

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

Monday, August 27, 2012

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 Michael D. Page, Vice-Chairman Ellen W. Reckhow, and Commissioners Brenda A. Howerton and Pam Karriker

Absent: None

Presider: Chairman Michael D. Page

Opening of Regular Session—Pledge of Allegiance

Announcements

Chairman Page made the following announcements:

- “In Touch with Durham County,” the Durham County Television show, airs on Cable TV Channel 8 at 8:30 a.m. and 12 noon daily, 4:00 p.m. on Mondays, and 6:30 p.m. Tuesday – Sundays. 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 has a number of boards and commissions that could benefit from citizen participation. Contact the Clerk’s Office at 919-560-0025, visit the County’s website, or email Clerk@durhamcountync.gov for more information. All City and County taxes must be current at the time of application;
- Durham County Library to remember the historic “1963 March on Washington” with a special discussion on Tuesday, August 28, at 7:00 p.m. The program would be held at the Main library, 300 N. Roxboro Street. Mandy Carter of the Bayard Rustin Centennial Project and Barbara Lau of the Pauli Murray Project would lead the free event;
- The FY2012-2013 Matching Grant Program of the Durham Open Space and Trails Commission application process began on August 20, 2012. 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 FY2012-13 Matching Grant funds must submit an application by September 14, 2012. The Matching Grant Program application and FY 2012-13 Program Guidelines would be available on the County’s website through September 14, 2012. For additional information, citizens should contact the Matching Grants Administrator, Bo Gattis, in the Budget and Management Services department at (919) 560-0012; and
- Durham Reads Together 2012 to feature the Judge Deborah Knott mystery series by North Carolina bestselling author, Margaret Maron. The books explore the culture, history, and challenges of the state, while simultaneously spinning a gripping tale about a

young lawyer, the daughter of a former notorious bootlegger, who becomes a judge in a North Carolina county not far from Durham. The kickoff event would be on September 9 at 3:00 p.m. at the Main Library.

Minutes

Commissioner Howerton moved, seconded by Vice-Chairman Reckhow, August 6, 2012 Worksession and August 13, 2012 Regular Session Minutes of the Board.

The motion carried unanimously.

Durham County Government Wins National County Government Month Award

The Board was requested to congratulate Durham County's Public Information Office for winning a 2012 National County Government Month (NCGM) Award, which was presented by the National Association of Counties at the annual conference held in Alleghany County, Pennsylvania in early July. The recognition highlighted the Durham County Health and Wellness Education Fair featuring a flash mob held on April 18, 2012.

Deborah Craig-Ray, Assistant County Manager, and Dawn Dudley, Public Information Specialist, extended thanks to the Board for the recognition and elaborated on the award-winning program.

Chairman Page highlighted the award by reading its plaque inscription to the public.

Commissioner Howerton congratulated Ms. Craig-Ray and Ms. Dudley for receiving the award.

Ms. Craig-Ray and Ms. Dudley accepted the award from Chairman Page.

Recognize Durham County EMS 2012 Recipient of the Vic Pearson Memorial Award

Chairman Page wished to recognize Rick Johnson, Paramedic, Durham County EMS, as the recipient of the *2012 Vic Pearson EMS Memorial Award*; however, Mr. Johnson was not in attendance as he was on duty. Mr. Johnson was recently recognized at the annual EMS Week celebration in May for his clinical competency and compassion to those he responds to and treats within the Durham community who suffer from sudden illness or trauma. The Board will recognize Mr. Johnson at the next regular session.

Consent Agenda

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

- *a. Accept the property tax release and refund report for July, 2012 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report;
- b. Accept the gift of three pieces of art by Marjorie Pierson to Durham County Library;
- *c. Approve Budget Ordinance Amendment No. 13BCC000009 to amend the budget as indicated to increase the Durham Cooperative Extension budget by \$2,000;
- e. Authorize the County Manager to execute the Utility Contracts for these additions to the County sanitary sewer system;
- *f. Approve Budget Ordinance Amendment No. 13BCC000011 in the amount of \$24,000 from the Community Transformation Grant Project;
- g. Approve the elimination of a .8 Public Health Nurse II FTE and creation of 1 Social Worker II FTE, for a net FTE increase of .2 in the Pregnancy Care Management Program;
- *h. Approve Capital Project Amendment No. 13CPA000003 appropriating \$4,419,000 of installment purchase financing funds to the Utility Performance Contract capital project;
- *i. Approve the Resolution approving the installment financing contract with SunTrust Equipment Finance & Leasing Corp., subject to changes by the County Attorney, and authorize the execution and delivery of the document in connection therewith; and
- *j. Appoint positions to the Criminal Justice Advisory Committee.

The motion carried unanimously.

*Document(s) related to this item follow:

Consent Agenda Item No. a. Accept the property tax release and refund report for July, 2012 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report.

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc. the report details releases and refunds for the month of July, 2012.

Releases & Refunds for 2012 Taxes	
Real Estate	\$ 50,676.54
Personal	\$127,458.40
Registered Vehicles	\$ 38,062.69
Vehicle Fees	\$ 1,795.00
Solid Waste	<u>\$ 420.00</u>
Total for 2012 Taxes and Fees	\$ 218,412.63

Prior year's (2002-2011) releases and refunds for July 2012 are in the amount of \$59,917.87. The current year and prior year's releases and refunds amount to \$278,330.50.

(Recorded in Appendix A in the Permanent Supplement of the August 27, 2012 Regular Session Minutes of the Board.)

Consent Agenda Item No. c. Approve Budget Ordinance Amendment No. 13BCC000009 to amend the budget as indicated to increase the Durham Cooperative Extension budget by \$2,000.

DURHAM COUNTY, NORTH CAROLINA
FY 2012-13 Budget Ordinance
Amendment No. 13BCC000009

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2012-13 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	\$47,361,165	\$2,000	\$47,363,165

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$4,079,717	\$2,000	\$4,081,717

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

This the 27th day of August, 2012.

Consent Agenda Item No. f. Approve Budget Ordinance Amendment No. 13BCC000011 in the amount of \$24,000 from the Community Transformation Grant Project.

DURHAM COUNTY, NORTH CAROLINA
FY 2012-13 Budget Ordinance
Amendment No. 13BCC000011

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2012-13 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 \$47,420,589 \$24,000 \$47,444,589

Expenditures:

Function
GENERAL FUND
 Human Services \$80,278,634 \$24,000 \$80,302,634

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

This the 27th day of August, 2012.

Consent Agenda Item No. h. Approve Capital Project Amendment No. 13CPA000003 appropriating \$4,419,000 of installment purchase financing funds to the Utility Performance Contract capital project.

DURHAM COUNTY, NORTH CAROLINA
 FY 2010-11 Capital Project Ordinance
 Amendment No. 13CPA000003

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2012-13 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects:

<i>Project</i>	<i>Current Budget</i>	<i>Inc./Dec.</i>	<i>Revised Budget</i>
Utility Performance Contract Project (473DC134)	\$130,000	\$4,419,000	\$4,549,000

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

This the 27th day of August, 2012.

Consent Agenda Item No. i. Approve the Resolution approving the installment financing contract with SunTrust Equipment Finance & Leasing Corp., subject to changes by the County Attorney, and authorize the execution and delivery of the document in connection therewith.

RESOLUTION APPROVING AN INSTALLMENT CONTRACT AUTHORIZED BY
 SECTION 160A-20 OF THE NORTH CAROLINA GENERAL STATUTES AND
 AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS IN CONNECTION
 THEREWITH.

WHEREAS, the Board of Commissioners for the County of Durham, North Carolina (the "County") duly conducted a public hearing on August 13, 2012 regarding a proposed installment contract to finance the installation of certain energy and water conservation measures in certain

facilities owned by the County so as to reduce energy and water consumption and/or energy-related operating costs; and

WHEREAS, there have been available at this meeting, drafts of the forms of the following documents (collectively, the “Financing Documents”):

1. Master Lease Agreement to be dated September 18, 2012, together with the exhibits thereto (the “Lease”), between the County and SunTrust Equipment Finance & Leasing Corp. (the “Bank”); and 3134710v1 13939.00040
2. Escrow Agreement to be dated September 18, 2012 among the County, the Bank and SunTrust Bank, as escrow agent; and

WHEREAS, the Board of Commissioners for the County (the “Board of Commissioners”) desires to approve the Financing Documents and to authorize other actions in connection therewith;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners as follows:

1. The Financing Documents, in the respective forms submitted to this meeting, are hereby approved and the County Manager, the Finance Director and the Clerk to the Board of Commissioners are each hereby authorized and directed to execute and deliver each of the Financing Documents, on behalf of the County, with such changes, insertions or omissions as each may approve, the execution thereof by any of them to constitute conclusive evidence of such approval, provided that the amount advanced under the Lease shall not exceed \$4,600,000, the term of the Lease shall not exceed 16 years (15 year amortization after an implementation period of twelve (12) months) and the interest rate on the amounts advanced under the Lease shall not exceed 2.285%.
2. The County Manager, the Finance Director, the Clerk to the Board of Commissioners, the County Attorney and other officers of the County are each hereby authorized to take any and all such further action and to execute and deliver such other documents as may be necessary or advisable to carry out the intent of this resolution and to effectuate the installment financing pursuant to the Lease.
3. All actions of the County and its officers heretofore taken to effectuate the proposed financing are hereby approved, ratified and confirmed.
4. This resolution shall become effective immediately upon its passage.

Consent Agenda Item No. j. Appoint positions to the Criminal Justice Advisory Committee.

James E. Hardin Jr.—Superior Court Judge
Marcia H. Morey—District Court Judge or Designee
Leon Stanback—District Attorney or Designee
Loretta Clyburn – Police Chief or Designee

Dianne Smith – Treatment Accountability for Safer Communities (TASC)
Coordinator/Director
Lee Worsley—County Manager or Designee

Public Hearing—Alexander Park Development, A1100008

Aaron Cain, AICP, Durham City-County Planning Supervisor, requested that the Board conduct a public hearing and receive public comments on a plan amendment for the Alexander Park Development and to approve the requested change to the **land** use designation on the Future **Land** Use Map of the *Durham Comprehensive Plan* from Industrial to Low-Medium Density Residential (4-8 DU/Ac.).

Vice-Chairman Reckhow commended Steven L. Medlin, AICP, City-County Planning Director, and his staff for their thorough staff report.

Chairman Page opened the public hearing that was properly advertised and called signed speakers forward for comments

The follow citizens spoke in favor of the development plan:

Patrick Byker, representing Alexander Industrial Park Associates, LLC, 2614 Stuart Drive, Durham 27707

Lewis Cheek, representing the applicant, 5500 Old Brandt Trace, Greensboro 27455

Tommy Drake, representing Catfish Farms, LLC, 208 Smallwood Drive, Morrisville 27560

Johnnie Bethea, representing Henderson Grove Baptist Church, 3006 Scuppernong Lane, Durham 27703

William Oakley, 2820 Page Road, Morrisville 27560, spoke in opposition of the plan.

Per Commissioners' requests, Mr. Cain and Mr. Medlin addressed the following points raised during Mr. Oakley's comment period:

- Determination and validation of wetlands on site
- Submission of a sedimentation and erosion control plan with the plan amendment

Chairman Page closed the public hearing and referred the matter back to the Board.

Chairman Page spoke in favor of the item; however, he expressed apprehension for moving the item forward due to Mr. Oakley's comments. He asked Mr. Medlin to ensure that the concerns would be taken into consideration during the site plan process.

Mr. Medlin reminded the Board of the Unified Development Ordinance performance and regulatory standards of which would protect the county's natural inventory and environmentally sensitive sites.

Vice-Chairman Reckhow reiterated that the Board was requested to approve a land use plan amendment and that a rezoning request must be made prior to any construction. She opined that

a change in land use from industrial to residential would be ideal considering the concerns raised by Mr. Oakley.

Commissioner Howerton inquired about the process if any of Mr. Oakley's concerns were to materialize.

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, to approve the requested change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Industrial to Low-Medium Density Residential (4-8 DU/Ac.)

The motion carried unanimously.

Public Hearing—Consider Allocation of Economic Development Investment Funds to Sentinel Data Centers

Marqueta Welton, Deputy County Manager, requested that the Board hold a public hearing to consider allocating economic development investment funds to Sentinel Data Centers, a wholesale data center. She provided background information on Sentinel Data Centers and its plan to develop a 300,000-square foot, tier three plus data center in three generally equal phases of 100,000 square feet each over a three-year period. The company would spend approximately \$174,000,000 on capitalized building costs, machinery, and equipment through 2015. In addition, the project would bring approximately 19 new fulltime jobs. If Sentinel selects Durham County for its location, the project would mean a \$174 million investment in our local economy.

Staff recommended that the County participate in the economic development project by providing up to \$800,000.00 for the project for the capital investment. Funds would be furnished over a six-year period through and economic development incentive fund performance contract.

Josh Rabina, Co-President of Sentinel Data Centers, provided a description of the project and addressed questions posed by the Board.

Chairman Page opened the public hearing, which was advertised on Friday, August 17, 2012 as required by law. He called the following citizens forward for comments:

Casey Steinbacher, President and CEO, Durham Chamber of Commerce, 300 W. Morgan Street, Durham 27701

Ted Conner, representing Durham Chamber of Commerce, 300 W. Morgan Street, Durham 27701

Victoria Peterson, PO Box 428, Durham 27702

The Board and Ms. Welton discussed the following:

- Training opportunities for prospective employees who live in Durham
- Hiring of Durham County citizens

Chairman Page closed the public hearing and referred the matter back to the Board.

Vice-Chairman Reckhow moved, seconded by Commissioner Karriker, to approve entering into an economic development incentive contract between the County of Durham and Sentinel Data Centers in the amount of \$800,000.00.

The motion carried unanimously.

Public Hearing—Resolution to Adopt the Updated Durham County Hazard Mitigation Plan

County Manager Ruffin noted a change in the County Manager's Recommendation, indicating that the Board conduct a public hearing at the meeting but defer action until September 10, 2012 Regular Session.

Mark Schell, Emergency Management Coordinator, requested that the Board conduct a Public Hearing on the updated Durham County Hazard Mitigation Plan (HMP) in accordance with Federal regulations for hazard mitigation and disaster recovery funding. The updated Plan was completed in accordance with Federal and FEMA rules which require that the Plan be updated and adopted every five years. The original HMP was adopted in March, 2007.

Per Vice-Chairman Reckhow's request, Mr. Schell highlighted a few significant changes in the Plan.

Deborah Craig-Ray, Assistant County Manager, discussed radio media coverage in Durham during emergencies.

Chairman Page opened the public hearing that was properly advertised. As no one signed up to speak, he closed the public hearing and referred the matter back to the Board.

County Manager Ruffin mentioned that Mr. Schell would email the Commissioners a list of proposed Plan changes and summary by the following week.

Board Appointments

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

Chairman Page alerted the Board of the lengthy September 4 Worksession agenda; therefore, he suggested commencing the meeting at 9:00 a.m. as opposed to 1:00 p.m.

The Board consented to commence the September 4 Worksession at 9:00 a.m.

The following appointments were made (incumbents are underlined):

Adult Care Home Community Advisory Committee
Kathy Silbiger

Bicycle & Pedestrian Advisory Committee
Sue Mack

Dangerous Dog Appeal Board
Mimi Coker
Anthony Miller

Juvenile Crime Prevention Council
DeWarren K. Langley

Nursing Home Community Advisory Committee
Katie Huffman

Item Removed from Consent Agenda

Consent Agenda Item No. d. Approve Budget Ordinance Amendment No. 13BCC000010 to roll funds received in FY 2011-12 into FY 2012-13 in the amount of \$57,424 from the NC Department of Health and Human Services for the DINE Program.

Victoria Peterson, PO Box 428, Durham 27702, requested to speak on this item; however, she withdrew her request.

Commissioner Howerton moved, seconded by Vice-Chairman Reckhow, to approve Consent Agenda Item No. d.

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2012-13 Budget Ordinance
Amendment No. 13BCC000010

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2012-13 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	\$47,363,165	\$57,424	\$47,420,589

Expenditures:

Function

GENERAL FUND

Human Services	\$80,221,210	\$57,424	\$80,278,634
----------------	--------------	----------	--------------

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

This the 27th day of August, 2012.

Closed Session

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, to adjourn to closed session: 1) to instruct staff concerning the acquisition of real property located at 4527 Hillsborough Road, Durham pursuant to G. S. 143-318.11(a)(5); 2) to discuss the Matter of the Appeal of IBM Credit Corporation for the Valuation and Taxation of Real Property by Tax Year 2001, 01 PTC 544 pursuant to G. S. 143-318.11(a)(3); 3) to preserve attorney-client privilege pursuant to G. S. 143-318.11(a)(3); and 4) 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; directives were given to staff; no action was taken.

Adjournment

There being no further business, Chairman Page adjourned the meeting at 10:06 p.m.

Respectfully Submitted,



Yvonne R. Jones
Deputy Clerk to the Board