

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

Monday, August 14, 2000

9:20 A.M. Closed Session

**MINUTES**

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

Present: Chairman MaryAnn E. Black, Vice-Chairman Ellen W. Reckhow, and Commissioners William V. Bell, Joe W. Bowser, and Becky M. Heron

Absent: None

Presider: Chairman Black

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to adjourn to closed session from 9:20 a.m. to 1:00 p.m. pursuant to G.S. § 143-318.11(a)(6) in order to consider the qualifications or conditions of employment of a public officer.

The motion carried with the following vote:

Ayes: Black, Heron, and Reckhow  
Noes: None  
Absent: Bell and Bowser

Note: Commissioners Bell and Bowser arrived after the vote was taken.

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7:00 P.M. Regular Session

**Opening of Regular Session**

Chairman Black called the Regular Session to order with the Pledge of Allegiance.

**Agenda Adjustments**

County Attorney Chuck Kitchen requested a consent agenda item be added regarding the removal of Mr. Robert Maestri from the Durham County Memorial Stadium Authority.

Chairman Black added the item as consent agenda item No. 4(l).

Chairman Black requested that a resolution honoring Ms. Ann B. Johnson be added to the agenda after agenda item No. 3.

Vice-Chairman Reckhow requested permission to add comments regarding the Conservation and Resources Recovery Act.

Interim County Manager Carolyn P. Titus requested the addition of a consent agenda item—"Printing of Voter Ballots for the Board of Elections."

Chairman Black said the Board of Elections item would be consent agenda item No. 4(k).

Chairman Black requested that agenda item No. 10, "Designation of a Board Representative to the Little River Park Advisory Committee," be deferred for two weeks.

Chairman Black announced the Grant Award Ceremony at the proposed New River Regional Park on Wednesday, August 23, 2000 at 3:00 p.m.

Chairman Black said agenda item No. 6, "Quasi-Judicial Hearing on Appeal of Revocation of Land Disturbing Permit #L-2772, Edinborough at the Park," will replace agenda item No. 10.

Chairman Black asked Ms. Deborah Craig-Ray to stand and be recognized for all the hard work she did in planning for the North Carolina Association of County Commissioners' annual meeting held in Durham County last week.

Ms. Craig-Ray said she received positive feedback from the attendees at the meeting. She thanked the department managers and staff for their hard work relative to the conference. It was a team effort and everyone was glad the conference went so well.

The Commissioners made remarks of appreciation and thanks to Ms. Craig-Ray and County staff for making the state association conference such a big success. Everyone enjoyed the conference.

### **Minutes**

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the June 5, 2000 Worksession, June 12, 2000 Budget Worksession, June 12, 2000 Regular Session, June 21, 2000 Worksession, June 26, 2000 Closed Session, and July 24, 2000 Merger Worksession Minutes of the Board as submitted. Approve the June 6, 2000 Worksession, June 26, 2000 Regular

Session, and the July 10, 2000 Closed Session and Worksession Minutes of the Board as corrected.

The motion carried unanimously.

**Proclamation for “Women’s Equality Day”**

Chairman Black was asked to proclaim August 26, 2000 as “Women’s Equality Day” in recognition of the anniversary of the ratification of the 19<sup>th</sup> amendment. Ms. Harriette Davis, President of the Durham Association of Educators, was in attendance to receive the proclamation.

County Manager's Recommendation: Present the proclamation to representatives of the Durham Association of Educators, along with congratulations of the Board of County Commissioners.

Chairman Black read the proclamation into the record as follows:

PROCLAMATION

WHEREAS, since the beginning of our great nation, women have played a vital role in the shaping and crafting of the ideals of democracy; and

WHEREAS, dedicated people sustained a long campaign to provide women with the right to vote; and

WHEREAS, the process of ratifying the U.S. Constitutional Amendment to guarantee the nationwide right of women to vote had many starts and stops; and

WHEREAS, on August 26, 1920, a required number of states approved a measure which would become the Nineteenth Amendment to the Constitution of these United States, although the State of North Carolina was not among the original states to ratify the 19<sup>th</sup> Amendment; and

WHEREAS, Durham citizen Elizabeth Grant served as the 1970-71 statewide president of the League of Women Voters during whose term women of North Carolina celebrated the 50<sup>th</sup> Anniversary of the 19<sup>th</sup> Amendment by lobbying the North Carolina General Assembly to retroactively ratify the amendment; and

WHEREAS, the Durham Association of Educators wishes to celebrate the 80<sup>th</sup> Anniversary of the 19<sup>th</sup> Amendment by encouraging all women and men of Durham County to exercise their right to vote in all elections; and

WHEREAS, The Durham Association of Educators will encourage teachers to craft lessons that will inform students of the struggles of inclusive participation in American Democracy; and

WHEREAS, this proclamation salutes the women who are elected members of the Durham County Commissioners, the Durham City Council, and the Board of Education of the Durham Public Schools:

NOW, THEREFORE BE IT RESOLVED that I, MaryAnn E. Black, Chairman of the Durham County Board of Commissioners, proclaim that Saturday, August 26, 2000 shall be celebrated as

“WOMEN’S EQUALITY DAY”

throughout Durham County, North Carolina.

This the 14<sup>th</sup> day of August, 2000.

Ms. Davis made remarks about the proclamation.

Chairman Black presented the proclamation to Ms. Davis with congratulations from the Board of Commissioners.

### **Resolution Honoring Ann B. Johnson**

This resolution honors Ann B. Johnson, ACSW, for her dedication and numerous contributions to the senior citizens of North Carolina. She has been involved in various state and national senior organizations including serving 23 years as Executive Director of the Coordinating Council for Senior Citizens, founding the Chapel Hill Senior Center, and serving as President of the NC Senior Citizens’ Association.

County Manager's Recommendation: Present the resolution to Ms. Johnson with the appreciation of the Board of County Commissioners.

Commissioner Heron read the resolution into the record as follows:

#### Resolution

WHEREAS, Ann B. Johnson has been a dedicated community servant and in particular a champion of seniors’ rights for the last 53 years; and

WHEREAS, she attended Temple University and Tulane University, gaining interest in education and social work that would fuel her tireless effort to make Durham and North Carolina sensitive to the needs of those in our society who are often overlooked; and

WHEREAS, Ms. Johnson came to Durham in 1965 as a visiting teacher at North Carolina Central University and afterwards was named as the Executive Director of the Coordinating Council for Senior Citizens in 1967; and

WHEREAS, she served 23 years as Executive Director of the Coordinating Council for Senior Citizens, during which time she was responsible for making the organization the standard by which other organizations that address the needs of older adults in Durham are judged; and

WHEREAS, she served as the Chairman of the Seminar on Senior Center Standards and Guidelines (1978), Chairperson of the National Institute for Senior Citizens (1980-1982), Member of the Governor's Advisory Council on Aging (1984-1989), Member of the NC Association on Aging (1981-1990), and held various other memberships in organizations involved in improvements in senior citizens initiatives; and

WHEREAS, not content to rest on her laurels after her retirement in 1990, Ms. Johnson became a founder of the Chapel Hill Senior Center in 1991, and she was elected President of the NC Senior Citizens Association in 1992 serving until 1994; and

WHEREAS, additional post-retirement accomplishments include Co-Editor of Voice quarterly newspaper, delegate to the White House Conference on Aging in 1995, and representative from NC District #4 to the Silver Haired Congress in Washington, DC in 1997, 1998, and 1999:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby resolve to pay tribute to

ANN B. JOHNSON, ACSW

a compassionate, creative, and visionary community servant who gives her talents to improve the lives of all North Carolinians. We call upon all citizens of Durham County to salute the extraordinary contributions she has made in this community, state, and nation towards improving the lives and well being of our senior citizens.

This the 14<sup>th</sup> day of August, 2000.

/s/ Five Commissioners  
Durham County Commissioners

Ms. Johnson made remarks about her career as Executive Director of the Coordinating Council for Senior Citizens.

Commissioner Heron presented the resolution with the appreciation of the Board of County Commissioners.

### **Consent Agenda**

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the following consent agenda items:

- (a) Modification to a Public School Building Capital Fund Project—Durham Public Schools (approve the modification to the title of the project to include “and General Renovations” as it was inadvertently left off the original title and more accurately reflects the originally intended scope of work);
- (b) Final Qualifying Bid to Purchase County Property (118 Plantation Drive) (approve the offer of \$8,250 submitted for 118 Plantation Drive by Ms. Sylvia McGhee and prepare a non-warranty deed for the Chairman’s signature);
- \* (c) Property Tax Releases and Refunds (accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report for June 2000);
- \* (d) Property Tax Releases and Refunds (accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report for July 2000);
- (e) Tax Appraisal Services—Tax Administration Office (authorize the County Manager to enter into a contract with Pearson Appraisal Services in an amount not to exceed \$254,825 to begin work September 1, 2000 due to the importance of this process to the Department’s operations and revaluation);
- (f) Payment of Vendor Printing Services for Elections (approve payment to Commercial Printing for services rendered in the amount of \$23,050.12);
- \* (g) Office Furnishings for Durham County Social Services (authorize the County Manager to enter into a contract with Storr Office Environments for \$33,547.45, with MacThrift for \$1,535.00, with Prestige for \$414.00, and Triangle Office Equipment for \$39,305.00 for the purchase of equipment for the Department of Social Services at 220 East Main Street and 300 North Duke Street);
- (h) Contract with The Upjohn Company (authorize the County Manager to enter into a contract with The Upjohn Company in an amount not to exceed \$40,000 for the purchase of Depo-Provera injections);

- (i) Pharmaceuticals for the Public Health Department, Durham County Detention Facility (DCDF), and Emergency Medical Services (EMS) (authorize the County Manager to renew its contract with Bindley Western for the supply of pharmaceuticals for Public Health and DCDF in an annual amount not to exceed \$140,000 and for EMS in an annual amount not to exceed \$30,000);
- (j) Liability Claims and Subrogation Recovery for FY 99-00 (receive the Reports on Claims Paid and recognize the continuing efforts of the County Administration to decrease costs associated with Government operations); and
- (l) Removal of Robert Maestri from the Durham County Memorial Stadium Authority (the BOCC will schedule a public hearing to determine whether Mr. Maestri should be removed from the Durham County Memorial Stadium Authority during its worksession scheduled for October 2, 2000).

The motion carried unanimously.

\*The documents related to these items follow:

Consent Agenda 4(c). Property Tax Releases and Refunds (accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report for June 2000).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details tax releases and refunds for the month of June 2000.

Releases & Refunds for 1999 & 2000 Taxes:

Real	\$ 1,974.75
Personal	\$ 9,970.68
Registered Vehicles	\$41,899.49
Vehicles Fees	\$ 760.00
Solid Waste Fees	<u>\$ 110.00</u>
Total for 1999 & 2000 Taxes and Fees	<u>\$54,714.92</u>

Prior Years (1996-1998) releases and refunds for June 2000 are in the amount of \$3,686.82.

Total Current Year and Prior Year Releases and Refunds \$58,401.74

(Recorded in Appendix A in the Permanent Supplement of the August 14, 2000 Minutes of the Board.)

Consent Agenda 4(d). Property Tax Releases and Refunds (accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report for July 2000).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details tax releases and refunds for the month of July 2000.

Releases & Refunds for 1999 & 2000 Taxes:

Real	\$ 1,895.60
Personal	\$ 8,830.01
Registered Vehicles	\$35,836.27
Vehicles Fees	<u>\$ 550.00</u>
Total for 1999 & 2000 Taxes and Fees	\$47,111.88

Prior Years (1992-1998) releases and refunds for July 2000 are in the amount of \$64,756.56.

Total Current Year and Prior Year Releases and Refunds \$111,868.44

(Recorded in Appendix B in the Permanent Supplement of the August 14, 2000 Minutes of the Board.)

Consent Agenda 4(g). Office Furnishings for Durham County Social Services (authorize the County Manager to enter into a contract with Storr Office Environments for \$33,547.45, with MacThrift for \$1,535.00, with Prestige for \$414.00, and Triangle Office Equipment for \$39,305.00 for the purchase of equipment for the Department of Social Services at 220 East Main Street and 300 North Duke Street).

Summary of Bid Tabulation - IFB No. 00-025  
 Office Furnishings – Durham County Department of Social Services

Bidder	Bid Price	Percentage Bidded
Alfred Williams & Co. 3412 Westgate Drive/Suite 300 Durham, NC 27707	No Response	0
Atlantic Office Supply P O Box 52026 Durham, NC 27717	No Response	0



Benton Office Products 301 Nash Street W Wilson , NC 27893	No Bid	0
Brame Specialty Supply P O Box 271 Durham, NC 27701	\$40,985.00	80%
Business Interiors Group Inc. 516 West Friendly Avenue Greensboro, NC 27401	No Response	0
Corporate Express 1133 Poplar Creek Road Henderson, NC 27536	No Bid	0
Forms & Supply Inc. P O Box 563953 Charlotte, NC 28256	\$89,977.21	100%
Institutional Interiors Inc. 101 W. 14 <sup>th</sup> Street / Suite 210 Greenville, NC 27834-4182	No Response	0
MacThrift Office Furniture 1418 Avondale Drive Durham, NC 27701	\$14,369.00	20%
Modern Office Interiors 220 Dominion Drive Morrisville, NC 27560	No Bid	0
Modular Office Design 3060 Wake Forest Road Raleigh, NC 27609	No Response	0
Network Business Furniture 9012 Glenwood Avenue Raleigh, NC 27612	No Response	0
Office Furniture Innovations 2200-102 Westinghouse Blvd. Raleigh, NC 27604	No Response	0
Office Supply Solutions 6001 Chapel Hill Road / Suite 110 Raleigh, NC 27607	No Response	0
Prestige Office Products 4502 Bennett Memorial Road Durham, NC 27705	\$50,672.00	90%
State Office Equipment 1634 S. Saunders Street Raleigh, NC 27603	No Response	0
Storr Office Furniture 10800 World Trade Blvd. Raleigh, NC 27675	\$33,547.45	10%
Taff Office Equipment 569 South Evans Street Greenville, NC 27834	No Response	0
Thrifty Office Equipment 10235 Miami Blvd. Durham, NC 27703	No Response	0

Triangle Office Equipment PO Box 2372 Chapel Hill, NC 27515	\$41,941.00	80%
US Office Products 9241 Globe Center Drive/Suite 100 Raleigh, NC 27560	\$94,760.79	100%
Williams Office Environment 407 Ray Avenue Fayetteville, NC 28301	No Response	0

**Consent Agenda Items Removed for Discussion**

**Consent Agenda 4(k).** Printing of Voter Ballots for the Board of Elections.

The Board was requested to authorize the County Manager to enter into a contract with Fayetteville Printing & Office Supply Co. Inc. on behalf of the Board of Elections to print 155,000 voter ballots for the November 2000 election.

Three informal quotes were received: Fayetteville Printing & Office Supply Co. Inc. (\$13,698.00); Commercial Printing Company (\$20,758.65); and Election Systems & Software (\$21,700.00). Fayetteville Printing & Office Supply Co. Inc. offered the lowest bid. The special paper stock for the ballots must be ordered by August 15, 2000 to meet a printing deadline for the absentee voting beginning October 16, 2000.

**Resource Person(s):** Wendell M. Davis, Deputy County Manager

**County Manager's Recommendation:** Authorize the County Manager to enter into a contract with Fayetteville Printing & Office Supply Co. Inc. for an amount not to exceed \$13,698.00 for printing 155,000 voter ballots for the Board of Elections.

Chairman Black asked Interim County Manager Carolyn P. Titus when the new director for the Board of Elections would be employed.

Interim County Manager Titus responded that this is an issue of concern. The state audit requested in June would be completed this week. The hearing for Board of Elections member Ronald Gregory was scheduled for Wednesday, August 23, 2000 at 2:00 p.m. After these two events have occurred, the exact needs of that department will be assessed. Since there is no director in the department, the State Board of Elections has the responsibility to appoint the director. The State Board feels it will be in a position to put the necessary support and people power in that office and appoint the director. Preparation for the elections can then go forward. There is a shortage of employees in the department, which is a concern. There is also a concern about the lack of leadership in the office at the present time.

Chairman Black asked Interim County Manager Titus to write a letter to the State Board of Elections requesting that a director to the Durham County Board of Elections be named as soon as possible.

Mr. Ronald Gregory, Chairman, Board of Elections, said that tomorrow the State Board of Elections will submit the advertisement for the new director to the Human Resources Department. Also, the State Board will provide the Durham County Board of Elections additional employees to assist with the upcoming elections. The Durham County Board of Elections has requested that the State Board of Elections manage the department until a new director is employed.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, that the Commissioners follow through with a letter to the State Board of Elections requesting that it assist Durham County with this situation and that a director be hired as soon as possible and to notify the County Commissioners when the director has been hired.

The motion carried unanimously.

Commissioner Heron and Vice-Chairman Reckhow requested that voter history be made available to the public when requested. Up-to-date voter registration has also been requested. This information needs to be available to the candidates and voters.

**Public Hearing for Rezoning of Research Triangle Foundation & Triangle Transit Authority (Rezoning Case P00-18)**

Research Triangle Foundation & Triangle Transit Authority presented to the Board of County Commissioners a request to rezone 26 acres in Research Triangle Park. The site is on the south side of NC 54 adjacent to the NC Railroad and about 500 feet west of the Page Road/Miami Boulevard intersection. The specific request is to rezone RSCH (Research Park District) to OI-2 (General Office and Institutional District). The proposal is in conformance with the adopted small area plan and 2020 Plan. Planning staff recommended approval. The Zoning Committee of the Durham Planning Commission conducted a public hearing on June 13, 2000 and voted 6-1 to recommend approval.

Case Planner: Nazeeh Abdul-Hakeem

The public hearing for this request was advertised on July 28 and August 4, 2000 in the Durham Herald-Sun.

Resource Person(s): Sheila Stains-Ramp and Norman Standerfer, Planning Department

County Manager's Recommendation: The Manager's recommendation is that the Board

hold the public hearing and approve the rezoning, if appropriate, based on public comment.

Mr. Standerfer presented the Commissioners an overview of rezoning case P00-18. The widening of Highway 54 is now in the updated Transportation Improvement Plan which will affect this rezoning.

The Commissioners asked questions to which Planning staff responded.

Chairman Black opened the public hearing that was properly advertised.

Liz Rooks, Vice President for Planning and Development, Research Triangle Foundation, 2 Hanes Drive, RTP, asked the Commissioners for their approval of this rezoning request to enable Triangle Transit Authority and the Research Triangle Foundation to develop the 26-acre site with mixed uses at a level of intensity to be compatible with a transit oriented development.

Juanita Shearer-Swink, Senior Transportation Planner, Triangle Transit Authority, 50 Park Drive, Suite 206, explained additional details about the proposal and development plan.

As no one else asked to speak at the public hearing, Chairman Black closed the hearing and referred the item to the Commissioners for consideration.

The Commissioners made comments and remarks about the rezoning case before the official vote was taken.

Vice-Chairman Reckhow moved, seconded by  
Commissioner Bowser, to approve rezoning case P00-18.

The motion carried unanimously.

(Legal description recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

### **Site Plan for PA3-2000 Addition to Freudenberg Nonwovens--Tufts Division**

O'Neal Inc., on behalf of Freudenberg Nonwovens--Tufts Division, submitted a plan for a 66,000-square-foot, five-story, manufacturing and office building addition to an existing facility on ±161.09 acres zoned I-2 and F/J-A. The property is located at the end of Industrial Drive, northwest of Hamlin Road (tax reference 689-1-6, PIN# 0844-03-22-4584). Board of Commissioner approval is required for site plans greater than 25,000 square feet and for all non-residential projects in the F/J-A. Notice of the governing board consideration of this site plan will be published in the newspaper in accordance with the requirements of the Durham Zoning Ordinance Section 5.5.5.1 for non-residential projects within the F/J-A. A Traffic Impact Analysis is not required for

this project. Planning staff recommended approval.

Resource Person(s): Teri Danner, Senior Planner

County Manager's Recommendation: The Manager's recommendation is that the Board receive the presentation and approve, if appropriate, based upon the comments offered by the Board.

Ms. Danner gave the Commissioners an overview of the site plan.

Vice-Chairman Reckhow asked questions to which Planning staff responded.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the site plan.

The motion carried unanimously.

(Tax Reference 689-1-6, Pin # 0844-03-22-4584; recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

### **Ellerbe Creek Falls Reservoir Survey—Follow Up**

The Board of Commissioners discussed the Ellerbe Creek Survey at its May 8, 2000 Regular Session. At that time, staff recommended that Durham accept the survey as more accurate and better information about the location of the Falls Reservoir normal pool on the Ellerbe Creek tributary, and that Durham petition the NC Environmental Management Commission to amend the NC Administrative Code to acknowledge this new location for the Falls Reservoir normal pool. The Board was generally comfortable with that recommendation; however, the County Attorney wanted the opportunity to clarify the process for amending the NC Administrative Code, which he did.

In May, Planning staff noted that Durham uses a one-mile Critical Area, larger than the State minimum of a one-half mile Critical Area. Because the proposed change in the location of the normal pool is small, changing the normal pool location would not violate the State's minimum requirement for Critical Area. It would, however, violate the State's minimum requirement for the five-mile Protected Area. The County Attorney advises that Durham should now amend its zoning maps to reflect the Critical Area change, but not change the Protected Area until NC Administrative Code is amended. If the Board concurs, Planning staff would process a Board-initiated zoning map amendment.

Resource Person(s): Keith Luck, Planning Supervisor, presented the item.

County Manager's Recommendation: The Manager's recommendations follow:

- Accept the KCI Technology survey as more accurate and better information about the location of the Falls Reservoir normal pool on the Ellerbe Creek tributary;

- Petition the NC Environmental Management Commission to amend the NC Administrative Code to acknowledge this more accurate and better technical information about the location of the Falls Reservoir normal pool on the Ellerbee Creek tributary; and
- Direct the administration to prepare a Board-initiated zoning map change for the Falls Reservoir Critical Area related to Ellerbee Creek.

Mr. Luck gave the Commissioners a brief overview of the agenda item.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the Interim County Manager's recommendation.

The motion carried unanimously.

### **Appointment of Work First County Block Grant Plan Committee**

In 1997, counties developed their first biennial Work First County Block Grant plans. This fall, each county must again develop a Work First Block Grant Plan to be effective July 1, 2001 - June 30, 2003.

NC Law (NCGS 108A-27) requires each county's board of county commissioners to appoint a committee of local leaders to assist in the development of its Work First Block Grant plan. A critical part of each county's plan development is a decision as to whether the county will seek electing county or standard county status.

Each county must notify the NC Department of Health and Human Services (DHHS) by September 29, 2000 of its desire to be either a Standard or an Electing County for Work First. Requests for Standard or Electing County status require County Commissioner approval. If a County chooses to pursue "Electing" status, its application for this status will be evaluated by the NC DHHS with final approval of electing counties to be made by the NC General Assembly. The local Work First Planning Committee will bring a recommendation on selecting Standard or Electing County status to the Board of Commissioners in September.

In order to complete Durham's Work First Block Grant planning process within the defined time frames, it is requested that the Commissioners begin the appointment process at this meeting.

Resource Person(s): Dan Hudgins, DSS Director, and Arnold Dennis, DSS Assistant Director for Family Self Sufficiency, were available as resource persons for this request.

County Manager's Recommendation: In the Work First Block Grant Planning process of 1997, each Commissioner appointed a Planning Committee member and the County Manager recommended the remainder of the committee. For the planning process of

2000, the Manager recommends that the Commissioners again each appoint a member and the remaining members be nominated by the current Work First Advisory Committee. The entire committee will be presented to the Board on August 28 for final Commissioner approval of all appointments.

Mr. Hudgins presented the Commissioners an overview of the agenda item.

The Commissioners asked questions and made comments about the item to which Mr. Hudgins responded.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the Interim County Manager's recommendation.

The motion carried unanimously.

**Quasi-Judicial Hearing on Appeal of Revocation of Land Disturbing Permit #L-2772, Edinborough at the Park**

South Atlantic Construction has appealed the action of the Sedimentation and Erosion Control Office in revoking their land-disturbing permit on July 19, 2000. This action was taken per Section 14-69 of the Durham County Code of Ordinances. South Atlantic has brought the site into compliance and re-obtained their permit on July 27, 2000. They are challenging the revocation decision in order to obtain a refund of the re-application fee of \$1,478.25.

Resource Person(s): Charles W. Armbrust, Sedimentation & Erosion Control Technician; Leon Beddingfield, Erosion Control Officer; and Glen Whisler, P.E., County Engineer.

County Manager's Recommendation: The Board of County Commissioners should hear South Atlantic's appeal and take appropriate action based on the information presented.

**Introduction and Swearing In**

Chairman Black said, "The next matter is item No. L-2772, an appeal of the decision of the Sedimentation and Erosion Control Office to revoke a land-disturbing permit issued to South Atlantic Construction. The hearing on this matter is judicial in nature and will be conducted in accordance with special due process safeguards. All persons who wish to testify in this case should have signed up on the special sheet for this hearing at the clerk's station. If you wish to speak, please go now to the clerk's station to be sworn in or give your affirmation. If you have not signed up and wish to speak, please sign up now and participate in the swearing in. After the swearing in, you may return to your seat."

The Clerk to the Board administered the oath to everyone who wished to speak.

### Board Conflicts

Before opening the hearing, Chairman Black gave the Board members a chance to reveal possible conflicts and to withdraw from the proceeding if necessary. Chairman Black asked the Commissioners if they could rule fairly and impartially.

No Board member wished to withdraw.

### Prior Exposure to Evidence

Chairman Black asked that any Board members who have any information or special knowledge about the case that may not come out at the hearing, to please describe that information for the record so that interested parties will know and can respond.

The Board members had received no information or special knowledge. There was no prior exposure to evidence.

### Explanation of Proceeding

Chairman Black said, "In this hearing, we will first hear from the Sedimentation and Erosion Control staff and other County witnesses, then from the Appellant and their witnesses, and then from opponents to the appeal. Parties may cross-examine witnesses after the witnesses testify when questions are called for. If you want the Board to see written evidence, such as reports, maps, or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his or her testimony. We cannot accept reports from persons who are not here to testify. Attorneys who speak should not give factual testimony but may summarize their client's case. Before you begin your testimony, please clearly identify yourself for the record."

### Testimony from Staff

Chairman Black opened the hearing on Case L-2772 and asked for the testimony from County staff. Leon Beddingfield, Erosion Control Officer for Durham County, began his remarks by presenting exhibits A through K to Chairman Black for acceptance as evidence. The evidence follows:

#### Exhibit List

- A. Financial Responsibility/Ownership Form
- B. Plan page GS 2.1
- C. Timeline
- D. Inspection Report, 05-23-2000
- E. Notice of Violation, 06-05-2000
- F. Inspection Report, 06-20-2000
- G. Inspection Report, 07-19-2000
- H. Notice of Land Disturbing Permit Revocation, 07-19-2000
- I. Inspection Report, 07-26-2000
- J. Inspection Report, 07-27-2000
- K. Rescind Notification, 07-27-2000



Chairman Black asked if anyone would like to examine the evidence or to object to its admission as evidence.

There being no objection, the evidence was admitted into the record.

Mr. Beddingfield reviewed in detail Exhibits A, B, and C for the Commissioners.

There was no cross-examination by the opponents. (Randy Robertson, 2245 N. Hills Drive, Suite G, Raleigh, was representing South Atlantic Construction.)

Mr. Beddingfield asked Mr. Armbrust to explain the activities and process that prompted this quasi-judicial hearing.

Mr. Armbrust reviewed evidence documents B, E, F, G, H, I, J, and K in detail. He requested that the documents be accepted as evidence.

Chairman Black accepted the documents as evidence.

Chairman Black asked for any cross-examination.

There was no cross-examination.

Ed Harrison, 58 Newton Drive, representing Durham Soil and Water Conservation Districts Board of Supervisors, said the board members did not take specific action at the last board meeting on this matter. I am fairly confident that what I say represents my board's opinion. I am here to support the Durham County staff position. This site is an offense to Durham County and the permit should be revoked and remain revoked until it is brought back into compliance. I urge the Commissioners to support the staff on this matter.

Ed Harrison said this construction site is an inventory site.

There was no cross-examination.

Chairman Black called on Mr. Robertson to make his comments and remarks.

Mr. Robertson told the Commissioners of his interpretation of the events that occurred during the time that evolved throughout the construction period.

Chairman Black asked for questions from the Commissioners and the parties involved.

Commissioner Bowser asked several questions of Mr. Robertson to which he responded.

Mr. Beddingfield also responded to questions from Commissioner Bowser.

Chairman Black asked for cross-examination.

Mr. Beddingfield said he wanted to introduce Exhibit M as evidence to the record. Exhibit M was a recording of rainfall data taken at the Raleigh-Durham International Airport.

Chairman Black asked Mr. Robertson if he had seen the material and if he had a problem with it being entered as evidence.

Mr. Robertson said that in the summertime a difference of two miles could make a big difference in the amount of rainfall. We don't have rain gauges on the job site.

Chairman Black asked Mr. Robertson if he had any evidence that these rainfall facts are not accurate.

Mr. Robertson responded, "I do not."

Chairman Black asked if there was any objection to entering the rainfall information as evidence.

Chairman Black requested the information be given to the Commissioners. Mr. Beddingfield was instructed to proceed.

Mr. Beddingfield proceeded with his presentation relative to rainfall and presented his rebuttal to Mr. Robertson.

Mr. Robertson had a question in his cross-examination relative to rainfall.

Mr. Beddingfield said a contractor is required by federal law which has been mandated to the State Department of Environment and Natural Resources that the contractor should maintain a log on the construction site to record the amount of rainfall. The erosion control measure is to be inspected after each rainfall incidence. If maintenance is required, the maintenance should be recorded in the log. If land-disturbing activity is over five acres, federal law requires the log.

Mr. Beddingfield offered as evidence into the record the permit and correspondence for the NPDES log.

Mr. Robertson said he opposes this evidence being placed into the record. We are not sure this is a part of the permit. I am not familiar with this law. I want to talk with an attorney before the evidence is put into the record. I don't see that it is relevant to the case.

Chairman Black said we are going to sustain and not allow the evidence to be entered into the record.

Chairman Black asked for further testimony.

Mr. Beddingfield said there is none at this time.

Chairman Black asked if Mr. Robertson had any questions.

He responded in the negative.

Mr. Harrison wished to ask a question of Mr. Robertson but was not allowed since he was a witness.

Commissioner Heron asked questions to which Mr. Beddingfield and Mr. Harrison responded.

Chairman Black asked Mr. Robertson if he wished to cross-examine Mr. Harrison.

Mr. Robertson made a statement about silt fences and diversion measures.

Chairman Black asked if staff wished to respond or ask a question regarding comments made by Mr. Robertson.

Mr. Armbrust responded to Mr. Robertson's statement about the silt fences and diversion measures.

Vice-Chairman Reckhow asked questions about the timeline to which Mr. Armbrust responded.

Commissioner Bowser asked Mr. Robertson two questions. Mr. Robertson responded.

Commissioner Heron asked Mr. Robertson questions to which he responded.

Chairman Black referred the agenda item to the County Commissioners for consideration and action.

Chairman Black made a summary statement that appears on the recorded agenda action form.

Chairman Black requested that a motion be put on the table.

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, to deny South Atlantic's appeal to obtain a refund of the reapplication fee of \$1,478.25.

The motion carried unanimously.

Chairman Black said the hearing would remain open until the next meeting at which time the order would be brought forward for final approval.

Chairman Black dismissed the parties involved in the hearing.

Vice-Chairman Reckhow and Commissioner Heron asked that staff be stricter on the sedimentation and erosion control violations and reduce the time the contractors should bring the site into compliance. The penalties should be increased to get contractors' attention.

### **Board and Commission Appointments**

The following votes were cast to make appointments to the following boards and commissions (asterisks designate appointees):

#### Alcoholic Beverage Control Board

One expired term (expires July 31, 2003).

John G. Horton

Note: County Attorney Chuck Kitchen advised the Commissioners to continue the Alcoholic Beverage Control Board appointment until the next meeting. He told the Commissioners that a matter came to him today that may or may not affect the Board's decision to make an appointment to the ABC Board. The information would be sent to the Commissioners this week.

#### Area Mental Health Board

One physician position (term expires July 2004).

\*Thomas Owens, MD—Bell, Black, Bowser, Heron, and Reckhow

#### Durham Civic Center Authority

One expired term (expires July 31, 2003).

Corey D. Bizzell--Bowser

Tyrone Eaton—no votes

Willie B. Jones—no votes

\*Kimberly D. Shaw—Bell, Black, Heron, and Reckhow

#### Environmental Affairs Board

Expired term in the "education/communication" position (expires June 1, 2003).

\*Dock Terrell—Bell, Black, Bowser, Heron, and Reckhow

Juvenile Crime Prevention Council

One substance abuse professional position; one member of faith community position; one person under age of 21; one business community position; one United Way or other nonprofit agency position; and one local parks and recreation program position. Terms end June 30, 2002.

- Linzie B. Atkins III (faith community)—no votes
- \*Paul Savery (substance abuse)—Bell, Black, Bowser, Heron, and Reckhow
- \*Peggy A. Kernodle (faith community)—Bell, Black, Bowser, Heron, and Reckhow
- Kristy Godwin (United Way or nonprofit)—no votes
- Patrick W. Baker (business community)—Bowser
- William McKee III (United Way or nonprofit)—Bowser
- \*H. Theron Few (business community)—Bell, Black, Heron, and Reckhow
- Karen K. Thompson (United Way or nonprofit)—Reckhow

Library Board of Trustees

Two expired terms (expire July 31, 2003) and one unexpired term (expires July 31, 2001).

- \*C. "Douglas" Beckham—Black, Heron, and Reckhow
- Willa Coward Bryant—Bell
- Barbara J. Carney—no votes
- \*Carl D. Hodges—Bell, Black, Bowser, Heron, and Reckhow
- Amy Loveland—no votes
- William F. McKee III—Bowser
- Caroline Delaney Miller—no votes
- Stephen Perlman—no votes
- James H. Pickering—no votes
- Alexander (NMN) Spock—no votes
- Karen Wallace-Meigs—no votes
- \*Nancy Palmer Wardropper—Bell, Black, Bowser, Heron, and Reckhow

Region J Emergency Medical Services Council

One term ends June 2002.

- \*Randy W. McCray—Bell, Black, Bowser, Heron, and Reckhow

Chairman Black asked the Clerk to the Board to readvertise three positions on the Juvenile Crime Prevention Council. The positions are: person under the age of 21, United Way or nonprofit, and local parks and recreation program.

**Durham County Hospital Corporation Board of Trustees**

Commissioner Bowser stated he wished to be removed from the Durham County Hospital Corporation Board of Trustees.

Vice-Chairman Reckhow moved (at Commissioner Bowser's request), seconded by Commissioner Bowser, that Commissioner Joe W. Bowser be removed from the Durham County Hospital Corporation Board of Trustees and with Commissioner Bowser's consent, Chairman MaryAnn E. Black will fill Commissioner Bowser's position on the board of trustees.

The motion carried unanimously.

Commissioner Bowser will be appointed to another board at the next Commissioner meeting scheduled for Monday, August 28, 2000.

### **Conservation and Resources Recovery Act**

Vice-Chairman Reckhow said the Senate would be taking final action on this legislation. The Board of County Commissioners has been urged to write a letter to our two senators in support of the bill (Conservation and Resources Recovery Act) as soon as possible.

Chairman Black asked the County Attorney to draft a letter for her signature.

### **City-County Committee**

Chairman Black said a City-County Committee meeting has been scheduled for Thursday, September 21, 2000 at noon in the Commissioners' Chambers.

The purpose of the meeting is to review some of the interlocal agreements and to consider various ideas regarding the Planning Department.

### **Adjournment**

Chairman Black adjourned the meeting at approximately 10:00 p.m.

Respectfully submitted,

Garry E. Umstead, CMC  
Clerk to the Board