

THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA

Monday, April 8, 2002

AGENDA

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

County Attorney Chuck Kitchen asked to add a new resolution to item No. 12.

Commissioner Bowser asked to add an item regarding an email correspondence concerning a request for help with contaminated wells in the Kentington Heights subdivision.

3. **3. Minutes**

- a. a. January 14, 2002 Regular Session
- b. b. January 30, 2002 BOCC/Durham Public Schools Board of Education/Durham City Council
- c. c. February 11, 2002 Regular Session
- d. d. March 25, 2002 Special Session

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the January 14, 2002 Regular Session, February 11, 2002 Regular Session, and March 25, 2002 Special Session Minutes as submitted and the January 30, 2002 BOCC/Durham Public Schools Board of Education/Durham City Council Minutes as corrected.

The motion carried unanimously.

4. **Proclamation Recognizing "National County Government Week"**

A proclamation designating the week of April 7-13 as "National County Government Week" has been prepared for the Board's approval. This year's theme for the national recognition is "Counties Secure America."

County Manager's Recommendation: Approve the requested proclamation and recognize the work that County employees perform on behalf of the citizens.

Vice-Chairman Reckhow read the resolution into the record.

5. **Tons of Fun Celebration for 2003**

The Board of County Commissioners is being asked to endorse a ten-week campaign to increase physical activity, improve nutrition, and elevate vitality during the 2003 Calendar Year. The Durham County Commissioners' Council on Physical Fitness and Sports recently endorsed the campaign entitled "Tons of Fun." The ten-week long event will introduce a new step each week to accomplish the campaign's goals. No funding is requested from the County to support the implementation thereof.

Resource Person(s): David Nowotny and Ellen Reckhow

County Manager's Recommendation: The Manager recommends that the Board receive the presentation and endorse the program as approved by the Commissioners' Council on Physical Fitness and Sports.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to endorse the Tons of Fun Celebration for 2003 to run from March 1 for 10 weeks.

The motion carried unanimously.

6. **Durham City-County Appearance Commission Annual Report**

In June of 2001, the Appearance Commission was established and comprised 15 members with design backgrounds. The Inter-local agreement governs the activity of the commission and requires that the Board of Commissioners be provided with annual updates on the commission's work, as well as its goals for the upcoming year. The Board will receive the first Annual Report from the Appearance Commission.

Resource Person(s): George Stanziale Jr., Cochair, Durham Appearance Commission, and Sara Young, Urban Designer, City-County Planning Department

County Manager's Recommendation: The Manager's recommendation is that the Board receive the report from the Appearance Commission.

George Stanziale Jr. delivered the annual report.

The Commissioners thanked Mr. Stanziale for his extensive report. The Commissioners had a lengthy discussion and asked questions about the commission's future plans.

7. **Consent Agenda**

- a. a. Offer to Purchase County Property (1015 Carolina Ave.-rear) (pursue the upset bid process at this time. The Board has the authority to accept or reject any offer at the conclusion of the upset bid process.)

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the Consent Agenda item.

The motion carried unanimously.

8. **FY 2002-2003 Consolidated Action Plan Draft Public Hearing**

The adopted Citizen Participation Plan requires that two public hearings be held prior to the submission of the Consolidated Action Plan to the Department of Housing and Urban Development (HUD). The purpose of the first public hearing is to receive comments pertaining to HOME program needs in Durham. The Board of County Commissioners' needs public hearing was held on February 25, 2002. No citizen comments were received. The purpose of the second public hearing is to receive comments on the use of FY 2002-2003 HOME funds as proposed in the Consolidated Action Plan Draft. The FY 2002-2003 Consolidated Action Plan Draft was made available for public review beginning March 8, 2002 through April 7, 2002.

The Durham City-County HOME Consortium anticipates receiving total HOME Investment Partnership (HOME) program funds in the amount of \$1,351,000. This amount includes an annual HOME allocation of \$1,051,000 and program income in the amount of \$300,000. The proposed use of FY 2002-2003 HOME funds includes substantial homeowner rehabilitation activities for low-income city and county residents, tenant-based rental assistance (HOPE VI Revitalization Area), and acquisition and/or substantial project rehabilitation by a developer. A Request for Proposal (RFP) for acquisition and/or substantial project rehabilitation will be issued to interested developers during the program year. The Durham City-County HOME Consortium will be required to provide a 25 percent match (non-federal funds) to the total amount of HOME funds used directly for affordable housing activities during FY 2002-2003. The required match would be approximately \$287,088 and would be funded with City Housing Bonds and available County funds as outlined in the current Consortium Agreement.

Charlene Montford, Director of the City of Durham Department of Housing and Community Development, has reviewed this request and recommends that the Board of County Commissioners hold the 2002-2003 Consolidated Action Plan Draft public hearing to receive citizen comments. Michael Pullum, Senior Planner, will attend the meeting to answer questions.

Resource Person(s): Michael Pullum, Senior Planner, City of Durham Department of Housing and Community Development

County Manager's Recommendation: The Manager's recommendation is that the Board hold the FY 2002-2003 Consolidated Action Plan Draft public hearing to receive citizen comments.

Mr. Pullum presented the details of the plan and answered questions for the Commissioners.

Chairman Black opened the public hearing which was properly advertised.

There was one person signed to speak.

Dr. Lavonia I. Allison, representing the Durham Committee on the Affairs of Black People, PO Box 428, asked how interested groups could access the Draft and have involvement in the Plan.

Mr. Pullum advised that it is advertised in 4 newspapers that copies of the draft plan are placed in five locations around the county for one month for review.

Chairman Black asked that County Manager Ruffin obtain Dr. Allison's questions and submit them to Mr. Pullum. The Commissioners requested copies of the correspondence.

Mr. Pullum was directed to submit two separate letters to Vice-Chairman Reckhow and Commissioner Bowser to address their extensive directions.

The item will be placed before the Board for its second Public Hearing and approval at the April 22, 2002 Regular Session.

9. Public Hearing--Land Use Plan Amendment #A01-18 (North Durham Plan)

In the adopted Plan, the future land use designation for the area on the north side of Hebron Road between Denfield Street and the existing residential subdivision along West Avenue is high density residential. Modification of the North Durham Plan to indicate medium density residential uses on the subject site affords an opportunity to establish a land use pattern that is more compatible with existing and planned residential development in the area. While the modification reduces the amount of land designated for high-density uses, a better arrangement of uses in the general area is achieved. Additionally, the modification affords flexibility in design to produce integrated developments while lessening the demands on traffic arteries.

The proposed amendment to designate the subject site for medium density residential uses is supported by the goals of the North Durham Plan and the 2020 Plan. The relationship of the subject site to existing and planned residential development supports the potential for medium density residential development. The Planning Department recommends approval of the proposed amendment. The Planning Commission reviewed the proposed amendment and recommended approval (11-0) at its meeting on January 23, 2002. The Board of County Commissioners received a presentation on this item at its March 11 meeting and deferred the matter until its April 8 meeting at the request of the applicant.

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

County Manager's Recommendation: The Manager's recommendation is that the Board amend the North Durham Plan FLUM to designate the area on the north side of Hebron Road between Denfield Street and West Avenue for medium density residential uses.

This item was pulled. It will be brought before the Board at a later date.

10. Ambulance Franchise Renewals

All public and private providers of ambulance service wishing to operate in Durham County must be franchised by the Durham County Board of Commissioners to assure adherence to local and state regulations, insurance requirements, and to monitor their ability to provide quality service to the citizens of Durham County. After the initial franchise is awarded, they must reapply for that franchise every three years. Currently, nine providers are franchised to operate within the County. This request is for initial approval of renewals for Bahama VFD, Bethesda VFD, Lebanon VFD, Parkwood VFD, Redwood VFD, and Duke Life Flight. All requesting agencies with the exception of Duke Life Flight operate under contractual agreements with Durham County.

The applications have been reviewed by J. M. Tezai, EMS Director, and have been found to meet all legal and operational requirements as stipulated by the Franchise Ordinance. The applications have been reviewed and recommended by the Durham County EMS Council. As a result, it is recommended that all requests be approved.

This will be the first of two required approvals by the Board of County Commissioners. (A public hearing is not required for a franchise renewal.) The Board of County Commissioners will be asked to consider the second approval at the April 22, 2002 meeting.

Resource Person(s): J. M. Tezai, EMS Director, and representatives of the six requesting agencies.

County Manager's Recommendation: The Manager's recommendation is that the Board approve the franchise renewals as requested.

Chairman Black removed herself from presiding over this item due to her involvement with Duke University.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the Chairman's request to remove herself from this item and for the Vice-Chair to preside over the item.

The motion carried unanimously.

Mr. Tezai presented the item.

Commissioner Heron, seconded by Commissioner Bowser, moved the first required approval of the ambulance franchise renewals.

The motion carried unanimously.

The item will be placed before the Board for second approval at the April 22, 2002 Regular Session.

11. Recommendations for the Southwest Durham Drive and Fixed Guideway Transit Routes

The Durham Area Designers held a design charette on March 2 to explore and consider alternatives to the alignment of the Southwest Durham Drive and Fixed Guideway routes in southwest Durham. Interestingly, three separate design teams arrived at the same conclusion, one that would enable the region to be appropriately planned and developed for the maximum community benefit.

The parcel of land recently purchased by the Durham Public Schools served as the catalyst for forethought and planning. The school system needs to proceed with the design of its site in order to open a new elementary school in the fall of 2004. While any final regional alignment of the transit routes may require thorough consideration, local governing bodies and committees need the current authority to provide flexibility in determining routes and rights of way through the school site.

Resource Person(s): Dan Jewell, member, Durham Area Designers; Hugh Osteen, Assistant Superintendent for Operations, Durham Public Schools

County Manager's Recommendation: The Manager recommends that the Board receive the presentation and determine if any recommendation regarding the proposed alignment should be forwarded to the Transportation Advisory Committee (TAC), which meets on April 10, 2002.

Chairman Black opened the item for public comment. There were two persons signed to speak. Dr. Lavonia I. Allison, representing the Durham Committee on the Affairs of Black People, PO Box 428, stated she was disturbed that the item had come up for approval before the item could be addressed by the citizens.

Mr. George Smart, 2439 W. Lake Drive, representing landowners, asked to share another plan with the Board.

Chairman Black asked the County Manager to meet with Mr. Smart concerning coming before the Board to share his plan.

Commissioner Bowser stated he was unready to vote on this.

After a lengthy discussion, Chairman Black called for the item to be brought before the Board again at the May 6, 2002 Worksession. Board members wanted time to schedule appointments to discuss their transportation concerns. The Chairman asked that Commissioners compile a list of their questions.

12. Inducement Resolution for Affordable Housing Bonds

The NRP Group, LLC is requesting that the County approve a resolution giving preliminary approval for the issuance of revenue bonds for the financing of a proposed apartment development, Eno Pointe. These bonds would be solely payable by the NRP Group, and the County would not be liable for the repayment of the bonds. By having the County as the nominal issuer of the bonds, the bonds are tax-exempt. This also allows NRP Group to receive tax credits for the project. In return, 80 percent of the units will be rent restricted for moderate-income individuals.

This would be the second such issue for the NRP Group by the County. The first issue was completed in December 2000. That project is now called Falls Pointe at the Park and is located off Hwy. 55 near RTP.

Rezoning of the property will be required. The rezoning will be brought before the Board at a subsequent meeting.

An additional issue with these projects is the taxability of the apartments due to the Court of Appeals decision in *In Re Greens at Pine Glen*. While the Supreme Court recently agreed to review this decision, NRP Group has agreed to make a payment in lieu of taxes to make up the difference if the units are not fully taxable.

Resource Person(s): Chuck Kitchen, County Attorney; Brad Parker, Vice-President, NRP Group; and Mary Nash Rusher, Bond Counsel

County Manager's Recommendation: Approve the inducement resolution so that NRP Group can proceed with getting approvals from the North Carolina Housing Finance Authority.

County Attorney Chuck Kitchen introduced the item.

Mr. Jack Markham, representing the NRP Group, presented the proposal for the Village of Eno Pointe, consisting of 224 apartment homes in 17 apartment buildings.

Ms. Mary Nash Rusher, Bond Counsel, presented the bond information.

The Commissioners discussed the item at length.

The following motions were made:

Commissioner Bowser moved, seconded by Commissioner Cousin, to approve the intent to close paper streets Armfield and (Popular?) Streets.

The motion carried unanimously.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the inducement resolution presented by the County Attorney.

The motion carried unanimously.

The item will come before the Board again on April 22, 2002.

Added Item?Commissioner Bowser

Commissioner Bowser added an item regarding an email correspondence concerning a request for financial help with a contaminated well in the Kentington Heights subdivision. The property owners cannot afford to fix the problem.

The Commissioners, County Manager, and the County Attorney discussed methods to approach extending help, funding sources, and restrictions.

13. **Board and Commission Appointments**

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

- • Adult Care Home Community Advisory Committee
- • Animal Control Review Board
- • City-County Appearance Commission
- • Nursing Home Community Advisory Committee
- • Women?s Commission
- • Wrestling and Boxing Commission

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

The Commissioners made the appointments to the above Boards and Commissions.

14. **Closed Session**

The Durham County Board of Commissioners is requested to adjourn to closed session to consider economic development pursuant to N.C.G.S. § 143-318.11(a)(4).

The Closed Session was postponed until a later meeting.

THERE BEING NO FURTHER BUSINESS, THE CHAIRMAN ADJOURNED THE MEETING AT 9:35 P.M.