

THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA

Monday, February 12, 2001

AGENDA

5:30 P.M.

Closed Session

The Board is requested to adjourn to closed session pursuant to N.C.G.S. § 143-318.11(a)(5), (6), & (7) in order to instruct the staff regarding the potential purchase of real estate, to consider the performance of an individual public officer, and to plan, conduct, or hear reports concerning investigations of alleged criminal misconduct.

7:00 P.M. Regular Session

1. **Opening of Regular Session**—Pledge of Allegiance
2. **Agenda Adjustments**
3. **Minutes**

December 7, 2000 BOCC/Durham Public Schools Board of Education

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the December 7, 2000 BOCC/Durham Public Schools Board of Education Minutes as submitted.

The motion carried unanimously.

4. **Farmland Preservation Grant Award for Agricultural Conservation Easement on Herndon Farm**

The County has been awarded a \$250,000 grant by the North Carolina Farmland Preservation Program for agricultural conservation easements which are administered by the Conservation Trust for the North Carolina Department of Agriculture. The grant, as requested by the Board, purchases the development rights for 50 acres of Herndon Farm.

Resource Person(s): Wayne Cash, Chairman of the Farmland Preservation Board, and Lowell Siler, Deputy County Attorney

County Manager's Recommendation: The Manager's recommendation is that the Board accept the grant and instruct staff to implement the necessary administrative procedures for the transfer of funds from the Conservation Trust for North Carolina. Such procedures include, but are not limited to, recordation of the easements, invoices, receipts, and statements.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, that the Board accept the grant and instruct staff to implement the necessary administrative procedures for the transfer of funds from the Conservation Trust for North Carolina.

The motion carried unanimously.

5. Consent Agenda

- a. Budget Ordinance Amendment No. 01BCC000041—Public Health (approve the budget ordinance amendment to recognize funds from the North Carolina Department of Health and Human Services for the Health Department to be allocated to the Healthy Carolinians Initiative);
- b. Budget Ordinance Amendment No. 01BCC000042—Public Health (approve the budget ordinance amendment to recognize funds from the North Carolina Department of Health and Human Services for the Health Department Syphilis Elimination Project);
- c. Budget Ordinance Amendment No. 01BCC000043 (approve the standard budget reconciliation amendment);
- d. Budget Ordinance Amendment No. 01BCC000044 (approve budget ordinance amendment to accept \$508,040 in new DSS Crisis Intervention Program funds and IV-E Waiver revenues);
- e. Budget Ordinance Amendment No. 01BCC000045—Department of Social Services Request to Accept New Revenues to Provide Medicaid Reinstatements (approve the budget ordinance amendment to accept \$150,000 in additional Federal revenues necessary to reinstate working families' Medicaid eligibility);
- f. Budget Ordinance Amendment No. 01BCC000046—Request for Recognition of DSS FY 2000 Deferred Revenues (approve the budget ordinance amendment to recognize \$126,329 in FY 2000 deferred revenues for the Department of Social Services);
- g. Advertising of Tax Liens (approve the Tax Administrator's request to begin advertising the 2000 tax liens in the month of March);
- h. Sanitary Sewer Easement—Evergreens Apts.—Mt. Moriah Rd. (approve the offer of \$200.00 for the sanitary sewer easement by Mr. Richard Siegel and grant the easement to the City of Durham);
- i. Approval of Construction Contract for the Durham County Main Library Building Roof Replacement (Project IFB# 01-012) (authorize execution of contract with CFE Inc. in the amount of \$252,721.00 and authorize the County Manager to execute change orders, if necessary, not to exceed \$25,272.00);
- j. Lease Agreement for Welcome Baby at the Shoppes at Lakewood (authorize the execution of this lease in accordance with the agreement);
- k. Crisis Housing Funds from the NC Department of Commerce (approve the request that the BOCC act as the Community Task Force as recommended by the North Carolina Department of Commerce); and
- l. Board of County Commissioner Goals—At the January 16, 2001 BOCC/Senior Management Planning Retreat, the BOCC identified four goals to implement and support over the next two years (approve the goals and action steps).

Note: The purpose of a consent agenda is to handle consensus items with one motion to save time on meeting agendas. Any item a Board member pulls for discussion should be placed at the end of the agenda so public hearings can be concluded as early as possible. This will provide for the least inconvenience to the general public attending the public hearings.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve consent agenda item Nos. 5(a through l) with the exception of item Nos. 5(e) and 5(j).

The motion carried unanimously.

Commissioner Heron removed consent agenda item Nos. 5(e) and 5(j) for discussion.

6. Public Hearing—2001-2002 HUD Consolidated Action Plan Needs

The City of Durham Department of Housing and Community Development (DHCD) requests that the Board hold the FY 2001-2002 Consolidated Plan Needs Public Hearing on February 12, 2001. The adopted Citizen Participation Plan for use with the Consolidated Plan requires that two public hearings be

held prior to submission of the Consolidated Action Plan to the U.S. Department of Housing and Urban Development (HUD). The purpose of the first public hearing is to receive public comments and proposals pertaining to housing needs in Durham. It is anticipated that some of these needs can be addressed using HOME program funds. The City Council is holding its Needs Public Hearing February 5, 2001.

It is anticipated that Durham will receive approximately \$1 million in Federal HOME grant funds for FY 2001-2002. The major goal of the HOME program is to expand the supply of safe, decent, sanitary, and affordable housing opportunities. These funds will be used primarily to create low- and moderate-income rental and home ownership initiatives. These initiatives will include activities that are included in the five-year Durham Consolidated Plan that was submitted to HUD in May 2000.

Charlene Montford, Director of DHCD, has reviewed this request and recommends that the Board of County Commissioners hold its 2001-2002 Consolidated Action Plan Needs Public Hearing on February 12, 2001.

Resource Person(s): Charlene Montford, Director, Housing and Community Development, City of Durham; Ava Hinton, Federal Programs Administrator; and Michael Pullum, Senior Planner

County Manager's Recommendation: The Manager's recommendation is that the Board hold the public hearing and discuss with the City Housing staff the need for additional funding to bring closure to the funding issues associated with the Community Shelter for HOPE project.

The public hearing was held and direction given to staff regarding the need for additional funding to bring closure to the funding issues associated with the Community Shelter for HOPE project. No BOCC action was required.

7. Public Hearing on Section 160A Financing for Homeless Shelter (H.O.P.E. House)

A public hearing is required to approve the proposed installment financing contracts with the North Carolina Housing Finance Agency and certain related documents for the purpose of financing a portion of the cost of renovating portions of and constructing additions and improvements to the County-owned homeless shelter known as the Community Shelter for H.O.P.E. (The "Project"), located at 412 Liberty Street in Durham, North Carolina. The County would secure the repayment with monies made available pursuant to the Installment Financing Agreements by granting a security interest in all or some portion of the Project.

A resolution calling for a public hearing to approve the proposed installment financing contracts and certain related documents to finance a portion of the Project was passed by the Board on January 22, 2001.

Following the public hearing, the Board may adopt the resolution which has been drafted by the County Attorney's Office.

Resource Person(s): Chuck Kitchen, County Attorney; Angela Geadelmann, Assistant County Attorney; Susan Fox-Kirk, Interim Finance Officer; and Wendell Davis, Deputy County Manager

County Manager's Recommendation: Conduct the public hearing and adopt the suggested resolution if supported by the information received in the agenda action package and the information received at the public hearing.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to adopt the RESOLUTION APPROVING TWO INSTALLMENT FINANCING CONTRACTS AND SUPPLEMENTAL DEEDS OF TRUST AND APPROVING AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH.

The motion carried unanimously.

8. To Conduct a Public Hearing to Consider Amendments to the Zoning Ordinance Open Space Requirements in Planned Density Residential and Multifamily Districts

The proposed text amendment was drafted at the request of the Joint City-County Planning Committee and revises the Planned Density Development (PDR) standards regarding the amount of open space provided within PDR developments. The amendment addresses two concerns--that the present PDR open space requirements are not sufficient at the lower density levels, and that there is no requirement that any of the open space be improved for use by future residents.

Presently, no open space requirement exists for projects between 0-2.9 units per acre; the proposed amendment would raise this to five percent. The amendment would also add a new requirement that some of the open space be improved with amenities for projects that are primarily smaller lot and more densely developed. The objective is to ensure that these areas have community-gathering areas and play spaces for future residents. Finally, the proposed amendments also modify the multifamily open space requirements to ensure consistency between the multifamily and PDR zoning categories.

The amendment has been reviewed and recommended for approval by both the Zoning Committee and the Durham Open Space and Trails Commission. Each board recommended some minor changes, which have been incorporated into the draft.

Resource Person(s): Jane Korest, Senior Planner, Norm Standerfer, Planning Director

County Manager's Recommendation: The Manager's recommendation is that the Board hold the public hearing and approve the zoning amendments, if appropriate, based on public comment.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO REVISE REQUIRED OPEN SPACE STANDARDS IN PLANNED DENSITY RESIDENTIAL DISTRICTS AND MULTIFAMILY RESIDENTIAL DISTRICTS.

The motion carried unanimously.

9. Public Hearing on Order Authorizing \$105,000,000 Refunding Bonds

The Board of Commissioners is requested to hold a public hearing on the possible refunding of existing debt of the County. The amount currently proposed for refunding is \$93,945,000. However, the Board is requested to authorize up to \$105,000,000 to be refunded to take advantage of any market changes on the day of sale.

Following the public hearing, if the Board feels it is appropriate, the Board would approve the Order Authorizing \$105,000,000 Refunding Bonds and approve separately the Resolution Providing for the Issuance of \$93,945,000 Refunding Bonds, Series 2001.

Resource Person(s): Chuck Kitchen, County Attorney, and Susan Fox-Kirk, Interim Finance Director

County Manager's Recommendation: Hold the public hearing which has been properly advertised, and if appropriate, approve both the Order and the Resolution.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the Order Authorizing \$105,000,000 Refunding Bonds and approve the Resolution Providing for the Issuance of \$93,945,000 Refunding Bonds, Series 2001.

The motion carried unanimously.

10. Public Hearing on Section 160A Financing for First Union Building

A public hearing is required to approve the proposed amendment to an existing installment financing contract and certain related documents for the purpose of financing a portion of the cost of acquiring the First Union Building located at 201 North Roxboro Street in Durham, North Carolina, and related property, including a 30-space parking lot, and renovating said building to provide space for a Juvenile Courtroom, offices for the Guardian Ad Litem and the Public Defender, and other court-related facilities (the "Project"). The County would secure the repayment with monies made available pursuant to the Contract Amendment by granting a security interest in all or some portion of the Project and certain related property.

A resolution calling for a public hearing to approve the proposed amendment to an existing installment financing contract and certain related documents to finance a portion of the Project was passed by the Board on January 22, 2001.

Following the public hearing, the Board may adopt the resolution which has been drafted by bond counsel.

Resource Person(s): Chuck Kitchen, County Attorney; Angela Geadelmann, Assistant County Attorney; Susan Fox-Kirk, Interim Finance Officer; and Wendell Davis, Deputy County Manager

County Manager's Recommendation: Conduct the public hearing and adopt the suggested resolution if supported by the information received in the agenda action package and the information received at the public hearing.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to adopt the RESOLUTION APPROVING AN AMENDMENT TO AN EXISTING INSTALLMENT FINANCING CONTRACT AND A SUPPLEMENTAL DEED OF TRUST AND APPROVING AND AUTHORIZING CERTAIN ACTIONS IN CONNECTION THEREWITH.

The motion carried unanimously.

11. Budget Ordinance Amendment No. 01BCC000047—Request for Additional Funding for Operations at the Board of Elections

The Board of Elections is requesting approval of a budget amendment to increase election's FY 2001 allocation by \$236,000. These funds are essential to ensure that the department will remain operational, legal, and professional for the remainder of the fiscal year. The primary reason for this request is the cost of the 2000 general election, which is characterized as being one of the largest voter turnouts in the County's history. In addition, an extensive backlog of list maintenance and mapping work remains to get the agency on sound footing and prepared for the re-sizing of City Council from 13 to seven members. Furthermore, the 2000 Census has created the need to re-draw lines as a result of new demographic data.

The request is further justified by the following facts:

1. The Board of Elections was appropriated \$518,000 in the current fiscal year. As of January 20, 2001, \$66,359 remains for this fiscal year. Therefore, the Board of Elections is requesting \$152,500 to sustain operations, \$50,000 to conduct mandated list maintenance, and \$33,500 to hire additional staff who possesses the proper technical skills, for a total of \$235,960.
2. Due to under-staffing during the 2000 general election, the Board of Elections, for a successful election, hired large numbers of temporary staff to manage the workload and perform other critical functions. For the first time, the Elections Department conducted one-stop, no excuse absentee balloting. This activity was essentially an unfunded state mandate, which necessitated the hiring of 16 additional workers for 17 days at satellite locations and an additional five workers at the BOE for 12 days.

3. The profound interest and activity in the November 2000 Presidential Election, the advent of one-stop voting, and the changing of four polling locations caused the Elections Department to spend more for postage, consumables, and advertising than was appropriated for the Board of Elections in the current year.
4. In addition, the Board of Elections conducted a 100 percent recount of all ballots, which was also an unfunded state mandate. This activity necessitated the hiring of 15 additional temporary workers for three days.
5. The National Voter Registration Act of 1993 changed the procedures for list (database) maintenance. It is significantly easier to get on the list than to be removed. To properly update/maintain our database requires a minimum of two separate mailings. This mandated procedure has never been conducted. To be prepared for the upcoming election, the Board of Elections has to correct the list maintenance file.
6. Last, it is important to point out that the Elections Department is not appropriately staffed to execute its primary duties. The additional two personnel will facilitate compliance with State and Federal laws. The addition of these positions will save money and reduce errors caused by more expensive, temporary, and untrained personnel. The BOE requires one additional Staff Assistant III and one Geographer.
7. Approval of this request will allow the Elections Department to do what is expected in respect to preserving the foundation of democracy. These funds are essential for the proper accomplishment of the agency's critical mission. The election activity is not just one day or one month, but an everyday process. The execution of each election requires a complete and trained full-time staff and the appropriate physical plant, equipment, and supplies.

Resource Person(s): Ronald Gregory, Board of Elections Chairman; Terry McCabe, Board of Elections Secretary; Carol Anderson, Board of Elections member; Michael Ashe, Director of Elections; and Pamela Meyer, Budget Director

County Manager's Recommendation: The Manager recommends the Board appropriate additional funding to the Board of Elections in the amount of \$236,000. Funds will be appropriated from county contingency located in the non-departmental function of the General Fund. The Manager further recommends that the two positions be reevaluated during FY 2002-2003 to determine whether the positions are to remain in the Election's budget.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the appropriation of additional funding to the Board of Elections in the amount of \$160,000.

The motion carried unanimously.

12. NCDOT Community Transportation Grant Approval Request

Durham County Cooperative Extension requests that the Board of Commissioners authorize the submission of the FY 2001-2002 Community Transportation Program grant to the North Carolina Department of Transportation (NCDOT). Durham County's Community Transportation Program provides transportation services for elderly and disabled citizens and for transitional Work First and general public employment transportation needs for Durham County.

The revenue from this grant and expenditures required of the county will be budgeted in the FY 2001-2002 budget. The county applies to NCDOT for these grant funds on an annual basis. The purpose of the funds is to purchase vehicles and to subsidize the administrative costs associated with the Community Transportation Program. This grant has been presented to and accepted by the County Transportation Advisory Board.

The Community Transportation Program grant application requests \$201,832 from NCDOT. The Department of Transportation requires a local match of 15 percent which totals \$30,275 to be

appropriated in FY 2001-2002 by budget. This match is \$344 less than the current match budgeted for FY 2000-2001.

Requested Budget

Administrative	\$ 85,032
Transportation Coordinator, Administrative Assistant, and administrative supplies and support	
Capital Expenditures	115,800
3 vehicles and 2 computers	
Employee Development	1,000
	<u>Total</u> \$201,832

Resource Person(s): Cheryl Lloyd, Cooperative Extension Service Director, and Johnny Ford, Transportation Access Coordinator

County Manager's Recommendation: The Manager recommends that the Board approve the resolution authorizing Durham County Cooperative Extension to submit the FY2001-2002 Community Transportation Program Grant to the North Carolina Department of Transportation. The required local match of \$30,275 (which is \$344 less than the current budgeted match) will be requested during the upcoming FY2001-2002 budget process.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the resolution authorizing Durham County Cooperative Extension to submit the FY 2001-2001 Community Transportation Program Grant to the North Carolina Department of Transportation.

The motion carried unanimously.

13. Site Evaluation for Construction of Justice Building

The properties under consideration for the site of the new Justice Center Building include the U-Haul facility at 247 S. Mangum Street. This property is also identified as Tax Map parcel #040-07-003 and PIN #0821-12-96-1038. The owner of record is U-Haul Real Estate Company. At present, neither the on-site management nor the company representatives of U-Haul in Arizona will grant permission for staff or contractors to enter the site to conduct preliminary surveys and environmental investigations to properly evaluate the site's suitability.

N.C.G.S. § 40A-11 authorizes the County, as a local public condemnor, to enter onto the property for these and other purposes subsequent to giving 30-days advance notice to the property's owner and the party in possession of the property.

The Order directs the County Manager to give such notice and conduct the necessary investigations and other actions authorized under N.C.G.S. § 40A-11, which may become necessary to evaluate the suitability of the property.

Resource Person(s): Wendell Davis, Deputy County Manager, Curtis Massey, Assistant County Attorney, Bill Martin, Real Property Manager

County Manager's Recommendation: The Manager's recommendation is that the Board review the proposed resolution and approve it. Staff, over the past month, has been working with both U-Haul, as well as its representative, to obtain permission to go on-site and conduct preliminary environmental assessments. To date, permission from U-Haul has not been granted.

The Board wishes to hold a worksession to review various CIP projects and delayed any action on this particular request.

14. Discussion of Proposed Items for the 2001 Durham County Legislative Agenda (added to the agenda under Agenda Adjustments)

Following two rounds of discussion regarding the 2001 Durham County Legislative Agenda at the January and February Worksessions, staff has been asked to bring the item forward for adoption. Staff has worked on retooling some items based on feedback from Board members. The Board has requested that several items that did not receive unanimous support in the past be listed separately for individual votes.

Resource Person(s): Deborah Craig-Ray and Chuck Kitchen

County Manager's Recommendation: Adopt a final version of the 2001 Legislative Agenda and set up a meeting with the Durham Delegation to deliver the items.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to adopt the final version of the 2001 Legislative Agenda with the exception of the following four issues which were voted on separately:

- 1. Legislation to provide for an additional local option sales tax, subject to a local referendum. The new local option sales tax would not be on food and the existing local 2-cent sales tax on food would be repealed. County proceeds will be used for school construction or retirement of school construction debt. If it is determined that school construction debt service needs have been met, proceeds could be used to meet other capital infrastructure needs. (NCACC adopted goal)***

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to approve item No. 1.

The motion carried with the following vote:

***Ayes: Black, Cousin, Heron, and Reckhow
Noes: Bowser***

- 2. Authorization for Inclusionary Housing Program in Durham County***

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve item No. 2.

The motion carried unanimously.

- 2. Establish a human relations commission for the county to investigate employment discrimination.***

Commissioner Cousin moved, seconded by Commissioner Bowser, to approve item No. 3.

The motion failed with the following vote:

Ayes: Bowser and Cousin

Noes: Black, Heron, and Reckhow

3. ***Legislation to prohibit the taking of deer with dogs in Durham County.***

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve item No. 4.

The motion carried with the following vote:

Ayes: Black, Cousin, Heron, and Reckhow

Noes: Bowser

As part of the legislative discussion--

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to oppose the proposed legislation by the North Carolina Office of Emergency Medical Services to expand the definition of EMS. The County Attorney will write a letter to OEMS expressing the opposition.

The motion carried unanimously.

e. Budget Ordinance Amendment No. 01BCC000045—Department of Social Services Request to Accept New Revenues to Provide Medicaid Reinstatements (approve the budget ordinance amendment to accept \$150,000 in additional Federal revenues necessary to reinstate working families' Medicaid eligibility).

After several questions and answers--

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve consent agenda item No. 5(e).

The motion carried unanimously.

j. Lease Agreement for Welcome Baby at the Shoppes at Lakewood (authorize the execution of this lease in accordance with the agreement).

After a brief discussion--

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve consent agenda item

No. 5(j).

The motion carried unanimously.

15. **Sedimentation and Erosion Control (added to the agenda by Commissioner Heron under Agenda Adjustments)**

Commissioner Heron addressed concerns regarding possible violations and the fact that only two personnel are performing inspections.

16. **Fiscal Year 2000-2001 Budget—Expenditure Reduction Plan (added to the agenda under Agenda Adjustments)**

County Manager Michael Ruffin discussed plans to reduce the County's expenditures due to Governor Mike Easley's decision to escrow the April 30th installment of \$95 million in inventory tax reimbursement payments to city and county governments. Durham County's share of that payment is \$3,274,891 and

was revenue on which the County was depending to assist in meeting its expenses for the rest of the fiscal year.

The County Manager held a Department Manager's meeting earlier in the day and gave direction to implement several actions for the balance of the fiscal year.

County Manager Ruffin was authorized by the BOCC to send a letter to Governor Michael F. Easley detailing the impact of the \$3.2 million reduction in Durham County's budget for the remainder of this fiscal year. Governor Easley would be urged to consider the impact that the reductions will have on cities and counties across the state.

Copies of the letter would be sent to President Pro Tem Mac Basnight, Speaker of the House Jim Black, and the Durham Delegation.