

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

Monday, May 24, 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., Becky M. Heron, and Mary D. Jacobs

Absent: None

Presider: Chairman Reckhow

**Opening of Regular Session**-Pledge of Allegiance

**Agenda Adjustments**-Commissioner Cousin added a Closed Session to the end of the agenda.

Vice-Chairman Bowser made a motion that the "Ethics Complaint" be moved to follow the consent agenda.

Commissioner Heron expressed that a number of citizens intended to speak on this item. If the item were moved, the citizens who had not yet arrived would be unaware of the time change and may not be in attendance for the discussion.

Chairman Reckhow suggested moving the agenda item prior to item No. 9, contingent upon the time element; it would not be heard earlier than 8:15 p.m.

**Announcement**

Chairman Reckhow announced the following meetings to be held about the Durham Comprehensive Plan: (1) Eno Valley Elementary School-May 27 (5:30 - 7:30); (2) Southern High School-June 1 (5:30 - 7:30); (3) Southwest Elementary School-June 2 (5:30 - 7:30); and (4) Main Library-June 10 (3:00 - 5:00). She encouraged all citizens who are interested in growth and development issues to attend one of the meetings. Additional information could be found on the County and City websites. Copies of the Plan were available at the Main Library.

Chairman Reckhow recognized the Boy Scouts in the audience and asked Mr. Joe Kilsheimer to stand and introduce his troop. She thanked Mr. Kilsheimer for bringing the Scouts to the meeting.

**Minutes**

Commissioner Heron moved, seconded by Commissioner Cousin, to approve as submitted the April 26, 2004 BOCC/Public Health Board and the May 10, 2004 Regular Session Minutes of the Board.

The motion carried unanimously.

**Acts of Caring Award-Teen Diploma Academy**

The National Association of Counties (NACo) presented an "Acts of Caring" Award to Durham County's Teen Diploma Academy last month. Ms. Lucy Haagen and Mr. Fred Foster Jr. of the Durham Literacy Council attended the event and were joined by Congressman David Price.

The Acts of Caring Awards recognize top county volunteer programs in the country that enhance and preserve the quality of life for America's communities.

**RESOURCE PERSON(S):** Chairman Ellen W. Reckhow

**COUNTY MANAGER'S RECOMMENDATION:** The Manager recommended that the Board congratulate Ms. Haagen and Mr. Foster for receiving this outstanding recognition.

Ms. Haagen presented the award statue to the County Commissioners, praising them for their financial support.

Mr. Foster expressed gratitude to the Commissioners for their insight and spirit of cooperation concerning the successful program. He was honored to accept the award in Washington on behalf of Durham County citizens and the 22 volunteers who work diligently with the students. Mr. Foster reported that out of 24,000 counties in the United States, Durham County has the only Teen GED Academy. The \$35,000 that the Commissioners invest in the Literacy Council is paying great dividends. He invited everyone to attend the 2004 Graduation Ceremony on June 21.

**May Anchor Award Winner-Vivian Harris**

Ms. Vivian Harris of the Durham Center serves as Director of Standards and Records for the department. Ms. Harris chairs the "Best Practices Team" and is cited for successfully leading the team as it "irons out issues and potential problems". Interim Durham Center Area Director Ellen Holliman nominated Ms.

Harris for her overall leadership as the organization transitions due to Mental Health Reform. According to Ms. Holliman,

Ms. Harris "keeps the team focused on the issues at hand, which is yielding good results".

COUNTY MANAGER'S RECOMMENDATION: The Manager recommended that the May Anchor Award be presented to Ms. Vivian Harris, along with sincere congratulations of the entire organization.

Ms. Harris thanked the Board for the honor, accepting the award and the \$200 check from Chairman Reckhow.

#### **FY 2004-2005 Recommended Budget**

Durham County Manager Michael M. Ruffin formally presented the recommended budget for FY 2004-2005 to the Board of County Commissioners. This was in accordance with N.C.G.S. 159-12(b), the Local Government and Fiscal Control Act.

RESOURCE PERSON(S): Michael M. Ruffin

COUNTY MANAGER'S RECOMMENDATION: The Manager recommended that the Board receive his presentation.

County Manager Ruffin gave an overview of the budget.

County Manager Ruffin announced the dates of the upcoming budget meetings. He noted that copies of the budget and the message are available at Durham County's libraries and the Durham County Government Administrative Complex. For additional information, he recommended that citizens contact the Clerk's Office, Budget Office, or the County Manager's Office. The message and presentation would be available on the County's website tomorrow.

#### **Consent Agenda**

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

- \*a. Property Tax Releases and Refunds for Fiscal Year 2003-04 (accept the April property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- \*b. Capital Project Ordinance Amendment No. 04CPA000014 (approve the use of Public School Building Funds for HVAC upgrade at Neal Middle School);
- \*c. Budget Ordinance Amendment No. 04BCC000071-Mental Health Department (appropriate \$100,000 on a one-time basis for a transitional employment program for individuals with mental retardation);
- d. Purchase of Total Containment Vessel for \$143,200-Emergency Management (approve the purchase from DHS Part II Grant Program funds);
- \*e. First Amendment to Service Contract for Services With Excelliant Services Inc. (approve the amendment to the contract not to exceed \$35,600 and authorize the Manager to execute);
- h. Lease Agreement to the Coordinating Council for Senior Citizens, Durham Inc. (approve the agreement and authorize the Manager to execute);
- \*i. Resolution Adopting Policy on Closed Session Minutes (adopt the resolution with any changes the Board desires);
- j. Contract Amendment to Wastewater Treatment Plant Improvements-Phase I Engineering Contract (authorize the Manager to execute the amendment with McKim & Creed, PA in the amount of \$112,000);
- l. Air Quality Initiatives for Durham County (instruct the Environmental Affairs Board to spearhead the initiatives for Durham County); and
- \*m. Budget Ordinance Amendment No. 04BCC000074 and Capital Project Amendment No. 04CPA000016-Project No.: DC075-50 (approve the appropriation of \$200,000 of Capital Financing Fund fund balance to purchase 2.23 acres of land located on Shannon Road [Watson Property] for the purpose of expanding the Southwest Branch Library).

The motion carried unanimously.

**Consent Agenda Items Removed for Citizen Comments**

Consent Agenda Item No. f. JCPC Recommendation for FY 2004-2005 JCPC/DJJDP Program Funding (approve the recommended plan to allocate \$561,475 in State funding for FY 04-05).

Chairman Reckhow removed this item for comment by Victoria Peterson.

Consent Agenda Item No. g. Grant Agreement to North Carolina Museum of Life and Science Inc. (approve the agreement for \$5,280,000 and authorize the County Manager to execute).

Chairman Reckhow removed this item from the consent agenda to allow comment by Dr. E. Lavonia Allison.

Consent Agenda Item No. k. Budget Ordinance Amendment No. 04BCC000072 and Capital Project Amendment No. 04CPA000015-Closing of 1986 and 1991 Bond Issuance Related Projects and Movement of Unspent Funds to the Debt Service Fund (304) (approve the closing of the projects and related sub-funds within the Capital Project Fund freeing up \$579,310; transfer remaining balances within these sub-funds to the Debt Service Fund to be used to pay toward existing debt; and transfer General Fund fund balance (\$161,556) to the Little River Regional Park project to replace the moved 1986 and 19991 Bond funds).

Dr. E. Lavonia Allison, PO Box 428, Durham, NC 27702, inquired about the process by which school PTAs can obtain this funding.

Chairman Reckhow explained that applications for the Matching Grants Program can be obtained by contacting Bill Renfrow, Budget Analyst.

Ms. Victoria Peterson, P.O. Box 101, Durham, NC, requested that some of the dollars be set aside for nonprofit programs that are working to reduce the crime rate in Durham.

Commissioner Heron moved, seconded by Commissioner Jacobs, to approve consent agenda item Nos. f, g, and k.

The motion carried unanimously.

**Ethics Complaint**

Commissioner Heron moved, seconded by Commissioner Cousin, to excuse Vice-Chairman Bowser from discussing and voting on this agenda item.

The motion carried unanimously.

Commissioner Heron moved that the Board move forward with an investigation, and if the investigation warrants a hearing, that the hearing follow promptly.

Commissioner Cousin offered a substitute motion: That the Board go on record as discerning there is a difference between fact-finding and witch-hunting, that the Board proceed with the matters as they pertain to the County-those being the resolution of the audit that is to come before the Board on the 7<sup>th</sup> of June, and also move with dispatch to put in place a budget for the next fiscal year for the County of Durham.

Commissioner Jacobs seconded the motion.

Commissioner Cousin called for the question.

The motion failed for the lack of majority.

Ayes: Cousin and Jacobs

Noes: Heron and Reckhow

Commissioner Heron moved that the Board receive the Manager's overview of the audit and move forward with an investigation. If the investigation warrants a hearing, then the hearing would follow the investigation.

Chairman Reckhow referred to County Attorney Kitchen for advice.

County Attorney Kitchen stated his opinion that the complaint is "going to die" without any action of the Board. The more prudent means is to say that it will not be considered further. It is not appropriate or in anyone's best interest to have a complaint hanging. Attorney Kitchen recommended that the Board consider this matter ended.

**Interest Rate Swap**

The Finance Department has been entertaining a proposal from Rice Financial Products for the County to enter into an interest rate swap agreement. This agreement is projected to save the County almost

\$10,000,000 over a ten-year period in debt service. The use of this savings should be limited by the BOCC to 50% current budget and 50% designated for potential increases in debt service due to the Swap arrangement.

During the worksession on May 3, 2004, Rice Financial Products and Public Financial Management (PFM), a recognized expert in the area of Swaps, made presentations to the Board. (PFM was paid \$10,000 to analyze the proposal and make a recommendation to the Board.)

Management recommends that Durham County enter into an agreement with Rice Financial Products and believes that the arrangement will reduce the County's debt service. Management also believes that the risks outlined in the PFM analysis can be mitigated to an acceptable level. A copy of the proposal has been provided to the LGC for its review and comment; however, a response is not expected prior to this meeting. As such, the request is that the Board authorize the Manager to execute a contract with Public Financial Management to advise the County in the negotiation of such an arrangement in an amount not to exceed \$100,000. The scope of services to be provided will include, but are not limited to, the following:

1. Review and comment on all Swap documentation and business terms;
2. Evaluate credit enhancement and other industry standards approaches to managing counterpart credit risk;
3. Negotiate the pricing terms and final structure with the Swap provider;
4. Coordinate the closing of the transaction; and
5. Provide the County with a memorandum summarizing the results of our engagement, including an opinion that the pricing of the Swap, as agreed to, represents fair value.

Should this arrangement be approved by the BOCC and closed, all costs will be absorbed in the deal (no cash outlay by the County). However, to move the process forward, the request is to approve a \$100,000 appropriation from Fund Balance. Please note that our deal with PFM is on a contingency basis-if the deal fails to close, the County owes nothing to PFM.

Once the deal has been negotiated, the proposal will be presented to the BOCC for final approval, which would be subject to the approval of the LGC.

RESOURCE PERSON(S): George K. Quick, Finance Director

COUNTY MANAGER'S RECOMMENDATION: The Manager recommended that the BOCC approve the proposed deal with Rice Financial Products (subject to approval by the LGC), authorize the Manager to enter into a contract with Public Financial Management to act as our Swap advisor, and approve the Fund Balance Appropriation.

Mr. Quick recommended that the Board:

1. Authorize the Manager to enter into a contract with Public Financial Management as our financial advisor in an amount not to exceed \$100,000.
2. Allocate \$100,000 in Fund Balance appropriation as a source for payment. (From a technical standpoint, for the County to enter into a contract, funds must be allocated for payment. However, the reality is that the money will not be spent because all costs will be absorbed in the deal [no cash outlay by the County]. The contract is on a contingency basis-if the transaction fails to close, the County owes nothing. If the contract closes, the transaction will fund the payment of these fees.)
3. Authorize the Finance Director to complete the negotiation and finalized the documents, which will be presented at the June 7 Worksession. Approval would be subject to LGC approval.

Commissioner Jacobs moved, seconded by Commissioner Cousin, that the Board approve the three above-mentioned recommendations by Finance Director Quick.

The motion carried unanimously.

### **Budget Ordinance Amendment No. 04BCC000073-Emergency Medical Services Salary and Benefits Funding**

Per discussion at the Commissioners' Retreat in January of this year, projection of funds available for personnel services in Emergency Medical Services indicates that this cost center will exceed budgeted personnel funds for the current fiscal year. The primary reasons for these anticipated overages are overtime payments to staff these areas 24/7 and under-funded shift differential and relief support pay. Unrecognized (and over-realized) revenues from EMS patient income will be increased \$150,000 and

unrecognized General Fund property tax revenue will be increased \$267,029 to support increased personnel expenditures of \$417,029.

RESOURCE PERSON(S): Mickey Tezai, EMS Director, and Pam Meyer, Director Budget & Management Services

COUNTY MANAGER'S RECOMMENDATION: The Manager recommended that the Board approve the \$417,029 appropriation of unrecognized revenue of \$150,000 from EMS patient income and \$267,029 from General Fund property taxes to support personnel expenditure increases in the EMS department.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to approve the \$417,029 appropriation of unrecognized revenue of \$150,000 from EMS patient income and \$267,029 from General Fund property taxes to support personnel expenditure increases in the EMS department.

The motion carried unanimously.

**Board Appointments-Durham Appearance Commission and the Durham Bicycle and Pedestrian Advisory Committee**

Garry E. Umstead, CMC, Clerk to the Board, distributed ballots to make appointments to the Durham Appearance Commission and the Durham Bicycle and Pedestrian Advisory Committee.

RESOURCE PERSON(S): Garry E. Umstead, CMC, Clerk to the Board

COUNTY MANAGER'S RECOMMENDATION: The Manager recommended that the Board of County Commissioners vote to appoint members to the above-mentioned boards.

The following appointments were made:

Durham Appearance Commission

John E. Felton (recommended by City-County Planning Committee)

Karen Havighurst (recommended by City-County Planning Committee)

Allyson Blyth Morrell (recommended by City-County Planning Committee)

Durham Bicycle and Pedestrian Advisory Committee

Jimmy L. Gamble (recommended by City-County Planning Committee)

**Closed Session**

Commissioner Heron moved, seconded by Commissioner Jacobs, to adjourn to Closed Session to maintain the attorney-client privilege and to discuss Brannon v.

DSS 02 SP 0769 pursuant to N.C.G.S. 143.318.11(a)(3).

The motion carried unanimously.

**Reconvene to Open Session**-Chairman Reckhow stated that direction was given to staff in Closed Session with no action being taken.

**Adjournment**-Chairman Reckhow declared the meeting adjourned at 10:35 p.m.

Respectfully submitted,

Vonda C. Sessoms

Deputy Clerk to the Board



Last updated: May 3, 2006

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