

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

Monday, September 13, 2004

**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

**Discussion with Department Heads Concerning Human Resources Audit**

5:00 P.M. Special Session

Commissioners received information from the following selected Department Heads concerning findings contained in the Human Resources audit:

Perry Dixon, IT Director

Willie Covington, Register of Deeds

Ken Joyner, Tax Administrator

Mickey Tezai, EMS Director

Charlie Hobgood, Internal Auditor

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7:00 P.M. Regular Session

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

**Agenda Adjustments**

- County Attorney Chuck Kitchen informed the Board that an amended agenda action form for "Auburn Apartments Property Tax Appeal" was placed at their seats prior to the meeting.
- Commissioner Jacobs supplied a copy of "Durham Regional Hospital CEO's Report on North Carolina Division of Facility Services (DFS) and Centers for Medicare and Medicaid Services (CMS) Update" for each Commissioner.
- Vice-Chairman Bowser added a request by Attorney Keith Bishop to address the Board about employment records of a former Sheriff's Deputy.
- County Manager Mike Ruffin requested that the Board remove Consent Agenda Item No. 8d, "Durham Public Schools-Declaration of Holton School Facility as Surplus" and re-present it at the September 27 Regular Session.

**Minutes**

Commissioner Heron moved, seconded by Commissioner Cousin, to approve the August 23, 2004 Regular Session Minutes as submitted.

The motion carried unanimously.

**Recognition of Ketner Award Winning -System of Care" Program**

Chairman Reckhow briefed the public on the Ralph Ketner Employee Productivity Award Program that honors 10 employees or teams of employees with a \$1,000 cash prize for innovative practices and projects. Mr. Ralph Ketner of Food Lion Inc. generously donates \$10,000 annually to the North Carolina Association of County Commissioners to reward innovative County employees for their successful productivity improvements. Durham's System of Care to reduce court-ordered treatment costs was recognized at the Association's recent Annual Conference in Asheville. The success of the program was made possible through a collective commitment of public and private agencies and community partners. The program is an integrated network of community services and resources realized through collaboration among families, professionals, and the community to assure that children have access to the services and supports they need for success.

Chairman Reckhow recognized the following individuals who set policy in support of the program:

Durham Directors:

Commission Chairman Ellen W. Reckhow; Superintendent Ann Denlinger; Durham Center Interim Director Ellen Holliman; Interim Social Services Director Chuck Harris; Health Director Brian Letourneau; Assistant County Manager Wendell M. Davis; District Court Judge Marcia Morey; and Chief Court Counselor Donnie Phillips, Department of Juvenile Justice and Delinquency Prevention (DJJDP).

Durham System of Care Council and Community Collaborative members:

Larry Wallace, DJJDP; Sue Guptill, Public Health; Nancy Domick, Durham Public Schools; Bill Hussey,

Durham Public Schools; Alisa Huffman, Administrative Office of the Courts; Rob Robinson, The Durham Center; Carla Ivey, Strong Families Durham; Martha Kaufman, The Durham Center; and Adele Spitz Roth, Duke Center for Child and Family Policy

The Board congratulated the System of Care participants for their award-winning efforts on behalf of the children and families of Durham.

#### **National Alcohol and Drug Addiction Recovery Month Proclamation**

All across the country, organizations and governments are observing the 15<sup>th</sup> Annual National Alcohol and Drug Addiction Recovery Month. The goal of the program is to raise awareness about addiction treatment issues by helping to articulate the needs of those with alcohol or drug use disorders and acknowledging the courage of persons striving to maintain sobriety. The program is sponsored by the U. S. Department of Health and Human Services, Substance Abuse and Mental Health Services, Administration Center for Substance Abuse Treatment. A proclamation was prepared in support of this initiative.

Chairman Reckhow invited Commissioner Heron to read the following proclamation into the record:

#### **PROCLAMATION**

WHEREAS, substance abuse is a major public health issue affecting millions of Americans of all ages, races, and backgrounds; and

WHEREAS, this issue also carries an enormous medical, social, and economic cost; and

WHEREAS, substance abuse disorders are chronic but treatable diseases and everyday, men and women enroll in treatment programs to begin the road to recovery; and

WHEREAS, too often, people in need of recovery have difficulty obtaining the treatment that can help them regain their families, their jobs, and their lives; and

WHEREAS, barriers, such as cost, denial, and stigma associated with alcohol and drug use disorders, and access to appropriate and successful treatment must be overcome; and

WHEREAS, all communities must work to ensure that resources be made available to help whole families begin to break the cycle of addiction by seeking and participating in recovery programs, support programs, and counseling services:

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 2004 as:

#### **"NATIONAL ALCOHOL AND DRUG ADDICTION RECOVERY MONTH"**

in Durham County, and urge all citizens to promote the benefits of alcohol and drug treatment and recovery and to support community treatment programs.

This the 13<sup>th</sup> day of September, 2004.

Mr. Doug Wright thanked the Board for the recognition and shared facts about alcohol and drug addiction recovery.

Chairman Reckhow presented the proclamation to Mr. Wright.

#### **Proclamation for "Family Day"**

The National Center on Addiction and Substance Abuse (CASA) is initiating "Family Day, a Day to Eat Dinner With Your Children"-an initiative to help reduce substance abuse among children and teens throughout America. The day will be honored on September 27. President Bush, 35 governors, and more than 200 cities and counties proclaimed Family Day in 2003.

Chairman Reckhow read the following proclamation into the record:

#### **PROCLAMATION**

WHEREAS, the use of illegal drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children; and

WHEREAS, surveys conducted by the National Center on Addiction and Substance Abuse (CASA) at Columbia University have consistently found that the more often children and teenagers eat dinner with their families the less likely they are to smoke, drink, and use illegal drugs; and

WHEREAS, teenagers who virtually never eat dinner with their families are 72 percent more likely than the average teenager to use illegal drugs, alcohol, and cigarettes; and

WHEREAS, teenagers who almost always eat dinner with their families are 31 percent less likely than the average teenager to use illegal drugs, alcohol and cigarettes; and

WHEREAS, the correlation between family dinners and reduced risk for teen substance abuse are well documented; and

WHEREAS, parental influence is known to be one of the most crucial factors in determining the likelihood

of substance abuse by teenagers; and

WHEREAS, family dinners have long constituted a substantial pillar of family in America:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim September 27, 2004, as

"FAMILY DAY"

in Durham County. We further urge all citizens of Durham County to eat dinner with their children, and participate in its observance.

This 13th day of September, 2004.

Chairman Reckhow encouraged citizens to recognize every day as "Family Day, a Day to Eat Dinner with Your Children".

#### **Proclamation for "Car-Free Day"**

International Car-Free Day is a worldwide campaign to promote alternative transportation, especially biking, walking, and public transit, as well as "car-lite" activities such as carpooling. Various Durham agencies (DATA, TTA, SmartCommute, County Government) and business owners (Durham Cycle Center, Ninth Street Bakery) have committed time, energy, and/or donations for a local Durham event that will, in conjunction with similar Orange County activities, promote Car-Free Day regionally on Wednesday, September 22, 2004.

Chairman Reckhow read the following proclamation into the record:

#### **PROCLAMATION**

WHEREAS, September 22, 2004 marks the celebration of International Car-Free Day by over 150 communities worldwide; and

WHEREAS, we are aware of the necessity to encourage our citizens to use environmentally sound means of urban travel in order to enjoy a healthier and more friendly community; and

WHEREAS, we will continue to provide opportunities for people to walk, cycle, and use public transportation instead of driving alone, and to promote intermodality; and

WHEREAS, the County of Durham encourages people to rediscover their great county, their fellow citizens, and their heritage in a healthier and more livable environment; and

WHEREAS, the Durham Area Transit Authority will offer one-day free bus service and the City of Durham will host a free downtown event to encourage citizen participation in International Car-Free Day:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim Wednesday, September 22, 2004 as

"INTERNATIONAL CAR-FREE DAY"

in Durham County. We urge all Durham County citizens to participate.

This 13th day of September, 2004.

Chairman Reckhow recognized Ms. Alison Carpenter, Bicycle and Pedestrian Coordinator, City of Durham/DCHC MPO, to comment on Car-Free Day in Durham County.

Chairman Reckhow presented the proclamation to Ms. Carpenter.

#### **Consent Agenda**

Commissioner Jacobs moved, seconded by Commissioner Cousin, to approve the following consent agenda items:

- a. EMS-Donation of Injury Prevention Trailer to EMS from Durham SAFE KIDS Coalition (approve the donation);
- b. EMS-Zoll EKG Monitor/Defibrillation Equipment Donation (approve the donation);
- c. Office of the Sheriff-Lease for Northgate Associates Limited Partnerships (authorize execution of the lease);
- e. Substitution of Trustee (approve and authorize execution of the documents to allow CCB to complete the foreclosure process on the loan to Nancy V. Haskins);
- f. Budget Ordinance Amendment No. 05BCC000006-The Durham Center-Housing Trust Funds for Andover Apartments (approve \$57,445 to New Directions for Downtown for completion of ten efficiency apartments for persons with disabilities);
- g. Budget Ordinance Amendment No. 05BCC000007-Cooperative

- Extension-4-H Youth Grant (approve for the purpose of increasing involvement of youth in planning and implementation of alcohol and substance abuse prevention programming);
- h. Budget Ordinance Amendment No. 05BCC000008-Cooperative Extension (authorize appropriation of additional funds and the creation of one additional position to deliver the Welcome Baby program for families of newborns and young children);
  - i. Capital Project Amendment No. 05CPA000002-Agricultural Building Renovation Project-DC068 (approve \$53,131, transferring unused 2/3 bond funding from the completed Animal Shelter renovation project to the Agricultural Building renovation project; authorize the Zehia Corporation contract amendment);
  - l. Final Qualifying Bid to Purchase County Property (612 Bingham Street) (accept the \$6,000 offer from Victory Temple Holy Church; authorize that a non-warranty deed be prepared for the Chairman's signature);
  - m. Lease of County-Owned Space at 414 E. Main Street to Area Services and Programs Inc. (ASAP) and SouthLight Inc. (authorize leasing a portion of the second floor for the term September 15, 2004 through June 30, 2005; authorize the Manager to execute the leases);
  - n. Auburn Apartments Property Tax Appeal (approve the settlement agreement in regards to Taxpayer's valuation and taxation of the property for tax year 2003);
  - o. Recommendation for Standard Status for the Durham County Work First Plan and Approval of Members to the Work First Planning Committee (authorize staff to submit the status to the Department of Health and Human Services by September 30, 2004);
  - p. Approve the Interlocal Cooperation Agreement for the Collection of Taxes Between Durham County and the City of Durham;
  - q. 2005 Statewide Legislative Issues for NCACC (approve and transmit to Ron Aycocock);
  - r. Time Warner Cable-Reconsideration of 2003 and 2004 Proposed Rates (adopt the rate orders in accordance with the FCC order); and
  - s. Service Contract With Unique Management Services Inc. for FY 2004-2005 (enter into contract for library patron debt collections with option to renew yearly for five years; fees paid will not exceed \$60,000 annually).

**Consent Agenda Items Removed for Discussion**

Consent Agenda Item No. j. Board Appointment-Operation Breakthrough Inc. (appoint Deputy County Manager Wendell M. Davis).

Action was deferred until after the board vacancy is advertised.

Consent Agenda Item No. k. Resolution to Designate the NC 147 Corridor in Durham County Between I-40 and I-85 as the "Innovation Highway" (approve and forward to the North Carolina Department of Transportation).

The following individuals participated in the public hearing:

Mr. George Miller, 5201 Chapel Hill Blvd., Durham, NC 27715, representing American Tobacco Historical District

Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, representing the Durham Committee on the Affairs of Black People

Commissioner Jacobs moved, seconded by Commissioner Cousin, to approve the resolution designating the NC 147 Corridor as the "Innovation Highway"; request that gateway signage at both ends of NC 147 include the words "Welcome to the Innovation Highway, Durham, NC"; and forward a cover letter to NCDOT, emphasizing the Board's support of the aforesaid wording and suggested font size.

The motion carried unanimously.

### **Public Hearing-2003-2004 Consolidated Annual Performance Evaluation Report**

Ms. Katherine Simmons, Associate Director, City of Durham Department of Housing and Community Development, introduced the Consolidated Annual Performance and Evaluation Report (CAPER) public hearing, which is held annually in September to receive citizen comments on the previous year's Community Development Block Grant (CDBG) and City-County HOME Consortium Investment Partnership (HOME) programs. Annual progress and performance detailed in the CAPER must be submitted to the U.S. Department of Housing and Urban Development (HUD) no later than September 30, 2004. The FY 2003-2004 CAPER is available (in draft form) to the public for review from August 16, 2004 through September 16, 2004.

The City of Durham receives an annual CDBG award and a HOME Consortium grant award from HUD. These funds have been a primary funding source for city neighborhood revitalization activities. The FY 2003-2004 HUD entitlement allocation was \$2,348,000 in CDBG funds and \$1,389,626 in HOME funds. The FY 2003-2004 Consolidated Action Plan allocated these funds primarily for housing, infrastructure, and public service activities in Durham with focus in target neighborhoods. Major accomplishments made (as highlighted in the draft CAPER) during the 2003-2004 program year include:

- 54 households received first-time homebuyer's assistance;
- 418 households were served by community homebuyer education seminars;
- over \$137,000 was expended on Next Step Housing project; and
- \$254,000 was expended on public service activities.

The FY 2003-2004 Draft CAPER shows an unexpended CDBG balance for \$3,584,948 and an unexpended HOME balance for \$3,866,666, both the CDBG and HOME Programs. These funds are earmarked for eligible projects and activities. These proposed projects and activities will be brought before the City Council for CDBG and HOME approval and the Board of County Commissioners for HOME approval.

Constance Stancil, Interim Director of the City of Durham Department of Housing and Community Development, reviewed this request and recommended that the Board of County Commissioners hold the 2003-2004 Consolidated Annual Performance and Evaluation Report Public Hearing.

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.

As no one else signed to speak, Chairman Reckhow closed the public hearing and referred the matter back to the Board.

No action was taken on this item.

### **Doc Nichols Road Tract (P04-09)-Rezoning Request**

R. L. Horvath Associates Inc. presented the Board of Commissioners with a revised request to rezone a 288.13-acre site located on the east side of Doc Nichols Road between Olive Branch Road and Leesville Road from RD to PDR 3.21. PIN0769-01-19-6484; 0860-03-11-5310; and --32-3006.

The original rezoning request for PDR 3.39 with 826 single-family lots and 150 townhomes was presented to the Commissioners on August 9, 2004. The Board suggested changes to the rezoning. The proposal is in conformance with the small area plan. Staff recommends approval based on consistency with the adopted plan and conformity with technical requirements. The Zoning Committee of the Durham Planning Commission conducted a public hearing on June 8, 2004 and voted 7-0 to recommend denial, based primarily on the density requested.

The following individuals participated in the public hearing:

Mr. Drew Marsh, 616 Nantahala Drive, Durham, NC 27713

Mr. Bruce and Ms. Sue Harris, 245 Bandoek Drive, Durham, NC 27703, representing Shaw Hills Neighborhood Association

Ms. Judy Riggins, 319 Bandoek Drive, Durham, NC 27703, representing Shaw Hills Neighborhood Association

Mr. Bill Sparks, 248 Bandoek Drive, Durham, NC, representing Shaw Hills Neighborhood Association

Mr. Ray Corns, 241 Bandoek Drive, Durham, NC 27703, representing Shaw Hills Neighborhood Association

Mr. Lee Lambert, 522 Oak Crest Drive, Chapel Hill, NC 27516

Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, representing the Durham Committee on the Affairs of Black People

Ms. Liz Pullman, 1114 Scott King Road, Durham, NC

Ms. Carol Young, 5808 Williamsburg Way, Durham, NC 27713

Mr. Bill Patrick, 427 Olive Branch Road, Durham, NC 27703

Commissioner Heron moved, seconded by Chairman Reckhow, to deny Rezoning Request-Doc Nichols Road Tract (P04-09).

Vice-Chairman Bowser offered a substitute motion, seconded by Commissioner Jacobs, to approve the rezoning request with a 50-unit reduction.

The motion carried with the following vote:

Ayes: Bowser, Cousin, Jacobs

Noes: Heron, Reckhow

#### **Major Site Plan-Merck Vaccine Manufacturing Facility (Case D04-378)**

The John R. McAdams Company Inc., on behalf of Merck & Company Inc., has submitted a major site plan for a 165,997-square-foot manufacturing facility consisting of a 30,129-square-foot administration building, 38,624-square-foot manufacturing building, 56,913-square-foot warehouse, and other support structures on a 109.51-acre portion of a 261-acre tract, zoned I-2 and F/J-B. The proposed project will be located on the west side of Old Oxford Highway, north of Red Mill Road, and south of Stagville Road. (PIN 0845-02-58-7341; County Atlas Page 30, Blocks B-1 thru 3 and C-1 thru 3 [portions]). A traffic impact analysis was required for this site.

The following individuals requested to speak:

Mr. William H. Derks, 2905 Meridian Parkway, Durham, NC 27713, representing The John R. McAdams Company, Inc.

Mr. Ted Conner, 3305 Park Overlook Drive, Durham, NC 27712, representing the Durham Chamber of Commerce.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to approve Major Site Plan (Merck Vaccine Manufacturing Facility-Case D04-378).

The motion carried unanimously.

#### **Hearing on Refund of Excise Tax**

The County received a request from the Law Offices of Moore & Alphin, PLLC to refund \$621 in tax stamps paid (of which \$310.50 was retained by the County) on a deed recorded in Durham County. As shown by the request, the property is alleged to have been in Orange County instead of Durham County. The remainder of the taxes must be requested to be refunded by the State. Moore & Alphin, PLLC was notified of the hearing on the requested refund. Mr. G. Mark Teague, Moore & Alphin, gave a sworn testimony at the meeting.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve the order to for the refund.

The motion carried unanimously.

#### **Durham Public Schools-Acquisition of Properties for Improved Bus Access at New Elementary "D"**

Mr. Hugh Osteen, Assistant Superintendent of Operational Services, Durham Public Schools, informed the public that on July 29, 2004, the Board of Education approved the purchase of two properties to improve vehicular/bus access to the new W. G. Pearson (New "D") Elementary School. The additional parcels will ensure safe access for buses, cars, and pedestrians, as well as the public trail system. The properties are 3225 Fayetteville Street for \$118,000 and 600 E. Cornwallis Road for \$30,000.

Commissioner Jacobs moved, seconded by Vice-Chairman Bowser, to approve acquisition of properties for improved bus access at New Elementary "D".

The motion carried unanimously.

#### **Durham Police Officer Case**

Attorney Keith Bishop, Keith A. Bishop, PLLC, requested to address the Board about a legal case concerning a current Durham Police Department employee whose employment record with the Sheriff's Department from February 4, 1975 to October 28, 1977 is irretrievable. The record is essential to be granted accurate retirement in November 2004.

#### **Closed Session**

Commissioner Cousin moved, seconded by Commissioner Heron, to adjourn to closed session to instruct staff concerning the position to be

taken in negotiating the material terms for the acquisition of two real properties pursuant to G.S. § 143-318.11(a)(5). The two properties are 247 S. Mangum Street owned by U-Haul Real Estate Company and 306 S. Roxboro Street owned by Scarborough and Hargett Funeral Home. The motion carried unanimously.

**Adjournment**

There being no further business, the meeting was adjourned at 10:40 p.m.

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**Last updated: May 3, 2006**

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