

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

Monday, November 11, 2002

7:00 P. M. Regular Session

**Minutes**

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

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

Absent: Chairman MaryAnn E. Black

Presider: Vice-Chairman Reckhow

**Opening of Regular Session**

Vice-Chairman Reckhow called the meeting to order with the Pledge of Allegiance.

**Chairman MaryAnn E. Black Excused from Meeting**

Vice-Chairman Reckhow announced that Chairman Black was out of town and had been excused from this meeting.

**Welcome**

Vice-Chairman Reckhow welcomed everyone to the November 11, 2002 Regular Session.

**Agenda Adjustments**

Vice-Chairman Reckhow added to the agenda a proclamation in recognition of Veterans Day.

**Minutes**

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the September 18, 2002 Special Session Minutes of the Board as submitted.

The motion carried with the following vote:

Ayes: Bowser, Cousin, Heron, and Reckhow  
Noes: None  
Absent: Black

**Celebrating 100 Years of Powered Flight**

Mr. Ben Taylor, representing the Committee Celebrating 100 Years of Powered Flight, was seeking support for an interlocal agreement between the City of Durham, Durham County, the City of Raleigh, Wake County, and the Raleigh-Durham Airport Authority to participate in a celebration honoring the 100<sup>th</sup> Anniversary of man's first powered flight. The event would be held on December 17, 2003. Funding was being sought from all of the aforementioned organizations to design a First Flight Monument to be installed at Raleigh-Durham International Airport.

Resource Person(s): Ben Taylor and Thad Woodard, representatives of the Committee Celebrating 100 Years of Powered Flight

County Manager's Recommendation: Receive the presentation and direct staff.

Vice-Chairman Reckhow made opening remarks and called on Mr. Taylor and Mr. Woodard to make their presentations.

Mr. Taylor thanked the Commissioners for allowing the committee representatives to come to the meeting and make the presentation. The plan is to build a monument at the Raleigh-Durham International Airport. A one-day celebration would be held. The Raleigh-Durham Airport Authority has agreed to develop the icon portion of the celebration along with funding assistance by its governmental partners. The Airport Authority will interview the artists next week and make a final decision at its next meeting. The City of Raleigh and the City of Durham have approved to appropriate \$100,000 each to design, fabricate, and install the First Flight Monument at Raleigh-Durham International Airport. A request would be made to the Wake County Commissioners next week for their participation.

Mr. Woodard urged the Commissioners to support the effort so the project would have 100 percent support.

Vice-Chairman Reckhow asked County Manager Ruffin for his recommendation.

County Manager Mike Ruffin recommended that the Commissioners instruct staff to prepare for a \$50,000 appropriation in the FY 03-04 Budget and a \$50,000 appropriation in the FY 04-05 Budget.

Mr. Woodard said that the Airport Authority could accommodate the County Manager's recommended payment plan.

Commissioner Bowser asked a question to which Mr. Woodard responded.

Commissioners Bowser moved, seconded by Commissioner Cousin, to accept the recommendation from the County Manager to pay \$50,000 in the FY03-04 Budget and \$50,000 in the FY04-05 Budget.

The motion carried with the following vote:

Ayes: Bowser, Cousin, Heron, and Reckhow  
Noes: None  
Absent: Black

### **Proclamation for National Adoption Awareness Month**

November is National Adoption Awareness Month. Efforts were made during the month to help build awareness of adoption and to sponsor events to promote positive perceptions, debunk myths, and draw attention to the tens of thousands of children in foster care who wait and hope for permanent families. Department of Social Services (DSS) officials requested that the Board of County Commissioners proclaim the month of November as National Adoption Awareness Month in Durham County.

Resource Person(s): Ms. Jovetta Surles, Program Manager for Child Placement and Supportive Services, DSS and Dan Hudgins, DSS Director

County Manager's Recommendation: Approve the proclamation and present it to DSS representatives.

Commissioner Bowser read the proclamation into the official record.

The proclamation follows:

#### PROCLAMATION

WHEREAS, every child deserves the chance to grow up in a loving, stable family; and

WHEREAS, unfortunately, many children in Durham County will never get this chance unless we get involved; and

WHEREAS, adoption is the goal for many special needs children in foster care; and

WHEREAS, some special needs children are teenagers with physical, emotional, and behavioral challenges, and have been neglected, abandoned, abused and/or exposed to drugs and alcohol; and

WHEREAS, others are brothers and sisters who want to grow up together and need our care and need security; and

WHEREAS, some special needs children are of different ethnicity; and

WHEREAS, last year, twenty-eight (28) children with special needs in Durham County were adopted:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim November 2002 as

#### ADOPTION AWARENESS MONTH

in Durham County. We commend this observance to our citizens as an opportunity to spread awareness on behalf of the fifty (50) plus children in Durham County who are waiting for a loving family. We further encourage communities, businesses, groups, schools, faith-based organizations, and families to honor the special needs of Durham County's children in hopes of securing a permanent, loving family for each and every child regardless of race, age, gender, health, emotional or behavioral condition, and past distress.

This the 11<sup>th</sup> day of November, 2002.

/s/ Five Commissioners  
Durham County Commissioners

#### **Veterans Day**

Vice-Chairman Reckhow asked Commissioner Heron to read the proclamation into the official record.

The proclamation follows:

#### PROCLAMATION

WHEREAS, Veterans Day is a day to honor veterans of the U.S. armed forces and those killed in battle; and

WHEREAS, it began as a commemoration of the ending of World War I on November 11, 1918 and was originally called "Armistice Day;" and

WHEREAS, following World War II, it was recognized as a day to pay tribute to all service members; and

WHEREAS, throughout our nation's history unselfish young men and women have defended this country's principles of liberty, opportunity, and justice for all; and

WHEREAS, countless service men and women have helped to make our country secure and to advance the cause of freedom by answering the call of duty and risking their lives to protect all Americans; and

WHEREAS, our veterans have served on land, at sea, and in the air and have saved millions from the threats of tyranny and terror; and

WHEREAS, more than 25 million American veterans are living today, many of whom have served in the jungles of Vietnam, in the Persian Gulf, in Afghanistan, and other battlefields around the world:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim November 11, 2002 as

#### VETERANS DAY 2002

in Durham County and urge all citizens to recognize the sacrifice and bravery of our veterans through a variety of ceremonies and patriotic observances. We further salute our veterans who have served with courage, compassion, and dignity to preserve America's freedom.

This the 11th day of November, 2002.

/s/ Five Commissioners  
Durham County Commissioners

#### **Consent Agenda**

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

- \*(a) Budget Ordinance Amendment No. 03BCC000021—  
Board of Elections—To Recognize and Appropriate \$30,000 Grant from the State Board of Elections for Absentee One-Stop (No-Excuse) Voting (approve this amendment and appropriate the \$30,000 in grant revenue as requested by the Board of Elections);

- (b) Appointment of Tax Hearing Officer for Debt Set-Off Program (appoint Ms. Kimberly Simpson as the hearing officer to conduct hearings per the N.C.G.S. §105A, Debt Set-off Collection Act); and
- \*(e) Property Tax Releases and Refunds for FY02-03 (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 that are presented for the consent agenda).

The motion carried with the following vote:

Ayes: Bowser, Cousin, Heron, and Reckhow  
Noes: None  
Absent: Black

\*Documents related to these items follow:

Consent Agenda 6(a). Budget Ordinance Amendment No. 03BCC000021—Board of Elections—To Recognize and Appropriate \$30,000 Grant from the State Board of Elections for Absentee One-Stop (No-Excuse) Voting (approve this amendment and appropriate the \$30,000 in grant revenue as requested by the Board of Elections).

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000021

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2002-03 Budget Ordinance is hereby amended to reflect budget adjustments.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
General Government	\$ 21,101,495	\$30,000	\$ 21,131,495
<u>Revenues</u>			
Intergovernmental	\$260,088,375	\$30,000	\$260,118,375

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

This the 11<sup>th</sup> day of November, 2002.

(Budget Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

Consent Agenda 6(e). Property Tax Releases and Refunds for Fiscal Year 02-03 (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 that are presented for the consent agenda).

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 October 2002.

Releases & Refunds for 2002 Taxes:

Real	\$ 239,167.13
Personal	\$ 2,473.08
Registered Vehicles	\$ 25,233.56
Vehicles Fees	\$ 235.00
Solid Waste	\$ 65.00
Total for 2002 Taxes and Fees	\$ 267,173.77

Prior Years (1997-2001) releases and refunds for October 2002 \$715,129.44

Total Current Year and Prior Year Releases and Refunds \$982,303.21

(Recorded in Appendix A in the Permanent Supplement of the November 11, 2002 Minutes of the Board.)

### **Consent Agenda Items Removed for Discussion**

Commissioner Heron asked for clarification regarding the following consent agenda items. Vice-Chairman Reckhow also asked questions regarding item No. 6(f).

Consent Agenda 6(c). Extension of the Listing Period for Business Personal Property (give the Tax Assessor authority to grant extensions for business personal property owners who request extensions in writing until March 15, 2003).

Consent Agenda 6(d). Budget Ordinance Amendment No. 03BCC000022—Criminal Justice Resource Center, Juvenile Day Reporting Center (approve this amendment in the amount of \$33,948 for the Criminal Justice Resource Center).

Consent Agenda 6(f). Offer to Purchase County Property (2001 Brocton Place) (pursue the upset bid process at this time. A resolution to offer the property in an "upset bid" sale is included in this package; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process).

Staff gave clarification regarding the items and answered questions.

County Attorney Kitchen addressed Vice-Chairman Reckhow's suggestion that the property referenced in consent agenda item No. 6(f) be listed with a realtor to possibly bring a higher price.

Commissioner Cousin moved, seconded by Commissioner Heron, to approve consent agenda item Nos. 6(c), (d), and (f).

The motion carried with the following vote:

Ayes: Bowser, Cousin, Heron, and Reckhow  
Noes: None  
Absent: Black

\*Documents related to these items follow:

Consent Agenda 6(d). Budget Ordinance Amendment No. 03BCC000022—Criminal Justice Resource Center, Juvenile Day Reporting Center.

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000022

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2002-03 Budget Ordinance is hereby amended to reflect budget adjustments.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
Public Safety	\$ 33,911,354	\$33,948	\$ 33,945,302
<u>Revenues</u>			
Intergovernmental	\$260,118,375	\$33,948	\$260,152,323

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

This the 11<sup>th</sup> day of November, 2002.

(Budget Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)



Consent Agenda 6(f). Offer to Purchase County Property (2001 Brocton Place) (pursue the upset bid process).

#### RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in the City of Durham, Durham County, North Carolina and properly described as follows:

Parcel ID #835-05-005  
PIN 0815-03-40-8260  
2001 Brocton Place

WHEREAS, Mr. Ben Naderi, representing Barn Door Properties Inc., has made an offer to the County to purchase the above property for \$142,000 and has made a bid deposit in the amount of \$7,100 which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within ten days after the date the notice is published;
3. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
4. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
5. When the bid has been successfully raised (upset), the new bid becomes the current offer;
6. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
7. When the bid has been successfully raised (upset), the procedure is repeated;
8. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
9. Should the Board of County Commissioners accept the final qualifying offer, a nonwarranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on November 11, 2002.

/s/ Garry E. Umstead  
Clerk, Board of Commissioners

**Quasi-Judicial Public Hearing—Major Use Permit—Shimizu-AW North Carolina (Major Use Case M02-08)**

The Board was asked to hold a public hearing to consider a Major Use Permit for an increase in impervious surface to 32 percent F/J-A Watershed District. Arcadis G&M, on behalf of Shimizu-AW North Carolina, submitted an application for a Major Use Permit to allow this increase in the F/J-A Watershed Overlay District. The project is a 78,800 square-foot addition to an existing manufacturing facility with 415 new parking spaces on a ±123-acre site. The site is located on the south side of Teknika Parkway east of Old Oxford Highway and is to be accessed by existing driveway entrances off Old Oxford Highway and Teknika Parkway.

Resource Person(s): Frank M. Duke, AICP, Planning Director

County Manager's Recommendation: The County Manager's recommendation was that the Board receive public comment on the application.

Vice-Chairman Reckhow said that the hearing on this matter is judicial in nature and will be conducted in accordance with special due process safeguards. All persons who wish to testify in this case should have signed up on the special sheet for this hearing at the Clerk's station. If you wish to speak, please go now to the Clerk's station to be sworn in or give your affirmation. If you have not signed up and wish to speak, please sign up now and participate in the swearing-in. After the swearing-in, you may return to your seat.

Before opening the hearing, Vice-Chairman Reckhow gave Board members a chance to reveal possible conflicts of interest and to withdraw from the proceeding, if necessary. There were no conflicts with the County Commissioners.

Also, Vice-Chairman Reckhow asked any Commissioner who has information or special knowledge about the case that may not be disclosed at tonight's hearing, to please describe the information for the record so that interested parties will be informed and can respond.

The Board members had no special knowledge or information regarding the case.

Vice-Chairman Reckhow said the Board would hear from Planning staff and other County witnesses, from the applicants and their witnesses, and then from opponents to the request. Parties may cross-examine a witness after the witness testifies (when questions are called for). Witnesses familiar with the written evidence (such as reports, maps, or exhibits) should ask that the evidence be introduced during or at the end of their testimony. Reports cannot be accepted from persons who do not testify. Attorneys may not give factual testimony but may summarize their clients' case. Before you begin your testimony, please clearly identify yourself for the record.

Vice-Chairman Reckhow opened the quasi-judicial public hearing that was properly advertised.

Mr. Duke presented a document for evidence that had not been available in the Commissioner packages. The document was a colored site plan of the request by Arcadis G&M on behalf of Shimizu-AW North Carolina. The brighter red buildings were the new ones being proposed. The parking areas proposed for expansion were highlighted in dark gray.

Mr. Duke began his presentation. He commented that this expansion is consistent with the Master Plan for Shimizu-AW that was presented to the County Commissioners in March 1999. Staff has determined that the application meets all technical code requirements, which is the reason that Planning staff is recommending approval. Under the ordinance, the Board must determine additional findings from tonight's testimony before the project can be approved. Those findings are that the request is in harmony with the area, is not substantially injurious to the property value in the general vicinity, is in conformance with all special requirements applicable to the use and to the supplemental requirements section of the zoning ordinance, and will not adversely affect the health and safety of the public. After hearing the testimony, the Board may approve the request, deny the request, defer the request, or direct staff to come back with additional information.

Vice-Chairman Reckhow said the County Attorney asked her to state that the large colored site plan is petitioner's Exhibit A; the staff report is petitioner's Exhibit B.

Vice-Chairman Reckhow said that we will hear from the applicant and proponents of the request.

Mr. Randy King, Engineer for Arcadis G&M, was present at the meeting to answer Commissioner questions.

The Commissioners held a lengthy discussion and asked numerous questions of the applicant regarding the proposal. The Board's main concern was the amount of parking

spaces actually needed versus proposed. The site is in an environmentally sensitive area. The proposed increase in impervious surface from 24 percent to 32 percent would increase any runoff onto these sensitive areas.

Mr. Duke advised that the Planning Department would only be responsible for the applicant's compliance with the zoning ordinance and enforcement of any corrections for noncompliance.

Commissioner Bowser moved, seconded by Commissioner Heron, to continue this hearing until the next Regular Session (November 25, 2002) to allow the petitioner to bring forth answers to questions posed.

The motion carried with the following vote:

Ayes: Bowser, Cousin, Heron, and Reckhow  
Noes: None  
Absent: Black

Mr. Mitch Smalley, Project Manager, responded to questions raised during the presentation regarding the parking lot. He had spoken with Mr. Will Collins, Human Resources Director for Shimizu, by telephone to obtain employee figures. The current employee head count is 350 employees. They are planning to add an additional 450 direct employees. Also a supplementary work force of 50 Japanese technicians and engineers will be added. There are currently 20 part-time and temporary employees with 45 to be added with the expansion. The County must provide parking for service personnel and security staff. Total personnel adds up to 965. Guest parking must be provided. Cafeteria personnel will be employed in the near future.

**Public Hearing—Major Site Plan—Shimizu-AW North Carolina (Site Plan Case D02-532)**

The Board was requested to approve a site plan for a 78,800 square-foot addition to an existing manufacturing and assembly facility with 415 additional parking spaces on a +123-acre site. Arcadis G&M, on behalf of Shimizu-AW North Carolina, has submitted the site plan. The proposed project is located on the south side of Teknika Parkway and east of Old Oxford Highway and is to be accessed by existing driveway entrances. This site is located inside the F/J-A Watershed District, which requires major site plan approval for new, nonresidential development. The plan is consistent with the Master Plan for Shimizu as presented to the Board with its original site plan approval in March 1999. As required under the watershed regulations, notice for the Board's consideration of this site plan was advertised in the Durham Herald-Sun on October 28 and November 4, 2002.

Resource Person(s): Frank M. Duke, AICP, Planning Director

County Manager's Recommendation: The County Manager's recommendation was that the Board approve this site plan.

The Board decided to continue this public hearing until the next regular session of the Board (November 25, 2002) due to its connection to the previous agenda item.

Commissioner Heron moved, seconded by Commissioner Bowser, to continue this item until the November 25, 2002 Regular Session of the Board.

The motion carried with the following vote:

Ayes: Bowser, Cousin, Heron, and Reckhow  
Noes: None  
Absent: Black

### **Durham County Youth Home—Investigation Report**

On Monday, October 28, 2002, three residents escaped from the Durham County Youth Home. Staff presented a report on the investigation and made recommendations for changes to prevent such an escape from occurring in the future.

Resource Person(s): Carolyn P. Titus, Deputy County Manager and Angela Nunn, Youth Home Director

County Manager's Recommendation: The County Manager recommended that the Board receive the report and provide direction to staff.

Deputy County Manager Titus presented the report to the Board of County Commissioners. She reviewed the scope of the investigation, statement of events, findings, actions taken, and recommendations.

Deputy County Manager Titus said that she and County Attorney Chuck Kitchen would come back to the Board at a later date with a more detailed list of needed legislative changes.

Ms. Titus opened the floor for questions from the County Commissioners.

Vice-Chairman Reckhow thanked Deputy County Manager Titus and Youth Home Director Angela Nunn for the report and the recommended changes.

The Commissioners asked questions and made comments about the escape and the Youth Home. Staff responded to the questions and comments.

Commissioner Heron said that if the County builds a new Youth Home, the Board should explore the possibility of housing juveniles from other counties to help offset facility costs. Commissioner Heron asked about the possibility of considering a site in close proximity to the proposed Justice Center, which will be close to the Office of the Sheriff, the Police Department, and the Courts. She also commented that if the County has no future use for the building that houses the Youth Home, we should look at the disposition of that very valuable property. We must look at the big picture.

County Manager Mike Ruffin said that staff would look at the suggestions and directives of Commissioner Heron.

Vice Chairman Reckhow agreed with Commissioner Heron's recommendations. The Commissioners need a cost benefit analysis of retaining the property versus selling the property. We need to find out if Central Medical Park wishes to purchase additional property for expansion since the County's property joins the Central Medical Park property. The potential in the private sector should be considered. We must consider the cost benefit of housing out-of-county juveniles. We need to consider the benefits of building a facility larger than needed for Durham County.

Commissioner Heron stated that the first priority is to get the legislation in place so we can start to work.

No official action was taken on this agenda item.

### **Board and Commission Appointments**

Garry E. Umstead, CMC, Clerk to the Board, distributed ballots to make appointments to the following boards and commissions. (The asterisks designate appointees.)

#### Adult Care Home Community Advisory Committee

\*Carlotta L. Jordan—Bowser, Cousin, Heron, and Reckhow

#### Animal Control Review Board

\*George Webb—Bowser, Cousin, Heron, and Reckhow

#### Environmental Affairs Board

\*Kathi K. Beratan—Bowser, Cousin, Heron, and Reckhow

Transportation Advisory Board

\*John Jolly—Bowser, Cousin, Heron, and Reckhow

Women's Commission

\*Dr. Angela O. Terry—Bowser, Cousin, Heron, and Reckhow

**Advertising**

Vice-Chairman Reckhow asked that the Clerk to the Board meet with the County Attorney to consider the possibility of advertising board and commission vacancies in the News and Observer. Attorney Kitchen said that the Commissioners' policy must be amended to permit advertising in that particular newspaper.

The request was to be reviewed by staff.

**Adjournment**

There being no further business, Vice-Chairman Reckhow adjourned the meeting at 8:45 p.m.

Respectfully submitted,

Garry E. Umstead, CMC  
Clerk to the Board