

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

Monday, August 28, 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—Pledge of Allegiance

Agenda Adjustments

Chairman Reckhow acknowledged the following at each Commissioner's station:

- Revised agenda
- Ordinance Amending the M/WBE Ordinance (related to Consent Agenda Item No. b)
- Amended Board and Commission Appointments agenda action form to remove Historic Preservation Commission appointments.

Chairman Reckhow adjusted the agenda to discuss the Public Hearing—Zoning Map Change—Barbee Chapel Road (Z06-18) item after the consent agenda.

Announcements

Chairman Reckhow announced the grand re-opening of Stanford L. Warren Library on Thursday, September 7, 2006, at 9 a.m. She encouraged citizens to attend.

Proclamation Recognizing September as Alcohol and Drug Addiction Recovery Month in Durham County

Chairman Reckhow read the proclamation naming September as Alcohol and Drug Addiction Recovery Month in Durham County:

PROCLAMATION

WHEREAS, 74 percent of Americans say that addiction to alcohol has some impact on them at some point in their lives, whether it was their own personal addiction, that of a friend or family member, or any other experience with addiction; and

WHEREAS, a 63-percent majority of Americans also say that addiction to either drugs or alcohol has had a great deal or some impact on their lives; and

WHEREAS, it is estimated that more than 18,600 Durham County citizens are addicted to alcohol or other drugs and more than 93,200 others are significantly impacted by those addictions; and

WHEREAS, stigma and discrimination present obstacles and can be a mark of disgrace to those with substance use disorders who need access to treatment, and for those who want to reestablish their place in the community by entering the workforce; and

WHEREAS, educating our community about how substance use disorders affect children, families, and all community members is essential to overcoming discrimination; and

WHEREAS, substance use disorders are a treatable yet serious healthcare problem, and we can take steps to address it and build a stronger, healthier community; and

WHEREAS, saluting people who are in recovery from alcohol and drug use as well as those who have helped them obtain treatment, helps to overcome such barriers by educating the community about treatment and affirming that people with alcohol and drug use disorders should have access to treatment services; and

WHEREAS, to help achieve this goal, the U.S. Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the Office of National Drug Control Policy, The Durham Center, and the Partnership for a Healthy Durham invite all citizens of Durham County to participate in National Alcohol and Drug Addiction Recovery Month:

NOW, THEREFORE, BE IT RESOLVED that we, the Durham County Board of Commissioners, do hereby proclaim the month of September 2006 as

“ALCOHOL AND DRUG ADDICTION RECOVERY MONTH”

in Durham County. We hereby urge all citizens to take note of this observance and to participate in a Recovery Celebration Block Party in downtown Durham on September 28, and in other programs, activities, and ceremonies supporting this year’s theme, “Join the Voices for Recovery: Build a Stronger, Healthier Community”.

This 28th day of August, 2006.

/s/ Ellen W. Reckhow, Chairman

Ellen Holliman, Area Director, The Durham Center, briefly discussed the objectives of Substance Abuse and Mental Health Administration (SAMHA) during Alcohol and Drug Addiction Recovery Month. She outlined the activities to occur in September, including the Recovery Celebration Block Party on September 28 in downtown Durham. Ms. Holliman thanked the Board for the recognition and support.

Chairman Reckhow presented the proclamation to Ms. Holliman.

August Anchor Award Winner—Jacqueline Boyce

Finance Director George Quick introduced Jacqueline Boyce as the August Anchor Award recipient.

Mr. Quick stated that Ms. Boyce is being recognized as an exceptional manager, leader, and motivator and has been the Purchasing Manager since September 2003. She has orchestrated numerous improvements to the procurement process for Durham County government, ensuring that all Federal, State, and Local laws and ordinances are observed with great integrity, in the pursuit of effective and efficient governmental purchasing practices.

Ms. Boyce thanked the Commissioners and Mr. Quick for the recognition. She further thanked the Finance Department staff for contributing to her success.

Chairman Reckhow presented the Anchor Award and check to Ms. Boyce.

Recognition of Mike Smith for Achieving 20 Consecutive Years of Being a Nationally Registered Emergency Medical Technician

Deputy County Manager Carolyn Titus stated that the National Registry of Emergency Medical Technicians has honored Emergency Medical Services Director Mike Smith for 20 years of national registration. This is an honor held by few, and Durham County Government is grateful for Mr. Smith's dedication to the field and service to the Durham community.

Mr. Smith thanked the Board for recognizing his achievements.

The Commissioners congratulated and thanked Mr. Smith for his outstanding service to Durham County and the Durham community as an Emergency Medical Technician.

Consent Agenda

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

- *a. Property Tax Releases and Refunds for Fiscal Year 2006-2007 (accept the property tax release and refund report for July 2006 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- *b. Request to Award Contract for County of Durham's Disparity Study and Extend Current Minority/Women Business Enterprise Program (approve entering into a contract with Griffin & Strong P.C. in the amount of \$139,495.00 and extend the current M/WBE Ordinance to June 30, 2007);
- *c. Budget Ordinance Amendment No. 07BCC000004— Sheriff's Office—Governor's Crime Commission Grant to Expand Justice Xchange Pilot (recognize \$85,000 in revenue to support the Sheriff's Office initiative to provide regional access to the national database, Justice Xchange) (*Teresa McKinney, Director of Planning & Development, Sheriff's Office, provided a brief description of the program*);
 - f. Juvenile Crime Prevention Council (approve the recommended appointments of District Attorney Designee Fungai Muzorewa-Bennett and AMH/DD/SA Director Designee Michelle Zechmann);
 - g. Memorandum of Agreement on the Mountains to the Sea Trail (approve the Memorandum of Agreement on Construction and Operation of the Falls Lake Trail in Durham County);
 - h. Approve the Sale of Two County Surplus Properties (approve the sale of 606 East Umstead Street to Mr. E. B. Palmer for \$4,500 and 106 Hillside Avenue to Self Help Credit Union for \$4,510); and
 - i. Cultural Master Plan First Round Spending Initiatives (approve for implementation of the Durham Cultural Master Plan).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. a. Property Tax Releases and Refunds for Fiscal Year 2006-2007 (accept the property tax release and refund report for July 2006 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details releases and refunds for the month of July 2006.

Releases & Refunds for 2006 Taxes:

Real Estate	\$131,478.31
Personal	\$ 4,973.98
Registered Vehicles	\$ 14,726.69
Vehicle Fees	\$ 355.00
Solid Waste	<u>\$ 160.00</u>
Total for 2006 Taxes and Fees	\$151,693.98

Prior years' (2002-2005) releases and refunds for July 2006 are for \$57,514.37. The total current year and prior years' releases and refunds amount to \$209,208.35.

(Recorded in Appendix A in the Permanent Supplement of the August 28, 2006 Regular Session Minutes of the Board.)

Consent Agenda Item No. b. Request to Award Contract for County of Durham's Disparity Study and Extend Current Minority/Women Business Enterprise Program (approve entering into a contract with Griffin & Strong P.C. in the amount of \$139,495.00 and extend the current M/WBE Ordinance to June 30, 2007).

ORDINANCE AMENDING THE M/WBE ORDINANCE

WHEREAS, the County of Durham commissioned a study to be performed which as established that there is continuing discrimination against certain minorities including women in certain areas of purchasing and contracting in which the County of Durham is involved; and

WHEREAS, it is the policy of the County of Durham that purchasing by the County and contracts with the County be open to all people and be free of discrimination on the basis of race or gender.

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

1. That Sec 8-142 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec 8-142 Effective date

This article shall continue in effect until 5:00 p.m. on June 30, 2007, at which time it shall be deemed repealed without further action by the County Commissioners. Unless otherwise provided by an ordinance enacted by the county commissioners or by a contract between the County and the other party of the contract, if a legal action is commenced before the repeal of this article to enforce any contractual provision which incorporates by reference any of this article, the rights of parties

with respect to such contractual provision shall, for purposes of the legal action, continue in effect notwithstanding the repeal.

2. This ordinance shall be effective on ratification.

This the 28th day of August, 2006.

Consent Agenda Item No. c. Budget Ordinance Amendment No. 07BCC000004—Sheriff's Office—Governor's Crime Commission Grant to Expand Justice Xchange Pilot (recognize \$85,000 in revenue to support the Sheriff's Office initiative to provide regional access to the national database, Justice Xchange).

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000004

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	\$316,992,138	\$85,000	\$317,077,138

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u> Public Safety	\$46,946,326	\$85,000	\$47,031,326

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

This the 28th day of August, 2006.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. d. Approval of Work First Planning Designation (approve the recommendation of the Work First Planning Committee to designate Durham County as a Standard County for the 2007-2009 planning period and that the NC Department of Health and Human Services be notified by August 31, 2006).

This item was removed to allow signed speaker Victoria Peterson, PO Box 101, Durham 27701, to comment; however, she withdrew her request.

Commissioner Cheek moved, seconded by Commissioner Page, to approve Consent Agenda Item No. d.

The motion carried unanimously.

Consent Agenda Item No. e. Gang Assessment Study (approve the proposal in principle and authorize the Manager to prepare an interlocal agreement with the City of Durham and the Sheriff for the implementation thereof).

Commissioner Page asked questions in regards to the outcome of the study and its availability to the public.

Teresa McKinney, Director of Planning & Development, Sheriff's Office, replied that the study is a City-County initiative and the data would be available to everyone.

County Manager Mike Ruffin informed that the Interlocal Agreement would contain specific language pertaining to issues raised at the August 22 Worksession.

Chairman Reckhow announced that the two consultants conducting the study – Drs. Deborah Lamm Weisel and James C. Howell – will be present at the Crime Cabinet meeting on Friday, September 8, to provide a status report.

Commissioner Page moved, seconded by Commissioner Cheek, to approve Consent Agenda Item No. e.

The motion carried unanimously.

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

Frank M. Duke, AICP, City-County Planning Director, requested that the Board defer the item until the September 25 meeting due to a protest petition on the project.

Chairman Reckhow opened the public hearing that was properly advertised.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to defer the item until the September 25 Regular Session.

The motion carried unanimously.

Public Hearing to Consider Allocating Economic Development Investment Funds to the American Institute of Certified Public Accountants (AICPA)

Chairman Reckhow asked AICPA personnel in attendance to stand and be recognized.

County Manager Mike Ruffin introduced this item. He stated that the American Institute of Certified Public Accountants (AICPA) is relocating its operational headquarters to

Durham County, North Carolina from New York, New York. The proposed investment for the Durham headquarters is estimated to be in excess of \$5 million and would include 320 new jobs within five years.

Staff recommended that the County participate in this economic development project by reimbursing AICPA up to \$400,000 for the costs of relocation and employee training. The provision of funds is contingent upon AICPA meeting contractual performance standards including the funds for the training of Durham County residents hired by AICPA.

Chairman Reckhow opened the public hearing that was properly advertised on Friday, August 18, 2006, as required by Statute. She called the signed speakers forward for comments.

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27701, expressed concern about giving incentives to businesses locating to Durham County. She inquired about the location of AICPA and its training of employees from Durham County.

The following speakers welcomed AICPA to Durham, addressed Ms. Peterson's questions, and asked the Board to approve the contract:

Libby Barnes, President/CEO, Greater Durham Chamber of Commerce, 300 W. Morgan Street, Suite 400, Durham 27701

Pam Senegal, Associate Dean of Corporate Education, Durham Technical Community College, 1637 Lawson Street, Durham 27703

Jerry O'Keeffe, PSNC Energy, Chair Elect of the Greater Durham Chamber of Commerce Board of Directors, 2541 Whilden Drive, Durham 27713

Barry Melancon, President and CEO of AICPA, thanked the Board and the Chamber of Commerce for the welcome and support. He elaborated on AICPA's decision to locate to Durham County.

Chairman Reckhow emphasized the purpose of giving incentives to businesses locating to Durham County. She assured that the Board considers businesses that would potentially generate substantial revenue to alleviate tax burdens on citizens.

Commissioner Cheek explicated the partnership between AICPA and Durham Technical Community College, which will focus on employment at the new AICPA location.

Chairman Reckhow closed the public hearing and referred the matter back to the Board.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve entering into a contract between the County of Durham and the American Institute of Certified Public Accountants in an amount up to \$400,000 to allow

for the reimbursement of costs associated with relocation and employee training.

The motion carried unanimously.

Vice-Chairman Heron welcomed AICPA to Durham County.

Public Hearing—Zoning Map Change—Scott Mill (Z05-35)

Planning Director Frank Duke requested that the Board approve 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. PINs 0727-03-33-0274, 0727-03-33-3487, 0727-03-33-5136, and 0727-03-33-6917. Request: RR to PDR 1.990

Mr. Duke recapped that this item was continued from the June 26, 2006 Commissioners' meeting to allow the applicant and neighbors additional time to communicate.

The Planning Department recommended approval, based on consistency with the *Comprehensive Plan* and the information contained in the report.

The Planning Commission recommended and voted 12 – 0 for denial on April 11, 2006. The Commission found that the requested revision to the zoning districts of the UDO is consistent with the adopted *Comprehensive Plan*. The Commission recommended 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.

County Attorney Kitchen noted a typographical error in the committed elements (5 A and B should be 9 A and B.)

Chairman Reckhow acknowledged the committed elements and revised development plan at each Commissioner's station.

Mr. Duke informed the Board that Planning Department staff had not reviewed the revised site plan; therefore, the plan may not meet ordinance requirements or be internally consistent with the committed elements.

To address construction noise in the community, Chairman Reckhow suggested that the County Attorney draft an ordinance to regulate hours of construction.

Per a question by Commissioner Page, County Attorney Kitchen responded that the Board is authorized to adopt such an ordinance.

Chairman Reckhow added that the noise issue has been raised previously. The issue involved construction prior to 7 a.m. and on Sundays.

Commissioner Cheek inquired about locations affected by the ordinance.

County Attorney Kitchen replied that areas outside of the City must comply with the ordinance.

Mr. Duke informed that the City enforces a noise ordinance that regulates the hours of construction. Any construction to occur outside of the allowed hours must be authorized by the City Manager.

Commissioner Cheek recommended that the ordinance distinguish between construction noise and construction activity.

Chairman Reckhow communicated that Perimeter Developers, LLC (developer for the Scott Mill plan) has created construction and noise guidelines by working with the neighbors.

Commissioner Cheek expressed concern about approving this item before an ordinance is adopted.

Vice-Chairman Heron suggested that the developer review the changes with the Board; the item then would be approved based on those changes.

Mr. Duke cautioned the Board against approving the plan before the Planning Department reviews it and certifies that it meets the Unified Development Ordinance (UDO) requirements.

Chairman Reckhow proposed that the Board take Mr. Duke's comments under advisement; hear the speakers' comments; allow the developer to explain the changes; and then decide either to approve or defer the item.

Commissioner Page expressed disappointment in the plan not being approved tonight, as it would inconvenience the neighbors and developer.

The developer addressed questions from the Commissioners.

Chairman Reckhow opened the public hearing that was properly advertised and called the following signed speakers forward for comments:

Tony M. Tate, Land Planner, Perimeter Developers LLC, 5011 Southpark Drive, Durham 27713, gave an overview of the plan changes and addressed Commissioners' questions. James E. Kerr, owner, IUKA Development Corporation, 3706 Suffolk Street, Durham 27707, supported approval of the plan.

Robert King, owner, IUKA Development Corporation, 1104 Lansing Avenue, Durham 27713, supported approval of the plan.

The following speakers expressed concerns about the plan:

John Paul Smelko, representing the Lyons Farm Community, 906 Littleleaf Lane, Durham 27713

Colleen Haithcock, representing Northeast Creek, 1304 Seaton Road, #10, Durham 27713

Randal Haithcock, representing Northeast Creek, 1304 Seaton Road, #10, Durham 27713

Carol Young, 5808 Williamsburg Way, Durham 27713

Liz Pullman, representing Durham County Inventory Review, 1114 Scott King Road, Durham 27713

Tracy Stark, representing Lake Park Neighborhood, 5724 Williamsburg Way, Durham 27713

Chairman Reckhow directed the County Manager to work with Mr. Duke to draft guidelines for site plans and committed elements to be submitted to the Board. The process would allow for better communication and information to be distributed.

Chairman Reckhow called for a motion to continue the public hearing to allow staff to review the plan and committed elements to ensure that it complies with the UDO.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to continue the public hearing until the September 25 Regular Session.

The Commissioners discussed the importance of creating guidelines to govern the process of submitting site plans.

The motion carried unanimously.

County Manager Ruffin responded to Chairman Reckhow that the guidelines would be prepared by the October worksession.

Mr. Duke informed the Board that the guidelines will be presented at the Joint City-County Planning Committee meeting on September 6, 2006.

To address a question by Commissioner Cousin, Chairman Reckhow explained site plan recommendation responsibilities of the Planning Commission and Planning Department.

Chairman Reckhow and Mr. Duke discussed the School Impacts-System Totals chart in the staff report. **She directed Mr. Duke to revisit the figures on the chart and indicate the time range on future reports.**

Public Hearing—Plan Amendment—Ephesus Church Road Suburban Transit Station Area (A06-11)

Planning Director Frank Duke requested that the Board hold a public hearing and receive comments on a Plan Amendment for Future Land Use Map changes.

The Planning Department recommended approval based on the request being justified and meeting the criteria for plan amendments.

The Planning Commission recommended approval, 13-0, on June 29, 2006, based on relocation of the transit line.

Chairman Reckhow opened the public hearing that was properly advertised and called signed speaker Ed Harrison, Chapel Hill Councilman, 58 Newton Drive, Durham 27707, forward for comments.

As no one else signed up to speak, Chairman Reckhow closed the public hearing and referred the matter back to the Board.

Vice-Chairman Heron commented about the designated zoning in the Ephesus Church Road area.

Commissioner Cheek moved, seconded Vice-Chairman Heron, to approve Plan Amendment A06-11.

The motion carried unanimously.

BOARD OF COMMISSIONERS RESOLUTION
AMENDING DURHAM COMPREHENSIVE PLAN
Ephesus Church Road Suburban Transit Station Area, A06-11

WHEREAS, The Durham County Board of Commissioners has adopted long range land use plans, to help guide the future development of land within the County's jurisdiction; and

WHEREAS, changed community conditions, the age of the adopted plan, development activity within the planning area, and other factors may warrant a change to an adopted plan; and

WHEREAS, the Durham County Board of Commissioners has adopted a resolution that requires that the Board consider changes to adopted land use plans when requested rezoning substantially conflicts with the adopted land use plan.

NOW THEREFORE BE IT RESOLVED BY THE DURHAM COUNTY BOARD OF COMMISSIONERS:

SECTION 1

That the Future Land Use map of the *Durham Comprehensive Plan* be amended by removing from the Suburban Transit Area the following parcels, as shown on the attached map:

SECTION 2

This change shall become effective upon the adoption of this resolution.

0709-03-01-6624	0709-03-23-5685	0709-03-32-2452
0709-03-02-6187	0709-03-23-7665	0709-03-32-2643
0709-03-03-4976	0709-03-23-8175	0709-03-32-3709
0709-03-04-3041	0709-03-23-8482	0709-03-32-4637
0709-03-11-0866	0709-03-23-9752	0709-03-32-5392
0709-03-11-4420	0709-03-24-4046	0709-03-32-6639
0709-03-11-4662	0709-03-24-6346	0709-03-33-0424
0709-03-11-7324	0709-03-24-7736	0709-03-33-2826
0709-03-12-9503	0709-03-24-8056	0709-03-33-3170
0709-03-22-6087	0709-03-31-4825	0709-03-33-3346
0709-03-22-8995	0709-03-31-8912	0709-03-33-3507
0709-03-22-9191	0709-03-32-2252	0709-03-34-1162
0709-03-23-5054		

This 28th day of August, 2006.

Board and Commission Appointments

Vonda Sessoms, Clerk to the Board, distributed ballots to the Commissioners.

The following appointments were made:

Alcoholic Beverage Control Board

Emily A. Page
Connie J. White

Animal Control Advisory Committee

Amanda Arrington (At-large)

Nursing Home Community Advisory Committee

Mary A. Fuchs (At-large)

Women's Commission

Tiketha Collins (At-large)
Virginia Franks (At-large)

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 9:06 p.m.

Respectfully submitted,

Yvonne R. Gordon
Deputy Clerk to the Board