

REVISED

THE BOARD OF COUNTY COMMISSIONERS

DURHAM, NORTH CAROLINA

Monday, November 26, 2001

AGENDA

5:00 P.M.

Closed Session

The Board of Commissioners is requested to adjourn to closed session pursuant to N.C.G.S. § 143-318.11(a)(4) to discuss the location or expansion of industries or other businesses, and to consider economic development incentives.

Regular Session

7:00 P.M.

1. **Opening of Regular Session**?Pledge of Allegiance

2. **Agenda Adjustments**

3. **Minutes**
 - a. a. October 1, 2001 Regular Session
 - b. b. October 8, 2001 Regular Session

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

The motion carried unanimously.

4. **4. November Anchor Award Winner?Katherine J. Mellown**

Katherine J. Mellown, Durham County EMS Special Program Coordinator, is the winner of this month's Anchor Award. In the nomination letter, EMS Director Mickey Tezai noted Mellown's efforts of helping the agency resolve its most serious problem?the recruitment and retention of qualified workers. Over an eighteen-month period, she helped reduce the number of EMS staff vacancies from 15 to 3, thus significantly reducing the department's annual overtime costs.

5. **5. Consent Agenda**

- a. a. Cancellation of the December 24, 2001 Board of County Commissioners? Regular Session (per the Chairman, the Board will discuss cancellation of this meeting);
- b. b. Sales Tax Refund Audit Services (RFP 02-003) (recommendation is to enter into a service contract with Ernst and Young LLP);
- c. c. Capital Amendment Number 02CPA000006: Approval of Professional Services Building Programming and Pre-Design Contract for the Durham County Justice Building Capital Project (No: DC066) (approve Capital Amendment Number 02CPA000006 including an appropriation of funds and execution of contract with O'Brien/Atkins Associates, P.A., in the amount of \$234,970.00, plus a reimbursable amount of \$16,800.00 thus totaling \$251,770.00 and to execute any other related contracts, if necessary, not to exceed the estimated budget of \$280,000.00);
- d. d. Offer to Purchase County Property (0 Alben Street) (pursue the upset bid process);
- e. **e. Property Tax Releases and Refunds Report for October 2001 (accept the report as presented and authorize the Tax Assessor to adjust the tax records as outlined in the report); and**
- f. **f. Property Ordinance Amendment No. 02BCC000035?Cooperative Extension?recognize deferred revenues for school-age child care grant funding (approve Budget Ordinance Amendment No. 02BCC000035 in the amount of \$3,494 to reflect appropriation of revenue and expenditures from FY 2001-2002).**

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to approve the consent agenda items 5(a)-5(f).

The motion carried unanimously.

6. **6. To Receive Public Comment and Adopt a Priority List for the TIP 2004-2010**

The Transportation Improvement Program (TIP) determines how state and federal transportation funds will be spent throughout Durham County and the State of North Carolina in upcoming years. The bi-annual TIP preparation begins with a process of priority setting by local jurisdictions. Each jurisdiction gives a priority recommendation for transportation projects that have not been funded or that are partially funded. Wesley Parham of the City Transportation staff provided background on the process and at the Commissioners' Work Session on November 5, 2001 made a presentation on proposed road projects. The Board of County Commissioners elected to hold a public hearing on the TIP; it was scheduled for November 26, 2001 to allow a 3-week comment period and was advertised. Following the public hearing, TIP priorities should be adopted by the Board.

Resource Person(s): Bonnie Estes, City-County Planning; Wesley Parham, City of Durham

County Manager's Recommendation: The County Manager recommends that the Board receive the public comment and adopt a list of TIP 2004-2010 priorities.

Mr. Wesley Parham introduced the item. Chairman Black opened the item for public comment.

Persons making comment were Clay Stevens, Bethesda Baptist Church, and Tony Manning, Bethesda Christian Academy/Bethesda Baptist Church.

There being no other persons signed to speak, Chairman Black returned the item to the Commissioners for discussion.

The Commissioners asked questions of staff.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to adopt the Priority List for the TIP 2004-2010.

The motion carried by the following 4-1 vote:

Ayes: Black, Cousin, Heron, and Reckhow

Noes: Bowser

7. 7. Public Comment?Northeast Durham Small-Area Plan

Receive public comment and adopt the Plan.

Northeast Durham is one of the three small areas without an adopted land use plan. The study area encompasses approximately 24,000 acres. The area lies east of U.S. 70, south of Interstate 85 and the Granville County line, north of N.C. 98 and west of the Wake County line. The population at the time of the 2000 U.S. Census was approximately 14,000. During the 1990s, the population grew by over 32 percent.

The Land Use Plan for Northeast Durham encourages and promotes economic development while safeguarding air and water quality.

The Plan promotes a mix of residential densities intended to accommodate a wide range of citizen need and preference. The draft Plan initially presented to the Planning Committee called for a residential density of 1-2 units per acre in a 2,600-acre area east of the proposed Northern Durham Parkway and west of Burton Road/Fletchers Chapel Road/Stallings Road. However, staff increased the recommended density to 1-3 units per acre in order to bring the Plan into closer conformance with existing zoning and land use trends in that area. This change has been opposed by a number of citizens who attended public meetings during Plan development.

The Planning Committee considered the Plan at three meetings. The Committee voted to recommend approval at its October 10, 2001 meeting in a 3-2 vote.

Resource Person(s): Laura D. Woods, Planner, will present the item.

County Manager's Recommendation: Accept public comment and adopt the Northeast Durham Small-Area Plan.

The item was presented by Ms. Woods. The Commissioners offered their concerns with the proposed plan. Commissioner Bowser was concerned with the problem of providing enough water to the area. Chairman Black asked for more information regarding the plan to provide water to Neal Middle School. Vice-Chairman Reckhow asked for various changes to the proposed plan. Commissioner Heron was concerned that approving higher-density residential areas

Chairman Black opened the public hearing that was properly advertised.

Speakers for this item follow:

John Parrish, 2704 Burton Road, Burton Road Neighborhood Association, spoke in opposition to the small-area plan. He asked others in the audience, also in opposition, to stand.

Raymond Pennell, 3006 Burton Road, yielded his time to Mr. Parrish.

Paul T. Glenn, 2612 Burton Road, Burton Road Neighborhood Association, spoke in opposition to the small-area plan. He yielded the majority of his time to Jackie Brown.

Jackie Brown, Durham Planning Commission member, spoke in favor of Plan A, which the Planning Commission passed twice, which she stated has now been altered.

Mr. Dick Hails, Interim Planning Director, advised that the Commissioners could either vote for the draft plan presented to the Planning Committee or for the amended plan with proposed higher density.

Chairman Black sent the item back to City-County Planning Department for more consideration, to include the concerns posed by the Commissioners including land use, transportation, and facilities issues.

8. **8. Quasi-Judicial Hearing?M01-02 Addition to Lebanon Volunteer Fire Department**

Douglas E. Griffin, on behalf of the Lebanon Volunteer Fire Department, has submitted a Major Special Use Permit for a 3,000 square foot addition to an existing facility on ±2.311 acres zoned RD, M/LR-B and Eno-B. The property is located at 7900 Russell Road; on the southeast side of Russell Road, south of Guess Road (Tax References 861-1-6, 6A, 7, 8A; PIN 0816-04-72-9417,9579, 0816-04-82-0638,0797; County Street Atlas Page 27, Blocks D-3 & D-4). Governing Body approval of the Major

Special Use Permit is required for government facilities in the Rural District. Notice of the governing board consideration of this major special use permit will be published in the newspaper in accordance with the requirements of the Durham Zoning Ordinance Section 13.2.2.3 Major Special Use Permits. A Traffic Impact Analysis is not required for this project.

Resource Person(s): Teri Danner, Senior Planner

County Manager's Recommendation: Hold the public hearing and evaluate the evidence presented. The Planning staff will make a recommendation after the hearing of this case. The County Manager will make a recommendation after the hearing of this case. After the hearing, one of these two motions is in order:

Motion A: (Approval with or Without Conditions) - To direct the Planning Director to prepare a decision granting with conditions the use permit in Case M01-02. (Commissioners should identify any conditions they wish to incorporate into their approval. Staff will prepare the decision for the Commissioners' next meeting for action).

Motion B: (Disapproval) - To direct the Planning Director to prepare a decision denying the use permit in Case M01-02. (Commissioners should identify the findings they are unable to make so these can be incorporated into the decision. Staff will prepare the decision for the Commissioners' next meeting for action).

Mr. Garry E. Umstead, CMC, Clerk to the Board, gave the oath to those persons signed to give testimony/evidence at this hearing.

The County Manager disclosed that there are seven firefighters at the Lebanon Volunteer Fire Department.

Chairman Black opened the hearing. Ms. Teri Danner introduced the item.

Proponents signed to speak were Douglas E. Griffin and Cliff Credle representing Lebanon VFD; Brian Smyla, property owner; and Mildred Jones, property owner.

Staff signed to speak were Teri Danner, Senior Planner, and Dick Hails, Interim C/C Planning Director.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve Major Special Use Permit M01-02 with the condition that "The applicant develops the approved use in conformity with the site plan, approved by the Development Review Board on October 19, 2001, as corrected, and any approved revision to such site plan." The motion includes adoption of the "Order Granting, Upon Certain Conditions, a Major Special Use Permit for Addition to

Lebanon Volunteer Fire Department, 7900 Russell Road?Government Facility in a Residential Zone, Not to Include Correctional Facilities and Jails, Case M01-02."

The motion carried unanimously.

9. **9. Public Hearing: Coulter, Jewell, Thames, P.A., Applicant (Rezoning Case P01-69)**

Coulter, Jewell, Thames, P.A. will present to the Board of County Commissioners a request to rezone 60 acres of a 109.052 acre tract bounded in by Red Mill Road, Teknika Parkway and Old Oxford Road, PIN 0845-02-67-5196 (TM 950-1-1) Request: RAD and I-2 to I-2; F/J-A. The proposal is in general conformance with the small area plan and 2020 Plan. Staff recommends approval. The Zoning Committee of the Durham Planning Commission conducted a public hearing on November 13, 2001 and voted to recommend approval.

The public hearing for this request was advertised on November 16 and 23, 2001 in the Durham Herald-Sun.

Resource Person(s): Nazeeh Abdul-Hakeem, Acting Planning Supervisor, and Dick Hails, Interim Planning Director

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

Mr. Dan Jewell, applicant, and Ted Conner, Greater Durham Chamber of Commerce, spoke in favor of the rezoning.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve Rezoning Case P01-69.

The motion carried unanimously.

10. **10. Public Hearing on 2/3's Bonds**

The Board of Commissioners set the public hearing on the bond orders for the two 2/3's bond issues, public buildings and library, for November 26, 2001. A copy of the suggested proceedings has been prepared by Bond Counsel.

It should be recalled that 2/3's bonds are general obligation bonds which are limited to 2/3's of the amount of principal debt retired in the previous fiscal year. These bonds do not require voter approval, and for this reason, are the most cost-effective form of financing available to the County.

Resource Person(s): Chuck Kitchen, County Attorney; Pam Meyer, Budget Director; George Quick, Finance Officer.

County Manager's Recommendation: Hold the public hearing as required, and pass the bond orders if appropriate.

The County Attorney explained the item.

The public hearing, which was properly advertised, was opened and closed with no persons signed to speak.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to pass the bond orders.

The motion carried unanimously.

11. **11. Public Hearing on Refunding Bonds**

The Board of Commissioners set the public hearing on the bond order for the refunding bond issue for November 26, 2001. A copy of the suggested proceedings has been prepared by Bond Counsel.

Depending on market conditions, the refunding bond should save the County approximately \$1,500,000. The time for repaying the refunded bonds will not be changed from the original bonds.

Resource Person(s): Chuck Kitchen, County Attorney; Pam Meyer, Budget Director; George Quick, Finance Officer.

County Manager's Recommendation: Hold the public hearing as required, and pass the bond order if appropriate.

The County Attorney explained the item.

The public hearing, which was properly advertised, was opened and closed with no persons signed to speak.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to pass the bond order.

The motion carried unanimously.

12. **12. Reimbursement Resolution for School Bonds**

As the general obligation bonds for public schools have now passed, the schools need to 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 needs to 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.

The County Attorney explained the item.

Chairman Black recognized Dr. Lavonia I. Allison, who had signed to make public comment.

The Commissioners, by consensus, decided to bring back this item at a later meeting.

13. **13. Purchase of Malpractice Insurance**

The County currently purchases insurance for The Durham Center, Public Health Department, and Emergency Medical Services Department to cover any malpractice claims. The coverage provides \$1,000,000 per each occurrence with an aggregate coverage limit in the amount of \$3,000,000. The policy premium for the past year was \$76,889. The policy year ends November 31, 2001. Being aware that insurance premiums were on the rise, \$100,000 was budgeted for this year's coverage.

The current malpractice coverage is with St. Paul. They have informed us that they will no longer insure The Durham Center or the Public Health Department. They have indicated that this is a business decision to not continue coverage for these types of public entities, and had nothing to do with Durham County. Marsh USA Inc., the County's insurance brokers, have gotten a quote for similar coverage from CNA. Marsh was unable to obtain any other quotes from other companies at this time. The quote was \$202,000. Due to this tremendous increase, Risk Management also had Marsh seek insurance coverage for only EMS and the doctors and dentists who are employed by the Public Health Department and the Durham Center. The premium for this coverage is \$91,636 from the current carrier, St. Paul. This was the least expensive premium from the insurance companies for this coverage.

Due to the increase in premium, it is requested that the Board approve the County contracting for the coverage of EMS and the doctors and dentists with St. Paul. The employees of The Durham Center and the Public Health Department no longer covered by insurance will be covered by the County's policy on representation of employees and payment of claims as are the employees in other departments.

Resource Person(s): Chuck Kitchen, County Attorney; Cathy Whisenhunt, Risk Manager.

County Manager's Recommendation: Purchase the insurance to cover EMS and the doctors and dentists for malpractice. The premium for the insurance similar to the current plan is cost prohibitive, and the uninsured employees will be protected by the County's policy on representation and payment of claims.

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

The motion carried unanimously.

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

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

- •Animal Control Advisory Committee
- •Environmental Affairs Board

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

The Commissioners, by unanimous vote, appointed Jenny Walker Nichols, DVM, to the Animal Control Advisory Committee (veterinarian position), and Samantha Miller to the Environmental Affairs Board (air resources position).

There being no further business, the meeting adjourned at 9:45 p.m.