

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

Monday, February 10, 2014

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman Michael D. Page, Vice-Chair Brenda A. Howerton, and Commissioners, Fred Foster, Jr., Wendy Jacobs, and Ellen Reckhow

Absent: None

Presider: Chairman Michael D. Page

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

Agenda Adjustments

There were no adjustments to the agenda.

Announcements

Chairman Page made the following announcements:

- "In Touch with Durham County," the Durham County Television show, airs daily on Cable TV Channel 8 or 97-5 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.
- "Living Healthy," the Durham Diabetes Coalition Television show, airs daily on Cable TV Channel 8 or 97-5 at 7 p.m. Each episode features Durham County resources and residents successfully living with diabetes. This is also an initiative that supports Durham County's strategic goal Health and Well-being for All.
- As Chair of the Board of County Commissioners, I will begin office hours for citizens on Wednesday, January 15th from 2:00 pm to 5:00 pm. Appointments can be made by calling me at 919-949-4022.

With regard to the FY14-15 budget process, Vice-Chair Howerton mentioned that meetings were being scheduled with the Partners against Crime (PAC) groups in each police district. She requested the Board finalize meeting dates, so that citizens could be notified. Chairman Page asked the Interim County Manager and Clerk to the Board to poll the Board to find the best possible dates.

Commissioner Reckhow announced that the Memorial Service for former Durham County Commissioner Rebecca “Becky” Heron would be held on February 15, 2014 at 10:00 a.m. at Duke Chapel. She stated that she discussed with the Clerk to the Board crafting a resolution in Ms. Heron’s memory. Commissioner Jacobs added that immediately following the memorial service, a reception would be held at the Millennium Hotel.

Minutes

Chairman Page announced that minutes would be distributed at the February 24, 2014 Regular Session meeting for approval.

Consent Agenda

Chairman Page stated that consent agenda item “h” was moved to the regular agenda. He asked the Commissioners if they desired to pull any items from the Consent agenda.

Commissioner Reckhow moved, seconded by Commissioner Jacobs, to approve the following consent agenda items (5a, b, c, d, e, f, g, and i):

- a. Approve the membership roster and accept the report of the past year’s activities for the Local Emergency Planning Committee (LEPC);
- b. Approve, and the Chair of the Board sign, the Durham Chapel-Hill Carrboro Metropolitan Planning Organization Memorandum of Understanding for Cooperative, Comprehensive, and Continuing Transportation Planning between the Governor of the State of North Carolina, City of Durham, Town of Chapel Hill, Town of Carrboro, Town of Hillsborough, County of Durham, County of Orange, County of Chatham, Triangle Transit, and the North Carolina Department of Transportation;
- c. Authorize the Chairman to execute the Memorandum of Understanding between the Natural Resources Conservation Service (USDA), Division of Soil and Water Conservation (NCDA), the Durham Soil and Water Conservation District Board (DSWCD) and Durham County Government to define the roles and responsibilities of the parties;
- d. Authorize the County Manager to execute the School of Social Work Agreement negotiated with University of North Carolina at Chapel Hill utilizing the services of the faculty members in the amount not to exceed \$41,650;
- e. *Approve the amendment to the Minority/Women Business Enterprise (M/WBE) Ordinance to extend the County’s M/WBE program expiration date to March 31, 2015;

- f. *Approve Budget Ordinance Amendment No. 14BCC000041 establishing 36 FTEs and appropriate funds as recommended for personnel and equipment in the amount of \$1,050,286 to be funded from a transfer from the Community Health Trust Fund;
- g. Approve the use of a rear wall of the City-County owned Durham Convention Center for a civil rights mural;
- i. Accept the 3-year ambulance franchise renewal request, and schedule the request for a second reading, final approval on February 10, 2014.

The motion carried unanimously.

*Document(s) related to this item follow:

Consent Agenda Item No. e.

ORDINANCE AMENDING THE M/WBE ORDINANCE

WHEREAS, the County of Durham commissioned a study to be performed in certain areas of purchasing and contracting in which the County of Durham is involved; and

WHEREAS, it is the policy of the County of Durham that purchasing by the County and contracts with the County be open to all people and be free of discrimination based on race or gender.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOTH ORDAIN:

1. That Article V of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec 8-142 Effective Date

This article shall continue in effect until 11:59 p.m. on March 31, 2015, at which time it shall be deemed repealed without further action by the County Commissioners. Unless otherwise provided by an ordinance enacted by the County Commissioners or by a contract between the County and the other party of the contract, if a legal action is commenced before the repeal of this article to enforce any contractual provision which incorporates by reference any of this article, the rights of parties with respect to such contractual provision shall, for purposes of the legal action, continue in effect notwithstanding the repeal.

This ordinance shall be effective on ratification.

This the 10th day of February, 2014.

Consent Agenda Item No. f.

DURHAM COUNTY, NORTH CAROLINA
FY 2013-14 Budget Ordinance
Amendment No. 14BCC000041

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>			
Other Financing Sources	\$22,928,888	\$944,914	\$23,873,802

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Public Safety	\$51,284,897	\$944,914	\$52,229,811

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>BENEFITS PLAN FUND</u>			
Other Financing Sources	\$16,566,426	\$105,372	\$16,671,798

Expenditures:

<u>Function</u>			
<u>BENEFITS PLAN FUND</u>			
Public Safety	\$6,359,790	\$105,372	\$6,465,162

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

This the 10th day of February, 2014.

Public Hearing to Consider Allocating Economic Development Investment Funds to Argos Therapeutics

Ms. Marqueta Welton, Deputy County Manager, requested that the Board hold a public hearing to consider allocating \$600,000.00 in economic development investment funds to Argos Therapeutics, (Argos), a private biopharmaceutical company headquartered in Durham. Ms. Welton stated that Argos was engaged in the research, development and commercialization of fully personalized immunotherapies for the treatment of cancer and infectious diseases based on its Arcelis™ technology platform.

Deputy Manager Welton continued saying that Argos was considering a site in Durham to construct a new 116,000sf headquarters, research & development and manufacturing center. She stated that the company was considering the Durham site along with sites in four other North Carolina counties as well as sites in Florida and Quebec Canada. She said that Argos planned to invest approximately \$47.25M in the project and that it would create 236 new jobs by 2018 and retain 90 existing jobs.

Ms. Welton concluded by saying that staff recommended that Durham County participate in this economic development project by providing up to \$600,000.00 in economic development investment funds. She stated that the funds would be furnished over a seven-year period through an economic development incentive fund performance contract.

Chairman Page opened the public hearing.

Ted Conner, Greater Durham Chamber of Commerce, spoke in favor of Durham County providing economic development investment funds to Argos Therapeutics.

As there were no other persons signed up to speak, Chairman Page closed the public hearing.

Commissioner Jacobs expressed excitement regarding the Argos economic development investment funds and the prospect of this type of business expansion in the Durham community. She stated that Durham County had not contributed incentives to a project producing this number of jobs since 2006. Commissioner Jacobs noted the high quality of the jobs to be produced as a result of the business expansion and that they would be linked to local education programs. Commissioner Jacobs concluded by saying that the work of Agros was very important to continue making progress in the treatment of cancer, HIV/AIDS and other health conditions.

Commissioner Reckhow stated that she was pleased with the allocation of economic investment funds for Agros. She reiterated the importance of existing businesses expanding and growing in the Durham community. Referencing the recent Emerging Issues Forum, Commissioner Reckhow commented that biotechnology job sector was forecasted to have the greatest percentage of growth through the year 2021.

Vice-Chair Howerton thanked Argos for their current course of business and for considering expansion within Durham County. She commented that the Argos had been recognized recently in the stock exchange, to which Deputy Manager Welton clarified that the company gave an initial public offering on the stock exchange.

Commissioner Reckhow moved, seconded by Vice-Chair Howerton, to approve the proposed \$600,000.00 incentive for Argos Therapeutics.

The motion carried unanimously.

Public Hearing - Unified Development Ordinance Text Amendment, Density Revisions to Article 6 (TC1200012)

Mr. Michael Stock, Senior Planner, requested that the Board conduct a public hearing and receive public comments on the *Unified Development Ordinance* Text Amendment, Density Revisions to Article 6 (TC1200012); and to adopt an ordinance amending the *Unified Development Ordinance*, incorporating revisions to Article 6, District Intensity Standards. Mr. Stock stated that the text amendment TC1200012 was a request by Horvath Associates to modify certain density standards within Article 6 of the *Unified Development Ordinance* (UDO). He continued saying that the original proposal would have established a new roadway density bonus for the Suburban Tier, similar to the roadway density bonus already established for the Urban Tier.

Mr. Stock stated that at its May 1, 2013 meeting, the Joint City-County Planning Committee discussed the proposed amendment application. He said that staff reviewed the application further and, after discussions with the applicant, came to the conclusion that the proposed modifications were not supportable because they could not guarantee that they could be applied as intended. Mr. Stock continued saying that revisions were suggested by staff, and accepted by the applicant. He summarized the proposed revisions as outlined below:

1. Adjust current density allowances to remove fractions of dwelling units;

2. Modify the existing Residential Suburban-Multifamily (RS-M) Major Roadway Density Bonus to include frontage along service roads;
3. Allow higher densities in the RS-M and RU-M districts, but only with approval by the governing body through rezoning with a development plan;
4. Increase the density in the Residential Compact (RC) District to maintain consistency with proposed higher densities in the RU-M and existing densities in Design Districts; and
5. Allow the use of density bonuses for multifamily development in nonresidential districts in the Suburban and Compact Neighborhood Tiers, consistent with those currently permitted within the Urban Tier.

Commissioner Reckhow expressed concern regarding the density for RS-M increasing from 10.5 to 18, which represented a 70 percent increase. She questioned why the density was increased by this amount. Mr. Stock stated that the Durham County Comprehensive Plan guided the rationale for the increase by ensuring that any density increase would not violate densities allowed within the suburban tier, which was 20 units per acre. He continued saying that the increase in density actually began at 17.5, by reviewing the urban tier densities and using precedents that were present in the UDO. Mr. Stock said that 18 was the result of rounding up from 17.5, which was in line with the Comprehensive Plan and the UDO allowances.

Commissioner Reckhow stated that increasing the RS-M to 18 based upon the RU-M was basis of her concern. She continued saying that an analysis had not been completed regarding the impact on roads, congestion and other services. Mr. Stock responded that a mandate was included requiring that approval be made through a governing body with a development plan. He said that the impacts would be reviewed through the rezoning and public hearing processes. Commissioner Reckhow stated that what remained an issue was when developers requested rezoning; they did so using the maximum dictated in the ordinance. She stated that it would be appropriate to conduct an analysis of how the 18 units per acres would work across a “wide spectrum” of the suburban tier, sans a major thoroughfare.

Commissioner Jacobs stated that she shared Commissioner Reckhow’s concerns. She questioned if a valuation had been conducted of properties that the text amendment might affect. Mr. Stock responded that there were a “wide range” of properties potentially affected; therefore the text amendment was not “by right” and required legislative approval. Mr. Stock also said that the PDR was available within the ordinance to allow applicants to set their own density. With regard to policy, Commissioner Jacobs stated that policies were being used to encourage density in areas certain areas and according to future transit plans. She questioned if the text amendment would negate those policies. Mr. Stock stated that the densities requested in the text amendment were reviewed against the policies in question and the Comprehensive Plan, but were within the stipulated guidelines.

Commissioner Jacobs asked how the impact would be assessed on service roads. Mr. Stock responded that the service road application was for the density bonus currently allowed in the ordinance, which was only one unit per acre. He stated that the density bonus was currently allowed along thoroughfares that were not considered limited or controlled access. He noted that a qualifier was added to the text amendment for service roads that would dictate how development would function in relation to said service roads.

Vice-Chair Howerton thanked staff for their hard work on this project.

Chairman Page opened the public hearing.

Ron Horvath, Horvath Associates, spoke in favor of the UDO text amendment density revisions. Mr. Horvath discussed the necessity of the density revisions to project development. He also reiterated that developers would still need legislative approval and feedback via the rezoning and public hearing processes.

Commissioner Reckhow and Mr. Horvath discussed the suburban tier and the physical limitations for buildings over three stories, given 18 units an acre requested in the text amendment.

As there were no other persons signed up to speak, Chairman Page closed the public hearing.

Vice Chair Howerton moved, seconded by Commissioner Reckhow, to approve Unified Development Ordinance Text Amendment, Density Revisions to Article 6 (TC1200012).

The motion passed 4-1 with the following vote:

Ayes: Foster, Howerton, Page and Reckhow
Noes: Jacobs

Fire Study Recommendations

Mr. Lee Worsley, Interim County Manager, introduced the agenda item stating that the Board received recommendations on the Fire Study during the BOCC Worksession meeting on February 3, 2014. He said that the recommendations from the Fire Study were being presented to the Board for formal consideration and adoption.

Interim County Manager Worsley stated that the Fire Study had been conducted over the past year and was a collaborative effort between Durham County Government and the Fire Chiefs of the Bahama, Bethesda, Lebanon, Parkwood and Redwood Fire Departments. He continued saying that following the February 3rd Worksession, that there were additional concerns expressed regarding the recommendations. Therefore, a meeting was held with the Fire Chiefs to discuss some of the recommendations that were brought before the Board. Mr. Worsley reviewed modifications to the following recommendations:

- Recommendation 8
- Recommendation 52
- Recommendations 58 and 59
- Recommendations 60 and 61
- Recommendation 67

Mr. Worsley requested that the Board adopt: recommendations 1-7, modified recommendation 8, recommendations 9-51, modified recommendation 52, recommendations 53-57, modified recommendations 60 and 61, recommendations 62-66 and recommendations 68-76.

Commissioner Reckhow commented that the Board received a great deal of citizen feedback and thanked Interim County Manager Worsley for conducting the meeting with the Fire Chiefs. She stated that she hoped the recommendations were now responsive to all the concerns expressed, but allowed the County to move forward with issues that were time sensitive.

Interim County Manager Worsley added that he also committed to begin arranging meetings with the Fire Chiefs and the Board of Directors of each station to review the approved recommendations and discuss next steps.

Commissioner Jacobs thanked Mr. Worsley for the modified recommendations and thanked fire station staff and citizens for attending tonight's meeting. She stated that their feedback showed support for the fire stations and the Durham community. Commissioner Jacobs stressed the importance of working together to have the best fire service and serve the citizens of Durham County.

Vice-Chair Howerton also thanked Mr. Worsley for his work on the Fire Study. She questioned the audience if they understood the modifications made to the recommendations and encouraged them to share their feedback with the Board.

Referencing the feasibility study conducted by Once Solutions for Local Governments, Commissioner Foster questioned Mr. Worsley's modifications to the company's recommendations. He also questioned the need for an additional study to be conducted. Interim Manager Worsley stated that the issue in question was complex and although the company did a good job with the initial study, that new information warranted modifications to the recommendations. With regard to the feasibility study, Mr. Worsley stated that the consultants recommended that Durham County begin negotiations with the City of Durham to assume service of the fire stations involved. He continued saying that it was his belief that the negotiations needed to include the stakeholders involved. Mr. Worsley advised the Board that the initial study did not include the cost of assuming the fire service, residential and commercial insurance impacts and the impact on mutual aid.

Commissioner Foster asked why the aforementioned issues were not included in the initial study given their impact on the approval of the recommendations. Mr. Worsley stated that the amount paid to the consultants was not inclusive of the kind of detailed analysis that needed to be conducted. He then noted that the consultant's recommendation to begin negotiations with the City of Durham was prudent based upon the information available. Commissioner Foster inquired who would be contracted to conduct the comprehensive study, to which Mr. Worsley said that staff would be responsible.

Referencing recommendation 60, Commissioner Reckhow clarified that there were a number of issues that needed to be reviewed with a narrower or more detailed approach than the initial assessments. Interim Manager Worsley stated that there were issues specific to each fire station that were not in the scope of the initial study. Commissioner Foster asked why recommendation 67 would not be implemented. Mr. Worsley responded that the recommendation was withheld to allow for further discussion of board composition involving employees.

Chairman Page discussed his recent visit to the Redwood Fire Department. He said that the visit was informative and encouraged the Board to visit the area fire stations to witness the great work that they were doing.

Chairman Page opened the public hearing.

Chief Len Needham, Bahama Volunteer Fire Department, spoke in favor of the Fire Study recommendations as presented to the Board. Chief Needham reiterated that the fire service in Durham County was one entity that worked to serve citizens. He thanked the Board for their continued support and invited them and staff to visit the fire stations.

As there were no other persons signed up to speak, Chairman Page closed the public hearing.

Commissioner Reckhow moved, seconded by Vice-Chair Howerton, to approve the Fire Study recommendations as amended by the Interim County Manager.

The motion carried unanimously.

Interim County Manager Worsley recognized Mr. Mark Schell, Acting Fire Marshall/Emergency Management Director. He thanked Mr. Schell and other staff members for supporting the work regarding the Fire Study recommendations.

Closed Session

Commissioner Jacobs moved, seconded by Vice-Chair Howerton, to adjourn into closed session to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee, pursuant to G.S. § 143-318.11(a)(6).

The motion carried unanimously.

Reconvene to Open Session

Chairman Page announced that the Board met in closed session.

Commissioner Foster moved, seconded by Vice-Chair Howerton, to appoint Wendell M. Davis as the County Manager of Durham County, North Carolina effective April 14, 2014 at a salary of \$198,800; and to approve the employment contract.

The motion passed 4-1 with the following vote:

Ayes: Foster, Howerton, Page and Reckhow

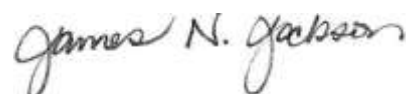
Noes: Jacobs

Adjournment

Vice-Chair Howerton moved, seconded by Commissioner Jacobs, to adjourn the Regular Session meeting.

The motion carried unanimously.

Respectfully Submitted,



James N. Jackson
Deputy Clerk to the Board