

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

Monday, September 11, 2006

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 Ellen W. Reckhow, Vice-Chairman Becky M. Heron, and Commissioners Lewis A. Cheek, Philip R. Cousin Jr., and Michael D. Page

Absent: None

Presider: Chairman Reckhow

**Opening of Regular Session**

After the recitation of the Pledge of Allegiance, Chairman Reckhow requested a moment of silence in recognition and memory of the victims who suffered because of the events surrounding September 11, 2001.

**Agenda Adjustments**

Commissioner Cheek asked that Preliminary Plat—Quail Ridge Subdivision (D04-644) be placed after the consent agenda.

Vice-Chairman Heron spoke about a fire at the City's Yard Waste Compost Facility. She asked the County Manager to contact the City Manager or appropriate staff for a status report on the current situation and to stress that the County must be informed of such issues.

**Announcement**

Chairman Reckhow announced that the North Carolina Department of Transportation (NCDOT) would 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). She commented that the East End Connector is fully funded in the draft State Transportation Improvement Plan to be considered by the NC Department of Transportation Board over the next several months. Chairman Reckhow formally thanked Kenneth Spaulding, Durham's Transportation Board representative, for his excellent and persistent work on this matter.

### **Minutes**

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to approve as corrected the August 14, 2006 Regular Session Minutes and as submitted the August 28, 2006 Regular Session Minutes of the Board.

The motion carried unanimously.

### **Ketner Award Recognition for Rapid Response Homes**

Chairman Reckhow remarked that on September 8 at the North Carolina Association of County Commissioners' Annual Conference in Winston-Salem, Durham County's "Rapid Response Homes" initiative was awarded a coveted Ralph Ketner productivity award and a check for \$1,000. The Ketner Awards recognize the best productivity enhancements implemented in county government throughout the state each year. This project was ranked as one of the ten highest of the applications received.

Ellen Holliman, Director, The Durham Center, stated that The Durham Center, Durham County Department of Social Services, and Department of Juvenile Justice and Delinquency Prevention developed the Rapid Response Homes program in response to the community's need for readily accessible alternatives to high-cost, inflexible, and often ineffective options for dealing with youth in need of an immediate placement outside their homes. This out-of-home placement may be the result of a crisis situation at home due to mental health, abuse or neglect risks, a pending criminal charge in urgent need of intensive treatment, or a child's need for immediate safety and support while awaiting access to a more structured and therapeutic setting. Through the program, children are able to remain in the community, attend their home schools, and maintain supportive contact with their families and peers throughout the crisis period instead of being placed in a detention center or other more restrictive setting.

Ms. Holliman recognized the following team members:

Martha Kaufman, The Durham Center  
Rob Robinson, The Durham Center  
Larry Wallace, Department of Juvenile Justice System  
Beth Lewis-Sorenson, Caring Family Network  
Jovetta Whitfield, Department of Social Services  
Sammy Haithcock, Director, Department of Social Services

Ms. Holliman added that the \$1,000 award would be placed into a fund to help provide emergency relief for families in need.

### **Consent Agenda**

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve the following consent agenda items:

- a. Approval of Bid for RFP 07-001 (approval the SunTrust bid at the fixed rate of 3.84% for vehicle and small equipment financing and authorize the Manager to execute the required documents);
- \*b. Budget Ordinance Amendment No. 07BCC000005—Public Health (recognize \$28,600 in revenue from the NC Division of Public Health, Children and Youth Branch, via Lincoln Community Health Center for contracted services to be provided by the Nutrition Division);
- \*c. Budget Ordinance Amendment No. 07BCC000006—Public Health (recognize \$1,062 from the Department of Health and Human Services for the Environmental Health Division to purchase supplies and equipment);
- \*d. Budget Ordinance Amendment No. 07BCC000007—Public Health (recognize \$40,000 from the Department of Health and Human Services for the Environmental Health Division for the childhood lead poisoning prevention provision program); and
- e. Service Contract with Downtown Durham Inc. (approve for economic development services for \$55,000).

The motion carried unanimously.

\*Documents related to these items follow:

Consent Agenda Item No. b. Budget Ordinance Amendment No. 07BCC000005—Public Health (recognize \$28,600 in revenue from the NC Division of Public Health, Children and Youth Branch, via Lincoln Community Health Center for contracted services to be provided by the Nutrition Division).

DURHAM COUNTY, NORTH CAROLINA  
 FY 2006-07 Budget Ordinance  
 Amendment No. 07BCC000005

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 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> Intergovernmental	\$317,077,138	\$28,600	\$317,105,738

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u> Human Services	\$391,013,235	\$28,600	\$391,041,835

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**Deleted:** Property Tax Releases and Refunds for Fiscal Year 2005-2006 (accept the property tax release and refund report for December 2005 and authorize the Tax Assessor to adjust the tax records as outlined by the report);¶

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**Deleted:** Budget Ordinance Amendment No. 06BCC000035— Sheriff's Office—Recognize Donation from Glaxo Smith Kline (authorize acceptance of the \$15,000 donation with appreciation, appropriate the revenue to the Sheriff's Office for the purchase and support of a new canine officer, and amend the budget as requested);¶

c. . Budget Ordinance Amendment No. 06BCC000036—EMS—Recognize Donation from the Fletcher Heart Fund of \$60,000 for the purchase of cardiac monitoring equipment and Intraosseus (IO) infusion needles;¶

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**Deleted:** d. . Durham City/County Interlocal Cooperation Agreement for Planning (approve and authorize the Manager to execute the Agreement); and¶

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**Deleted:** Budget Ordinance Amendment No. 06BCC000042— Contract Extension for Ten-Year Plan to End Homelessness in Durham (approve in the amount \$11,250 from the Commissioner's Contingency Fund to extend the contract through June 30, 2006);

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

This the 11<sup>th</sup> day of September 2006.

Consent Agenda Item No. c. Budget Ordinance Amendment No. 07BCC000006—Public Health (recognize \$1,062 from the Department of Health and Human Services for the Environmental Health Division to purchase supplies and equipment).

DURHAM COUNTY, NORTH CAROLINA  
FY 2006-07 Budget Ordinance  
Amendment No. 07BCC000006

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Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$317,105,738	\$1,062	\$317,106,800

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$391,041,835	\$1,062	\$391,042,897

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

This the 11<sup>th</sup> day of September 2006.

Consent Agenda Item No. d. Budget Ordinance Amendment No. 07BCC000007—Public Health (recognize \$40,000 from the Department of Health and Human Services for the Environmental Health Division for the childhood lead poisoning prevention provision program).

DURHAM COUNTY, NORTH CAROLINA  
FY 2006-07 Budget Ordinance  
Amendment No. 07BCC000006

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BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 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>			
Intergovernmental	\$317,106,800	\$40,000	\$317,146,800

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$391,042,897	\$40,000	\$391,082,897

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

This the 11<sup>th</sup> day of September 2006.

**Preliminary Plat—Quail Ridge Subdivision (D04-644)**

Frank Duke, AICP, City-County Planning Director, asked that the Board approve a Preliminary Plat for “Quail Ridge Subdivision” submitted by JDavis Architects PLLC on behalf of Worman Development L.C. for 86 single-family residential lots on a 91.425-acre site zoned RS-20. (The property is located south of West Cornwallis Road, east of Kerley Road and north of Erwin Road. PIN 0802-03-40-1503 and 0801-01-38-5292.)

Mr. Duke stated that technical issues have been identified with this preliminary plat. The applicant requested an opportunity to address the issues; therefore, the Development Review Board rescinded its prior action to recommend approval and subsequently recommended that the case be returned to staff to deal with the technical issues. He stated that the applicant would provide a revised plat on Wednesday, September 13.

Per a question by Chairman Reckhow, Mr. Duke responded that he did not know why NCDOT declined to submit further information.

Vice-Chairman Heron suggested that the superintendent for the area be notified if changes occur in the stormwater runoff.

Mr. Duke informed Vice-Chairman Heron that the issue regarding the size of the culverts has been discussed with the applicant. If the determination were made that the size of the culverts is inadequate, the change would be made through the construction drawing process.

Per questions by Vice-Chairman Heron, Mr. Duke replied that the Development Review Board (DRB) should receive the revised plans on Friday, September 15, provided the applicant is successful in meeting its schedule. The revisions will be placed on the Commissioners’ agenda as quickly as possible—either September 25 or October 9.

Ben Atwater, PO Box 629, Siler City 27344, representing Worman Development, signed up to speak on this item; however, he withdrew his request to speak.

Harry Munson, 4709 Erwin Road, Durham 27705, representing Arrowhead neighbors, stated that 1 day does not provide staff with ample time to review revisions to the plan because many stormwater issues exist; thus, he requested that the plan not be sent to the DRB until its September 22 meeting.

Chairman Reckhow asked that a motion be made to refer this matter back to the Development Review Board.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to refer the matter back to the Development Review Board.

The motion carried unanimously.

**Public Hearing on the Draft FY 2005-2006 Consolidated Annual Performance and Evaluation Report (CAPER)**

Mike Barros, Director, City of Durham's Department of Community Development, apologized for not providing staff with copies of the CAPER in a timely manner. He introduced Larry Jarvis, Associate Director.

Chairman Reckhow questioned the blank spaces on the introductory page of the CAPER, which should show specific dollar amounts.

Mr. Jarvis explained that the intent was to provide the accomplishments immediately and include the dollar amounts after the journal entries were entered into the system.

Mr. Jarvis highlighted the benefits of the HOME expenditures to Durham County residents.

Vice-Chairman Heron expressed frustration about not receiving the CAPER prior to the meeting. She asked about the Emergency Shelter Grant program and its integration into the Ten-Year Plan to End Homelessness.

In response, Mr. Jarvis stated that the Emergency Shelter Grant program benefits County residents (approximately \$85,000 was funded last year) and is allocated to nonprofit sub-recipients to undertake a variety of activities. He informed that Karmisha Wallace, Project Manager, Department of Community Development, would address specific numbers regarding beneficiaries in her presentation.

Ms. Wallace stated that the City of Durham's Department of Community Development requests that the Board of County Commissioners hold a public hearing to receive public comments on the City's draft Consolidated Annual Performance and Evaluation Report (CAPER). The purpose of the hearing is to provide citizens an opportunity to review and comment on 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). The U.S. Department of Housing and Urban Development (HUD) provided these funds to address housing and community development needs.

In addition, Ms. Wallace stated that the City's FY 2005-2006 total CDBG allocation was \$2,184,027, while the HOME allocation was \$1,387,951. In the FY 2005-2006 Annual Action Plan, these funds were allocated primarily 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.

Ms. Wallace continued by mentioning that while federal regulations do not require a public hearing for the CAPER, the Department of Community Development considers this an opportunity to gain additional public input. Another public hearing has been scheduled before the Durham City Council for September 18, 2006. HUD requires that the final document be submitted to its office no later than 90 days after the end of the fiscal year.

Ms. Wallace explained how the ESG funds were used in FY 2005-2006. In addition, she outlined specific activities outside the City limits.

Chairman Reckhow inquired about the following:

- funding for Andover II and TROSA's Roxboro Street special needs housing development;
- why the one-year goal for providing homeownership mortgage assistance was not met; and
- the comparison of Durham County's program numbers to cities of similar size.

Chairman Reckhow asked that the Department of Community Development provide the Board with an updated copy of the CAPER after the numbers are inserted.

Commissioner Page asked how the HIV/AIDS population is being assisted.

Ms. Wallace stated that the City provided funds to the AIDS Community Residents Association (ACURA).

Chairman Reckhow opened the public hearing.

The following citizens made comments:

Lorisa Seibel, 2410 Par Place, Durham 27705, representing Durham Affordable Housing Coalition, informed the Board about the Volunteer Minor Home Repair Program. She asked that the Board provide additional funding to build ramps for disabled homeowners that live outside the City limits.

In response to Commissioner Page's questions regarding the cost of ramps for the disabled, Ms. Seibel stated that materials cost about \$1000-\$1500; the cost involving a contractor would be \$2000-\$3000 per ramp. She informed the Board that ramps are being built throughout the City, predominantly in east and southeast Durham.

Chairman Reckhow mentioned that CBDG funds, not HOME funds, may be used for certain repairs. HOME funds may be used only after a home is brought totally up to standard. She asked if there is a mechanism to assemble \$5,000 to \$10,000 to be utilized for ramp construction.

Mr. Jarvis responded that a portion of the funding for the Small Cities Program could be utilized.

Chairman Reckhow recognized Wendell Davis, Deputy County Manager.

Deputy County Manager Davis stated that he would speak with Gloria Nance-Sims, Director, NC Division of Community Assistance, to get the State's response regarding the County Commissioners setting aside \$10,000 from the Small Cities Program.

Mr. Barros informed the Commissioners that the Housing Department is trying to determine how to leverage more money that has no Federal restrictions.

Chairman Reckhow recommended that the projects regarding ramp construction be presented to the Operation Breakthrough Board by Commissioner Page, as he is the Commissioner liaison on the board.

Commissioner Cheek asked general questions relative to CDGB and HOME funds. He requested an analysis of what is being accomplished in the County only as opposed to what is being accomplished in the City and the County. He recommended that Community Development staff be available at the Commissioners' September 25 Regular Session so he could receive a better understanding about the number of people who have been served and the dollar amounts spent on services provided exclusively in the County.

Mr. Jarvis stated that the department would generate a document to address Commissioner Cheek's questions regarding funds spent in the County only.

Michelle Zechman, The Durham Center, made comments about special needs housing. She recognized and thanked the Board for its support on the HOME grants. She gave an update regarding participants in the first-year HOME grant program.

Chairman Reckhow closed the public hearing, referred the matter back to the Board, and stated that no action was required of the Board.

Mr. Barros stated that the final document would be delivered to the Commissioners immediately, along with specific "County only" data; the item would be placed on the Board's September 25 Regular Session agenda.

Chairman Reckhow asked that Deputy County Manager Davis provide an interim report on whether any portion of the Small Cities Program funds (\$400,000) could be used for ramp construction.

#### **Ordinance Regulating Time of Construction Activities**

County Attorney Chuck Kitchen informed the Board that an ordinance had been prepared regulating the hours that buildings could be constructed. The proposed ordinance is consistent with the City of Durham's regulations.



Vice-Chairman Heron asked whether law enforcement for the City and County would be the enforcing agencies, whether they would receive notification of their responsibilities, and whether they would receive training.

County Attorney Kitchen informed the Board that upon adoption of the ordinance, a copy would be distributed to the Sheriff's Office Attorney who would then be responsible for communicating the need for notification and training of the officers.

Chairman Reckhow asked staff to contact the Inspections Department and request that the ordinance be included on the information sheet for builders.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the ordinance regulating time of construction activities.

The motion carried unanimously.

#### ORDINANCE REGULATING TIME OF CONSTRUCTION ACTIVITIES

WHEREAS, the Board of Commissioners may regulate occupations, businesses, and trades pursuant to G.S. § § 153A-121 and 153A-134; and

WHEREAS, construction activities occurring after dark may present significant public safety issues; and

WHEREAS, construction activities occurring on Sundays is not conducive to the public order and tranquility; and

WHEREAS, the construction of buildings and utilities at times other than daylight hours, and on Sundays, is inimical to the public health, welfare, safety, order, and convenience.

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

1. That the Durham County Code of Ordinances is hereby amended by adding a section, to be numbered Sec. 6-2, which section reads as follows:

Sec. 6-2. Time of Construction Activities.

- (a) The erection (including site excavation and clearing), demolition, alteration or repair of any building in a residential or business district other than between the hours of 7:00 a.m. and 8:00 p.m. on weekdays is prohibited. The term "weekdays", when used in this paragraph, means any day except Sunday.
- (b) In cases in which the work is required by an emergency, or by the nature of the particular project or specified portion thereof, it is necessary to have a continuous

operation without break, or where the specified work cannot be performed while the plant or enterprise is in operation, the County Manager may issue a permit for such work to be carried on between hours and on days in addition to the hours and days herein mentioned.

2. This ordinance shall be in full force and effect on its enactment.

### **Refund of Excise Tax Stamps**

County Attorney Chuck Kitchen stated that a deed, which should have been recorded in Orange County, was recorded in error in Durham County. Excise stamps for \$1,054.00 were paid to the Register of Deeds when the deed was recorded. He asked that the Board authorize the refund of the amount of the stamps retained by the County of \$527.00. County Attorney Kitchen further requested that the Clerk to the Board be ordered to send a copy of the order to the State, so that the party may recover the remainder of the amount paid.

Vice-Chairman Heron asked how a deed is recorded in the wrong county.

County Attorney explained that if a large number of deeds are being recorded, it is possible that deeds could be placed with the incorrect county.

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to authorize the refund of the amount of the stamps retained by the County.

The motion carried unanimously.

### **Approval of Items for NCACC's State Legislative Agenda**

On August 22 and September 7, the Board held a series of discussions with staff regarding several statewide legislative initiatives to propose to the North Carolina Association of County Commissioners (NCACC) for inclusion in its 2007 Legislative Agenda. September 15 is the deadline for submitting items to the NCACC. Following the final discussion, staff has drafted items detailing both the goal and rationale for the issues to be sent for NCACC's consideration.

Chairman Reckhow directed Assistant County Manager Craig-Ray to make the necessary modifications to the rationale statements.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the proposed statewide legislative initiatives for Durham County.

The motion carried unanimously.

In response to Vice-Chairman Heron's concerns about local issues, Chairman Reckhow stated that local issues would be brought before the Board for discussion at a future date.

**Adjournment**

There being no further business, Chairman Reckhow adjourned the meeting at 8:14 p.m.

Respectfully submitted,

Vonda C. Sessoms  
Clerk to the Board

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