

## Agenda

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

Monday, September 25, 2006

#### 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.

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3:00 P.M.

#### Joint Meeting—Board of County Commissioners and Durham Public Schools Board of Education

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7:00 P.M. Regular Session

1. Opening of Regular Session—Pledge of Allegiance 5 min.

2. Agenda Adjustments

3. Announcements

- The North Carolina Department of Transportation (NCDOT) will hold a meeting to allow public comment on the East End Connector project on Tuesday, September 26, 2006, from 4:00 to 7:00 p.m. at Living Water Church (located at Lynn Road and US 70).
- The Board of Commissioners has declared September as "Alcohol and Drug Addiction Recovery Month" in Durham County. In an effort to help build a stronger and healthier community, The Durham Center is sponsoring a "Recovery Celebration Block Party" on Thursday, September 28, 3:00 to 7:00 p.m., Urban Ministries Center, 410 Liberty Street. The event will include food,

music, entertainment, and inspiring stories of recovery.

4. **Minutes**

August 22, 2006 Worksession

5. **Consent Agenda**

a. **Tax Releases and Refunds for Fiscal Year 2006-2007 (accept the property tax release and refund report for August 2006 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);**

b. Budget Ordinance Amendment No. 07BCC000008—Social Services—Recognize Additional Revenue (approve for a total increase of \$2,029,866);

c. Budget Ordinance Amendment 07BCC000009—Durham County Sheriff’s Office—Interlocal Agreement for the Funding of a Countywide Gang Assessment (approve the Interlocal Agreement; authorize the Manager to execute the Agreement; and approve the budget amendment to recognize \$156,922 in reserved funds into the Sheriff’s Office FY 2006-07 operating budget appropriating \$30,000 to the gang assessment study);

d. Budget Ordinance Amendment No. 07BCC000010 Reappropriation of Unspent FY06 Vehicle Loan and Additional Appropriation for FY07 Vehicle Loan (approve budget amendment 07BCC000010 to authorize the reappropriation of the unspent FY06 vehicle loan proceeds in the amount of \$213,656; and authorize an additional appropriation in the amount of \$4,063 to reflect the full amount of the authorized FY07 vehicle and equipment loan);

e. Sub-Recipient Agreement Related to the Sheriff’s 800 MHZ Radio System Upgrade (authorize the County Manager to execute the agreement); and

f. Service contract with Granicus Inc. for webcasting Durham County meetings (authorize the Manager to enter into a service contract with Granicus, Inc. as noted in the contract).

6. **Public Hearing—Zoning Map Change—Barbee Chapel Road (Z06-18)**

The Board is requested to approve a zoning map change for a 36.729-acre site located on the south side of Barbee Chapel Road, across from Downing Creek Parkway, west of Short Street, and east of the Town of Chapel Hill corporate limits. PINs 9797-02-98-4210 and 9797-02-99-3627 Request: RR to PDR 2.000

This item was continued from the August 28, 2006 Commissioner meeting at the request of the applicant.

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.

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.

Planning Department Recommendation: Approval, based on consistency with the *Comprehensive Plan* and the information contained in this report.

Planning Commission Recommendation and Vote: Denial, 8-4 on July 11, 2006. The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission does not believe this request is reasonable or in the public interest in light of the information in the staff report and comments received during the public hearing. The Commission recommends denial based on increased traffic congestion, impacts on sensitive environmental areas and Durham Natural Inventory sites, and significant opposition from the community.

Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

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.

#### 7. **Public Hearing—Zoning Map Change—Scott Mill (Z05-35)**

The Board is requested to refer a request for a zoning map change for a 44.336-acre site located on the south side of Scott King Road, east of Herndon Road, and west of Grandale Drive, back to staff pursuant to Section 15.3.6 of the Zoning Ordinance since the applicant has made changes to the development plan that have been determined previously by the Board of Commissioners to be significant changes requiring that a zoning map change be referred back to the Planning Commission for new hearings. PINs 0727-03-33-0274, 0727-03-33-3487, 0727-03-33-5136, and 0727-03-33-6917 Request: RR to PDR 1.680

This item was continued from the August 28, 2006 Commissioners meeting to allow staff to evaluate the latest submitted development plan for conformance with Ordinance requirements.

Planning Department Recommendation: Staff recommends this application be referred back to staff based on the following significant changes to the most recent submitted development plan: a significant reconfiguration of an external access point so that it requires further engineering review and a 54% increase in the density (from 13 to 20 lots) in the TUA. Additional changes that warrant further evaluation include 1) change in internal circulation, 2) non-compliance with infrastructure

standards including right-of-way widths and sidewalks, 3) failure to comply with resource protection requirements; and 4) internal inconsistencies between the plan sheets and committed elements.

Planning Commission Recommendation and Vote: Denial, 12-0 on April 11, 2006. The Planning Commission finds that the requested revision to the zoning districts of the UDO is consistent with the adopted *Comprehensive Plan*. The commission recommends that the request be denied based on finding that the project will adversely impact sensitive environmental areas, that there is significant opposition from the surrounding community, that the density of the project is inconsistent with the neighboring land uses and densities, and considering the information in the staff report and comments received during the public hearing.

Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board close the public hearing and refer the item back to staff.

8. **Public Hearing—Zoning Map Change—Glenn View Station (Z05-40)**

To approve a request for a zoning map change for 54.56-acre site located on the southeast quadrant of the I-85 and Glenn School Road, north of Geer Street. PINs 0843-04-60-7183; 0842-02-68-4731, 7887, 9897; --69-2332, 5728, 8951; --78-1734; --79-1330, 1470, 1499, 2586 Request: RR; F/J-B to CG(D); F/J-B

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

Alternatively, in the event that a motion to approve the item fails, the finding that has been approved by the Governing Body is to adopt as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the *Durham 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.

Planning Department Recommendation: Approval, based on consistency with the *Durham Comprehensive Plan* and the information contained in this report.

Planning Commission Recommendation and Vote: Approval, 10-3, on August 8, 2006, based on finding that the ordinance is consistent with the adopted *Durham Comprehensive Plan*, and considering the information in the staff report and comments received during the public hearing.

Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

**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. **Request to Review and Discuss the Updated Draft FY 2005-2006 Consolidated Annual Performance and Evaluation Report (CAPER)**

The City of Durham's Department of Community Development requests that the Board of County Commissioners review and discuss the City's updated draft of its Consolidated Annual Performance and Evaluation Report (CAPER). The CAPER demonstrates the City's use of Community Development Block Grant (CDBG) funds, Home Investment Partnerships Program (HOME) funds, and Emergency Shelter Grant (ESG) funds between July 1, 2005 and June 30, 2006 (FY 2005-2006). These funds were provided by the U.S. Department of Housing and Urban Development (HUD) to address housing and community development needs throughout the City.

The City's FY 2005-2006 CDBG allocation was \$2,184,027 while the HOME allocation was \$1,387,951. As indicated in the FY 2005-2006 Annual Action Plan, these funds were primarily allocated for housing construction, housing rehabilitation, code enforcement, and public service activities. FY 2005-2006 was the City's first time administering ESG funds, whose allocation was \$85,888 and was used primarily for operations, essential services, and homeless prevention activities.

The initial draft of the CAPER was made available to the public on September 1, 2006 and was placed on the Department of Community Development's website (<http://www.ci.durham.nc.us/departments/housing>). In addition, copies were made available at City Hall – Customer Information Area, the City and County Clerks' Offices, the Department of Community Development, and the Durham County Main Library. A public hearing was conducted before the Board of County Commissioners on September 11, 2006 and a second public hearing was held before the Durham City Council on September 18, 2006. Federal regulations do not require a public hearing for the CAPER but the Department of Community Development welcomes these opportunities to gain additional public input.

HUD requires the final document to be submitted to their office no later than 90 days after the end of the fiscal year.

Mike Barros, Director of the City of Durham's Department of Community Development, has reviewed this request and recommends that the Board of County Commissioners vote to review and discuss the updated draft of the FY 2005-2006 Consolidated Annual Performance and Evaluation Report (CAPER).

Resource Person(s): Department of Community Development staff

**COUNTY MANAGER'S RECOMMENDATION: THE COUNTY MANAGER**

**RECOMMENDS THAT THE COMMISSIONERS REVIEW AND DISCUSS THE UPDATED DRAFT OF THE FY 2005-2006 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER).**

**10. Interlocal Agreement for the Acquisition, Planning and Operation of the Hollow Rock Portion of the New Hope Creek Plan**

The Board is requested to approve the Interlocal Agreement for the Acquisition, Planning and Operation of the Hollow Rock portion of the New Hope Creek Plan between the County of Durham, the City of Durham, the County of Orange and the Town of Chapel Hill. The purpose of the proposed Interlocal Agreement is to set forth the undertakings of the parties with regard to their respective contributions, obligations, and participation in the multi-jurisdictional purchase and operation of the Property, as well as, to establish a Park Planning Advisory Committee to develop recommendations for an overall plan for the Property and adjoining properties in the Hollow Rock area, including the obligations of Orange County and Durham County as they relate to the Penny lands.

This Agreement reflects the participating jurisdiction's resolutions in support of the acquisition of a 42.8 acre tract of land lying and being in Durham and Orange Counties near the intersection of Erwin Road and Pickett Road. As background, Durham County entered into a contract with Duke University to purchase the Erwin/Pickett Road property for \$1,500,000. Durham County has paid \$500,000 to Duke under the terms of the Purchase Contract. The remaining \$1,000,000 is due at closing which will be on or before April 8, 2008. A summary of the terms are as follows:

Financial

The participating governments and other agencies originally agreed to contribute the following amounts toward the purchase of the tract:

Durham County	\$900,000
Orange County	200,000
Erwin Area Neighborhood Group, thru TLC	200,000
Town of Chapel Hill	100,000
City of Durham	75,000
Triangle Land Conservancy	<u>25,000</u>
Total	\$1,500,000

Since that time, Durham County applied for and received notice of an award of a Clean Water Management Trust Fund Grant in the amount of \$1,112,000, conditioned upon the donation of additional conservation easements on property owned by Mr. and Mrs. Penny. However, Grant Funds are not obligated until a Grant Agreement is executed between Durham County and CWMTF.

The Grant provides \$1,000,000 for purchase of the Erwin/Pickett Road property. The first \$500,000

would be used to offset Durham County's contribution to the purchase of the Property. The remaining \$500,000 of Grant Funds would be used to off-set the agreed-upon financial contributions of all four participating governments on a pro-rata basis based on the total amount of the un-reimbursed contribution by each governmental unit. Each governing unit's total financial contribution will therefore be reduced to the following amounts:

- Durham County 52.5% contribution equals \$151,643
- Orange County 25.3 % contribution equals \$73,257
- Chapel Hill 12.7 % contribution equals \$36,629
- City of Durham 9.5 % contribution equals \$27,471

The remaining \$112,000 from the Grant was to be utilized solely to reimburse Orange County for expenses related to the acquisition of 23 acres of the Penny's property adjacent to New Hope Creek within Orange County. This portion of the grant award is no longer needed, as the property was acquired using an alternative funding source for the acquisition.

Distribution and Ownership of Property: The Property would initially be conveyed by Duke University to Durham County. Immediately following the closing, Durham County will deed portions of the Property as follows:

- Orange County will receive the 11 acres lying in Orange County.
- Chapel Hill will receive two acres, subdivided from Durham County's parcel at a location to be negotiated.

The Penny lands: The Penny family has pledged to grant a conservation easement to Durham and Orange Counties on additional land adjacent to the Penny Tract and the Property (hereinafter the "Penny Conservation Easement") at no cost to the Counties. Pursuant to the Grant Agreement, the Grant Funds are contingent upon the conveyance of these Conservation Easement(s). The portion of the Penny Conservation Easement within Durham County will be owned and managed by Durham County and the portion of the Penny Conservation Easement within Orange County will be owned and managed by Orange County. Orange County and Durham County shall cooperate with the Penny's to determine the boundaries of the Penny Conservation Easement as it crosses the county lines.

Master Park Planning: A Park Planning Advisory Committee ("Committee") is established in the Interlocal Agreement for the Property and surrounding area. The purpose of the Committee is to develop recommendations for an overall plan for the Property and adjoining properties that comprise the Hollow Rock/ Erwin Area portion of the New Hope Plan. The plan should include overall recommended uses and generalized locations for the proposed uses. The recommendations of the Committee will be presented to the public and approved by the participating governing bodies. The Park Planning Advisory Committee would consist of eleven (11) members appointed as follows: Durham County - four members; Orange County - four members; Chapel Hill - two members; and the City of Durham - one member.

Use of the Property: Under terms of the Agreement the Property will be maintained in a natural scenic condition and restricted from any development or use that would impair or interfere with the conservation purposes of the Property. The following uses would be specifically allowed: open space, walking trails, parking, restroom facilities, environmental or scientific projects or studies, and other similar low-impact activities. The Property will be open to the public during daytime hours. If necessary to qualify for state or federal grants, the property may be subject in the future to further restrictions.

Unless otherwise terminated upon the agreement of all the parties, the Term of the Agreement is for 10 years. The Agreement has been approved by all of the other participating jurisdiction's governing bodies. With the Interlocal Agreement approved by all four jurisdictions, the next step is for each body to appoint their members for the Park Planning Advisory Committee so that group can begin its work.

Resource Person(s): Carol W. Hammett, Assistant County Attorney, Jane Korest, Open Space and Real Estate Manager

County Manager's Recommendation: The County Manager recommends that the Board approve and authorize the Manager to execute the Interlocal Agreement for the Acquisition, Planning and Operation of the Hollow Rock portion of the New Hope Creek Plan by and among the County of Durham, the City of Durham, the County of Orange and the Town of Chapel Hill.

11. **Board and Commission Appointments**

Vonda Sessoms, Clerk to the Board, will distribute ballots to make appointments to the following boards and commissions:

- Adult Care Home Community Advisory Committee
- Citizen's Advisory Committee
- City-County Appearance Commission
- Community Child Protection Team/Child Fatality Prevention Team
- Criminal Justice Partnership Act Advisory Board
- Historic Preservation Commission
- Industrial Facilities and Pollution Control Financing Authority
- Nursing Home Community Advisory Committee

Resource Person(s): Vonda Sessoms

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



12. **Closed Session**

The Board is requested to adjourn to closed session pursuant to G.S. § 143-318.11(a) (5) & (7) to instruct the staff and negotiating agent on the position to be taken concerning the acquisition of the following real property: Ernest & Doris G. Brandt, owners of 111 S. Dillard Street, 515 E. Peabody St., and 519 Peabody St.; Betty A. Bunn, owner of 400 N. Elizabeth St., 525 E. Peabody St., and 507 Ramseur St.; Canadays Cab Company Inc., owner of 528 E. Main Street; Church of God, owner of 520 E. Peabody St.; Azem Mansour, owner of 500, 502 and 504 E. Main St; and David Woodell, owner of 522, 522, 524, and 526 E. Main Street; and to hear a report on alleged criminal misconduct.

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2 hrs.