

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

Monday, April 12, 2004

7:00 P.M. Regular Session

**ACTION MINUTES-DRAFT**

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. and Becky M. Heron.

Absent: Commissioner Mary D. Jacobs

Presider: Chairman Reckhow

**Opening of Regular Session**

Chairman Reckhow welcomed everyone in attendance and asked them to join the Commissioners in the recitation of the Pledge of Allegiance.

**Motion to Excuse Commissioner Jacobs**

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to excuse Commissioner Jacobs from the April 12, 2004 Regular Session Meeting due to a family emergency.

The motion carried unanimously.

**Agenda Adjustments**

- Vice-Chairman Bowser added agenda item no. 6h.-Tax Office Issue
- Commissioner Heron added agenda item no. 10a.-9-1-1 Communications Center

**Minutes**

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve the February 18, 2004 BOCC/Hospital Corporation Board of Trustees and March 22, 2004 Regular Session Meeting Minutes as submitted and the March 3, 2004 Worksession Meeting Minutes as corrected.

The motion carried unanimously.

**Announcements**

- Commissioner Heron announced that the memorial service for Mr. Tony Mulvihill, an advocate for mental illness, particularly drug and alcohol abuse prevention, will be held on April 12, 2004 at 3 p.m. at The Newman Center, 218 Pittsboro Street, Chapel Hill.
- Chairman Reckhow commented on her participation as a Durham County representative at a press conference held that afternoon on air quality.
- Vice-Chairman Bowser announced the passing of Mr. Charles Rogers, an advocate of the Durham nursing home community.

**Proclamation Recognizing "National County Government Week"**

A proclamation naming the week of April 18-24 as "National County Government Week" was prepared for the Board's approval. Several events are planned to observe the week.

- Monday, April 19-Announce Newsletter naming contest winner
- Tuesday, April 20-Durham, the "County" of Medicine Health Booth on 1<sup>st</sup> Floor
- Wednesday, April 21-Recycle Durham County Booth on 1<sup>st</sup> Floor
- Thursday, April 22-Durham County Trivia Contest
- Friday, April 23-Durham County Paraphernalia Day

**Resource Person(s)**: Deborah Craig-Ray, Public Information/Governmental Affairs Director

**County Manager's Recommendation**: The County Manager recommended that the Board approve the requested proclamation and recognize the work that County employees perform on behalf of the citizens. Chairman Reckhow read the following proclamation into the record:

PROCLAMATION

WHEREAS, County Government is a key part of the engine that drives this country; and

WHEREAS, Counties also provide public safety, and offer medical and human services. Counties provide opportunities for new businesses to prosper, provide job training and technological solutions; and  
WHEREAS, County officials ensure that citizens are protected and that communities thrive; and  
WHEREAS, Counties provide needed elderly services and healthcare to the disabled and needy. When

natural or man-made disaster strikes, county emergency services keep children and their families safe and informed until order can be restored; and  
WHEREAS, County officials and employees use their role as local leaders to encourage economic development and therefore improve the lives of their citizens and make their communities more livable; and

WHEREAS, Durham County is one of 3,066 counties in the United States, collectively responsible for the well being of more than 230 million residents; and  
WHEREAS, Counties have a long history of serving and providing for the American people. In recognition of the leadership, innovation and valuable service provided by our nation's counties:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim the week of April 18-24, 2004 as  
"National County Government Week"

in Durham County. We further urge all citizens to recognize the leadership, innovation and valuable services provided by dedicated public employees.

This the 12<sup>th</sup> day of April, 2004.

/s/ Five Commissioners

Durham County Commissioners

Ms. Craig-Ray announced and described daily planned events to observe National County Government Week.

**Resolution Honoring Mr. Thad Howard**

A resolution honoring Mr. Thad Howard was prepared at the request of Commission Chairman Ellen W. Reckhow. Mr. Howard provided exemplary volunteer service to the Durham community, especially while serving on the Durham Open Space and Trails Commission. He will be leaving the area next month, relocating to Tennessee.

County Manager's Recommendation: The County Manager recommended that the Board approve the resolution and present it to Mr. Howard, along with sincere thanks of the entire Durham County community.

Chairman Reckhow introduced Mr. Howard and read the following resolution into the record:

RESOLUTION

WHEREAS, Thad A. Howard has demonstrated a philosophy of "giving back" to others by his loyal and dedicated service to the Durham community; and

WHEREAS, he has served two terms as a member of the Durham Open Space and Trails Commission, whose mission is to prepare, implement and review open space policy and to serve as a liaison between government and citizens on matters related to open space, greenways and conservation corridors; and

WHEREAS, in addition, he has served on the Development Review Committee, the Trails Committee and the Bicycle and Pedestrian Advisory Committee and is highly regarded as a member who always does his homework; and

WHEREAS, over the years he has willingly shared his knowledge of open space issues at various community and educational activities such as the annual Earth Day and Festival on the Eno; and

WHEREAS, Mr. Howard has regularly devoted many hours to working with the Rails to Trails group, most especially on portions of the American Tobacco Trail between the Streets at Southpoint Mall and Herndon Park; and

WHEREAS, he has spent considerable time planning and organizing numerous Saturday workdays, obtaining gravel and tools and most importantly, recruiting other dedicated volunteers to help clear the trail; and

WHEREAS, his efforts have clearly advanced the completion of that portion of the American Tobacco Trail which will be enjoyed by residents and visitors for years to come:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby extend sincere appreciation to

Thad A. Howard

for many years of generously, and unselfishly donating considerable time and resources to improving trails and open spaces in Durham County.

This the 12<sup>th</sup> of April, 2004.

/s/ Five Commissioners

Durham County Commissioners

Chairman Reckhow asked Mr. Howard to come forward and accept the resolution.

Mr. Howard thanked the Board for the recognition.

**Consent Agenda**

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve the following consent agenda items:

- (b) Capital Project Ordinance Amendment No. 04CPA000012-Open Space and Farmland Preservation (approve the capital project ordinance amendment allocating \$300,000 for Open Space and Farmland Preservation activities);
- (e) Mental Health Reform-Governance (extend the Mental Health Area Authority for one year and adopt the resolution);
- (f) Approval of Legislative Goals (approve the proposed package of Legislative issues); and
- (g) Stormwater Ordinance Amendment (approve the ordinance amendment and direct that it be sent to the State for approval of the program amendment).

The motion carried unanimously.

**Consent Agenda Items Removed for Discussion**

Consent Agenda Item No. a. Budget Ordinance Amendment No. 04BCC0000491-Public Health-Recognize North Carolina Sterilization Grant Revenue in the Community Health Division (approve the budget ordinance amendment for \$20,100 to recognize the North Carolina Sterilization Fund Grant and allow the department to contract with Raleigh Women's Health to provide the service).

Commissioner Heron made the motion to approve Budget Ordinance Amendment No. 04BCC0000491 and allow the department to contract with Raleigh Women's Health to provide the service.

The motion failed for lack of a second.

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Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve Budget Ordinance Amendment No. 04BCC0000491, contingent upon the State's approval of Durham Women's Clinic providing the services.

The motion carried unanimously.

Consent Agenda Item No. c. Triangle Wastewater Treatment Plant-Sludge Removal and Disposal-RFP-022 (authorize the County Manager to enter into a service contract with Bio-Nomic Services for the removal and disposal of 1716 dry tons of sludge in an amount of \$500,000 and authorize the County Manager to execute annual renewals of this contract as funding becomes available).

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to enter into a service contract with Bio-Nomic Services for the removal and disposal of 1716 dry tons of sludge in an amount of \$500,000 and to execute annual renewals of contract as funding becomes available.

The motion carried unanimously.

Consent Agenda Item No. d. Resolutions Providing for the Issuance of \$10,600,000 General Obligation Public Improvement Bonds, Series 2004A, and \$46,600,000 General Obligation Public Improvement Bonds, Series 2004B (approve the two resolutions; separate votes should be held for each resolution).

Commissioner Heron moved, seconded by Commissioner Cousin, to approve the resolution providing the issuance of \$10,600,000 General Obligation Public Improvement Bonds, Series 2004A.

The motion carried unanimously.

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Commissioner Heron moved, seconded by Commissioner Cousin, to approve the resolution providing the issuance of \$46,600,000 General Obligation Public Improvement Bonds, Series 2004B.

The motion carried unanimously.

### **Tax Office Issue**

Vice-Chairman Bowser raised the issue expressed in a Herald Sun article, written by two councilmen, of how delinquent taxes are collected and foreclosed by Tax Administration.

### **Public Hearing to Review Requests from Affordable Housing Providers for the Payment of School Impact Fees**

The Resolution Establishing a Payment Policy for School Impact Fees on Affordable Housing provides a procedure for determining the eligibility and payment of impact fees for nonprofit organizations providing affordable housing for renters and first-time homebuyers. According to the policy, those nonprofits constructing affordable housing in Fiscal Year 2003-2004 must submit a request for payment to the Impact Fee Administrator by January 31, 2004. Pursuant to G.S. 158-7.1, as stated in the policy, a public hearing shall be held by the Board of Commissioners on requests for payment.

A public hearing was held at the March 8, 2004 Commissioners' meeting for five nonprofit agencies. AIDS Community Residence Association Inc. was not included in that public hearing. However, because they will be beginning construction prior to June 30 on New Blevins House, a group home for persons below 50% of the median income with disabilities caused by the HIV virus, and their application was received before the January 31, 2004 deadline, this request must be considered for Fiscal Year 2003-04.

Resource Person(s): Heidi Duer, Assistant to the County Manager and Impact Fee Administrator

County Manager's Recommendation: The County Manager recommended that the Board hold the public hearing to review the request for payment of School Impact Fee for Affordable Housing projects in Fiscal Year 2003-04 and authorize the Impact Fee Administrator to grant a payment voucher, if the Board deems appropriate.

Chairman Reckhow recognized Ms. Duer to present this item.

Chairman Reckhow opened the public hearing that was properly advertised and called signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, forward.

Chairman Reckhow closed the public hearing and referred the item back to the board.

Commissioner Heron moved, seconded by Commissioner Cousin, to authorize the Impact Fee Administrator to grant a payment voucher.

The motion carried unanimously.

### **First Amendment to the Interlocal Agreement between the County and the City of Durham Regarding Membership of the Durham Convention and Visitors Bureau**

On April 22, 2002, the Board approved an Interlocal Agreement with the City of Durham related to the membership of the Durham Tourism Development Authority, which was required by Session Law 2001-480.

On July 24, 2002, the General Assembly enacted Session Law 2002-36, entitled "An Act to Make Changes to the Durham County Occupancy Tax Provisions". The Act revised Section S.L. 2001-480 to provide that the Durham Convention and Visitor's Bureau shall continue to exist but shall act as a tourism development authority. Therefore, the County and City must amend the Interlocal Agreement to reflect the changes made by S.L. 2002-36.

Resource Person(s): Carol W. Hammett, Assistant County Attorney

County Manager's Recommendation: The County Manager recommended that the Board approve the First Amendment to the Interlocal Agreement between Durham County and the City of Durham regarding Membership of the Durham Convention and Visitor's Bureau and authorize the Manager to execute the amendment.

Commissioner Cousin moved, seconded by Commissioner Heron, to approve the First Amendment to the Interlocal Agreement regarding Membership of Durham Convention and Visitor's Bureau.

The motion carried unanimously.

### **Durham Public Schools-Right of First Refusal to Purchase Lowe's Grove School Property**

The Durham Public Schools Board of Education declared as surplus the Lowe's Grove School, a 16.062-acre parcel located at the corner of Alston Avenue and Hwy. 54.

Pursuant to North Carolina General Statute §115C-518, the Board of Education must first offer the Board of County Commissioners the opportunity to acquire surplus school property at a fair market price. The price established for this property is \$1,000,000. If the Board of County Commissioners declines the offer, the Board of Education may dispose of the property in accordance with the provisions of the General

Statutes.

This property is the recommended site for the location of the South Regional Branch Library, with the potential as a future site for an EMS substation.

If the purchase of the property is approved, it is intended that all structures located on the property will be razed except for Building #1 (as indicated on the Belk report), located on the northern end.

Resource Person(s): Michael M. Ruffin, County Manager, and Chuck Kitchen, County Attorney

County Manager's Recommendation: The County Manager recommended that the Board of County Commissioners exercise its right of first refusal and purchase the Lowe's Grove Property from the School Board for \$1,000,000.

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to purchase the Lowe's Gove Property from the School Board for \$1,000,000 and to submit a letter to the Board of Education in support of using proceeds from the sale for the Hillside High School band room project.

Chairman Reckhow called signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, forward.

The motion carried unanimously.

#### **Career and Technical Education Task Force Report**

Vice-Chairman Joe W. Bowser requested time on the agenda to provide a progress report on the Career and Technical Education Task Force.

Resource Person(s): Vice-Chairman Joe W. Bowser

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

Vice-Chairman Bowser gave a report on the Career and Technical Education Task Force.

Chairman Reckhow called signed speaker Dr. E. Lavonia Allison forward to speak on behalf of the Task Force.

#### **9-1-1 Communications Center**

Commissioner Heron expressed concern about the crash of the 9-1-1 Communications Center a week prior, which currently operating from the backup center is causing some difficulty.

#### **Closed Session**

Commissioner Cousin moved, seconded to Commissioner Heron, to adjourn to closed session to consider the performance and fitness of a public officer or employee, and to instruct the staff concerning the position to be taken in negotiating the material terms for the acquisition of real property owned by Sean P. and Kristi G. Scully, PIN # 0817-03-42-4915, parcel ID# 189217, located on the west side of South Lowell Road, and south side of the South Fork of the Little River, 306 S. Roxboro St. owned by Scarborough and Hargett Funeral Home, and property adjacent to 3605 Shannon Rd. owned by Patty Watson pursuant to G.S. § 143-318.11(a)(5) & (6).

The motion carried unanimously.

#### **Reconvene to Open Session**

The Board of County Commissioners returned to Open Session. Chairman Reckhow declared that directives were given to staff, and no action was taken by the Board in the Closed Session.

#### **Adjournment**

There being no further business, the meeting was adjourned at 11:44 p.m.



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