

THE BOARD OF COUNTY COMMISSIONERS

DURHAM, NORTH CAROLINA

September 22, 2003

7:00 P.M. Regular Session

POST AGENDA

Opening of the Regular Session-Pledge of Allegiance

Chairman Reckhow called the meeting to order with the Pledge of Alliance.

Agenda Adjustments

- County Attorney Chuck Kitchen noted that a personnel matter had been added to the Closed Session.
- Commissioner Heron requested that an item be added to discuss the possibility of asking the state for assistance in collecting debris resulting from Hurricane Isabel. (This item was not discussed during the meeting due to time constraints.)
- Commissioner Bowser stated that he had asked the County Attorney to add the personnel issue to the Closed Session.

Vice-Chairman Bowser announced that citizens are concerned about the substantial increase in City water bills relative to the sewer rate and service charge. He felt compelled to use his privilege as a County Commissioner to call on the City Council to address this issue. His personal water bill had increased substantially (\$27.00 for a two-month period). He asked that citizens contact the City Council and the Mayor to voice their concerns.

Chairman Reckhow called attention to the revised agenda that had been placed at each Commissioner's station.

Minutes

Chairman Reckhow removed the September 8, 2003 Regular Session Minutes from the agenda, as the Commissioners had not received a hard copy of the minutes prior to tonight's meeting.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve the September 2, 2003 Worksession Minutes of the Board as submitted. The August 4, 2003 Worksession Minutes and the August 25, 2003 Regular Session Minutes were approved as corrected.

The motion carried unanimously.

Proclamation for "NATIONAL 5 A DAY MONTH"

Chairman Reckhow was asked to proclaim the month of September as "NATIONAL 5 A DAY MONTH" to promote the value of eating five or more servings of fruits and vegetables per day to reduce the risk of obesity and chronic disease. Public Health Department Nutritionist Barbara Rumer briefed the Board on local events planned to celebrate the occasion.

Resource Person(s): Barbara Rumer, MPH, RD, LDN, Public Health Department

County Manager's Recommendation: The County Manager recommended that the Board approve the proclamation and present it to Ms. Rumer.

Chairman Reckhow read the following proclamation into the record:

PROCLAMATION

WHEREAS, overweight and obesity among children and adults has been on an alarming increase throughout the nation, North Carolina, and Durham County; and

WHEREAS, poor dietary choices contribute to overweight, obesity, cancer, diabetes, and heart disease; and

WHEREAS, research indicates that eating five or more servings per day of fruit and/or vegetables can help reduce the risk of overweight, obesity, and chronic disease; and

WHEREAS, eighty percent of Americans are not eating five or more servings of fruit and/or vegetables per day; and

WHEREAS, promoting fruit and vegetable intake can help fight chronic disease risk; and

WHEREAS, eating a variety of colorful fruit and vegetables will help to give Durham County citizens the vitamins, minerals, fiber, and phytochemicals needed for health:

NOW, THEREFORE BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim the month of September 2003 as

"NATIONAL 5 A DAY MONTH"

in Durham County. I further ask all citizens to eat at least five servings of colorful fruit and/or vegetables each day to "get healthy Durham."

This the 22nd day of September, 2003.

/s/ Ellen W. Reckhow

Chairman

Certificate of Achievement-Finance Department

The Government Finance Officers- Association has recognized Durham County's Finance Department for 19 of the past 23 years for Excellence in Financial Reporting. This year is no exception, as the department has been awarded The Certificate for Excellence in Financial Reporting for the FY 2002 Comprehensive Annual Financial Report (CAFR). The CAFR has been judged by an impartial panel to meet the high standards of the program, including demonstrating a constructive "spirit of full disclosure" to clearly communicate its financial story and motivate potential users and user groups to read the CAFR. This year's award is particularly significant, because GASB-34 went into effect this year. This new accounting pronouncement required significant changes in the CAFR (e.g., Management's Discussion and Analysis, full accrual statements for all fund types with reconciliation to governmental fund statements, change in the format of the notes to the financial statements, how the report was compiled, etc.). The Local Government Commission was making adjustments to these requirements as the financial report was being prepared. The Finance Department managed to issue the report in a timely manner (prior to the issuance of the November revenue bonds), although the department was not fully staffed. This award is indeed a credit to the quality and dedication of Finance Department employees who have adapted to these new requirements, produced the report on a timely basis (one of the first departments to submit to the Local Government Commission), and met the required high standards.

Resource Person(s): George K. Quick, Finance Director

County Manager's Recommendation: The County Manager recommended that the Commissioners recognize the Finance Department for its outstanding performance.

Mr. Quick thanked Ms. Jessica Brown-Linton and Ms. Susan Fox-Kirk for all their hard work in making this Certificate of Achievement possible. Chairman Reckhow read and presented the Certificate of Achievement to Mr. Quick, along with sincere congratulations of the entire Board.

CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE
IN FINANCIAL REPORTING
Presented to the County of Durham, North Carolina
for its Comprehensive Annual Financial Report
for the Fiscal Year Ended June 30, 2002.

A Certificate Of Achievement For Excellence In Financial Reporting is presented by the Government Finance Officer Association of the United States and Canada to government units and public employee retirement systems whose comprehensive annual financial report achieved the highest standards in government accounting and financial reporting.

Progress Report from Bond Campaign Committee

MaryAnn Black and Steve Toler agreed in July to co-chair a private effort to raise funds to support the four ballot questions for \$123 million in General Obligation Bonds for the Durham Public Schools, Durham Technical Community College, Durham Public Library System, and the Museum of Life and Science. A brief progress report on the Committee's efforts was made.

Resource Person(s): MaryAnn Black and Steve Toler, Co-Chairs, "Learning 4 All"

County Manager's Recommendation: The Manager recommended that the Board receive the report.

Consent Agenda

Commissioner Cousin moved, seconded by Commissioner Heron, to approve the consent agenda items with the exception of item f.

The motion carried unanimously.

- a. Property Tax Releases and Refunds for Fiscal Year 2003-04 (accept the August property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- b. Budget Ordinance Amendment No 04BCC000015-Recognize Revenue for Emergency Medical Services (approve the budget ordinance amendment to recognize incremental funding in the amount of \$10,963 from Philips Medical Systems);
- c. Patriot Act Resolution (approve the prepared resolution and direct that it be sent to Congress as indicated);
- d. Resolution on Appointments to Boards and Commissions (approve the change to the policy);
- e. Street Annexation Petition-Rexing Court (adopt the resolution to approve the addition of Rexing Court to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation);
- f. Joint Resolution on Vocational Educational Opportunities-Minor Revisions (approve the resolution); and
- g. Appointment of Chair of ABC Board (appoint E-Vonne Coleman as chairman of the ABC Board as recommended by the ABC Board).**

Vice-Chairman Bowser pulled consent agenda item no. f. Following a brief discussion, Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the consent agenda item.

The motion carried unanimously.

Public Hearing-Centex Homes, Applicant (Rezoning Case P02-25)

Centex Homes presented to the Board of County Commissioners a request to rezone 133.3 acres located on the west side of Grandale Drive and north of the Sedwick Road intersection. (PIN 0727-01-36-7805) (TM 531-1-6)

Request:RD (Rural District) to PDR 1.66; F/J-B (Planned Density Residential-1.66 units/acre; Falls/Jordan Protected Area).

The original rezoning request for PDR 2.1 with 271 single-family lots went to the Board of County Commissioners September 23, 2002. The Board continued the hearing, suggesting changes to the rezoning. A revised rezoning request and development plan for PDR 1.93 and 251 single-family lots returned to the Board for a public hearing on March 24, 2003, but was continued again. The applicant further modified the rezoning request to the current proposal. These modifications met the Ordinance thresholds requiring a new public hearing before the Zoning Committee. The Zoning Committee of the Durham Planning Commission conducted a public hearing August 13, 2003 and voted 5-1 to recommend denial, citing flooding concerns and school overcrowding.

The proposal is in general conformance with the small area plan. Staff recommended approval, citing general adopted plan conformance.

Public hearing for this request was re-advertised on September 5 and 12, 2003 in the Durham Herald-Sun.

Resource Person(s): Frank M. Duke, AICP, Planning Director, Durham City-County Planning Department

City Manager's Recommendation: The County Manager recommended that the Board hold a public hearing on the proposed rezoning and approve it, if appropriate, based on the comments received.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to direct staff and the developer to remove the cul-de-sac at the end of Hamilton Way.

The motion carried unanimously.

A formal vote on the rezoning request was postponed until the October 13, 2003 Regular Session to allow time for the developer and staff to revise the language relative to the committed elements.

Public Hearing (continued) and Adoption of the FY 2002-2003 Consolidated Annual Performance and Evaluation Report (CAPER)

The City of Durham Department of Housing and Community Development requested that the Board of County Commissioners adopt the FY 2002-2003 Consolidated Annual Performance and Evaluation Report (CAPER) for submission to the U.S. Department of Housing and Urban Development (HUD). The CAPER provides Durham an opportunity to assess anticipated performance with actual performance in meeting the priorities and objectives of the Consolidated Action Plan. The CAPER public hearing is held annually in September by the Board of County Commissioners to receive comments on the previous year's City-County HOME Consortium Investment Partnership program performance. This performance is detailed in the CAPER that must be submitted to HUD prior to the September 28, 2003 deadline. The 2002-2003 CAPER was made available (in draft form) for public review from August 1, 2003 through September 1, 2003. Comments received at the public hearing will be placed into the CAPER before its submission to HUD. The City Council held its CAPER public hearing on September 2, 2003. This public hearing was opened at the September 8, 2003 meeting and continued until the September 22, 2003 meeting.

Durham receives an annual HOME Consortium grant award from HUD. The FY 2002-2003 HOME entitlement allocation was \$1,051,000 in HOME funds. The FY 2002-2003 Consolidated Action Plan allocated these HOME funds primarily for housing activities in Durham with special focus in target neighborhoods. Major HOME program expenditures made during the 2002-2003 program year (as shown in the draft CAPER) included assistance for homebuyers, dwelling rehabilitation for first-time homebuyers, and special needs housing.

During FY 2002-2003, City staff, local lenders, and realtors presented a First-Time Homebuyers Program to Durham County residents during National Homeownership Month. The HOME-funded program is now available to qualified homebuyers that desire to live in Durham County (outside the City limits). Effective marketing strategies will be implemented for both the County Substantial Housing Rehabilitation and Homebuyers Assistance Programs during FY 2003-2004. During FY 2003-2004, a homeownership program will be designed and implemented for Durham County Sheriff's and Durham County Government employees through the use of HOME funds.

Resource Person(s): Charlene Montford, Director of the City of Durham Department of Housing and Community Development and Michael Pullum, Senior Planner

County Manager's Recommendation: The Manager's recommendation was that the Board hold the public hearing and adopt the FY 2002-2003 Consolidated Annual Performance and Evaluation Report (CAPER) for submission to the U.S. Department of Housing and Urban Development (HUD) prior to the September 28, 2003 deadline.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to adopt the FY 2002-2003 Consolidated Annual Performance and Evaluation (CAPER) for submission to the U.S. Department of Housing and Urban Development (HUD) prior to the September 28, 2003 deadline.

The motion carried unanimously.

Summer Meadows Additions-Rezoning Case P03-12

On August 11, 2003, Crossman Communities of North Carolina Inc. presented to the Commissioners a request to rezone a 20.09-acre site (in two separate tracts) located on the north side of Hebron Road, between West Avenue and Danube Lane, and the west side of Denfield Street, between Hebron Road and Communications Drive. (PIN 08334-03-11-6522 [partial], 03-31-5464, 03-31-7450)

Request: R-20; F/J-B & E-B to PDR-4.69. The proposal is in conformance with the small area plan. Staff recommends approval, citing adopted plan conformance. The Zoning Committee of the Durham Planning Commission conducted a public hearing June 11, 2003 and voted 6-0 to recommend denial, citing mass grading and lot size.

This request was continued from the August 11, 2003 and September 8, 2003 Board of County Commissioners' meetings for development of a note regarding improvements to Felicia Street not directly related to this project. This is now reflected on the development plan.

Resource Person(s): Frank M. Duke, AICP, Planning Director, Durham City-County Planning Department

County Manager's Recommendation: The County Manager recommended that the Board approve the rezoning, if appropriate.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve Summer Meadows with amended wording that "such payment shall be made prior to final plat approval".

The motion carried unanimously.

Utility Revenue Remittances by the City of Durham to Durham County

The Board was requested to approve a settlement proposal between the City and County to resolve differences between the amount of utility revenues collected by the City of Durham and remitted to the County as determined in the Agreed Upon Procedures (AUP) reports dated December 23, 2002 and August 28, 2003. The settlement recommended by the City and County Managers involves three items:

- Payment of \$583,430 to the County from the City.
- Reimbursement of 100% of revenue collected from Triangle Wastewater Treatment Plant (TWWTP) customers served by County owned lines and annexed by the City of Durham, and;
- Consideration of a City suggestion to consolidate ownership and operation of the wastewater collection system in the area served by the TWWTP.

The proposal was considered and supported by the Joint City/County Committee on September 9, 2003. The Agreed Upon Procedures began in March 2002 and was conducted in two phases. Phase I was completed in December 2002 and presented to the Joint City/County Committee on January 14, 2003. Phase II was completed in August 2003 and presented to the Joint City/County Committee on September 9, 2003 at which time the Committee recommended that the City Council and County Commissioners consider a settlement proposal.

Phase I of the AUP involved water and sewer extension projects completed by the County and transferred to the City for ownership. Based on the interlocal agreement for these projects, the City is to remit 50% of the water and sewer consumption fees and 100% of the connection fees. Through the end of December 2001, the County was underpaid by \$1,114,854.

Phase II of the AUP focused on the consumption or collection amounts of sewer customers within the TWWTP service area for the calendar year 2001. The City and County agree that the City is to remit 80% of units consumed times the County rate to the County when the City owns the lines serving the customers. It is also agreed that the City is to remit 100% of the sewer payments received from customers served by county owned lines outside of the Durham City limit. However, there is disagreement regarding the remittance amount for customers served by County owned lines but annexed by the City. The County takes the position that 100% of the consumption times the County rate should be remitted, while the City takes the position that 80% of the consumption times the County rate should be remitted. For 2001, the County was overpaid \$407,389 based on the County perspective or \$655,458 based on the City perspective.

The settlement proposal averages the overpayment amounts in Phase II and deducts that from the underpayment amount in Phase I with the result being a payment to the County in the amount of \$583,430. Additionally, the remittances in areas that have been annexed and where the County owns the lines will be increased from 80% to 100% of the consumption upon acceptance of the settlement by the City and County. The City and County will also evaluate the City's suggestion to consolidate ownership and operation of the collection in the area serviced by the TWWTP with a target of July 1, 2004 for single ownership.

Resource Person(s): Wendell M. Davis, Deputy County Manger; Susan Fox-Kirk, Deputy Finance Director; Glen Whisler, County Engineer; Chuck Hill, Utility Division Manager.

Resource Person(s): The Manager recommended that the Board accept the proposed settlement agreement as outlined above and supported by the Joint City/County Committee.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to accept the proposed settlement agreement as outlined and supported by the Joint City/County Committee.

The motion carried unanimously.

Closed Session

The Board was requested to adjourn to closed session to instruct the County's staff on negotiating the possible purchase of a tract of land on New Hope Creek owned by Oakridge 58 Investors and to consult with the County Attorney and to maintain the attorney-client privilege pursuant to G.S. § 143-318.11(a)(3) and (5).

Following the closed session, Chairman Reckhow announced that direction was given to staff in the closed session, and no further action was necessary.

Adjournment

Chairman Reckhow adjourned the meeting at approximately 11:00 p.m.



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