

THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA

Monday, January 14, 2002

AGENDA

5:30 P.M.

Closed Session

The Board of Commissioners is requested to adjourn to closed session to discuss real estate pursuant to N.C.G.S. § 143-318.11(a)(5) and to consider economic development pursuant to N.C.G.S. § 143-318.11(a)(4).

Regular Session

7:00 P.M.

1. 1. **Opening of Regular Session**?Pledge of Allegiance
2. 2. **Agenda Adjustments**

Commissioner Bowser asked to add an item to discuss Orange County's proposal to establish workshops with Durham County concerning the Shearon Harris nuclear plant.

Chairman Black asked to add an item to make comments on her visit to the food bank.

3. 3. **Minutes**
 - a. a. August 27, 2001 Regular Session
 - b. b. November 11, 2001 Worksession

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the minutes as submitted.

The motion carried unanimously.

4. 4. **Resolution for Winner's Circle Dining Program**

Tracey Bates, Health Promotion Nutritionist for the Public Health Department, is currently leading a coalition that is implementing a new program called "Winner's Circle Health Dining Program" in Durham County. This program is a statewide initiative sponsored by the North Carolina Prevention Partners, North Carolina Public Health, and Start With Your Heart Cardiovascular Health Program. The program's motto is: "Where Nutritious meets Delicious." A resolution of support has been prepared for the Board's approval.

County Manager's Recommendation: Approve the resolution and present it to Ms. Bates.

- 4a. **Cherry, Bekaert & Holland To Address the Board of County Commissioners (BOCC)**

The independent auditing firm of the County, Cherry, Bekaert & Holland, has asked to come before the BOCC for a brief presentation regarding the audit of the County's financial statements and single audit for fiscal year ended June 30, 2001.

Resource Person(s): Finance Director, George Quick; Deputy Finance Director, Susan Fox-Kirk; and System Administrator/Senior Financial Analyst, Chantel Campbell

County Manager's Recommendation: The Manager recommends that the BOCC grant their request and hear the presentation to be given by Paul Fedorkowicz and Scott Duda of the County's financial independent audit firm of Cherry, Bekaert & Holland.

Finance Director Quick introduced the item. Two members of the firm presented the item.

5. **Consent Agenda**

- a. a. Property Tax Releases and Refunds for Fiscal Year 01-02 (accept the property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report; these are normal recurring releases and refunds);
- b. b. Report?Sale of County-Owned Surplus Personal Property (accept the report on the sale of surplus property from the auction held on November 17, 2001);
- c. c. Street Annexation Petitions?Albury Place, Genesee Drive, and Worland Drive (Willow Hill Subdivision) (adopt the resolutions to approve the addition of Albury Place, Genesee Drive, and Worland Drive (Willow Hill Subdivision) to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation);
- d. d. Mobile Command Post Bid IFB No. 02-016 for the Office of the Sheriff (authorize the County Manager to enter into a contract with the lowest bidder, Farber Specialty Vehicles for \$117,130.00);
- e. e. Request For Release of Penalties (deny the request by Sloan Financial Group of waiver of penalties under statute 105-380. No taxes to be released, refunded or compromised);
- f. f. Approval of Memorandum of Understanding with the Durham Public Schools (review and approve the changes to the Memorandum as requested by the Board of Education);
- g. g. Standard Non-Reimbursable Contracts for the Extension of the County Sanitary Sewer System (authorize the County Manager to execute the Utility Contracts for these additions to the County sanitary sewer system);
- h. h. Reimbursement Resolution for School Bonds (approve the resolution so the County can be reimbursed for the school expenditures from bond proceeds);
- i. i. Revisions to County's 10-Year Capital Improvement Program and Approval of Capital Project Amendment No. 02CPA000009 (approve the Revised 10-year CIP as detailed in the Funding Source Summary and approve the Capital Project Amendment No. 02CPA000009 for the EMS Lebanon Capital project?\$10,224);
- j. j. Reimbursement Resolution for Senior Center (approve the resolution so the County can be reimbursed for the Senior Center expenditures from bond proceeds);
- k. k. Execution of Architectural Design Service Contract with Lucien Roughton Architects for the Renovation/Expansion of the Durham County Animal Shelter?RFQ 01-016 (authorize the execution of the contract in the amount of \$144,160, with reimbursable items in the amount of \$1,550 and design of the Garage for Animal Control as an alternate for \$5,000?for an authorized total of \$150,710?and execute any other related contracts if necessary; and
- l. l. Execution of Architectural Design Service Contract with DTW Architects and Planners, Ltd., for the Renovation of the Judicial Building Annex (Formerly First Union Building) RFQ 01-031?Project No. DC068-46 (authorize the execution the contract in the amount of \$107,000.00 and execute any other related contracts, if necessary, not to exceed the estimated project budget of \$123,400.00)

Chairman Black included Agenda numbers 9 and 13 in the Consent Agenda, as they were left out when the agenda was compiled.

Commissioner Bowser moved, seconded by Commissioner Heron, to approve Consent Agenda items 5a, b, c, d, e, f, g, h, i, j, k, Agenda item 9, and 13.

The motion carried unanimously.

Consent Agenda item 5I was removed for discussion.

Commissioner Bowser moved, seconded by Commissioner Cousin, to approve Consent Agenda item 5I.

The motion carried with the following vote:

Ayes: Black, Bowser, Cousin, and Heron

No: Reckhow

6. **6. Public Hearing to Consider Allocating Economic Development Investment Funds to AW North Carolina, Inc.**

AW North Carolina, Inc. is considering expanding its current plant by building an additional manufacturing facility in Treyburn Corporate Park, located in northern Durham County. Upon completion of the facility AW North Carolina will produce a new line of automobile transmission components.

The proposed investment for the new manufacturing plant is approximately \$160 million dollars and represents an estimated depreciated taxable value of approximately \$70 million dollars. Upon completion of the new plant, it is expected that AW North Carolina will bring 300 new jobs to Durham County.

AW North Carolina, Inc. is in the process of making the final decision as to where to locate the proposed new facility. Staff is aware of several other sites being considered for this investment. AW North Carolina has communicated to the County Manager and staff that Durham County's financial support for this project will be a key consideration in the final decision. AW North Carolina is requesting that the County participate in the costs of site preparation activities.

Staff is recommending that the County participate in this economic development project by reimbursing AW North Carolina, Inc. up to two million dollars (\$2,000,000) over a five-year period for the costs of site preparation activities, including associated County development fees. A proposed contract outlining the specific agreement for reimbursable work will be forwarded under separate cover.

This public hearing was advertised on Friday, January 4, 2002 as required by N.C. Statute.

Resource Person(s): Carolyn P. Titus, Deputy County Manager

County Manager's Recommendation: The County Manager recommends that the Board hold the public hearing, and based upon the information received, approve the Contract between the County of Durham and AW of North Carolina, Inc. to allow for the reimbursement of costs associated with the site preparation.

The Public Hearing was opened for comment. Persons signed to speak follow: Peter Anlyan, Steve Brantley, Phillip Vereen, Ted Conner, Beth Hill, Gordon Copeland, and Tom White?all representing the Greater Durham Chamber of Commerce.

There being no other speakers, Chairman Black closed the Public Hearing.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the contract between the County of Durham and AW of North Carolina to allow for the reimbursement of costs associated with the site preparation.

The motion carried unanimously.

7. **7. Public Hearing to Establish a Six-Month Moratorium on New Telecommunications Tower Applications**

Adopt an ordinance establishing a six-month moratorium on consideration of applications for all new towers allowed by right or by use permit and all towers replacing nonconforming towers. Applications received prior to the start of the moratorium can be processed provided the applicant can show to the satisfaction of staff that no interference with emergency communications or governmental dispatch capabilities will result.

Resource Person(s): Sheila Stains-Ramp, Acting Assistant Planning Director, and Dick Hails, Interim Planning Director

County Manager's Recommendation: The Manager's recommendation is that the Board hold the public hearing and adopt the ordinance, if appropriate, based upon public comment.

Chairman Black opened the Public Hearing. There being no speakers signed, the Chairman closed the Public Hearing.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to adopt the ordinance with the revised end date of July 14.

The motion carried unanimously.

8. **8. Durham Open Space Commission Matching Grants Recommendation**

The Durham Open Space and Trails Commission (DOST) received four applications for Matching Grants Program funds to assist nonprofit community organizations with recreational and open space projects. The following financial summary briefly shows the Commission's recommendation to the Board for funding three applications, a total of \$59,725.00, using the contractual funds requested and approved under the General Fund "Open Space Matching Grants" Organization of the County's FY 2001-02 Budget. A condition of this recommendation to fund the Durham-Orange Mountain Bike Association's trail project to be located in the Little River Regional Park is that the project be contracted contingent to approval by the Orange County Board of Commissioners for locating the trail in the Park.

Project/Application	Request	Cost	Grant
Durham Central Park, Inc./Park Trail	\$25,425	\$51,036	\$25,375
Durham-Orange Mountain Bike Assoc./Bike Trail	\$4,150	\$8,770	\$4,150
Ellerbe Creek Watershed Assoc./ Land Purchase	\$30,200	\$60,700	\$30,200

Resource Person(s): Annette Montgomery, Commission Chairman, and Bill Renfrow, County Budget and Management Department

County Manager's Recommendation: Members of the Durham Open Space and Trails Commission evaluated and revised this year's applications for matching funds to assist nonprofits with providing recreational opportunities and preserving open space for the citizens of Durham County. This recommendation to allocate \$59,725.00 of grant funds represents a gain to the County of \$60,781.00 in matching funds as more than half the projects' value of \$120,506.00. The County Manager recommends approval for funding three projects and the allocation of the \$59,725.00 of the budgeted Matching Grants Funds.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve funding the three projects and the allocation of the \$59,725.00 of the budgeted Matching Grants Funds.

The motion carried unanimously.

9. **9. Adoption of Nonprofit Agency Funding Policy**

At the December 2001 worksession, the Board of County Commissioners received a presentation by staff exploring alternative methods of funding nonprofit agencies. Staff presented some ideas and options for the Board to consider in realigning Durham County's nonprofit funding including a draft version of a nonprofit funding policy. At the request of the Board, staff has incorporated the comments and directives into the policy.

Resource Person(s): Carolyn P. Titus, Deputy County Manager, and Heidi Duer, Assistant to the County Manager

County Manager's Recommendation: The Manager recommends that the Board approve the policy.

10. **10. Land Use Plan Amendment #A01-10 (Southeast Durham Plan)**

Receive an update from staff and follow the recommended actions to deny the request to amend the Future Land Use Map of the Southeast Durham Plan.

The Southeast Durham Plan directs non-residential development generally along two main corridors, US 70 and NC 98. The intersection of Sherron Road and NC 98 is identified in the Plan as a small neighborhood commercial node. The Plan specifically states that small neighborhood-scale commercial areas can contain a grocery and drug store. But, the Plan limits these stores to the same quadrant of an intersection.

Staff supports allowing limited neighborhood commercial zoning at the intersection of Sherron Road and NC 98 to provide needed goods and services at the Urban Growth Boundary to serve residents in and outside the Urban Growth Area. Commercial activity already exists or is planned for all quadrants of this intersection. However, the expansion of intense commercial activity on both corners of the intersection is not reflected in the adopted Plan.

On April 25, 2001 the Planning Commission approved Case A01-07 to slightly expand the commercial node west of Sherron Road, to significantly expand the commercial node east of Sherron Road, and to allow high density residential or office uses east of Sherron Road. The current request proposes to further increase the size of the commercial area in the southwestern quadrant and to reduce the density of the residential portion of the southeastern quadrant. The Applicant has stated the intent to locate a drug store and grocery on opposite corners of the intersection contrary to the aims of the Plan. The Durham Planning Commission reviewed the applicant's proposal at its meeting on July 25, 2001 and recommended denial (6-1).

Resource Person(s): Dick Hails, Interim Planning Director, and Dwight Yarborough, Senior Planner

County Manager's Recommendation: The Manager's recommendation is that the Board deny the request to amend the Southeast Durham Plan to further expand the commercial node.

Ronald Horvath presented the revised proposal and explained for Commissioner Heron that the trend has changed for drug stores to build separate buildings as opposed to the previous trend of grocery and drug stores being connected in a strip mall.

Chairman Black asked if any of the ten persons signed to speak were opposed to the plan as presented tonight. Three of the persons asked to speak:

**Hugh Schrowang?opposed to anything other than that proposed.
 Lee Lambert?supported the revision.
 George Ray Jr.?supported the commercial use for a grocery store.**

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to adopt the amendments as presented, using the map posted at the meeting by C/C Planning staff.

The motion carried unanimously.

11. 11. Budget Ordinance Amendment No. 02BCC000044 to Transfer Funds From the Sewer Utility Fund to the Wastewater Treatment Plant Improvement Project, Capital Project Amendment No. 02CPA000008, and Approval of Construction Contracts for Phase I of the Wastewater Treatment Plant Improvements Project

The Board is asked to appropriate \$1,558,972 from the Sewer Utility Fund retained earnings into the Wastewater Treatment Plant Capital Project (SE045), and authorize the County Manager to enter into construction contracts for Phase I of the Wastewater Treatment Plant Improvements Project as follows:

General Construction	Beers Construction Co. of Winston-Salem	\$6,630,625.00
Electrical	National Electric Co.	1,364,000.00
HVAC	Acorn Industrial, Inc	78,000.00
Subtotal		<u>8,072,625.00</u>
5% Contingency		<u>403,631.00</u>
Total		<u>8,476,256.00</u>

This project has been in planning and design for several years. Phase I includes a new influent pump station, effluent pump station, and ultraviolet disinfection. The most recent presentation to the Board was on August 6, 2001, when the Board directed staff to proceed with the project to provide the capacity for future customers and the treatment quality to comply with North Carolina legislative (and subsequent permit) requirements. This direction came specifically after negotiations with the City of Durham failed to result in reasonable alternatives to this project. The contracts requested in this agenda item will allow this project to proceed as directed by the Board, and continue to be the least-cost alternative. The total of the bids of \$8,072,625.00 is \$886,375.00 less than the engineer's estimate of \$8,959,000.00.

On February 14, 2000 the Durham County Board of Commissioners approved a reimbursement resolution, declaring its intention to reimburse the County from the proceeds of one or more tax-exempt financing for certain expenditures in connection with certain wastewater treatment facilities.

Phase I of the project was initially funded through 2/3rds Bonds in March 2000. Phase II of the Wastewater Treatment Plant (WWTP) Improvements was approved in August 2001, by the Board of Commissioners, as part of the County's 10-Year Capital Improvement Program. Phase II of this project will be funded through Special Obligation Bonds. The \$1,558,972 appropriation from Sewer Utility Fund retained earnings will supplement existing 2/3rds Bonds funding until Special Obligation Bond funding for the remainder of the project is acquired, and the Sewer Utility Fund can be reimbursed.

The current budget was developed with preliminary cost estimates and funded with a share of 2/3rds Bonds in FY 1999-2000 (these funds must be spent in the next 18 months). The Phase I cost estimate has increased since FY 1999-2000 due to elapsed time (inflation) and a minimal amount of Phase II construction moving into Phase I to save money on the total project. The current total cost estimate of \$42,888,900 was established in June 2001 during the negotiations with the City and the

development of the CIP request. The requested appropriation does not impact the total project cost estimate.

This project was advertised in the local newspapers on September 26, 2001. A Pre-Bid Conference was held on October 26, 2001. Bids were publicly opened and read on November 20 at 3:00 p.m. Twenty bids were received for the project (7 for Division I ? General Construction; 5 for Division II ? Electrical; 3 for Division III ? HVAC; and 5 for Division IV ? Single Prime). The Bid Tabulations are attached for your information, and they include columns showing the bids as submitted as well as the bids as corrected after finding math errors. There was only one major error in these bids. Haren Construction (Tennessee) submitted a Division IV ? Single Prime bid of \$8,530,000.00 that was corrected to \$7,249,000.00. This \$1,281,000.00 (15%) error results in the lowest bid, but the error was obvious and Haren submitted a letter asking to not receive the award. Engineering and the project consultant have recognized the error and reviewed the situation with the County Attorney. The recommended contractors are the lowest responsible bidders for this project.

The MWBE participation has been reviewed, and the projected participation for the project is \$752,235.00 (9% of the total bid amount of \$8,072,625.00).

Resource Person(s): Wendell Davis, Deputy County Manager; Glen Whisler, County Engineer; Pam Meyer, Budget Director; and Chuck Hill, Utility Division Manager

County Manager's Recommendation: Approve the appropriation of \$1,558,972.00 from the Sewer Utility Fund retained earnings (Budget Ordinance Number 02BCC000044) to the Wastewater Treatment Plant Capital Project (Capital Project Amendment Number 02CPA0000008) which will be reimbursed upon issuance of Special Obligation Bonds related to this project. Also, authorize the County Manager to enter into contracts as follows:

General Construction	Beers Construction Co. of Winston-Salem	\$6,630,625.00
Electrical	National Electric Co.	1,364,000.00
HVAC	Acorn Industrial, Inc	78,000.00
5% Contingency		<u>403,631.00</u>
Total		8,476,256.00

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the item.

The motion carried unanimously.

12. **12. Preliminary Resolution on Issuance of Special Obligation Bonds**

A preliminary resolution is attached which provides for the initiation of the process whereby the County would sell Special Obligation Bonds to finance a portion of Phase I and all of Phase II of the Wastewater Treatment Plant renovation and expansion. Special Obligation Bonds are debt instruments which pledge a revenue stream to repay the holders of the bonds. It is anticipated that the revenues from the Wastewater Treatment Plant will be pledged to secure the bonds. In addition, another revenue source is required to be pledged so that coverage requirements can be met. Coverage requirements for this issue will probably be between 175% and 200% of the amount of the repayment schedule.

The financial data is currently being developed and will be presented to the Board at a later date. This preliminary resolution affirms the selection of certain professionals who are working on this project, and allows the County Administration to begin the process of issuing the bonds. A public hearing will be required prior to approval of the bonds. This hearing will be set at a later meeting.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Approve the preliminary resolution attached so that the County can begin the financing portion of this important project.

Commissioner Bowser moved, seconded by Commissioner Heron, to approve the resolution.

The motion carried unanimously.

13. **13. Service Contract for Federal Financial Participation Assistance**

The County currently provides several services that may be eligible for reimbursement through Federal Financial Participation, including but not limited to Alien Assistance Programs. Justice Benefits, Inc. is willing and able to provide professional assistance to explore potential opportunities for new Federal Financial Participation, to review prospects for expansion of existing Federal Financial Participation and to secure additional Federal Financial Participation as may be appropriate for the County. The first initiative that Justice Benefits, Inc. will prospect for under the agreement is reimbursement for housing illegal aliens prior to disposition of their cases through Alien Assistance Programs.

Justice Benefits, Inc. will receive twenty-two percent (22%) of any new or additional revenues actually received by the County that are a direct result of Justice Benefit's efforts pursuant to the Agreement. Section 3 of the agreement limits the Contractor's liability for acts or omissions (that are not insured risks under Section 5 of the agreement) to the amount paid to, or owed to the Contractor under this agreement.

Resource Person(s): C.W. Crabtree, Chief Deputy, and Carol Wolff, Assistant County Attorney

County Manager's Recommendation: Approve the Service Contract for Federal Financial Participation Assistance and authorize the Manager to execute the Contract.

14. **14. Board and Commission Appointments**

Garry E. Umstead, CMC, Clerk to the Board, will distribute ballots to make appointments to the following boards and commissions:

- •Animal Control Advisory Committee
- •Open Space and Trails Commission
- •Public Health Board
- •Wrestling and Boxing Commission

Resource Person(s): Garry E. Umstead, CMC, Clerk to the Board

THE MEETING ADJOURNED AT APPROXIMATELY 8:45 P.M.