, and Reckhow Ayes:

Noes: Absent: Page

DURHAM COUNTY, NORTH CAROLINA FY 2009-10 Budget Ordinance

Amendment No. 10BCC000047

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2009-10 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	Current Budget	Increase/Decrease	Revised Budget
GENERAL FUND Taxes	\$237,681,950	\$145,000	\$237,826,950
Expenditures:			
<u>Function</u>			
GENERAL FUND			
General Government	\$65,870,482	\$145,000	\$66,015,482

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 25th day of January, 2010.

Consent Agenda Item No. g. Approve the Utility Agreement with the North Carolina Turnpike Authority and the North Carolina Department of Transportation to non-substantive changes by the County Attorney or County Manager and authorize the County Manager to execute the agreement.

Commissioner Bowser questioned whether the County would oversee the sewer line installation project. He inquired about hidden costs for the County.

County Engineer Glen Whisler responded in the affirmative that the County would oversee the project; however, it would not incur any hidden costs.

Commissioner Bowser moved, seconded by Commissioner Heron, to approve Consent Agenda Item No. g.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow

Noes: None Absent: Page

<u>Public Hearing for Special Purpose Project Revenue Bonds—Durham-Chapel Hill Jewish Federation</u>

Carol Hammett, Assistant County Manager, requested that the Board hold a public hearing concerning the issuance and sale by the Durham County Industrial Facilities and Pollution Control Financing Authority (the "Authority") of its Revenue Bonds (Durham-Chapel Hill Jewish Federation Community Center project), Series 2010 (the "Bonds") in an amount not to exceed \$7,500,000, the proceeds of which would be loaned to Durham-Chapel Hill Jewish Federation, a North Carolina non-profit corporation (the "Federation") and used to finance the acquisition, construction and equipping of a new approximately 34,000 square foot facility to be known as the Charlotte and Dick Levin Jewish Community Center (the "2010 Project"). The Project is located between the Lerner Jewish Community Day School and the Judea Reform Synagogue on 10 acres of land at 1933 West Cornwallis Road, Durham, Durham County, North Carolina. The Center would be owned and operated by the Federation, and open to the general public. Federal and North Carolina law require the County Board of Commissioners to approve "in principle" the issuance of the bonds for this project after a public hearing.

Mary Nash K. Rusher, Hunton & Williams, Bond Counsel, explained the financial benefits of issuing the bonds to finance projects on behalf of 501(c)(3) (nonprofit) organizations.

Attorney Rusher addressed Board questions regarding the following:

- Max dollar amount allowed for bond issuance by the Authority
- Reason for recent increase in industrial revenue bonds; future expectations
- Borrow to pay all issuance cost
- Possible reimbursement to County Attorney's office for time invested

Vice-Chairman Reckhow opened the public hearing that was properly advertised. As no one requested to speak, she closed the public hearing and referred the matter back to the Board.

Per Commissioner Howerton's request, Shelly Katz, Executive Director, and Matt Springer, President, Durham-Chapel Hill Jewish Federation, provided a brief overview of the proposed community center.

Mr. Springer informed Commissioner Howerton that a membership fee would be required to join the community center. He added that nominal fees would be required for facility room rentals.

Mr. Springer responded to a question posed by Vice-Chairman Reckhow, stating that construction would begin in six weeks with construction anticipated to be completed in a year.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the issuance of the bonds in principle for Special Purpose Project Revenue Bonds—Durham-Chapel Hill Jewish Federation.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow

Noes: None Absent: Page

APPROVAL IN PRINCIPLE OF SPECIAL PURPOSE PROJECT FOR THE DURHAM-CHAPEL HILL JEWISH FEDERATION AND THE FINANCING THEREOF WITH REVENUE BONDS IN THE PRINCIPAL AMOUNT OF UP TO \$7,500,000

WHEREAS, The Durham County Industrial Facilities and Pollution Control Financing Authority (the "Authority") proposes to assist in the financing under the North Carolina Industrial and Pollution Control Facilities Financing Act, Chapter 159C of the North Carolina General Statutes, as amended (the "Act") of a "special purpose project" by the Durham-Chapel Hill Jewish Federation, a North Carolina non-profit corporation (the "Federation"), which plans to acquire, construct and equip a new approximately 34,000 square foot community center facility to be known as the Charlotte & Dick Levin Jewish Community Center (the "2010 Project"), to be owned and operated by the Federation in the City of Durham, Durham County, North Carolina; and

WHEREAS the Act and the Internal Revenue Code of 1986, as amended (the "Code") require that the governing body of a county approve in principle any project to be financed under the Act after a public hearing; and

WHEREAS, this Board of Commissioners today has held a public hearing with respect to the advisability of the Project and the issuance of bonds therefor, as evidenced by the Certificate and Summary of Public Hearing attached hereto as Exhibit A; and

WHEREAS, the Authority intends to issue its Revenue Bond (Durham-Chapel Hill Jewish Federation Project), Series 2010 (the "Bond") in the principal amount of up to \$7,500,000, which will be issued as a floating rate bond purchased directly by Branch Banking and Trust Company; and

WHEREAS, Section 147(f) of the Code requires that the Board of Commissioners approve the plan of financing for the bonds; and

WHEREAS, under Section 159C-4 of the Act the issuance of bonds under the Act must be approved by the governing body of the county in which the project to be financed is located;

NOW, THEREFORE, the Board of Commissioners of Durham County, meeting in regular session at Durham, North Carolina, on January 25, 2010, does the following:

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR DURHAM COUNTY:

- 1. The proposed "special purpose project" consisting of the acquisition, construction and equipping of a new approximately 34,000 square foot community center facility to be known as the Charlotte & Dick Levin Jewish Community Center (the "2010 Project") in Durham County, North Carolina, to be owned and operated by the Durham-Chapel Hill Jewish Federation, and the issuance of bonds in an amount not to exceed \$7,500,000 therefore are hereby approved in principle.
- 2. The Board of Commissioners hereby approves the plan of financing as required by Section 147(f) of the Code.
- 3. The issuance of the Bonds in the principal amount of \$7,500,000 is hereby approved for purposes of Section 159C-4 of the Act.
- 4. THE BONDS DO NOT CONSTITUTE A DEBT OF THE STATE OF NORTH CAROLINA OR ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF, INCLUDING THE AUTHORITY OR THE COUNTY, OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF NORTH CAROLINA OR ANY POLITICAL SUBDIVISION OR ANY SUCH AGENCY, INCLUDING THE COUNTY.

<u>Public Hearing for Special Purpose Project Revenue Bonds—RTI Inc.</u>

The Board of Commissioners was requested to hold a public hearing concerning the issuance and sale by The Durham County Industrial Facilities and Pollution Control Financing Authority of its Revenue Bonds in an amount not to exceed \$25,000,000, the proceeds of which would be loaned to Research Triangle Institute ("RTI"), a North Carolina non-profit corporation and used to finance the acquisition, construction and equipping of a new approximately 120,000 square foot office building to be known as the O-9 Office Building and related approximately 500 space parking deck (the "2010 Project"). The Project is located on the Company's campus at 3040 Cornwallis Road, Research Triangle Park, Durham County, North Carolina, and would be owned and operated by RTI. Federal and North Carolina law require the County Board of Commissioners to approve "in principle" the issuance of the bonds for this project after a public hearing.

A DVD presentation was displayed that provided background information on RTI Inc.

An RTI Inc. representative responded to Board questions pertaining to the following:

- O-9 office building
- Partnering with North Carolina Central University (NCCU)

Commissioner Bowser requested that RTI include NCCU in its presentation and that his concerns be relayed to RTI's governing body regarding the lack of collaboration with NCCU.

Vice-Chairman Reckhow opened the public hearing that was properly advertised. As no one requested to speak, she closed the public hearing and referred the matter back to the Board.

Commissioner Heron expressed gratitude and thanks to RTI for its contribution to Durham.

Commissioner Bowser moved, seconded by Commissioner Heron, to approve the issuance of the bonds in principle for Special Purpose Project Revenue Bonds—RTI Inc.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow

Noes: None Absent: Page

APPROVAL IN PRINCIPLE OF SPECIAL PURPOSE PROJECT FOR RESEARCH TRIANGLE INSTITUTE AND THE FINANCING THEREOF WITH REVENUE BONDS IN THE PRINCIPAL AMOUNT OF UP TO \$25,000,000

WHEREAS, The Durham County Industrial Facilities and Pollution Control Financing Authority (the "Authority") proposes to assist in the financing under the North Carolina Industrial and Pollution Control Facilities Financing Act, Chapter 159C of the North Carolina General Statutes, as amended (the "Act") of a "special purpose project" by Research Triangle Institute, a North Carolina non-profit corporation (the "Company"), which plans to acquire, construct and equip a new approximately 120,000 square foot office building to be known as the O-9 Office Building and a related approximately 500 space parking deck at a cost of approximately \$25,000,000 (the "2010 Project"), to be owned and operated by the Company in Research Triangle Park, Durham County, North Carolina; and

WHEREAS the Act and the Internal Revenue Code of 1986, as amended (the "Code") require that the governing body of a county approve in principle any project to be financed under the Act after a public hearing; and

WHEREAS, this Board of Commissioners today has held a public hearing with respect to the advisability of the Project and the issuance of bonds therefor, as evidenced by the Certificate and Summary of Public Hearing attached hereto as Exhibit A; and

WHEREAS, the Authority intends to issue its Revenue Bonds (Research Triangle Institute), Series 2010 (the "Bonds") in the principal amount of up to \$25,000,000 which will be issued as fixed rate bonds expected to have a rating of at least "A" or better by a nationally recognized rating agency; and

WHEREAS, Section 147(f) of the Code requires that the Board of Commissioners approve the plan of financing for the bonds; and

WHEREAS, under Section 159C-4 of the Act the issuance of bonds under the Act must be approved by the governing body of the county in which the project to be financed is located;

NOW, THEREFORE, the Board of Commissioners of Durham County, meeting in regular session at Durham, North Carolina, on January 25, 2010, does the following:

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR DURHAM COUNTY:

- 1. The proposed "special purpose project" consisting of the acquisition, construction and equipping of a new approximately 120,000 square foot office building to be known as the O-9 Office Building and related approximately 500 space parking deck at a cost of approximately \$25,000,000 (the "2010 Project"), to be owned and operated by Research Triangle Institute, and the issuance of bonds in an amount not to exceed \$25,000,000 therefor are hereby approved in principle.
- 2. The Board of Commissioners hereby approves the plan of financing as required by Section 147(f) of the Code.
- 3. The issuance of the Bonds in the principal amount of \$25,000,000 is hereby approved for purposes of Section 159C-4 of the Act.
- 4. THE BONDS DO NOT CONSTITUTE A DEBT OF THE STATE OF NORTH CAROLINA OR ANY POLITICAL SUBDIVISION OR ANY AGENCY THEREOF, INCLUDING THE AUTHORITY OR THE COUNTY, OR A PLEDGE OF THE FAITH AND CREDIT OF THE STATE OF NORTH CAROLINA OR ANY POLITICAL SUBDIVISION OR ANY SUCH AGENCY, INCLUDING THE COUNTY.

Board and Commission Appointments

Michelle Parker-Evans, Clerk to the Board, distributed ballots to the Board to make appointments to boards and commissions.

The following appointments were made:

Criminal Justice Partnership Act Advisory Board Stephanie Felder (At-large) Marcus A. Weeks (At-large)

Environmental Affairs Board

Wanona Satcher (Public Health; recommended by JCCPC)

Historic Preservation Commission

Heather M. Wagner (Cultural or Social Historian; recommended by JCCPC)

Open Space & Trails Commission

Jason R. Nelson (At-large; recommended by JCCPC)

Adjournment

There being no further business, Vice-Chairman Reckhow adjourned the meeting at 8:15 p.m.

Respectfully Submitted,

Yvonne R. Jones Deputy Clerk to the Board