

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

Tuesday, September 2, 2003

9:00 A.M. Worksession

MINUTES

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

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

Absent: None

Presider: Chairman Reckhow

Call to Order

Chairman Reckhow convened the meeting and welcomed everyone to the worksession.

Agenda Adjustment

Chairman Reckhow stated that there were no agenda adjustments and the meeting would proceed with the agenda as printed.

Request from Durham Bill of Rights Defense Committee Regarding the USA PATRIOT Act

The Durham Bill of Rights Defense Committee made a presentation to the Commissioners regarding the USA PATRIOT Act. The United States Attorney for the Middle District of North Carolina was present to respond on behalf of the United States.

Resource Person(s): Joan Walsh, Durham Bill of Rights Defense Committee member, and Anna Mills Wagoner, US Attorney for the Middle District

County Manager's Recommendation: The County Manager recommended that the Board consider the presentation by the Bill of Rights Defense Committee and the United States Attorney's Office, and give direction to staff.

Chairman Reckhow recognized Joan Walsh and Jim Senter, Co-chairs, Durham Bill of Rights Defense Committee.

Mr. Senter thanked the Board of County Commissioners for the opportunity to speak on behalf of the Durham Bill of Rights Defense Committee in opposition to the USA PATRIOT Act.

Attorney Wagoner said that she appreciated the opportunity to speak on behalf of the United States in regards to the USA PATRIOT Act. She explained the details of the Act to the Board members.

Attorney Cliff Barrett was present to assist Attorney Wagoner in answering questions.

The Board of County Commissioners asked several questions to which Attorneys Wagoner and Barrett responded. Attorney Chuck Kitchen also responded to various questions and comments. A lengthy discussion was held on this agenda item.

Chairman Reckhow stated that the Commissioners received a petition with 454 signatures of Durham residents asking the Board to adopt a resolution about the USA PATRIOT Act.

Chairman Reckhow circulated the petition.

County Attorney Kitchen provided a copy of the Orange County, North Carolina resolution, which was requested by Commissioner Jacobs.

Chairman Reckhow suggested that the County Commissioners direct the County Attorney to draft a resolution of concern calling for Congress to hold additional hearings and to reconsider certain aspects of the Act.

Commissioner Heron expressed a need for balance in laws, particularly in the “seek and peek” areas. Further, this resolution should be sent to legislative Representatives to inform them of Durham County’s concerns and to request that the Commissioners be notified when Congressional hearings are to take place, with pertinent information provided regarding topics to be presented at the hearings.

Chairman Reckhow directed County Attorney Kitchen to prepare a resolution for Board consideration.

Commissioner Heron requested that the City of Durham be notified of the Board’s direction relative to this issue.

Same-Sex Domestic Partner Benefits

In conjunction with the County Attorney’s legal opinion that only same-sex domestic partner benefits can be offered to County employees without the violation of the Commissioners’ oaths of office, the Human Resources Department has completed the

actions necessary to make this offering possible. Durham County's two healthcare providers, Cigna Health and Wellpath, have applied for and received approval from the Department of Insurance to provide same-sex health benefits. They have also agreed to provide this benefit with no additional increase in premiums. Upon approval by the Board of County Commissioners, the Human Resources Department will begin the process for adding same-sex benefit coverage during our annual benefits enrollment in October/November for implementation on January 1, 2004.

Resource Person(s): Jackye Knight, Human Resources Director, and Debbie Davidson, Benefits Manager

County Manager's Recommendation: The County Manager recommended that the Board advise staff if any additional information is necessary.

Chairman Reckhow thanked Ms. Knight and Ms. Davidson for thoroughly researching this issue. Chairman Reckhow identified two issues that had been addressed. One was the legal opinion from County Attorney Kitchen assuring the Commissioners that any action that may be taken would be legal. The second was the issue of cost, confirming that no additional outlay of monies from the County would be involved.

Chairman Reckhow recognized Ms. Knight, who presented the plan to offer domestic partner healthcare benefits to same sex couples at no additional cost to the County and at no increase in premium to individuals. This benefit has been approved by the State Department of Insurance and by both County healthcare providers—Cigna and Wellpath. The benefit will become effective January 1, 2004 subsequent to the annual open enrollment process in October and November of this year.

At the request of Commissioner Bowser, Ms. Knight summarized the Affidavit of Domestic Partnership.

Chairman Reckhow suggested that the Commissioners suspend the rules for staff to receive sufficient guidance in finalizing the benefits package.

Ms. Knight answered questions from the Commissioners.

Commissioner Heron moved, seconded by Commissioner Bowser, to suspend the rules to allow a vote on the agenda item.

The motion carried unanimously.

Commissioner Jacobs moved, seconded by Commissioner Heron, that the Board grant approval for same-sex domestic partner benefits.

The motion carried unanimously.

Presentation by the Board of Elections Director Regarding the “Help America Vote Act”

Michael Ashe, Board of Elections Director, requested time on the agenda to speak to the new Federal and State legislation regarding the “Help America Vote Act” (HAVA). He wished to briefly present background information and explain the impacts of the Act on Durham County.

Resource Person(s): Board of Elections Director Michael Ashe

County Manager’s Recommendation: The County Manager recommended that the Board of County Commissioners receive his presentation.

Mr. Ashe said that HAVA is a direct result of problems in the 2000 Presidential Election in Florida. After a year of study, HAVA was enacted into Federal Law on October 29, 2002. Governor Easley signed the Help America Vote Act Compliance Law into North Carolina State Law on June 19, 2003.

Mr. Ashe reported that this Act would have no impact on Durham County in 2003 while changes will be seen in 2004, 2005, and 2006. HAVA will impact Durham far less than most counties and states.

Minor HAVA impacts on Durham County:

- fail safe voting--1-800-provisionals;
- trained precinct workers;
- statewide database;
- ADA compliant;
- voter information at the polls; and
- 1-800-complaints.

Major HAVA impacts on Durham County:

- new voting machine (no);
- new ADA compliant voting systems (yes);
- voter identification required for voters registering for the first time by mail (yes);
- over-voted ballots to be rejected (yes); and
- voters to sign in at the polls (yes).

Mr. Ashe responded to questions and comments from the Commissioners.

Commissioners Jacobs and Heron congratulated Mr. Ashe and Deputy Director Barry Garner for receiving state certification in July as election administrators. They join 34 other certified election administrators in the State of North Carolina.

On behalf of the Commissioners, Chairman Reckhow thanked Mr. Ashe for the excellent accomplishments noted in the Elections Department.

No official action was taken on this agenda item as the presentation was for informational purposes only.

Bond Fund Report

The Board of County Commissioners requested that the County Manager provide a report for all bonds that have been issued for public projects since 1986. The report provides summary information for issuances in 1986, 1991, 2000, 2001, and 2002.

Resource Person(s): Mike Ruffin, County Manager; George Quick, Finance Director; and Jessica Brown-Linton, Investment Manager

County Manager's Recommendation: The County Manager recommended that the Board receive the report and advise if any additional action is required.

Chairman Reckhow asked County Manager Ruffin to present the "Bond Fund Report" to the Commissioners. His report involved an accounting of school bonds and all other County Bonds issued, including the Net Two-Thirds Bonds.

The Commissioners asked questions and made remarks.

County Manager Ruffin, Mr. Quick, Ms. Brown-Linton, and Ms. Jane Korest, Senior Planner, responded to the questions and comments.

Chairman Reckhow presented a formal directive that an annual report be submitted to the Board in early spring addressing all capital projects and debt.

Commissioner Heron recommended that the report be submitted to the Board at the January retreat.

Vice-Chairman Bowser asked County Manager Ruffin to compile information regarding the amount budgeted toward the Museum of Life and Science through bonds. The Vice Chairman requested a separate presentation on the museum bonds.

Upon completion, the museum bond information would be sent to each Board member.

A lengthy discussion followed about the bond program.

No official action was taken on this agenda item.

**Durham County East and North Regional Branch Libraries—Project Update
(Project Numbers: DC073-48 & DC077-50)**

The 2001 Bond Referendum included funding for the East and North Regional Branch Libraries. The East Branch Library is to be located on Highway 98 east of Nichols Farm Road, and the North Branch Library is to be located on Milton Road near Carrington Middle School. Property acquisition of the potential sites and design of the facilities are underway. On December 9, 2002, the Board of County Commissioners awarded a design contract to The Freelon Group, P.A., of Durham to provide architectural services to develop a prototype regional library for the north and east locations, as well as a future south location. The regional branches will contain approximately 25,000 square feet with 150 parking spaces and a provision for future expansion of a 10,000-square-foot addition.

The programming phase of the project has been completed. This phase involved a series of meetings with Library staff to determine the needs of the facilities. The project is currently in the Schematic Design Phase and the architect will provide an update to the Board. The Library Board of Trustees received a similar update on August 18, 2003.

Resource Person(s): Glen Whisler, P.E., County Engineer; Philip Cherry, Director of Library Services; and Chris Brasier, The Freelon Group, P.A.

County Manager's Recommendation: The County Manager recommended that the Board accept the update and provide direction to staff as appropriate.

Chairman Reckhow stressed the importance of informing citizens of the County that the library projects will be undertaken concurrently. This should serve to exemplify the Board's commitment to provide countywide library facilities.

Mr. Whisler gave an update on the North and East Regional Branch Libraries. The libraries were included in the 2001 bond referendum.

Mr. Whisler recognized Philip Freelon, The Freelon Group, P.A., to make a presentation based on the North and East Branch Prototype, Schematic Design Report.

The County Commissioners asked several questions. Mr. Freelon, with the assistance of Mr. Cherry, responded to the questions and comments.

Chairman Reckhow stated that the Schematic Design Report would be submitted to the Appearance Commission for review.

County Manager Ruffin asked Mr. Whisler to report on the North Site in terms of the acquisition process and the issues that have slowed the process.

Mr. Whisler reported that the land has been negotiated at \$25,000 per acre and the County is ready to close on the acquisition, pending survey and subdivision. A decision has been made to move the bus lot on Milton Road to the bus compound facility on Hamlin Road, freeing up the Carrington Middle School site for better use. Since the maintenance facility is located on Hamlin Road, this move places buses in a location for easy access to maintenance services.

Mr. Whisler said that the cost of paving the bus parking lot on Hamlin Road would be approximately \$500,000.

No official action was taken on this agenda item.

Appointments to the Jury Commission and the Board of Adjustment

Mr. William J. Brian Jr. has served on the Durham Board of Adjustment since July 10, 2000 and currently serves as chairman of the board. He wishes to serve a second term on the board.

Ms. Dominique Alicia Smith submitted an application for service on the Durham Jury Commission. Her appointment to the commission will fill the vacant position for the county appointee on the three-member commission.

Both Mr. Brian and Ms. Smith have paid their taxes and are eligible to serve.

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

County Manager's Recommendation: The County Manager recommended that the Board suspend the rules and appoint Mr. Brian to the Durham Board of Adjustment and Ms. Smith to the Durham Jury Commission.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to suspend the rules to vote on the agenda item.

The motion carried unanimously.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to reappoint Mr. William J. Brian Jr. to the Durham Board of Adjustment and to appoint Ms. Dominique Alicia Smith to the Jury Commission.

The motion carried with the following vote:

Ayes: Cousin, Heron, Jacobs, and Reckhow

Noes: None

(Vice-Chairman Bowser was not in the Commissioners' Room during the vote.)

Resolution on Appointments to Boards and Commissions

At the City-County Committee meeting, an agreement was reached to shorten from 180 to 30 days the time limit for an appointee to bring his or her taxes current when the taxes become delinquent during the term of appointment. The revision to the policy accomplishes this agreement. The language regarding the setting up of an agreement with the Tax Administrator was deleted, as it is no longer needed due to the short time frame.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: The County Manager recommended that the Board receive the information and advise the staff if any additional information is needed.

Chairman Reckhow said that the Board removed this item from the August 11, 2003 Regular Session Agenda at the request of Commissioner Cousin so that additional discussion could be undertaken concerning this item.

Chairman Reckhow's opinion was to leave the resolution as originally amended this past spring or to follow the suggested plan of the County Attorney, modifying it to reflect changes incorporated in the Planning Interlocal Agreement.

The County Commissioners had a lengthy discussion on this agenda item. Each Commissioner expressed an opinion concerning the resolution.

In response to a question from Dr. Lavonia Allison, Chairman Reckhow stated that a decision regarding the resolution would not be made at this time. After a decision is made on a recommended course of action, the matter will be placed on a regular session agenda.

Chairman Reckhow asked the County Manager to provide the Commissioners with a copy of the policy concerning employee termination for failing to pay Durham County taxes within the appropriate time frame, and further, to provide the Commissioners with the circumstances for any dismissal.

Vice-Chairman Bowser inquired as to how many board and commission members have been dismissed from service due to delinquent taxes.

Commissioner Heron suggested allowing an appointee 30 days to bring property taxes current or to establish a repayment plan with the Tax Administrator's Office, allowing taxes to be paid within 90 days.

Although a vote was not taken on Commissioner Heron's suggestion, the Commissioners concurred.

The County Attorney will monitor the language of any proposed repayment plan and bring the matter back to the Board for consideration.

Adjournment

Chairman Reckhow adjourned the worksession at 11:46 a.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board

VCS