

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

Monday, August 23, 1999

7:00 P.M. Regular Session

**AGENDA**

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

2. **Agenda Adjustments**

3. **Minutes**

- a. June 7, 1999 Budget Worksession

4. **Resolution to Commemorate 85<sup>th</sup> Year of Cooperative Extension Serving Citizens**

The Durham County Center of the N.C. Cooperative Extension Service requests the adoption of the resolution commemorating 85 years of Durham County partnering with North Carolina State University in providing educational programs to Durham County citizens. North Carolina will celebrate its Extension Heritage beginning August 23, 1999 through August 22, 2000. Durham County will begin its celebration with the signing of this resolution. The County Culture Book currently being developed with citizens from Durham communities is but one example of the Center's celebration of its heritage through work with Durham citizens.

County Manager's Recommendation: Adopt the resolution in recognition of N.C. Cooperative Extension's commitment to serving Durham Citizens.

5. **Consent Agenda**

- a. Cancellation of a Review Officer's Appointment (adopt resolution whereby Daniel A. Bell's appointment as a Durham County Review Officer is canceled);
- b. Property Tax Releases and Refunds (accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report);
- c. Appropriation of Pay-As-You-Go Funds for the Roof Design and Completion of Electrical Renovations at James A. Whitted School Building (authorize the appropriation of funds in the amount of \$100,000 for Whitted School improvements in accordance with PAYG Capital Improvements Plan); and
- d. Offer to Purchase County Property (610 Bingham Street) (receive the offer of \$4,282 submitted for 610 Bingham Street by Mr. Dale Williams, and adopt the accompanying resolution whereby the property is advertised as an "upset bid" sale).

6. **Public Hearing for Industrial Revenue Bond**

The Durham County Industrial Facilities and Pollution Control Financing Authority has entered into an Inducement Agreement with Cormetech Inc. The Agreement provides for the issuance of Industrial Revenue Bonds by the Authority for expansion of the existing facility. The bonds are solely an obligation of the company and not that of the Authority or the County. By issuing the bonds, the company will be able to avail itself of tax exempt financing at a lower rate than

otherwise possible. The amount of the bonds is up to \$10,000,000. A public hearing is required to be held on the issuance of the bonds and approval by the Board of Commissioners. The Board is requested to hold a public hearing and adopt the resolution approving the bonds.

Representatives from Cormetech will be present at the public hearing and will explain the expansion.

County Manager's Recommendation: Hold the public hearing on the issuance of the bonds for the expansion of this industry whose corporate headquarters are currently located in Durham County in the Treyburn Corporate Park. This expansion will add approximately 25 new jobs, which pay at least 10 percent above the prevailing industrial rate in North Carolina.

#### **7. Public Hearing—Centex Homes (Rezoning Case P99-29)**

Centex Homes will present to the Board of County Commissioners a request to rezone the 59.4-acre site on the west side of Grandale Drive, north of Sedwick Road, and south of Settler's Mill subdivision. (Tax Map 533, Block 1, Lot 1) Request: RD (Rural District) to PDR 2.34 (Planned Density Residential, 2.34 units per acre). The 2020 Plan supports Suburban Neighborhood uses. The Triangle Township Plan designates this site as low density residential. Staff recommends approval. The Zoning Committee of the Durham Planning Commission conducted a public hearing on July 13, 1999, and voted 6-1 to recommend approval.

The public hearing for this request was advertised on August 6 and 13, 1999 in the Durham Herald-Sun.

Vonda Frantz, Senior Planner, Durham City-County Planning Department, will be present to answer any questions of staff regarding the request.

#### **8. Parkside 70 Food Lion**

R.L. Horvath Associates Inc., on behalf of Wakefield Associates Inc., is seeking approval of a site plan request to build a 36,406-square-foot grocery store on 13.5 acres. The site is located on the east side of U.S. Highway 70 and south of Pleasant Drive. The site plan as submitted meets all current ordinance requirements. The Development Review Board, at its meeting on May 7, 1999, recommended approval subject to several technical corrections, which have been made. The Planning staff recommends approval. (Tax Map 591, Block 2, Parcel 3) The site is zoned Shopping Center (SC) which allows for this use.

Mr. Steve Medlin, Senior Planner, Durham City/County Planning, will present the case and answer questions.

#### **9. Update on Activities of the Raleigh-Durham Airport Authority**

Durham County appointees Stephen Toler and Lionell Parker have requested time on this agenda to provide an update on the activities of the Raleigh-Durham Airport Authority.

County Manager's Recommendation: Receive the update from your appointees.

#### 10. Lease Agreement for Board of Elections

At the July 12, 1999 Board meeting, the lease agreement between the County and Zapolski + Rudd for 4,134 square feet of space at City Place for the Board of Elections was approved with the understanding that two clauses, specifically Section 11. Insurance and Section 25. Exculpation of Landlord, would be intentionally deleted. It was discovered after the Board's approval that Zapolski + Rudd was not in agreement with deleting these clauses. The County Attorney and Zapolski + Rudd have now reached agreement on mutually acceptable language for Section 11. Insurance. The County Attorney can not agree to the Exculpation clause as a legal matter, and Zapolski + Rudd can not agree to removal of this clause. In the event of default, the Exculpation clause allows the County to only look to the Landlord's equity in the premises for satisfaction of remedies and does not allow for personal liability in such an event.

Resource Persons: Chuck Kitchen, County Attorney  
Sandra W. Phillips, Director of Purchasing

County Manager's Recommendation: The County Manager recommends that the Board go forward with the lease with the modified language for Section 11. Insurance and with the inclusion of Section 25. Exculpation. Upon examination of the County's potential exposure, it was determined that worst case scenario in the event of Landlord default and inadequate Landlord equity in the premises is approximately three months of lease payments (~ \$10,355.00). The County Manager believes that it is operationally in the best interest of the County to proceed with the lease as proposed.

#### 11. Lease Agreement for the Youth Coordinating Board

The Board is requested to authorize the execution of a five-year lease with options to renew for the Youth Coordinating Board (YCB) at the Bull City Business Center, 117 Market Street, effective August 24, 1999 through July 31, 2004. The landlord is Self-Help Credit Union.

Since its inception in August 1998, the YCB had been housed with the Durham Community Prevention Partnership (DCPP) at 115 Market Street, Suite 400. This space was provided by the City of Durham at no charge to the County. Due to decisions by the City and County to transfer the DCPP staff to The Durham Center, the City terminated the lease of this space. An investigation of available options resulted in the recommendation to move the YCB into temporary quarters at 121 Market Street until approximately March 1, 2000 at which time the 117 Market Street location will be made available for long-term use by YCB. The lease covers occupancy of both Market Street locations. The schedule of lease payments is as follows:

- August 1999 – February 2000 = \$895.83/month
- March 2000 - July 2000 = \$1,530.00/month
- August 2000 - July 2001 = \$1,591.00/month
- August 2001 - July 2002 = \$1,654.00/month
- August 2002 - July 2003 = \$1,720.00/month
- August 2003 - July 2004 = \$1,788.00/month

The 121 Market Street location is approximately 1100 square feet at \$10.00/square foot while the 117 Market Street location is approximately 1500 square feet at \$12.00/square foot. The 1500-square-foot space is required to adequately house the YCB staff. Annual rate escalations are calculated at a four percent (4%) increase of the then current year's rate.

The landlord will be responsible for HVAC maintenance, water, sewer, electric service, light fixtures and supplies, five day/week cleaning service, capital expenses for improvements, taxes and assessments.

Resource Persons: Anita Daniels, Youth Coordinating Board Director

Sandra Phillips, Director of Purchasing

County Manager's Recommendation: Authorize the execution of a five-year lease with Self-Help Credit Union to house the Youth Coordinating Board at the rates noted above. Funds were appropriated in the Youth Coordinating Board budget to pay for this lease. Also, note that the City, through our inter-local agreement, will be paying for 40 percent of these costs.

## 12. **Disparity Study**

The current MWBE ordinance is set to expire on December 31, 1999. If the Board is interested in considering a continuation of the existing ordinance, or a new ordinance concerning this subject matter, the County Attorney has advised that a disparity study is necessary in order to meet the legal prerequisites for adoption of such an ordinance. A disparity study would determine if discrimination currently exists in the selected areas of study. If discrimination were shown to exist in areas where the County is contracting, alternatives would then be reviewed to determine the best course of action to ensure the County is not a passive participant in the discriminatory process. It is estimated that a disparity study would cost between \$150,000 - \$300,000. Note that this is just an estimated range based on what other jurisdictions have spent on these studies and we will not have a dollar amount until we solicit proposals.

Several cases have been brought in the courts challenging MWBE ordinances in recent times, the most recent case concerning Fulton County, GA. The County Attorney has opined that it is likely the Federal Fourth Circuit Court of Appeals would likely follow the reasoning in this case. Any new ordinance should be written so that it would likely withstand judicial scrutiny.

County Manager David F. Thompson and County Attorney Chuck Kitchen will present this item.

County Manager's Recommendation: If the Board of Commissioners decides to pursue the possibility of enacting a new ordinance, it is recommended that the County proceed with a request for qualifications for a firm to perform a disparity study in order to comply with existing law. After responses to the request for qualifications are received, staff will bring forward a recommendation for award of a contract for Board deliberation and possible approval.

## 13. **Durham County Alcohol & Drug Policy**

The Durham County Center of the NC Cooperative Extension Service requests the adoption of the Durham County Drug & Alcohol Testing Policy. This policy provides compliance with regulations set forth by the Federal Transit Administration (FTA) necessary for continuation of the Section 5311 Transportation Funds used to support the County's human service transportation initiatives.

County Manager's Recommendation: Adopt the Drug and Alcohol policy with any amendments to the policy which the Board feels appropriate in order to maintain funding.

#### **14. Project Facilitator Selection for Joint City Council/County Commissioners Merger Steering Committee**

As Board members are aware, staff solicited proposals for a service provider to facilitate feasibility discussions regarding a city/county consolidation of governments and to build the capacity through research and local government knowledge for the Steering Committee to fulfill its mission and vision. Responses to this request were received on July 21, 1999 and forwarded to the Steering Committee for review.

On August 4, 1999, the Steering Committee met and reviewed the five proposals that were received. They selected the following firms to interview: DMG Maximus, MGT of America, and Public Consulting Group, INC. After interviewing all three firms on August 13, 1999, a majority of the Steering Committee members voted to recommend DMG Maximus as the preferred firm to bring to City Council and County Commission to serve as project facilitators. City Council voted on August 16, 1999, to give the City Manager the authority to execute a contract with DMG for Phase I as defined by the Steering Committee. This phase consists of the following tasks:

- Organize and facilitate citizen task force and steering committee work
- Assess the current status of task force work and review relevant reports, conduct selected interviews, and conduct any other required fact-finding
- Refine consolidation study methodology and recommend any refinements
- Conduct a city-county consolidation scan and summarize consolidation research
- Assist department heads in developing City-County service profiles
- Obtain and synthesize results of task force reports and summarize consolidation opportunities, threats, and issues for further analysis
- Review stakeholder input process and recommend any refinements

Prepare summary of citizen task force findings and Phase I report and assist in presenting report to Steering Committee.

County Manager's Recommendation: The Phase I proposal from DMG Maximus is in the amount of \$74,100 with a Phase II estimate of \$60,400 to \$94,500 for a cost benefit analysis. Thus, if both phases were approved, the total cost could be from \$134,500 to \$168,600. MGT proposed facilitation services at \$112,030 and facilitation/research services at \$168,810. They quoted an estimate of \$300,000 for a combination of facilitation services and a comprehensive cost-benefit analysis. PCG quoted an estimate of \$65,000 to \$75,000. A request was made by the steering committee to solicit the EEO statistics for Maximus. Recommendation is for the Board to give the Manager the authority to enter into an agreement with DMG Maximus and the City of Durham for the Phase I portion of this proposal at a cost not to exceed \$74,100. The Manager believes he can accommodate this \$37,050 amount in his departmental budget though he may have to come back to the Board later for a contingency appropriation to subsidize his budget at a later date.

#### **15. County Manager's Update Proposal**

A County Commissioner recently stated that during my evaluation there was not ample time to discuss my workplan as it relates to the County's priorities for this fiscal year. I wholeheartedly agree and began to think about ways that we could better communicate as a manager and board, so that there is more of a feedback loop on issues that may not be coming to the board for action at regular meetings. In other words, I have taken the liberty of expanding on the Commissioners' concerns with the goal of ensuring that all of us are as up to date on issues without overburdening the Board or staff with memos or impeding the Board meetings. During

this meeting, I will be proposing a format and sample package for this reoccurring agenda item with some rules for its utilization that will allow us to meet this goal for your consideration.

16. **Board and Commission Appointments**

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

- Area Mental Health Board
- Industrial Facilities and Pollution Control Financing Authority
- Juvenile Crime Prevention Council
- Memorial Stadium Authority
- Open Space and Trails Commission
- Region J Emergency Medical Services Council
- Women's Commission

17. **Closed Session**

The Board is requested to adjourn to closed session in order to consult with an attorney and to preserve the attorney-client privilege.