

**August 22, 2006 Worksession**

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

Tuesday, August 22, 2006

9:00 A.M. Worksession

**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 and Michael D. Page

Absent: Philip R. Cousin Jr.

Presider: Chairman Reckhow

**Citizens Comments**

Barry Ragin, President of the Duke Park Neighborhood Association, PAC 2, represented concerned citizens about the necessity of modifying Durham County's Animal Control Ordinance to ban the chaining of dogs.

Chairman Reckhow suggested that the matter be referred to the Animal Control Advisory Committee for discussion. She asked that the County Manager communicate with the Committee and bring back any recommendations to the Board.

China Townsend was not present to speak to the Commissioners.

Chairman Reckhow asked that Ms. Townsend be placed on the September Worksession Agenda.

Ralph McKinney spoke to the Commissioners about various issues.

**Recognize Tax Administration Staff for Excellent Collections Year**

Kim Simpson, Deputy Tax Administrator, stated that Tax Administrator Ken Joyner, wished to thank the Commissioners for recognizing Tax Administrator staff for their banner collections year. She recognized the following divisions within the Tax Office:

- Land Records and GIS
- Appraisal and Revaluation
- Listing (responsible for Call Center and Customer Service)
- Collections (current and delinquent)

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Chairman Reckhow thanked Tax Administration staff for their excellent efforts. She stated that the Tax Department exceeded the collections goal for FY 2006.

### Presentation of Annual Accomplishments—Women’s Commission

Chairman Rosa Anderson, Women’s Commission, shared a report with the Board of County Commissioners about accomplishments of the Women’s Commission, as well as projected activities for the upcoming year.

Ms. Anderson distributed copies of documents comprising the Commission’s history, purpose, programs, resolution, and by-laws.

Yvonne Dunlap, Secretary, Women’s Commission, gave specifics on the upcoming events planned by the Women’s Commission. She concluded by proposing a \$10,000 increase in their budget.

### Directives

1. Convey to the consultant the Commission's interest in the gang assessment to help with outreach; have the consultant bring a report back to the Board on their findings.
2. Women’s Commission to consider events that would be less costly.

### Cultural Master Plan First Round Spending Initiatives

Barker French, Chairman, Cultural Master Plan Advisory Board, stated that the Durham Cultural Master Plan was approved by the Board of County Commissioners on August 23, 2004, and the City Council on August 16, 2004. The plan is currently in the implementation phase, operates under an interlocal agreement, is funded through a portion of the County’s Occupancy Tax, and is led by a Board- and Council-appointed Advisory Board. As directed in the interlocal agreement, one of the duties of the Advisory Board is to design a process for distributing implementation funding to community partners, which must come before the Board of County Commissioners for approval. In addition, all expenditures not included in the budget, including the grants to community agencies, shall first be reviewed by the Advisory Board and then be presented to the Board of Commissioners for approval before any payment from the Implementation Funds can be made. Peter Coyle, working out of the Office of Economic and Employment Development, serves as the Project Manager and oversees the implementation and funding process.

Mr. French presented the “First Round Spending Initiatives” to the Commissioners for their feedback. He discussed the initiatives as follows:

- Chronology
- Cultural Master Plan Goals and Projects
- Heritage and Educational Projects
- Hispanic Cultural Initiative
- Festivals
- Organizational Support
- Business, Website, Public Funding, and Future Spending Initiatives
- Summary

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Mr. French requested that the Board support the Cultural Master Plan Advisory Board recommendations.

Chairman Reckhow thanked Mr. French for his presentation.

Commissioner Page inquired about revenue generated by the festivals.

In response to Commissioner Page's question, Mr. French stated that donations, food services, and other activities generate revenue.

Vice-Chairman Heron stated that all monies collected at these events are expended for the acquisition of land.

### Directives

1. Cultural Master Plan Advisory Board to present the plan to the Durham Convention and Visitors Bureau and the Tourism Development Authority (DCVB/TDA).
2. Cultural Master Plan Advisory Board to create a workgroup to help with funding; work with the Chamber of Commerce.
3. Bring a proposal to the fall City-County Committee meeting.
4. Place the Cultural Plan First Round Spending Initiatives on the August 28 consent agenda.

### Gang Assessment Study

Wes Crabtree, Chief Deputy, stated that the City of Durham and Durham County solicited a proposal from Drs. Deborah Lamm Weisel and James C. Howell to conduct a comprehensive assessment of gangs in the City of Durham and Durham County. Drs. Weisel and Howell are nationally recognized gang experts and have agreed to complete the study within one year for \$60,000. The City and County will jointly fund the cost of the study.

Chief Deputy Crabtree stated that funds for the County's share have been reserved in the Sheriff's Office budget, pending approval of the proposal by the Board of County Commissioners.

Commissioner Page stated that he wished to see specific outcomes and results. He asked several questions of Chief Deputy Crabtree.

Commissioner Page also stated that if the BOCC decides to move forward with the study, he would hope to see more programs in the community such as Project Strike and Men of Vision.

The Board concurred with Commissioner Page's comments.

Chairman Reckhow asked that Lt. Lyle O'Neal add Commissioner Page to the email notice list.

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Chairman Reckhow encouraged Board members to join one of the Results Based Accountability committees.

Chairman Reckhow stated that the Board would make sure the report is communicated; however, the report will not be received unless it includes specific action strategies.

### Directives

1. Look at broader outreach; involve the faith community.
2. Assess the demographics of gang members; develop solutions.
3. Consider adding an additional bullet to the proposal, under Analysis and Report Preparation, about how to attack the gang problem and the action to be taken.
4. Look at preliminary issues that could influence future budget decisions.
5. Determine the long- and short-term strategies in other cities.
6. Bring back to the Board any recommendations for solving gang-related problems.
7. County Attorney to draft a three-party Interlocal Agreement; emphasize key points that have been discussed.
8. County Manager to place on the consent agenda within 45 days.

### Proposal for Stage 2 Economic Development Initiative

Chairman Reckhow stated that the Greater Durham Chamber of Commerce has proposed a three-year initiative to develop and implement a strategy to promote Durham County to employees of new and existing industries and business who are considering relocation to the Triangle area. The initiative would require an annual contribution of \$35,000 from Durham County and the City of Durham. The Chamber has also pledged to raise an equal amount from the private sector.

Libby Barnes, President and CEO, Greater Durham Chamber of Commerce, presented a proposal for a plan of action. She discussed the following program elements of “Stage Two” Economic Development Strategy:

- Objectives
- Target Audiences
- Components of the Initiative

Ted Connor, Vice President for Economic Development, Greater Durham Chamber of Commerce, discussed the budget components of the “Make It Durham” program.

Vice-Chairman Heron stated that she was not in support of the program at this point; she wished to determine the role of the DCVB/TDA in the program. She expressed concerns about the Chamber seeking additional funds from the County.

Commissioner Cheek supported the program. He hoped that everyone could recognize the need and the benefit the program would provide to the community.

Vice-Chairman Heron expressed concern with the bad timing and lack of resources.

County Manager stated that money has been set aside in Contingency to fund the program.

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### Directives

1. Keep the Board informed of the Chamber's progress with the program.
2. Discuss this campaign with DCVB/TDA; work with the DCVB/TDA on research and message development.

### 2007 Legislative Goals

Deborah Craig-Ray, Assistant County Manager, stated that the Board requested a short, preliminary discussion regarding 2007 legislative goals. The Commissioners will hold a more thorough discussion at its September 7 Worksession. The NCACC is requesting that counties submit proposed legislative goals for inclusion in the legislative goals development process by Friday, September 15. Following the direction of the Board, staff will develop the package, organize the Board's priority legislative items, and bring them back for approval.

Ms. Craig-Ray presented the Board with the 2007 statewide legislative issues for the Board's consideration.

Deputy County Attorney Tim Jordan made comments regarding DSS appeals.

Commissioner Page expressed concerns about property owners who have constant problems with their rental properties being raided by local law enforcement agencies.

### Directive

1. Schedule a meeting with the local Legislative Delegation to discuss the need for impact fees; schedule a luncheon with Representative Larry Hall.

### Board and Commission Appointment

Chairman Reckhow deferred the Alcoholic Beverage Control Board appointment until the August 28 Regular Session.

### Closed Session

Commissioner Cheek moved, seconded by Commissioner Page, to adjourn to closed session to discuss matters relating to the location or expansion of businesses in the area served by the public body pursuant to G.S. § 143-318.11(a)(4).

The motion carried with the following vote:

Ayes: Cheek, Heron, Page, and Reckhow

Noes: None

Absent: Cousin

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### Reconvene to Open Session

Chairman Reckhow announced that no action was taken during the closed session; directives were given to staff.

### Due Process Hearing

Chairman Reckhow introduced this item by stating that the Board of Commissioners has received complaints regarding the conduct of Douglas Register, an appointee to the Nursing Home Community Advisory Committee (NHCAC).

### Introduction and Swearing In

Chairman Reckhow stated that the Board is requested to hold a due process hearing to determine if there is justification for the complaints against Mr. Register, and if the complaints are justified, whether or not to remove Mr. Register from his position.

Chairman Reckhow directed all persons who wished to testify in this matter to go to the Clerk's station to be sworn in or to give affirmation. After being sworn in, persons were to return to their seats.

The Clerk to the Board administered the oath to everyone who had signed up to testify.

### Board Conflicts

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

Commissioner Cheek asked to be excused from participating in the hearing due to a complaint that was filed by Mr. Register against the Department of Education, Durham Technical Community College. Commissioner Cheek has been retained as counsel for the College.

Chairman Reckhow called for a motion to excuse Commissioner Cheek from participating in the hearing.

The motion was moved by Vice-Chairman Heron and seconded by Commissioner Page.

The motion carried with the following vote:

Ayes: Heron, Page, and Reckhow  
Noes: None  
Excused: Cheek  
Absent: Cousin

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### Prior Exposure to Evidence

Chairman Reckhow stated that the Board received complaints prior to the hearing, as well as emails from Mr. Register regarding this matter.

Chairman Reckhow asked that any Board member who has any information or special knowledge about the case that may not come out at the hearing, to describe that information for the record so that interested parties would know and could respond.

Chairman Reckhow reported that she received a phone call from Gay Bonds, Chairman, Nursing Home Community Advisory Committee, and Jill Passmore, Region J Ombudsman, regarding this matter.

### Explanation of Proceedings

Chairman Reckhow stated that the Board would first hear from the complaining parties following the presentation of evidence, then a response from Mr. Register. Parties may cross-examine a witness after the witness testifies or when questions are called for. If a witness wishes for the Board to see written evidence, such as reports or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his/her testimony. The Board cannot accept reports from persons who do not testify. Attorneys who speak should not give factual testimony but may summarize their client's case. Chairman Reckhow asked that witnesses identify themselves for the record before beginning testimony.

Chairman Reckhow stated that, in advance of the hearing, the Board received supporting documentation submitted by the applicant, which addressed a number of the findings.

### Testimony from Staff

Chairman Reckhow opened the hearing and asked for testimony from the complaining parties.

John McKnight, Attorney, Triangle J Council of Government, presented his opening statement, stating the Nursing Home Community Advisory Committee's purpose. He opined that Mr. Register has violated statutes, regulations, and procedures governing the duties of operation of the Nursing Home Community Advisory Committee. He also stated that Mr. Register has disrupted the functions of the Committee.

Douglas Register began his opening statement by addressing previous statements about case law. He reminded counsel that this is an advisory committee, not a corporate governing committee and case law would not apply. Mr. Register vehemently denied the allegations against him.

Jill Passmore, Region J Ombudsman, briefly described her duties as Ombudsman. She stated that all committee members received a copy of the statute and a manual that includes policies and procedures set by the Division of Aging and Adult Services.

Ms. Passmore stated that she received complaints that Mr. Register visited facilities unannounced and outside the hours of 10 a.m. to 8 p.m. She also stated that Mr. Register conducted complaint investigations unaccompanied.

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Ms. Passmore affirmed that Mr. Register communicated committee business without going through the chairman.

Gay Bonds, Chairman, Nursing Home Community Advisory Committee, gave examples of Mr. Register's disruptive behavior. She stated that Mr. Register no longer fulfills his duties as recorder and secretary of the committee.

Ms. Bonds informed the Board that after receiving complaints from Erwin Gardens and LaSalle Rehab and Healthcare, she submitted a request to the Board to remove Mr. Register from the Nursing Home Community Advisory Committee.

Mr. Register asked questions of Ms. Passmore and Ms. Bonds regarding the allegations against him.

Chairman Reckhow asked if any Board member had questions of Mr. Register.

Chairman Reckhow referred to a question that was asked earlier regarding Mr. Register entering into a facility after hours. She also referred to a letter written by Ms. Amy Huntley, Chief Administrator, LaSalle Rehab and Healthcare.

Vice-Chairman Heron asked questions of Mr. Register about his visiting nursing homes unannounced.

Mr. McKnight recalled Ms. Passmore to distinguish the difference between a friendly visit and an official visit.

Mr. McKnight proceeded with his closing remarks, stating that the Nursing Home Community Advisory Committee cannot operate under disruptive conditions. He asked that the Board grant the request to remove Mr. Register from the NHCAC.

Mr. Register proceeded with his closing statements. He stated that he fervently denies the allegations against him and that he disputes the veracity of the testimony presented by the witnesses.

Vice-Chairman Heron moved, seconded by Commissioner Page, to remove Mr. Douglas J. Register from the Nursing Home Community Advisory Committee.

The motion carried with the following vote:

Ayes:	Heron, Page, and Reckhow
Noes:	None
Excused:	Cheek
Absent:	Cousin

Chairman Reckhow asked for consensus from the Board for County Attorney Chuck Kitchen to adopt the order to remove Mr. Register from the NHCAC.

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After receiving consensus, Chairman Reckhow closed the hearing.

**Adjournment**

There being no further business, Chairman Reckhow adjourned the meeting at 3:00 p.m.

Respectfully submitted,

Vonda C. Sessoms  
Clerk to the Board