

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

Monday, December 6, 2010

9:00 A.M. Work session

**MINUTES**

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

Present: Vice-Chairman Ellen W. Reckhow and Commissioners Becky M. Heron,  
Joe W. Bowser and Brenda A. Howerton

Absent: Commissioner Michael D. Page

Presider: County Attorney Lowell Siler and Commissioner Reckhow

**Election of Chairman and Vice Chairman of the Board of County Commissioners**

County Attorney Lowell Siler presided over the election of the Board's Chairman.

Commissioner Reckhow moved, seconded by Commissioner Heron to nominate Commissioner Michael D. Page as Chairman of the Board of County Commissioners.

The motion carried with the following vote:

Ayes: Heron and Reckhow  
Noes: Bowser and Howerton  
Absent: Page

The motion failed.

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Commissioner Howerton moved, seconded by Commissioner Bowser to nominate Commissioner Bowser as Chairman of the Board of County Commissioners.

The motion carried with the following vote:

Ayes: Bowser and Howerton  
Noes: Heron and Reckhow  
Absent: Page

The motion failed.

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Commissioner Reckhow moved, seconded by Commissioner Heron to defer the election of Chairman until the December 13 Regular Session.

**The motion carried with the following vote:**

**Ayes: Heron, Howerton and Reckhow**

**Noes: Bowser**

**Absent: Page**

The Board held a discussion regarding the importance of deferring the item until a full board is present.

County Attorney Siler and the Board discussed the North Carolina General Statute pertaining to the matter. He continued the election process, asking for nominations for Vice Chairman.

Commissioner Reckhow moved, seconded by Commissioner Heron to defer the election of Vice Chairman until the December 13 Regular Session.

A discussion was held regarding the motion.

**Ayes: Heron, and Reckhow**

**Noes: Bowser and Howerton**

**Absent: Page**

The motion failed.

Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of the Board of County Commissioners.

**Ayes: Bowser and Howerton**

**Noes: Heron, and Reckhow**

**Absent: Page**

The motion failed.

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Commissioner Reckhow moved, seconded by Commissioner Heron to defer the election of Vice Chairman until the December 13 Regular Session.

A discussion was held regarding the motion.

Ayes: Heron and Reckhow  
Noes: Bowser and Howerton  
Absent: Page

The motion failed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December 13 Regular Session.

Ayes: Heron and Reckhow  
Noes: Bowser and Howerton  
Absent: Page

The motion failed.

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Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of the Board of County Commissioners.

Ayes: Bowser and Howerton  
Noes: Heron and Reckhow  
Absent: Page

The motion failed.

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Commissioner Reckhow moved, seconded by Commissioner Heron to defer the election of vice chairman until the December 13 Regular Session.

A discussion was held regarding the motion.

Ayes: Heron and Reckhow  
Noes: Bowser and Howerton  
Absent: Page

The motion failed.

Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of the Board of County Commissioners.

Ayes: Bowser and Howerton  
Noes: Heron and Reckhow  
Absent: Page

The motion failed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December 13 Regular Session.

Ayes: Heron and Reckhow  
Noes: Bowser and Howerton  
Absent: Page

The motion failed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December 13 Regular Session.

Ayes: Heron and Reckhow  
Noes: Bowser and Howerton  
Absent: Page

The motion failed.

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Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of the Board of County Commissioners.

A discussion was held regarding the importance of having a full Board present to make the decision of Vice Chairman.

Ayes: Bowser and Howerton  
Noes: Heron and Reckhow  
Absent: Page

The motion failed.

Commissioner Bowser moved, seconded by Commissioner Reckhow to recess for 10 minutes.

County Attorney Siler reminded the Board that discussions held between the majority of the Board, regarding the matter, is not permitted during recess.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow

Noes: None

Absent: Page

### **Reconvene from Recess**

Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of the Board of County Commissioners.

Ayes: Bowser and Howerton

Noes: Heron and Reckhow

Absent: Page

The motion failed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to amend the order of the items on agenda, suspend any further discussions regarding the election of officers, continue to entertain the following matters, and bring the election of Vice Chairman up at the conclusion of the meeting.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow

Noes: None

Absent: Page

County Attorney Siler requested that the previous vote be reconsidered

A discussion was held regarding who would preside over the remaining items.

Commissioner Bowser moved, seconded by Commissioner Reckhow to align the agenda as stated.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow  
Noes: None  
Absent: Page

Commissioner Bowser moved, seconded by Commissioner Heron to select Commissioner Reckhow as acting Chair to handle the remaining agenda items.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow  
Noes: None  
Absent: Page

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Commissioner Bowser moved, seconded by Chairman Reckhow to realign the agenda.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow  
Noes: None  
Absent: Page

### **Approval of Public Official Bonds**

The Board of Commissioners is required to approve the bonds of public officials on the first Monday of December of each year. Following approval, the bonds would be recorded in the Register of Deeds Office and then sent to the Clerk of Superior Court for safekeeping.

Commissioner Howerton moved, seconded by Commissioner Bowser to approve the bonds as they meet the statutory requirements.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow  
Noes: None  
Absent: Page

NORTH CAROLINA

DURHAM COUNTY

CERTIFICATE

As Chairman of the Board of County Commissioners of Durham County, North Carolina, this is to certify that on Monday, December 6, 2010, the following Public Official Bonds were approved by the Board of County Commissioners of Durham County; the Public Official, the amount of bond, and the bond number with the name of the surety were set forth:

PUB POSITION	OFFICIAL BOND	LICAMOUNT OF SURETY	BOND#
Financial Officer	George Quick	\$250,000 Hartford	20BSBAY8705
Tax Collector	Kimberly H. Simpson	\$250,000 Hartford	20BSBEY6989
Sheriff	Worth Hill	\$25,000 Hartford	20BSBBY9698
Register of Deeds	Willie L. Covington	\$50,000 Hartford	20BSBBT7709

Each bond is executed under seal in the name of the surety by an agent or attorney in fact. The clerk of the Durham County Board of Commissioners has been instructed to record each of the bonds enumerated herein with the power of attorney attached thereto in the office of the Register of Deeds of Durham County, together with a copy of this Certificate attached to each bond. After said bonds have been duly recorded in the Office of the Register of Deeds, the original of bond together with the power of attorney and a copy of the Certificate shall be deposited with the Clerk of Superior Court of Durham County.

Michael D. Page  
Chairman, Board of County Commissioners

Sworn to and subscribed before me this  
The 6<sup>th</sup> day of December, 2010

Angela M. McIver  
NOTARY PUBLIC  
My Commission expires: March 26, 2011

**Citizen Comments**

The Board of County Commissioners provided a 30-minute comment period at the beginning of its Work Session meeting on the first Monday of each month. Any citizen of Durham County wishing to speak shall have an opportunity to do so. The Board may direct staff to research and reply to the concerns, if appropriate. Speakers must sign in prior to the start of the meeting providing a mail/email address and telephone number so that staff may reply to comments and/or questions. Citizens who request an immediate response from the Board are encouraged to submit a brief description of the issue to the Clerk to the Board two weeks prior to the Work Session to allow an opportunity for research prior to the meeting. All speakers shall have

three minutes to speak and are requested to refrain from addressing issues related to personnel matters.

As no one signed up to speak, the Board continued with the agenda.

### NC 54/I-40 Corridor Study

Leta Huntsinger, City of Durham/DCHC MPO, introduced this item stating that in June 2009, the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) initiated a study of the NC 54/I-40 corridor between Durham and Chapel Hill. Funding for the study was through 80% Federal funding and 20% local funding. The City of Durham, Durham County, and the Town of Chapel Hill funded the 20% local share. The purpose of the study was to analyze land use and transportation issues, evaluate opportunities and challenges for future development in the corridor, and recommend short and long-range solutions and strategies.

Ms. Huntsinger highlighted the study process that includes (1) data collection and analysis; (2) development and analysis of multi-modal transportation and land use scenarios; and (3) development of a final transportation-land use master plan for the corridor. The study effort was guided by a technical steering committee and public input via focus groups and three public workshops.

Ms. Huntsinger outlined the following:

- Participants
- Background
- Study Objectives & Process
- Public Involvement
- Recommendations
  - Roadway
  - Land Use
- Public/Committee Comments
- Next Steps

Ms. Huntsinger responded to the following:

- How does this study compare to the previous study?
- Have issues surrounding the lack of notification been addressed?
- Cost concerns
- Has there been consideration regarding wetlands?
- What percentage of people park at the Friday Center that reside in Durham County?
- Is there a recommendation to build park and ride facilities and where would the facilities be located?
- The rationale for the transit line
- Focus on Duke University and North Carolina Central University
- Concerns that citizens cannot relate to the plan
- The importance of safety for those that ride bikes and pedestrian walkways



- Possible advantages of widening Highway 54
- Concerns about road improvements
- Concerns regarding the number of people working at Duke University from Chapel Hill

#### Directives

1. Submit to the Board the comprehensive data from University of North Carolina at Chapel Hill.
2. Review modifications for street designs and review other alternatives.
3. Review the analysis process to determine what additional stations are being considered.

The Board thanked Ms. Huntsinger for her presentation.

#### Code of Ethics

Kathy Everett-Perry, Assistant County Attorney, presented this item. She stated that the North Carolina General Assembly approved an Ethics Law effective August 2009 that required all cities, counties, local boards of education, unified governments, Sanitary districts, and consolidated City/Counties to adopt a code of ethics for the governing board and to require the members of those governing boards to receive education on ethics laws applicable to local government officials. The law specifies that "the board of commissioners shall adopt a resolution or policy containing a code of ethics, as required by G.S. 160A-83."

The Board of County Commissioners received two hours of required Ethics training on April 15, 2010. The required education certification is on file in the Clerk's Office.

Ms. Everett-Perry informed the Board that the resolution or policy containing a code of ethics that is required by G.S. 160A-83 shall be adopted by each municipality, county, local board of education, unified government, sanitary district, and consolidated City/County on or before January 1, 2011.

Ms. Everett-Perry clarified how the draft policy differs from the current policy, per Commissioner Reckhow's request.

#### Directives

1. Make necessary changes as directed by the Board.
2. Provide clarification on the disciplinary measures.
3. Place the revised draft on the December 13 Regular Session.

#### Continuation of the election of Vice Chairman of Board of County Commissioners

Commissioner Bowser moved, seconded by Commissioner Howerton to nominate Commissioner Howerton as Vice Chairman.

Ayes: Bowser and Howerton

Noes:HeronandReckhow  
Absent:Page

Themotionfailed.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron to defer the nomination of Vice Chairman until the December13RegularSession.

Ayes:BowserandHowerton  
Noes:HeronandReckhow  
Absent:Page

Themotionfailed.

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Commissioner Heron made a motion to nominate Commissioner Reckhow as Vice Chairman.

Themotionfailedduetoalackofsecond.

TheBoardmadeseveralcommentsaboutthenominationsofChairmanandViceChairman.

Commissioner Bowser inquired about past elections regarding Board of County Commissioners officers being elected with a full Board.

Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December13RegularSession.

Ayes:HeronandReckhow  
Noes:BowserandHowerton  
Absent:Page

Themotionfailed.

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Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of Board of County Commissioners.

Ayes:BowserandHowerton  
Noes:HeronandReckhow  
Absent:Page

The motion failed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December 13 Regular Session.

Ayes: Heron and Reckhow  
Noes: Bowser and Howerton  
Absent: Page

The motion failed.

Commissioner Reckhow moved, seconded by Commissioner Heron to adjourn the meeting.

County Attorney Siler addressed Commissioner Reckhow's motion citing that based on the North Carolina School of Government, that the meeting cannot be adjourned unless a Vice Chairman has been selected or a decision is made to defer the item.

Commissioner Heron moved, seconded by Commissioner Reckhow to continue the meeting until December 13.

Ayes: Heron and Reckhow  
Noes: Bowser and Howerton  
Absent: Page

The motion failed.

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Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of Board of County Commissioners.

Ayes: Bowser and Howerton  
Noes: Heron and Reckhow  
Absent: Page

The motion failed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December 13 Regular Session.

Ayes:HeronandReckhow  
Noes:BowserandHowerton  
Absent:Page

Themotionfailed.

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Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of Board of County Commissioners.

Ayes:BowserandHowerton  
Noes:HeronandReckhow  
Absent:Page

Themotionfailed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December 13 Regular Session.

Ayes:BowserandHowerton  
Noes:HeronandReckhow  
Absent:Page

Themotionfailed.

### **RecessforLunch**

Commissioner Reckhow moved to recess for lunch until 11:00 p.m.

Commissioner Bowser offered as substitute motion to recess for lunch until 12:45 p.m. The motion died for lack of second.

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Commissioner Reckhow moved, seconded by Commissioner Heron to recess for lunch until 1:00 p.m.

The motion carried with following vote:

Ayes:Heron,Howerton,andReckhow  
Noes:Bowser  
Absent:Page

**Reconvene from Lunch**

Per Commissioner Bowser request, County Attorney Si ller passed out a response from the Attorney General's Office regarding election procedures for the Chair and Vice Chairman. He stated that the response received was not beneficial. He provided his legal opinion regarding the response.

Wendell Davis, Deputy County Manager, briefly spoke to the Commissioners about a reply received from Halifax County regarding the issue.

Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December 13 Regular Session.

Ayes: Bowser and Howerton  
Noes: Heron and Reckhow  
Absent: Page

The motion failed.

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Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of Board of County Commissioners.

Ayes: Bowser and Howerton  
Noes: Heron and Reckhow  
Absent: Page

The motion failed.

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Commissioner Reckhow moved, seconded by Commissioner Heron to adjourn the meeting.

Ayes: Heron and Reckhow  
Noes: Bowser and Howerton  
Absent: Page

The motion failed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December 13 Regular Session.

Ayes:HeronandReckhow  
Noes:BowserandHowerton  
Absent:Page

Themotionfailed.

Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of BoardofCountyCommissioners.

Ayes:BowserandHowerton  
Noes:HeronandReckhow  
Absent:Page

Themotionfailed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December13RegularSession.

Ayes:HeronandReckhow  
Noes:BowserandHowerton  
Absent:Page

Themotionfailed.

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Commissioner Heron moved, seconded by Commissioner Reckhow to continue the election of Vice Chairman until the December13RegularSession.

Ayes:HeronandReckhow  
Noes:BowserandHowerton  
Absent:Page

Themotionfailed.

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Commissioner Bowser moved, seconded by Commissioner Howerton to elect Commissioner Howerton as Vice Chairman of BoardofCountyCommissioners.

Ayes:BowserandHowerton  
Noes:HeronandReckhow

Absent:Page

Themotionfailed.

Commissioner Heron moved, seconded by Commissioner Reckhow to continue the meeting until the December 13 Regular Session and excuse the County Attorney to handle family matters.

The Board held a discussion regarding the motion.

Ayes:HeronandReckhow

Noes:BowserandHowerton

Absent:Page

Themotionfailed.

Commissioner Howerton moved, seconded by Commissioner Heron to continue the consideration of Vice Chairman until the December 13 Regular Session.

Themotioncarriedwiththefollowingvote:

Ayes:Bowser,Heron,Howerton,andReckhow

Noes:None

Absent:Page

### **Adjournment**

There being no further business, County Attorney Siyer adjourned the meeting at 2:35 p.m.

Respectfully submitted,

Angela M. Pinnix  
Administrative Assistant  
Clerk to the Board