

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

Monday, July 26, 2010

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 Joe W. Bowser, Becky M. Heron, and Brenda A. Howerton

Absent: None

Presider: Chairman Page

Opening of Regular Session—Pledge of Allegiance

Agenda Adjustments

County Manager Mike Ruffin indicated that Consent Agenda Item No. 7e, Authorize the County Manager to enter into Interlocal Agreement with the ABC Board to provide maintenance services to ABC locations, had been deferred until the September 7 Worksession per Vice-Chairman Reckhow's request. She wished to delay her questions due to the extent of the meeting agenda.

Chairman Page requested to pull the Alcohol Beverage Control Board appointments and place them on the August 2 Worksession agenda to allow for further discussion.

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. Durham 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.
- Applications are being accepted for the 2010 Durham Neighborhood College Term. This nine week program is co-sponsored by the City and County of Durham and helps residents learn about government operations directly from leaders responsible for overseeing key services. Applications will be available on the City or County websites and in the County Manager's Office. The deadline to apply is August 13. Call 560-0000 for more information.
- Join us for the grand opening of the new South Regional Library on July 28 from 10am until 2pm. The library is located at 4505 South Alston Avenue.

Commissioner Howerton briefly shared her experience from the NACo Annual Conference in Reno, Nevada.

Vice-Chairman Reckhow informed the Board that she would provide a written report within the next few days regarding what she learned at the NACo conference.

Minutes

County Manager Ruffin stated that he would follow up on Vice-Chairman Reckhow's request from the May 26 Special Budget Session to receive data for building energy savings related to LEED certified buildings.

Commissioner Heron moved, seconded by Commissioner Howerton, to approve as submitted the June 28, 2010 Regular Session, June 15, 2010 Special Budget Session, and June 7, 2010 Worksession Minutes and as corrected the May 26, 2010 Special Budget Session Minutes of the Board.

The motion carried unanimously.

June Anchor Award Winner—Michael Perry

Chairman Page announced that Michael Perry, Deputy Director of Elections, was the winner of the coveted Anchor Award. In the nomination letter, Elections Director Mike Ashe detailed the outstanding work Mr. Perry performed while serving as both Director and Deputy Director during the recent medical absence of Mr. Ashe.

Carol Anderson, Board of Elections (BOE) Chair, elaborated on Mr. Perry's exemplary efforts as Acting Director and Deputy Director.

Mr. Perry thanked the Board for the recognition and extended thanks to the BOE staff for contributing to his success.

Chairman Page commended Mr. Perry and the BOE staff for their accomplishments. He presented the June Anchor Award, honorary check, and a \$200 check to Mr. Perry.

Commissioner Howerton thanked Mr. Perry for his exemplary service.

Resolution Honoring Bull City Slam Team, Winners of Southern Fried Poetry Slam

Chairman Page stated that during the summer, the Bull City Poetry Slam Team received top honors at the 18th Annual Southern Fried Poetry Slam. The team is sponsored by St. Joseph's Historic Foundation. Chairman Page named the following team members: Slam Coach, Chris "Dasan Ahanu" Massenburg, George "G" Yamazawa, Elliott "Axiom" Miley, Kane Smego, and Will McInerey.

Chairman Page read the following resolution into the record to honor the Bull City Slam Team:

RESOLUTION

WHEREAS, the Bull City Slam Team, sponsored by the St. Joseph's Historic Foundation, took the top prize in the 18th Southern Fried Poetry Slam on June 5 in Knoxville, Tennessee; and

WHEREAS, Team members included Slam Coach Chris "Dasan Ahanu" Massenburg, George "G" Yamazawa, Elliott "Axiom" Miley, Kane Smego, and Will McInerey; and

WHEREAS, the Team beat out 23 other groups from various states to take the top prize; and

WHEREAS, poetry slam is the competitive art of performance poetry that puts emphasis on writing and performance, encouraging poets to focus on what they're saying and how they're saying it; and

WHEREAS, slam poets participating in such events perform their work and are judged by members of the audience; and

WHEREAS, in August, this team will compete against teams from all over North America and Europe for the national title in the National Poetry Slam in St. Paul, Minnesota:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham Board of County Commissioners, do hereby congratulate members of

THE BULL CITY SLAM TEAM

for winning the prestigious 18th 2010 Southern Fried Regional Poetry Slam Competition. We call upon all Durham County residents to join in congratulating the team for this tremendous honor and accolade for our community. We further extend best wishes to the members as the team goes on to compete for the national title in Slam Poetry.

This the 26th day of July, 2010.

/s/ Michael D. Page, Chairman

Slam Coach Chris "Dasan Ahanu" Massenburg spoke to the Team's success and its objectives.

Kane Smego, Slam Team member, recited a poem to the audience.

Slam Team members accepted the resolution and receive congratulations from the Board.

Chairman Page thanked Janella Sellars, Hayti Heritage Center, for her support.

Consent Agenda

Chairman Page read Consent Agenda Item Nos. j and k into the record to highlight their significances for the public.

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

- b. Authorize the County Manager to enter into a contract with Downtown Durham, Inc. in the amount of \$52,380 to perform the functions of economic development in the downtown area;
- c. Approve the proposed Lease Agreement for office space at Criminal Justice Resource Center with Reliant Management Group and authorize the County Manager to execute the lease;
- *d. Approve Capital Project Amendment No. 11CPA000001 appropriating budgeted County Contribution funds for two capital projects;
- e. left blank intentionally
- *f. Accept the property tax release and refund report for June 2010 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report;
- g. Receive and approve the 2009 Property Tax Settlement Report; charge the Tax Collector with 2010 Property Taxes; and authorize the relieving of taxes that are more than 10 years past due and motor vehicle taxes that are more than two years past due;
- h. Approve the Amendment to the Cooperative Agreement between Durham County and Commodity Credit Corporation for the amount of \$693,000, and authorize the County Manager to execute the Cooperative Agreement and the corresponding conservation easements on the Carrington, Thacker, and Blalock farms;
- *i. Pursue the upset bid process for the sale of 2804 Cannada Avenue and 2230 North Oak Ridge Boulevard; adopt a resolution to offer the properties in an “upset bid” sale. The Board has the authority to accept or reject any offer at the conclusion of the upset bid process;
- j. Adopt a Resolution to sell the Durham County Home Health Agency d/b/a Visiting Nurse Service of Durham to Innovative Senior Care Home Health of Durham, LLC, and authorize the County Manager to execute all necessary documents related to the sale;
- k. Approve the Lease Agreement for office space in 414 E. Main Street to Innovative Senior Care Home Health of Durham, LLC, and authorize the County Manager to execute the Lease Agreement;
- o. Approve the Resolution for the addition of Northern Durham Parkway (1014 linear feet) to the State-Maintained Secondary Road System; and
- p. Approve the Appointment of Commissioner Joe Bowser for an additional term on the Convention Center Authority’s Board of Directors.

The motion carried unanimously.

*Document(s) related to this item follow:

Consent Agenda Item No. d. Approve Capital Project Amendment No. 11CPA000001 appropriating budgeted County Contribution funds for two capital projects.

DURHAM COUNTY, NORTH CAROLINA
FY 2010-11 Capital Project Ordinance
Amendment No. 11CPA000001

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2010-11 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects:

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
New Hope Creek/Hollow Rock	\$1,564,000	\$50,000	\$1,614,000
Open Space Land Acquisition	\$9,050,755	\$850,000	\$9,900,755

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

This the 26th of July, 2010.

Consent Agenda Item No. f. Accept the property tax release and refund report for June 2010 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 June 2010.

Releases & Refunds for 2010 Taxes:

Personal	\$26,422.50
Motor Vehicles	\$26,094.94
Vehicle Fees	<u>\$ 1,290.00</u>
Total for 2010 Taxes and Fees	\$53,807.44

Releases & Refunds for 2009 Taxes:

Real Estate	\$ 1,773.62
Personal	\$ 94,228.85
Motor Vehicles	\$ 26,871.99
Vehicle Fees	<u>\$ 735.00</u>
Total for 2009 Taxes and Fees	\$123,609.46

Prior years' (2000-2008) releases and refunds for June 2010 are in the amount of \$36,946.74. The total current year and prior years' releases and refunds amount to \$214,363.64.

(Recorded in Appendix A in the Permanent Supplement of the July 26, 2010 Regular Session Minutes of the Board.)

Consent Agenda Item No. i. Pursue the upset bid process for the sale of 2804 Cannada Avenue and 2230 North Oak Ridge Boulevard; adopt a resolution to offer the properties in an "upset bid" sale. The Board has the authority to accept or reject any offer at the conclusion of the upset bid process.

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in Durham County, North Carolina and properly described as follows:

2804 Cannada Avenue
PIN #0833-14-42-7589
Parcel ID #171946

WHEREAS, Mr. Bruce McBarnette has made an offer to the County to purchase the above property for \$5,385 and has made a bid deposit in the amount of \$270, which is not less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale in The Herald-Sun newspaper.
2. Upset bids must be received within 10 days after the date the Notice is published.
3. Upset bids must raise the current bid by at least 10 percent of the first \$1,000.00 and 5 percent of the remainder.
4. Upset bids shall be made to the Real Estate Manager or the Clerk to the Board if the Real Estate Manager is not available, together with a 5 percent bid deposit by certified check or money order to the County of Durham, or cash;
5. When the original bid has been successfully raised (upset), the upset bid becomes the current bid. Interested bidders are encouraged to contact the Real Estate Manager before making a bid to confirm the amount of the current bid.
6. The highest bid received during the 10-day period is deemed the current bid rather than the first which meets the minimum upset bid requirements.
7. This procedure shall be repeated until no further qualifying County Commissioners who may accept the offer and sell the property to the highest bidder.
8. Should the Board of County Commissioners accept the qualifying high bid, a non-warranty deed will be prepared for the Chairman of the Board's signature, and a time for closing will be scheduled.

9. The Board of County Commissioners may at anytime reject any and all bids.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on July 26, 2010.

/s/ V. Michelle Parker-Evans
Clerk, Board of Commissioners

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in Durham County, North Carolina and properly described as follows:

2230 North Oak Ridge Boulevard
PIN #0820-13-14-9987
Parcel ID #124073

WHEREAS, Ms. Carrie McNeil has made an offer to the County to purchase the above property for \$3,658 and has made a bid deposit in the amount of \$88, which is not less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale in The Herald-Sun newspaper.
2. Upset bids must be received within 10 days after the date the Notice is published.
3. Upset bids must raise the current bid by at least 10 percent of the first \$1,000.00 and 5 percent of the remainder.
4. Upset bids shall be made to the Real Estate Manager or the Clerk to the Board if the Real Estate Manager is not available, together with a 5 percent bid deposit by certified check or money order to the County of Durham, or cash;
5. When the original bid has been successfully raised (upset), the upset bid becomes the current bid. Interested bidders are encouraged to contact the Real Estate Manager before making a bid to confirm the amount of the current bid.
6. The highest bid received during the 10-day period is deemed the current bid rather than the first which meets the minimum upset bid requirements.
7. This procedure shall be repeated until no further qualifying County Commissioners who may accept the offer and sell the property to the highest bidder.
8. Should the Board of County Commissioners accept the qualifying high bid, a non-warranty deed will be prepared for the Chairman of the Board's signature, and a time for closing will be scheduled.
9. The Board of County Commissioners may at anytime reject any and all bids.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on July 26, 2010.

/s/ V. Michelle Parker-Evans
Clerk, Board of Commissioners

Public Hearing Regarding the Durham County Industrial Facilities and Pollution Control Financing Authority Issuance of Revenue Bonds

Mary-Nash Rusher, Hunton & Williams, Bond Counsel, requested that the Board hold a public hearing concerning the issuance and sale by the Durham County Industrial Facilities and Pollution Control Financing Authority (“Authority”) of its Revenue Bonds in an amount not to exceed \$25,000,000, the proceeds of which would be loaned to The Hill, LLC or a related entity (“Borrower”), a North Carolina limited liability company, and used together with other funds to finance the conversion of The Hill and ‘Trust’ buildings, located on Main Street between Corcoran and Market Streets, to a boutique hotel (the “Spark Hotel Project”). The Spark Hotel Project would be located in downtown Durham. The Borrower would construct the Project to be a LEED certified four-star hotel and spa and branded as part of the Starwood Luxury Collection. Federal and North Carolina law require the County Board of Commissioners to approve "in principle" the issuance of the bonds for this project after a public hearing.

Vice-Chairman Reckhow inquired about the reservoir of the bonding capacity statewide. She encouraged the Durham Chamber of Commerce and Downtown Durham Inc. to inform the development community of available bonds.

Chairman Page opened the public hearing that was properly advertised and called the following signed speakers forward to comment:

Mr. Bill Kalkhof, representing Downtown Durham Inc., 115 Market Street, Durham, NC 27703, assured Vice-Chairman Reckhow that DDI had been spreading the word about available bonds. He detailed the Spark Hotel Project and explained that the Borrower would be solely responsible for the repayment of the bonds. Neither the County nor the Authority would have any financial responsibility for the debt.

Ted Conner, Vice President of Economic Development, Greater Durham Chamber of Commerce, 300 West Morgan Street, Durham 27701, informed Vice-Chairman Reckhow that the Director of Public Policy held a briefing in January on funding for stimulus bonds, which was well attended. He urged the Board to approve the issuance of the bonds.

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

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, to approve the issuance of the bonds to The Hill, LLC

for the conversion of the Hill and Trust buildings in downtown Durham to a boutique hotel.

The motion carried unanimously.

Public Hearing—Zoning Map Change—751 Assemblage (Z0800003)

The Board was requested to approve a request for a zoning map change for a 166.8-acre site located at 9414 NC 751 Highway, on the west side of NC 751 Highway, south of Chancellor's Ridge Drive and opposite Fayetteville Road. Less than one acre of the site is on the east side of NC 751 Highway. Request: PDR 0.220 and RR; F/J-B (partial), F/J-A (partial) to MU(D) and RR(D); F/J-B (partial), F/J-A (partial).

The Durham Planning Commission voted 11-1 to recommend denial with additional committed elements on April 13, 2010. The Commission found that the ordinance request was not consistent with the adopted Comprehensive Plan. The Commission believed that the request was not reasonable nor in the public interest and recommended denial based on inadequate transportation infrastructure, inconsistency with neighboring land uses, concerns regarding impacts on the environment, and opposition from the community.

Staff recommended approval, based on consistency with the Comprehensive Plan, and considering the information provided in the staff report.

Steven L. Medlin, AICP, City-County Planning Director, reported that the Planning Department received a letter from the State, indicating that it was revocating an easement that was granted to them by the developers of the Southern Durham Development 751 project. He stated that the County Attorney would opine as to the appropriateness of the document.

Chairman Page instructed County Attorney Lowell Siler to state his opinion after Planning staff's presentation.

Patrick Young, AICP, Assistant Planning Director, gave a PowerPoint presentation to provide a detailed overview of staff's request to approve the zoning map change.

Planning staff addressed Commissioners' questions and concerns regarding the following:

- Traffic Impact Analysis
- Lack of committed elements
- Traffic signal distances
- Extending bus line service to the project area
- Utility costs
- Anticipated traffic volume
- Durham Planning Commission recommendation for denial vs. Staff's recommendation for approval
- Stormwater rules
- Plants and wildlife inventory

Vice-Chairman Reckhow requested a status update on the validity of the protest petition for the benefit of the public. She mentioned that it is the Board's procedure to receive a report on a protest petition prior to opening the public hearing.

Chairman Page responded to Vice-Chairman Reckhow's request, stating that the Board was asked to allow citizen comments first and then receive a report on the protest petition from the County Attorney. He stated that hearing the update first may create extensive discussions. Chairman Page added that the Commissioners received emails and phone calls informing them that the protest petition was deemed invalid.

Commissioner Bowser and Commissioner Howerton concurred with Chairman Page.

Commissioner Heron agreed with Vice-Chairman Reckhow.

Per Chairman Page's request, County Manager Ruffin provided a brief update on the protest petition. He explained that if the County Attorney opines that the North Carolina Department of Transportation's (NCDOT) Declaration of Revocation, Rejection, and Termination of Easement to Dedicate Right-of-Way document is valid, then the required number of signatures required for the validity of the protest petition would be met. If the document is deemed invalid, then the required number of signatures required for the validity of the protest petition would not be met.

Commissioner Bowser echoed Commissioner Howerton's comments, stating that the public should speak prior to hearing the County Attorney's opinion as the item before the Board pertains to the project and not the protest petition.

Chairman Page opened the public hearing that was properly advertised.

Chairman Page granted 30 minutes to the following representatives of the applicant, Southern Durham Development Inc., to present their request for the zoning map change:

Patrick Byker, Attorney and LEED Accredited Professional, K&L Gates 430 Davis Drive, Suite 400, Morrisville 27560

Dan Jewell, Landscape Architect, Coulter | Jewell | Thames, P.A., 111 West Main Street, Durham 27701

Tony Sease, Engineer and Architect, Civitech Inc., 410 West Geer Street, Durham 27701

Randall Arendt, Land Planner, Greener Prospects, 43 Prospect Avenue, Narragansett, RI 02882

Bob Chapman, Developer, Traditional Neighborhood Development Partners, LLC, 410 West Geer Street, Durham 27701

Jeff Speck, AICP, Planner and Architectural Designer, Speck & Associates, LLC, 990 Florida Avenue NW, Washington, DC 20001

Lucy Gallo, Associate Vice President, AECOM Technology Corporation, 701 Corporate Center Drive, Suite 475, Raleigh 27607

Lyle Overcash, Transportation Planner, Martin/Alexiou/Bryson, 4000 Westchase Blvd, Suite 530, Raleigh 27607

Chairman Page called the following signed speakers forward to comment:

Thelma Glenn White, representing the Durham Committee on the Affairs of Black People, 1015 Jerome Road, Durham 27713

Dr. E. Lavonia Allison, Chair, Durham Committee on the Affairs of Black People, PO Box 428, Durham 27702

Deborah Dianne Williams, representing the Durham Committee on the Affairs of Black People, 2317 Oak Ridge Blvd, Durham 27702

Donald Hughes, PO Box 52595, Durham 27712

Mark Schontz, 1008 Scholastic Circle, Durham 27713

Allan Lang, 601 Flagstone, Durham 27712

Steve Bocckiro, 7340 Abron Drive, Durham 27713

David Smith, representing Friends of Durham

Julie Seagroves, representing Durham Regional Association of Realtors, Durham 27704

Larry Ballas, 139 Indian Creek Lane, Apex 27523

Rebecca Board, 10 Winslow Place, Chapel Hill 27517

Page McCullough, representing People's Alliance, 110 West Lavender Street, Durham 27704

Germaine James, 928 Alabama Avenue, Durham 27705

Catalina Ramirez, 117 Higher Learning Drive, Durham 27713

Daniel Dorg, 117 Higher Learning Drive, Durham 27713

Harry Bailes, 8606 Fayetteville Road, Durham 27713

Kim Preslar, 117 Higher Learning Drive, Durham 27713

David Harris, 609 Saddle Ridge Avenue, Durham 27704

Liam Fellman, 4 Misty Morning Court, Durham 27712

Kate Fellman, 4 Misty Morning Court, Durham 27712

Anita Keith-Foust, 323 West Trinity Avenue, Durham 27701

Jacqueline Wagstaff, representing the Durham Committee on the Affairs of Black People, PO Box 52598, Durham 27713

H Fischer, 3817 Westcrest Street, Durham 27707

Darius Little, 5712 Catskill Court, Durham 27713

John Gunter, President, Chancellor's Ridge Homeowners Association, 114 Baccalaureate Blvd., Durham 27713

Neal Hunter, 89 Crooked Creek Lane, Durham 27713

Dave Austin, representing Durham People's Alliance, 813 Lancaster Street, Apt. #2, Durham 27701

Bill Clark, 709 Walcott Way, Cary 27519

Susan Sewell, representing Tuscaloosa-Lakewood Neighborhood Association, 2904 Legion Avenue, Durham 27707

Angela Brehmer, 1008 Professor Place, Durham 27713

Marc Howlett, 108 Collegiate Circle, Durham 27713

Elaine Chiosso, representing Haw River Assembly, PO Box 187, Bynum 27228

Charlie Howard, representing the Durham Committee on the Affairs of Black People, 500 South Briggs, Durham 27703

Willie Mewborn, representing the Durham Committee on the Affairs of Black People, 3224 Myra Street # G, Durham 27707

Bertha Breese, representing the Durham Committee on the Affairs of Black People, 708 Old Barn Avenue, Durham 27704

Larrivenia Lott, 618 Nash Street, Durham 27707

Trisha Gensic, 2 Curriculum Court, Durham 27713

Kathryn Spann, 4720 Bahama Road, Rougemont 27572

Nancy Hester, 2110 Vintage Hill Drive, Durham 27712

Harry Headley, 123 Crooked Creek Lane, Durham 27713

Rev. Rachel Green, representing the Durham Committee on the Affairs of Black People, 1007 Alma Street, Durham 27703

Shane Kirk, 1305 Professor Place, Durham 27713

Dabney Hopkins, representing Durham People's Alliance, 1700 Sprunt Avenue, Durham

Don Moffitt, 2114 Wilson Street, Durham 27705

Sally Kost, representing Chatham County Board of Commissioners, 1101 New Hope Church Road, Apex 27523

Frances Hadden, 1102 Scholastic Circle, Durham 27713

Lynn Kohn, representing Morehead Hill Neighborhood Association, 1014 Shepherd Street, Durham 27707

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702

Tom Miller, Durham InterNeighborhood Council, 1110 Virginia Avenue, Durham 27705

Casey Steinbacher, representing 300 West Morgan Street, Durham 27701

Lucy Gallo, 701 Corporate Center Drive, Suite 475, Raleigh 27607

Dan Yonavjake, 8218 Farrington Mill Road, Chapel Hill 27517

Tom Stork, representing Durham Open Space and Trails Commission, 105 Kyberg Drive, Chapel Hill 27517

Mark Avitabile, 1003 Scholastic Circle, Durham 27713

Chairman Page referred the matter back to the Board.

In regards to the protest petition, County Attorney Siler stated that he and his staff had not had sufficient time to conclude the matter; therefore, he could not give his opinion on the validity of the Revocation of Easement document.

Vice-Chairman Reckhow articulated that NCDOT stated its revocation of the easement in a document and forwarded and filed the document accordingly. She opined that the document was uncomplicated and revealed no ambiguity.

County Attorney Siler explained to the Commissioners that his issue was that staff had not had enough time to research the matter to ensure that the revocation document could legally revoke an accepted easement.

Joey Hopkins, Deputy Division Engineer, NCDOT, stated his opinion that the decision on this item should be made by the local bodies and not NCDOT; therefore, NCDOT created the revocation document, with the assistance of the Attorney General's office, to relinquish their involvement. He stated that it was the first revocation document he had witnessed in his 20+ years with NCDOT.

Commissioner Bowser inquired about the filing of the easement deed. He also inquired about a legislation to allow a Department of Transportation to rescind the acceptance of an easement.

Mr. Hopkins responded that as he was not an attorney, he could not answer Commissioner Bowser's questions. He added that a Declaration of Revocation document had been issued in the past for temporary easements but not for permanent easements.

County Attorney Siler requested additional time for his staff to research the validity of the document.

The Commissioners discussed what action they should take on this item.

Chairman Page suggested that the Board honor the County Attorney's request for additional time.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to continue the public hearing to the August 9 Regular Session.

The motion carried unanimously.

Commissioner Bowser moved, seconded by Commissioner Howerton, to extend the meeting to 12:30 a.m.

The motion failed due to the lack of a unanimous vote:

Ayes: Bowser, Howerton, and Page

Noes: Heron and Reckhow

The Board held a discussion to determine a date and time to continue the July 26 Regular Session due to the late hour.

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, to continue the meeting to Thursday, July 29, 2010, at 7:00 p.m.

The motion carried unanimously.

Chairman Page apologized to staff and assured them that he would no longer place removed consent agenda items at the end of the agenda as it would be unfair to ask them to stay for the duration of lengthy meetings only to address their items.

Adjournment

Chairman Page adjourned the meeting at 12:11 a.m.

Respectfully Submitted,



Yvonne R. Jones
Deputy Clerk to the Board