

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

Monday, September 23, 2013

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman Fred Foster, Jr., and Commissioners Wendy Jacobs, Michael D. Page and Ellen Reckhow

Absent: Vice-Chair Brenda A. Howerton (excused)

Presider: Chairman Foster

Opening of Regular Session—Chairman Foster asked everyone to join in the Pledge of Allegiance.

Chairman Foster announced that Vice-Chair Howerton was not present due to an excused absence.

Agenda Adjustments

Commissioner Reckhow requested that the Board hold a discussion regarding baseline water quality testing in advance of “fracking” (hydraulic fracturing).

Commissioner Reckhow moved, seconded by Commissioner Jacobs, to approve the adjustment of the September 23, 2013 BOCC Agenda to include a discussion regarding baseline water quality testing in advance of “fracking” (hydraulic fracturing).

The motion carried unanimously.

Chairman Foster stated that the discussion would follow agenda item 10, Citizen Board Appointments. Commissioner Page stated that he had an announcement.

Announcements

Chairman Foster made the following announcements:

- "In Touch with Durham County," the Durham County Television show, airs daily on Cable TV Channel 8 at 10 a.m., 3:30 p.m. and 6:30 p.m. Our County Commissioners' meetings are also rebroadcast on Thursdays at 2:00 p.m., Saturdays at 9:00 p.m., and Sundays at 9:00 p.m.
- Durham County needs you! If you have a few hours to commit, Durham County has a number of boards and commissions that can benefit from your participation. We invite

you to make a difference in our community. Contact the Clerk's Office at 919-560-0025, visit the County's website, or email Clerk@dconc.gov for more information. Please note that all City and County taxes must be current at the time of application.

- The FY2013-2014 Matching Grant Program of the Durham Open Space and Trails Commission application process began on September 3, 2013. The grants are to assist nonprofit organizations in preserving open space lands and promoting new or improved recreational opportunities for citizens. All Durham community nonprofits interested in applying for FY2013-14 Matching Grant funds must submit an application by November 4, 2013. The Matching Grant Program application and FY 2013-14 Program Guidelines are available on the County's website. For additional information, please contact the Matching Grants Administrator, Bo Gattis, in the Budget and Management Services department at 560-0012.

Commissioner Page announced that he attended the Bull City Stand Down held on September 20, 2013. He commended the work of the event organizers, staff and the leadership of Ms. Lois Harvin-Ravin, Veteran Services Director. Commissioner Page stated that the Bull City Stand Down was an excellent opportunity to serve veterans in the Durham community and advocated for future support of these individuals by the County and citizens.

Minutes

Commissioner Jacobs moved, seconded by Commissioner Reckhow, to approve the August 26, 2013 and the September 9, 2013 Regular Session Minutes of the Board.

The motion carried unanimously.

American Cancer Society Presentation

Mr. Eric Heydorn, American Cancer Society Representative, addressed the Board to provide a presentation regarding a cancer prevention study in Durham and Orange counties. Mr. Heydorn stated that the American Cancer Society is conducting a new research study called the Cancer Prevention Study-3 (CPS-3). The study would help researchers better understand the genetic, environmental and lifestyle factors that cause or prevent cancer. Mr. Heydorn said that the Durham/Orange County CPS 3 enrollment would take place September 24-26th and the goal is to enroll 350 participants. He also provided the times and locations for enrollment in the study.

Mr. Heydorn discussed the American Cancer Society's Relay for Life event. He stated Relay for life is an overnight fundraising event held to spread cancer awareness, celebrate the lives of survivors, remember those who lost their lives to cancer and unite the community. He added that the 2013 event was the first after a hiatus of several years and is in need of greater community engagement.

Commissioner Jacobs questioned staff as to whether information regarding the Cancer Prevention Study-3 was posted on the County website. Ms. Michelle Parker-Evans, Clerk to the Board stated that the information could be found on the Durham County Library website. Commissioner Jacobs stressed the need to access the information.

Commissioner Reckhow requested that the study information be forwarded to the Jewish Community Center and Duke Regional Hospital for dissemination.

Commissioner Jacobs requested that all of the pertinent information be included in a press release from the County. She thanked Mr. Heydorn for the presentation and encouraged citizen participation in the study and Relay for Life event.

Consent Agenda

Chairman Foster asked the Commissioners if they desired to pull any items from the Consent agenda.

Commissioners indicated that they did not wish to pull any items from the Consent agenda.

Commissioner Reckhow moved, seconded by Commissioner Page, to approve the consent agenda (items 6a- g):

- a. Approve the Amendment to the Merger Agreement between Alliance Behavioral Healthcare and Cumberland County;
- b. *Approve Budget Ordinance Amendment 14BCC000015 accepting the \$147,796 JAG award to be shared equally with the City of Durham;
- c. Authorize the Manager to execute the contract with Concord Greenberg Durham Hotel, LLC in an amount not to exceed \$400,000.00;
- d. *Approve Budget Ordinance Amendment 14BCC000016 accepting the \$150,000 of City of Durham funds to support the cost and implementation of the MWBE Disparity study;
- e. *Approve Budget Ordinance Amendment No. 14BCC000017 to recognize \$6,893 from the NC Division of Public Health, Nutrition Services Branch for the Environmental Health Division;
- f. *Approve Capital Project Amendment No. 14CPA000005 creating an ongoing capital project (\$615,775) for planned replacement of aged HVAC systems in County buildings. General Fund dollars will fund purchases made before Limited Obligation Bonds are available through an interfund loan of that amount and will be reimbursed/repaid once the loan funds become available;
- g. *Accept the property tax release and refund report for August, 2013 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report.

The motion carried unanimously.

*Document(s) related to this item follow:

Consent Agenda Item No. b.

**DURHAM COUNTY, NORTH CAROLINA
FY 2013-14 Budget Ordinance
Amendment No. 14BCC000015**

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2013-14 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$52,157,539	\$147,796	\$52,305,335

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Public Safety	\$49,902,651	\$147,796	\$50,050,447

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 23rd day of September, 2013.

Consent Agenda Item No. d.

**DURHAM COUNTY, NORTH CAROLINA
FY 2013-14 Budget Ordinance
Amendment No. 14BCC000016**

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2013-14 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$52,305,335	\$150,000	\$52,455,335

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
General Government	\$83,552,677	\$150,000	\$83,702,677

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 23rd day of September, 2013.

Consent Agenda Item No. e.

**DURHAM COUNTY, NORTH CAROLINA
FY 2013-14 Budget Ordinance
Amendment No. 14BCC000017**

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2013-14 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$52,455,335	\$6,893	\$52,462,228

Expenditures:

<u>Function</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Human Services	\$84,609,006	\$6,893	\$84,615,899

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 23rd day of September, 2013.

Consent Agenda Item No. f.

**DURHAM COUNTY, NORTH CAROLINA
 FY 2013-14 Capital Project Ordinance
 Amendment No. 14CPA000005**

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY:

That the FY 2013-14 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects.

Project	Current Budget	Inc./Dec.	Revised Budget
Ongoing HVAC Replacement Project (4190DC076)	\$0	\$615,775	\$615,775

This the 23rd day of September, 2013.

Consent Agenda Item No. g.

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc. the attached report details releases and refunds for the month of August, 2013.

Releases & Refunds for 2013 Taxes	
Real	\$ 6,366.86
Personal	\$266,583.05
Registered Vehicles	\$ 38,097.62
Vehicle Fees	\$ 1,335.00
Solid Waste	\$ 488.00
Total for 2013 Taxes and Fees	\$312,870.53

Prior year's (2005-2012) releases and refunds for August, 2013 are in the amount of \$365,317.36. The current year and prior year's releases and refunds amount to \$678,187.89

Prior year's (2002-2011) releases and refunds for June, 2013 are in the amount of \$6,300.98. The current year and prior year's releases and refunds amount to \$201,996.26.

Public Hearing for the FY14 Rural Operating Assistance Program Grant Application

Ms. Meg Scully, Transportation Program Manager, requested that the Board hold a public hearing on the FY14 Rural Operating Assistance Program (ROAP) Grant and approve submission of the grant application to the NC Department of Transportation. Ms. Scully stated that the Community Transportation Program within Cooperative Extension is applying for the full allocation of the ROAP grant for Durham County in the amount of \$242,649. She provided a brief overview of the individual amounts requested and their intended uses.

Chairman Foster opened the public hearing and recognized citizens who signed up to speak.

As there were no citizens who signed up to speak, Chairman Foster closed the public hearing.

Commissioner Page moved, seconded by Commissioner Reckhow, to approve submission of the FY14 Rural Operating Assistance Program (ROAP) Grant application to the NC Department of Transportation.

The motion carried unanimously.

Allocation of Federal 179D Deduction for Energy Efficient Commercial Building

Ms. Motiryo Keambiroiro, General Services Director, requested that the Board approve allocation of the federal 179D tax deduction to the Architect/Engineering Firm, Sud and Associates, P.A., for their design of the chiller replacement and lighting projects for the Durham County Administrative Complex. Ms. Keambiroiro stated that the deduction is of no value to Durham County Government because the county does not pay federal income tax. She continued saying that the process would not result in any cost to the County. Ms. Keambiroiro concluded that Sud and Associates would bear the cost of determining if the project qualifies and of any analysis and paperwork that would be required to obtain the deduction.

Commissioner Reckhow stated that she did not disagree with approving the request, but it was unsettling that Durham County paid for the infrastructure and would not reap any benefit from the tax deduction. She stated that if the tax deduction remained under the Internal Revenue Code, that in the future, staff should consider the potential tax deduction for the architect/engineering firms when conducting the Request for Proposals (RFP) process.

Commissioner Page moved, seconded by Commissioner Reckhow, to approve allocating the IRC §179D tax deduction to Sud Associates, P.A. for their design of the chiller replacement and lighting for the Durham County Administrative Complex.

The motion carried unanimously.

Board Appointments

Ms. Michelle Parker-Evans, Clerk to the Board, distributed ballots to the Board to make appointments to boards and commissions.

Added Agenda Item—Discussion Regarding Water Quality Testing

While the votes were being tallied, the Board engaged in a discussion regarding baseline water quality testing in advance of “fracking” (hydraulic fracturing).

Commissioner Reckhow stated that she recently became aware that the State of North Carolina declined a research grant that was awarded by the U.S. Environmental Protection Agency. She continued saying that the grant would have provided funding to conduct baseline water quality testing of surface water in advance of “fracking” in water basins south of Durham County. Commissioner Reckhow commented that the testing was recommended in a report issued by the North Carolina Department of Environment and Natural Resources. She then explained the importance of knowing current conditions, so that the impact of “fracking” could be monitored.

Commissioner Reckhow requested that a letter be issued to Governor McCrory, Mr. John Skvarla, III, Secretary of the North Carolina Department of Environment and Natural Resources, and the local legislative delegation indicating concern with the rejection of the grant funds and requesting a reconsideration of the decision to do so.

Commissioner Reckhow moved, seconded by Commissioner Jacobs, to direct the County Manager to issue a letter to the Governor, Secretary of the Department of Environment and Natural Resources and the local legislative delegation indicating concern with the rejection of the grant funds and requesting a reconsideration of the decision to do so.

The motion carried unanimously.

Commissioner Jacobs requested that the appointment to the Industrial Facilities/Pollution Control Authority be postponed due to the length of the appointment and a potential conflict with the *Procedures for Citizen Appointments to Boards, Committees, Commissions and/or Authorities*. Commissioner Jacobs stated that it was unclear whether the eight-year appointment policy should be applied given the years or number of terms served.

Mr. Lowell Siler, County Attorney, clarified the current appointment policy in conjunction with Commissioner Jacobs’ concerns. He suggested that the Board may want to revisit the policy at a later date.

Chairman Foster questioned the fairness of postponing the appointment due to the lengthy term of one applicant when there is another viable applicant. He added that it was not guaranteed that the incumbent would be reappointed.

Commissioner Jacobs reiterated the need to review and clarify the *Procedures for Citizen Appointments to Boards, Committees, Commissions and/or Authorities*. She requested that it be placed on a Worksession agenda, to which Chairman Foster replied in the affirmative.

Referencing the appointments to the Library Board of Trustees, Commissioner Jacobs requested that the Board consider the appointment recommendations submitted by the Board of Trustees.

The Board made the following appointments (incumbents are underlined):

Adult Care Home Community Advisory Committee

Javon Dixon - Foster, Jacobs, Page and Reckhow
Gwendolyn Price - Foster, Jacobs, Page and Reckhow
Martha Simpson - Foster, Jacobs, Page and Reckhow
Jessika Walker - Foster, Jacobs, Page and Reckhow

Boxing and Wrestling Commission

Cecil Brown - Foster, Jacobs, Page and Reckhow
Larry Dixon - Foster, Jacobs, Page and Reckhow

Durham Tourism Development Authority

Monica Edwards - Foster, Jacobs, Page and Reckhow

Industrial Facilities/Pollution Control Financing Authority

Alphonso Gabriel - Foster, Jacobs and Reckhow

Jury Commission

Herman Alston - Jacobs, Page and Reckhow

Juvenile Crime Prevention Council

James Allen (Juvenile Defense Attorney) - Foster, Jacobs, Page and Reckhow

Library Board of Trustees

Tamara Heyward - Jacobs, Page and Reckhow
Shawn Miller - Foster, Jacobs and Reckhow

Chairman Foster announced that due to a tied vote, the remaining two appointments to the Library Board of Trustees would be postponed and brought back before the Board at a later time.

Nursing Home Community Advisory Committee

Lasindra Webb - Foster, Jacobs, Page and Reckhow

Women's Commission

Gloria Clemens Trowers - Foster, Jacobs, Page and Reckhow

Closed Session

Commissioner Reckhow moved, seconded by Commissioner Page, to adjourn to Closed Session pursuant to G.S. 143-318.11(a)(3) to consult with an attorney in order to preserve the attorney-client privilege and to discuss the case in the matter of Geraldine Robinson v. Joe Bowser et al.

The motion carried unanimously.

Reconvene to Open Session

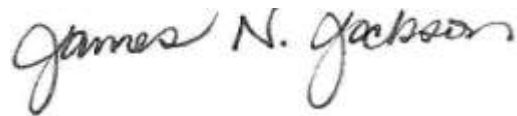
Chairman Foster announced that the Board met in closed session; directives were given to staff; no action was taken.

Adjournment

Commissioner Jacobs moved, seconded by Commissioner Page, to adjourn the regular session meeting.

The motion carried unanimously.

Respectfully Submitted,

A handwritten signature in black ink that reads "James N. Jackson". The signature is written in a cursive style with a large, looping initial "J".

James N. Jackson
Deputy Clerk to the Board