

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

Monday, January 28, 2013

7:00 P.M. Regular Session

**MINUTES**

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chairman Fred Foster, Jr., Vice-Chair Brenda A. Howerton, and Commissioners Wendy Jacobs, Michael D. Page, and Ellen Reckhow

Absent: None

Presider: Chairman Fred Foster, Jr.

**Opening of Regular Session**—Pledge of Allegiance

**Agenda Adjustments**

**Announcements**

Chairman Foster made the following announcements:

- “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.
- Durham County has a number of boards and commissions that could benefit from citizen participation. Contact the Clerk’s Office at (919) 560-0025, visit the County’s website, or email Clerk@dconc.gov for more information. All City and County taxes must be current at the time of application.

**Minutes**

Vice Chair Howerton moved, seconded by Commissioner Jacobs, to approve the January 7, 2013 Worksession Minutes.

The motion carried unanimously.

**Consent Agenda**

Commissioner Reckhow moved, seconded by Vice Chair Howerton, to approve the following consent agenda items:

- a. Approve an Interim Janitorial Services contract with A Plus Group, Inc., to provide interim janitorial services in the new Courthouse on a month to month basis, at the rate of \$21,671.00 a month, starting February 1, 2013;
- \*b. Approve the attached Budget Ordinance Amendment No. 13BCC000054 appropriating funds for the interest portion for the IBM Settlement;
- \*c. Accept the property tax release and refund report for December, 2012 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report;
- \*d. Approve the Resolution amending Chapter 2 Article I of the Durham County Code of Ordinances entitled, "General Administration" to address the new location for judicial sales and the bulletin board for posting legal notices at the new Courthouse;
- e. ITEM REMOVED;
- f. Appoint Commissioners Michael D. Page and Brenda A. Howerton to the Durham Public Schools Budget Advisory Committee;
- \*g. Approve the attached resolution committing Durham County to the proposed funding plan for the Rougemont Community Water System as well as the plan for expenditure of the \$120,000 in state ARRA funds on pipe to be used for the project.

The motion carried unanimously.

\*Document(s) related to this item follow:

Consent Agenda Item No. b.

DURHAM COUNTY, NORTH CAROLINA  
FY 2012-13 Budget Ordinance  
Amendment No. 13BCC000054

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2012-13 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u> Other Financing Source	\$21,878,306	\$202,616	\$22,080,922

Expenditures:

Function  
GENERAL FUND

General Government	\$85,405,449	\$202,616	\$85,608,065
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Revenue:

CAPITAL FINANCING FUND

Other Financing Source	\$33,074,981	\$ 15,563	\$33,090,544
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Expenditures:

CAPITAL FINANCING FUND

General Government	\$51,133,243	\$ 15,563	\$51,148,806
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Revenue:

SPECIAL REVENUE FUNDS

Other Financing Source (Parkwood)	\$ 50,000	\$ 696	\$ 50,696
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Investment Income (Bahama)	\$ 0	\$ 1	\$ 1
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Expenditures:

Public Safety (Parkwood & Bahama)	\$ 2,435,469	\$ 697	\$ 2,436,166
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 28<sup>th</sup> day of January, 2013.

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Consent Agenda Item No. c.

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, 2012.

Releases & Refunds for 2012 Taxes

Real Estate	\$ 37,069.23
Personal	\$ 85,843.77
Registered Vehicles	\$ 55,132.12
Vehicle Fees	\$ 1,050.00
Solid Waste	\$ 1,470.00
Total for 2012 Taxes and Fees	\$ 180,565.12

Prior year's (2008-2011) releases and refunds for December, 2012 are in the amount of \$16,138.92. The current year and prior year's releases and refunds amount to \$196,704.04.

(Recorded in Appendix A in the Permanent Supplement of the January 28, 2013 Regular Session Minutes of the Board.)

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Consent Agenda Item No. d.

WHEREAS, the County has constructed a new state of the art courthouse located at 510 S. Dillard Street, Durham, North Carolina 27701, to house among other things, its court facilities; and

WHEREAS, the new courthouse will open for business on February 11, 2013; and

WHEREAS, the Board of County Commissioners are amending Chapter 2 Article I, of the Durham County Code of Ordinances entitled, "General Administration" to address the relocation of the courthouse steps and the location of the bulletin board for posting legal notice.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DO TH ORDAIN:

- 1) That Chapter 2, Article I, Section 2-1 of the Durham County Code of Ordinances is hereby amended as follows:

**Sec. 2-1. - Judicial sales.**

All sales required by statute to be held on the "courthouse steps" shall be held on the front entry steps or in the first floor vending room of the Durham County Courthouse, located at 510 South Dillard Street, Durham, North Carolina, 27701.

- 2) That Chapter 2, Article I, Section 2-2 of the Durham County Code of Ordinances is hereby amended as follows:

**Sec. 2-2. - Posting of legal notices.**

All notices required by statute to be posted on the "courthouse door," shall be posted on the bulletin board located in or outside of the Civil Filing Office on the first floor in the Durham County Courthouse.

- 3) The Chapter, as amended, is effective on February 11, 2013.

This the 28<sup>th</sup> day of January, 2013.

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Consent Agenda Item No. g.

**A RESOLUTION BY THE DURHAM COUNTY BOARD OF COMMISSIONERS AFFIRMING THE PROPOSED CONSTRUCTION OF A ROUGEMONT COMMUNITY WATER SYSTEM**

**WHEREAS** formerly leaking underground gasoline storage tanks have polluted groundwater in certain parts of Rougemont, and

**WHEREAS** the Durham County citizens with wells in those areas deserve clean, safe drinking water, and

**WHEREAS** Durham County has worked with the North Carolina Department of Environment and Natural Resources (NC DENR) to reach a common vision for solving this problem in a way that best matches the needs of the citizens and resources of the County, and

**WHEREAS** Durham County elected representatives and staff have discussed the problem and the proposed solution at numerous community meetings in or near Rougemont, and

**WHEREAS** the estimated cost for constructing this community water system is \$1.8 million, and

**WHEREAS** Durham County and the UST Trust Fund Branch have mutually agreed to the below division of costs:

- \$120,000 - ARRA funds available through NC DENR
- \$400,000 – Funds available through the NC DENR Commercial UST Cleanup Fund
- \$600,000 – CDBG Infrastructure Contingency grant through NC Dept. of Commerce
- Remainder – est. \$680,000 – Durham County, and

**WHEREAS** Durham County acknowledges the need to commit the \$120,000 in ARRA funds prior to February 1<sup>st</sup>, 2013 in order to keep them available for this project, and

**WHEREAS** Durham County further acknowledges that the \$120,000 must actually be disbursed prior to March 30<sup>th</sup>, 2013,

**NOW THEREFORE BE IT RESOLVED** that the Durham County Board of County Commissioners does hereby

- a) Commit that the above division of costs is still acceptable to Durham County,
- b) Commit that the \$120,000 in ARRA funds will be spent on a ductile iron pipe reserve for the Rougemont Community Water System,
- c) Commit that it will work with The Wooten Company to deliver three or more bids for this pipe to the UST Trust Fund Branch no later than February 20<sup>th</sup>, 2013 with the understanding that the state's contractor will be able to execute the purchase of said pipe prior to the March 30<sup>th</sup>, 2013 deadline.

Adopted, this the 28th day of January, 2013.

**Public Hearing - North Carolina Department of Transportation's 2012 – 2013 Secondary Road Construction Program**

Chairman Foster recognized members of the Department of Transportation (DOT). Mr. Cadmus Capehart, District Engineer of Division 5/District 2, which oversees maintenance for Durham County, presented the 2012-2013 program and answered questions.

There is approximately \$253,000 from the Highway Fund and \$335,000 from the Trust Fund for an approximate total of \$588,000. \$250,000 will be used for patching for bituminous surface treatment routes and under \$245,000 will be used for patching short overlays and/or spot widening.

Mr. Capehart updated the Board on completed projects in the 2012-2013 program. Work has begun on the State Forest Road Bridge and has a completion date of May, 2013.

Commissioner Reckhow expressed concern regarding the total of funds available. There has been a substantial decrease in funding over the past four years. She inquired about road repair that is not being addressed due to the funding. She inquired how the Division is promoting the needs that are not met by the limited funding?

Mr. Capehart responded that the funding is determined by the General Assembly using a formula for each county. Monies are being used for paved road improvements vs. secondary road improvements.

Commissioner Reckhow commented that it would be helpful to have a list of the needs that are not being addressed by the \$588,000 coming to Durham County. If the future funding were to remain at this level, the condition of our roads could deteriorate.

Mr. Wally Bowman, Division Engineer, addressed Commissioner Reckhow's concerns. He concurred that DOT needs more money for maintenance. Unpaved roads are not the best places to spend the money at this time. He reminded the Board that DOT attempted to get more money for bridge preservation because of the old timber structures. The Legislature shifted money from other sources over the bridge preservation program. DOT has requested more money for the pavement preservation. There are no new maintenance dollars at this time.

Commissioner Reckhow inquired how the roads were rated. What is an ideal maintenance budget for Durham? Mr. Bowman responded that the numbers would have to be broken down for Durham. Commissioner Reckhow requested that the information be forwarded to the County Manager so the Board will have good information.

Mr. Bowman added that the Legislature gave some flexibility on the unpaved secondary road system to use a portion of the money on paved roads.

Commissioner Jacobs asked for a list of the roads that are high need, but are on a wait list. Is there a certain amount that Durham County contributes to the DOT funds? Mr. Bowman replied that money is received from gas tax as well as new car sales and vehicle tax. Commissioner Jacobs commended DOT on the maintenance provided on her unpaved road.

Vice Chair Howerton asked about the strategy for determining which roads are paved or repaired? Mr. Bowman responded that the roads are ranked based on criteria (houses, traffic, businesses, dead end, churches, school bus route, etc.). The roads with the most points get the highest priority.

Chairman Foster opened the public hearing. Attorney Siler confirmed with DOT that the public hearing had been advertised. No one signed up to speak. The public hearing was closed.

Vice Chair Howerton moved, seconded by Commissioner Jacobs, to approve the North Carolina Department of Transportation's 2012-2013 Annual Secondary Road Construction Program.

The motion carried unanimously.

## **Board Appointments**

Chairman Foster requested the Clerk to distribute ballots for the following appointments:

- a. Durham Tourism Development Authority
- b. Nursing Home Community Advisory Committee
- c. Public Health Board
- d. Raleigh-Durham Airport Authority
- e. Workforce Development Board

Vice Chair Howerton moved, seconded by Commissioner Reckhow to defer action on the Raleigh-Durham Airport Authority until the next meeting.

AYES: Howerton, Jacobs, Page, Reckhow  
NOES: Foster

Commissioner Page asked for a clarification of why the request was made to defer. Vice Chair Howerton responded that it would give the Board an opportunity to review its rules regarding the appointment of an individual who was not eligible for reappointment. She recommended that the Board suspend the rules on Monday and vote on the Raleigh-Durham appointment on February 4, 2013.

Commissioner Reckhow commented that there was not a rule, but a policy. She offered that the Board could move tonight to not follow its policy.

Chairman Foster recalled the vote (4-1) prior to the questions.

The Board made the following appointments:

### *Durham Tourism Development Authority*

Daniel Robinson (Full Service) - unanimous  
Joe Varipapa (Limited Service) – unanimous

### *Nursing Home Committee Advisory Committee*

Kae Huggins – unanimous

### *Public Health Board*

John T. Daniel (Medical Doctor) – unanimous  
Michael Case – Reckhow, Howerton, Jacobs, Foster  
Teme Levbarg – Reckhow, Howerton, Jacobs  
Bergen Watterson – Reckhow, Jacobs, Howerton

### *Workforce Development Board*

Michael Lee – Foster, Jacobs, Page, Reckhow

**Closed Session**

Chairman Foster announced that the Board was requested to adjourn into Closed Session to discuss the following items:

1. to discuss matters relating to the location or expansion of a business or industry, pursuant to G. S. 143-318.11(a)(4);
2. to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee, pursuant to G.S. § 143-318.11(a)(6).

Commissioner Reckhow moved, seconded by Commissioner Page that the Board adjourn into Closed Session.

The motion carried unanimously.

**Reconvene to Open Session**

Chairman Foster stated that the Board met in closed session and provided direction to staff.

**Adjournment**

Commissioner Page, seconded by Commissioner Howerton, that the meeting be adjourned.

The motion carried unanimously.

Respectfully Submitted,



V. Michelle Parker-Evans  
Clerk to the Board