

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

Monday, January 7, 2002

9:30 A M. Worksession

**MINUTES**

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chairman MaryAnn E. Black, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe W. Bowser, Philip R. Cousin Jr., and Becky M. Heron

Absent: None

Presider: Chairman Black

**Approval of Memorandum of Understanding with the Durham Public Schools**

The Durham County Board of Commissioners and the Board of Education for the Durham Public Schools have agreed to develop annual Memoranda of Understanding (MOU) in order to strategically identify issues/initiatives of mutual interest. The agreement is largely an effort to ensure strong channels of communication between both boards while working to improve the quality of education for students attending the Durham Public Schools.

The Superintendent and County Manager agreed upon the language for an MOU for the 2001-2002 Fiscal Year. The Board of County Commissioners finalized its review on December 10, 2001. Those changes were reviewed by the Board of Education on December 13, 2001, and several revisions were requested.

Resource Person(s): MaryAnn E. Black, Chairman; Mike Ruffin, County Manager

County Manager's Recommendation: The County Manager recommended that the Board of County Commissioners review and approve the changes to the Memorandum as requested by the Board of Education.

County Manager Mike Ruffin said he attached to the agenda a highlighted copy of the changes to the Memorandum of Understanding that the Board of Education approved. All of the changes were minor. One of the only issues noted was the release of information concurrently. The County Attorney and the School Board Attorney discussed the concern and agreed.

County Manager Ruffin opened the meeting for questions and comments.

The Commissioners asked questions and made remarks about the Memorandum of Understanding to which the County Attorney and County Manager responded.

Chairman Black stated that since there were no questions, the Board was in agreement to approve the Memorandum of Understanding.

Chairman Black asked the County Manager to move this agenda item forward to the Consent Agenda for the January 14, 2002 Regular Session.

### **Durham Public Schools Purchase of Real Property**

On September 27, 2001, the Durham Public Schools Board of Education approved the purchase of real property for a new K-5 elementary school in the amount of \$1,071,030. The property is located at the corner of Ephesus Church Road and George King Road and is referred to as the Swain property. The parcel is 37.58 acres.

To fund the purchase of the property, the Board of Education also approved a change in the use of remaining 1991 Bond funds to serve as the required local match for funds from the Public School Capital Building Fund. These two sources of revenue, along with funds from the 2001 Bond and 1996 State Bond funds, provide the funds needed to purchase the land.

The Durham Public Schools Board of Education requests approval to purchase the property, approval to use the balance of \$104,062 remaining from the 1991 Bond fund, and approval of the application for Public School Capital Building Funds in the amount of \$312,186.

Resource Person(s): Hugh Osteen, Executive Director of Facilities Services, Durham Public Schools

County Manager's Recommendation: The County Manager recommended that the Board approve the requests as presented.

Chairman Black said the Commissioners had asked for and received a lot of backup information for consideration on this agenda item.

Chairman Black asked County Manager Mike Ruffin to begin the presentation since he was one of the resource persons. He recommended that the requests be approved as presented.

The Commissioners asked several questions and made comments to which Hugh Osteen, Executive Director of Facilities Services, Durham Public Schools, and County Attorney Chuck Kitchen responded. Dick Hails, Interim City/County Planning Director, assisted with the questions.

Chairman Black said she wanted to move this item forward. She commented that she had discussed the Hillside School property with the Commissioners and the County and School administrations in terms of considering that property for another school or some other project.

Chairman Black said that in November when the Commissioners asked the citizens to vote for the bond referendum, they did vote and passed it with a good percentage. At that time we told the voters that an elementary school would be built.

Chairman Black said she wanted the County Attorney, School Board Attorney, County Manager, and the School Superintendent to work out the agreement in terms of the excess acreage that isn't needed for the school site. A minimum of 20 acres is needed for the proposed site. Chairman Black said the Board must consider the total acreage needed for the proposed school site. The Board would be advised of that figure with the site plan. The Chairman advised that the proposed school should be sited where it will not interfere with the sale of the remaining piece of that property. That money could be used for capital projects or to defray the cost of the new school. The Chairman stated she wanted that agreement to be drawn up. Chairman Black wanted to know if the school administration would be willing to work with the County Manager and County Attorney to work out this agreement asked for by the Board.

Chairman Black asked Dr. Ann Denlinger, Superintendent, to speak to that request.

Dr. Denlinger said she would like to reassure the County Commissioners that the administration and School Board are absolutely committed to using the minimum amount needed of that property to build the school. There will be joint planning between Durham County, Durham Public Schools, and consequently between the County Commissioners and the Board of Education.

Chairman Black said she wished to call for the vote to purchase the property.

County Attorney Kitchen advised the Chairman she would have to request a motion to suspend the rules since this was a Worksession.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to suspend the rules so that a vote could be taken on the purchase of the land.

The motion carried with the following vote:  
Ayes: Black, Cousin, Heron, and Reckhow  
Noes: Bowser

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Vice-Chairman Reckhow moved, subject to the master planning of the site and the agreement as Chairman Black outlined, and Commissioner Heron seconded the motion to

adopt the “Resolution Relating to Providing Funds for an Elementary School Site and Certain Related Matters.

The motion carried with the following vote:

Ayes: Black, Heron and Reckhow

Noes: Bowser and Cousin

The resolution follows:

**RESOLUTION RELATING TO PROVIDING FUNDS FOR AN ELEMENTARY SCHOOL SITE AND CERTAIN RELATED MATTERS**

WHEREAS, the Durham Public Schools Board of Education (the “Board of Education”) has certified to the Board of Commissioners for the County of Durham, North Carolina (the “Board of Commissioners”) a resolution passed by the Board of Education on December 13, 2001 showing that adequate school facilities are not now available in the Durham Public Schools Administrative Unit to comply with the requirements of Section 2 of Article IX of the Constitution of North Carolina for the maintenance of schools at least nine months in every year and that it is necessary, in order to maintain such term as required by said Section 2 of Article IX of the Constitution, to provide additional school facilities in said Unit by undertaking certain projects, which projects include the construction of a new elementary school on a site consisting of approximately 37.58 acres located at the corner of Ephesus Church Road and George King Road in southern Durham County (the “Site”); and

WHEREAS, the Board of Education in said resolution further finds and determines (a) that the purchase price of the Site is \$1,071,030, (b) that the cost of acquiring the Site, including such purchase price and related costs of consultants, testing, surveying, legal services and other related costs, is \$1,120,000 (the “Site Acquisition Cost”) and (c) that funds are needed to pay the Site Acquisition Cost; and

WHEREAS, the Board of Education in said resolution further finds and determines in connection with the need to provide funds to pay the Site Acquisition Cost (a) that the projects that were to be funded with the proceeds of \$45,000,000 Public Improvement Bond Anticipation Notes, dated June 27, 1991, of the County of Durham, North Carolina (the "County"), and \$84,105,000 Public Improvement Bonds, Series 1992, dated February 1, 1992, \$21,700,000 Public Improvement Bonds Series 1993, dated May 1, 1993, and \$25,715,000 Public Improvement Bonds, Series 1994, dated October 1, 1994, of the County allocable to the acquisition, construction, and equipping of public school facilities (the "Prior Projects") have all been completed, (b) that \$104,085.43 of such note and bond proceeds remain unexpended and are not needed for paying the cost of the Prior Projects, (c) that such unexpended note and bond proceeds (the "Unexpended Proceeds") are needed to pay a part of the Site Acquisition Cost, (d) that such proposed use of the Unexpended Proceeds would be within the general purpose of providing additional public school facilities for which the Unexpended Proceeds were initially provided and (e) that, in addition to the Unexpended Proceeds and other available funds, an amount of \$312,186 from funds available to the County from the Public School Building Capital Fund is needed to pay the Site Acquisition Cost; and

WHEREAS, the Board of Education in said resolution requests the Board of Commissioners to approve the Site Acquisition Cost of \$1,120,000 including the purchase price of the Site in the amount of \$1,017,030; and

WHEREAS, the Board of Education in said resolution hereby further requests the Board of Commissioners to take all necessary steps (a) to reallocate the Unexpended Proceeds to provide \$104,085.43 to pay a part of the Site Acquisition Cost and (b) to

provide \$312,186 from funds available to the County from the Public School Building Capital Fund, together with the Unexpended Proceeds and other available funds, to pay the Site Acquisition Cost; and

WHEREAS, it is necessary to take certain related actions at this time:

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Board of Commissioners, as follows:

Section 1. The Board of Commissioners has carefully examined the facts and hereby finds and determines that the statements made by the Board of Education are true.

Section 2. Upon the basis of such investigation as it considers to be appropriate, the Board of Commissioners hereby further finds and determines (a) that, as the Prior Projects have been completed, conditions have so changed that the Unexpended Proceeds are no longer necessary for their original purpose and (b) that the proposed use of the Unexpended Proceeds to pay a part of the Site Acquisition Cost is not excessive, but is necessary in order to maintain the school term in the County as required by Section 2 of Article IX of the Constitution of North Carolina.

Accordingly, the Board of Commissioners hereby approves reallocating the Unexpended Proceeds to provide \$104,085.43 to pay a part of the Site Acquisition Cost, provided that each expenditure of such amount will be of a type property chargeable to a capital account under general federal income tax principles.

Section 3. The Board of Commissioners hereby also approves (a) the Site Acquisition Cost of \$1,120,000 including the purchase price of the Site in the amount of \$1,071,030 and (b) providing \$312,816 from funds available to the County from the

Public School Building Capital Fund, together with the Unexpended Proceeds and other available funds, to pay the Site Acquisition Cost.

Section 4. The County Manager, the Finance Director, and the County Attorney of the County are each hereby designated as a representative of the County to take such actions as may be advisable in connection with the matters approved by this resolution; and all actions heretofore taken by any of such officers or any other officer of the County relating to such matters on behalf of the County are hereby approved, ratified and confirmed.

Section 5. This resolution shall take effect immediately upon its passage.

#### **Reimbursement Resolution for the School Bonds**

As the general obligation bonds for public schools have now passed, the schools must proceed with design work in order to put the projects out to bid. The schools may also want to begin work on some of the smaller projects. In order for this to be paid out of bond proceeds, a reimbursement resolution must be adopted. A portion of the approved bonds will probably be sold in late winter or early spring. The exact sale date will be determined based on a cash flow needs analysis by Budget.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Approve the resolution so the County can be reimbursed for the school expenditures from bond proceeds.

Chairman Black asked if there was any discussion on this agenda item. There was none.

Chairman Black requested that this agenda item be moved forward to the Consent Agenda for the January 14, 2002 Regular Session.

#### **Occupancy Tax**

The General Assembly has authorized the Board of Commissioners to enact an additional 1% occupancy tax. The legislation requires action to be taken by February 1, 2002, or the authorization to enact the additional tax expires. The enactment of the tax would also result in the creation of a Tourism Development Authority that would eventually take the place of the Durham Convention and Visitors Bureau. Before the tax could be levied, a public hearing must be held with at least ten days' notice. The County Attorney will discuss the provisions of the bill with the Board.

Resource Person(s): Chuck Kitchen, County Attorney

County Attorney Chuck Kitchen reviewed for the County Commissioners the Occupancy Tax Ratified Bill that was passed by the Legislature. There were several changes made to this bill that were brought to the Commissioners before its passage by the Legislature.

The County Commissioners asked several questions and made comments to which the County Attorney and County Manager responded.

Vice-Chairman Reckhow asked Chairman Black to write a formal letter to the City Council indicating that the Commissioners would like their input on the Occupancy Tax.

Advertising for the public hearing should be published next week at the same time the Board requests input from City Council.

The County Commissioners held a lengthy discussion concerning the Occupancy Tax.

Chairman Black asked Staff to draft a letter to City Council today requesting its input.

Chairman Black instructed Staff to move this agenda item forward to the January 28, 2002 Regular Session in order to have a public hearing.

### **FY 2001 Comprehensive Annual Financial Report Presentation (CAFR)**

The Finance Director will present the FY 2001 Comprehensive Annual Financial Report (CAFR) to the Board of County Commissioners. This presentation will be an overview of the CAFR, to include discussion of the County's financial stability, the major accomplishments of County agencies, and the County debt. The Director will also provide comparative analyses of general government revenues and expenditures as well as a brief overview of other information such as certain statistical information and GASB 34.

The Finance Director will also announce to the Board that the CAFR for FY 2000 received the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association. The Finance Department takes great pride in this accomplishment. It is the highest form of recognition for excellence in state and local government financial reporting. To be awarded a Certificate of Achievement, a governmental unit must publish an easily readable and efficiently organized comprehensive annual financial report whose contents conform to program standards. Such reports must satisfy both generally accepted accounting principles and applicable legal requirements. Our current report continues to conform to the Certificate of Achievement Program requirements, and Finance is submitting it to the Government Finance Officers Association (GFOA) to determine its eligibility for another Certificate.



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

County Manager's Recommendation: The Manager recommended the Board hear the presentation and commend the Finance Department for its continued commitment and dedication to ensuring the timeliness and accuracy of the County's financial reporting as well as adhering to reporting requirements as stated by the Governmental Accounting Standards Board (GASB), the Government Finance Officers Association (GFOA) and the Local Government Commission (LGC).

County Manager Mike Ruffin made introductory remarks about the financial report and distributed the Management Letter to the Commissioners for their review. The County Manager said that the auditor in charge of the annual audit told him this is the cleanest audit he had and one of the cleanest he has ever seen of all the audit contracts he had worked with this year. That is a credit to our Finance Department and Staff. The Manager said the County has retained the triple-A bond rating from both bond-rating bureaus. That is a credit to you and your leadership.

County Manager Ruffin introduced George Quick, Finance Director, to make his financial report presentation on the CAFR for FY 2001. The presentation covered all aspects of the financial picture of Durham County.

The Commissioners asked questions and made comments about the presentation to which Mr. Quick and the County Manager responded.

County Manager Ruffin said a request from the bond rating bureaus was that Durham County should adopt a formal Fund Balance Policy. The Finance Department is working on a formal Fund Balance Policy to present to the Commissioners for consideration and approval.

Mr. Quick called on Ms. Fox-Kirk to make comments on the Governmental Accounting Standards Board (GASB).

In response to the County Manager's opening remarks on the Management Letter and Ms. Fox-Kirk's presentation, Mr. Quick commented that the Staff would review the Management Letter.

No official action was taken on this agenda item. None was required.

### **Update on the 2001-2002 Transportation Demand Management Plan (RAVE)**

As a result of the County adopting the Commute Trip Reduction Ordinance, Durham County in December of 2000 developed its Travel Reduction Plan, commonly referred to as RAVE (Reduction Alternatives to Vehicle Emissions). To remain in compliance with the Commute Trip Reduction Ordinance, the County must conduct an annual survey and report to the Board of Commissioners the year-to-date progress. Each year on

November 30, employers who are participants in Transportation Demand Management are required to submit to the Triangle Transit Authority (the lead agency) its annual plan. Durham County has submitted its plan, and staff will report on the year-to-date progress for the RAVE program as well as share this year's survey results.

Resource Person(s): Wendell Davis, Deputy County Manager and Heidi Duer, Assistant to the County Manager and Transportation Coordinator

County Manager's Recommendation: The Manager recommended that the Board receive the presentation and provide staff with feedback on the past year's transportation reduction efforts.

The Commissioners asked questions and made remarks about the Transportation Demand Management Plan.

Commissioner Heron asked what the TTA staff person hired to work on the RAVE program was doing. She wanted a report of what the staff person was doing and the program's successes.

County Manager Ruffin said a presentation would be set up for the County Commissioners to hear about the program.

Ms. Duer, Transportation Coordinator, responded to the Commissioners' questions and comments.

Vice-Chairman Reckhow suggested that employees that use their cars for County business during the day might be a benefit to the RAVE program if a County vehicle were provided for the employees and if they could carpool to work each day.

No official action was taken or required on this agenda item.

**Request for Interlocal Agreement with the City of Durham for CDBG Funds for the Renovation of the State Street House to Provide Crisis Services**

The Durham Center asked the Board of County Commissioners to approve an Interlocal Cooperative Agreement between the City of Durham and the County. The Agreement allows the County to use a portion of the City's Community Development Block Grant (CDBG) funds to renovate a county-owned residence located at 2415 State Street. The home will be used as a supervised crisis facility for adults requiring short-term mental health stabilization and residential support to avoid hospitalization. The amount of the CDBG grant is \$136,000 and will be used to renovate the vacant group home. The facility has been vacant for several years due to considerable structural damage to the foundation of the home. The grant has been awarded in the form of a forgivable loan with no interest or principal payments due as long as the facility is operated as a crisis stabilization facility for mental health clients. The Durham Center has sufficient continuation funds to operate the facility as a five-bed crisis residence for clients

requiring moderate levels of support on a short-term basis. Failure to operate this facility could lead to the loss of state continuation funds already allocated to operate stabilization services for mentally ill clients. Review of intended site use with the neighborhood has already occurred. Appropriate review with the City has also occurred, and the plan is supported.

Resource Person(s): Steven J. Ashby, Ph.D., Area Director; Evester Bailey, Unit Director, Crisis Services; and Nixon Alexander, Project Manager, City of Durham Housing and Community Development

County Manager's Recommendation: The Manager recommended that the Board receive the presentation and authorize Mental Health to move forward with the renovation of the State Street project. The project is financed by a forgivable loan from the City's CDBG program. Mental Health has been advised that the agency is responsible for any project cost over-runs. The documents for this forgivable loan cannot be executed until late January 2002 when the County has completed the issuance of the net 2/3'rds bond debt.

Evester Bailey, Unit Director, Crisis Services, responded to the Commissioners' questions and comments about the program. Nixon Alexander, Project Manager, City of Durham Housing and Community Development, also responded to questions and comments about the project.

Chairman Black moved the agenda item forward to the January 28, 2002 Regular Session in order to have a public hearing on the debt and documents.

### **Eligibility Building**

The Board was asked to review the report on the Eligibility Building and provide direction as to the future use of the property.

The County's Facility Master Plan recommends a public/private renovation of the building for commercial uses. The plan does not anticipate use of the building to meet the County's space requirements.

Resource Person(s): Mike Ruffin, County Manager; Mike Turner, Director of General Services; and Glen E. Whisler, P.E., County Engineer

County Manager's Recommendation: The County Manager recommended that the Board receive the staff report and provide direction as to the future use of the property.

County Manager Mike Ruffin made introductory remarks about the Eligibility Building. He said the Board must advise how staff is to proceed with the building. Does the Board want to dispose of the building, sell it, or renovate it?

Glen Whisler, County Engineer, made a presentation to the Commissioners regarding the location, condition, limitations, and possible uses of the building if it is renovated.

The Commissioners asked questions and made remarks about the building to which Mr. Whisler and the County Manager responded.

The County Manager's recommendation was to sell the building. There are two interested parties who want to purchase the building. One party wants to operate it for a public use. The County does not have a planned use for it. The building would be privately owned if it is sold.

County Manager Ruffin said the River of Life Church would have to be removed first to be sure the foundation of the Eligibility Building has not been structurally undermined. There are approximately twenty parking spaces behind the building since WTVD has terminated its heliport lease with the County. There is some parking available for the building's use.

Vice-Chairman Reckhow suggested that the building could be used in a variety of ways that would be very positive for the area and community. She said it is really a sound building with a lot of space. She stated she thought there would be a lot of interest in the building by potential tenants. She asked the Commissioners to direct the staff to proceed with the demolition of the Church building. Staff should bring demolition bids for the Commissioners' consideration. She wanted to move forward with the next step.

Chairman Black said she concurred.

### **White Cross Community Center**

The Board was asked to review the report on the White Cross Community Center and provide direction as to future use of the property.

Funding for improvements to the White Cross Building was requested in the Capital Improvements Program (CIP) process, but the project is not currently included in the approved CIP.

Resource Person(s): Mike Ruffin, County Manager; Mike Turner, Director of General Services; and Glen E. Whisler, P.E., County Engineer

County Manager's Recommendation: The County Manager recommended that the Board receive the staff report and provide direction as to future use of the property.

Mike Turner, Director of General Services, made a presentation to the Commissioners regarding the White Cross Community Center. Staff is seeking direction as to the future use of the property.

Chairman Black said a neighbor wants the site to be declared a historic site. There is concern that the building may be used for office space. There is opposition to the facility being used as office space.

Commissioner Heron was of the opinion that the property has historic value and, if renovated, could be used for a staff development center or for community activities. She stated it would be a real resource for the County and the community.

County Manager Ruffin said the property should be used or sold.

Vice-Chairman Reckhow said the building should be preserved for a community use. The parking is very limited and could be a problem. Staff should check out community use of the building.

County Manager Mike Ruffin said the staff would research the interest for community use of the building.

#### **Annexation Line Between the City of Durham and the Town of Chapel Hill**

County Attorney Kitchen said a judgment as to the line was entered in 1986 from a lawsuit when the Town of Chapel Hill sued the City of Durham. The line can only be changed by a mutual agreement of the two municipalities.

#### **Adjournment**

Chairman Black adjourned the worksession at approximately 12:20 p.m.

Respectfully submitted,

Garry E. Umstead, CMC  
Clerk to the Board