

# **REVISED**

(Addition to Item No. 14—Closed Session)

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

Monday, August 14, 2006

### **AGENDA**

#### **“Public Charge”**

The Board of Commissioners asks its members and citizens to conduct themselves in a respectful, courteous manner, both with the Board and fellow citizens. At any time, should any member of the Board or any citizen fail to observe this public charge, the Chairman will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chairman will recess the meeting until such time that a genuine commitment to the public charge is observed.

As a courtesy to others, please turn off cell phones during the meeting.

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5:30 P.M.

#### **Property Tax Appeal Hearing/Intec Properties, LLC**

The Board is requested to hear testimony and make a decision about assessed tax value of real property owned by Intec Properties, LLC located at 4319 South Alston Avenue. In August 2003, the Taxpayer received a tax bill for its property located at South Alston Avenue, Durham, NC. In November 2003, the Taxpayer moved from Morrisville, North Carolina to the aforementioned address. The Taxpayer directed the United States Post Office to forward all its mail to the new address. On December 17, 2003, the Durham County Tax Administrator mailed a notice of change in valuation of the subject property to the Taxpayer. The Taxpayer stated that it was not received.

In January 2004, the Durham County Tax Administrator sent a listing form to the Taxpayer's address of record, the Morrisville address. In January 2004, the Durham County Tax Office corrected the Taxpayer's mailing address from that of Morrisville to the South Alston address. In August 2004, the Taxpayer received a tax bill from the Durham County Tax Office. Upon receipt of the tax bill, Taxpayer contacted the Durham County Assessor questioning the amount. The Tax Assessor informed the Taxpayer of the reappraisal of the subject property for tax year 2004 and that it was too late to appeal with the Durham County Board of Equalization and Review as it had adjourned on April 12, 2004.

By a letter dated September 24, 2004, the Taxpayer filed an appeal with the Durham County Board of Equalization and Review regarding the valuation of the subject property. By a letter dated September 24, 2004, the Taxpayer requested information from the Board of Equalization and Review regarding its appeal. By a letter dated October 1, 2004, the Durham County Tax Administrator advised the Taxpayer that its appeal was not timely since the 2004 Board of Equalization and Review had adjourned on April 12, 2004. The Taxpayer appealed

to the North Carolina Property Tax Commission, which remanded this matter to the appropriate County Board (the Durham County Board of Commissioners) for hearing regarding the valuation of the subject property for the tax year 2004.

Resource Person(s): Teresa Hairston, Appraisal Division Manager, and Jay V. Miller, Deputy Assessor

County Manager's Recommendation: The Manager recommends that the Board hear the testimony and make a decision concerning the assessed tax value of real property owned by Intec Properties, LLC at 4319 South Alston Avenue.

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7:00 P.M. Regular Session

1. **Opening of Regular Session**—Pledge of Allegiance 5 min.
2. **Agenda Adjustments** 5 min.
3. **Announcements** 5 min.
  - Neighborhood College, a nine-week series of classes to provide information on key City and County services, will begin on Thursday, September 14, 6:00 to 9:00 p.m. in the Commissioners' Chambers, with one Saturday morning class. The last day to apply is August 25.
4. **Minutes** 5 min.

July 24, 2006 Regular Session

5. **Recognition of Chief Preston Burgess for 40 Years of Service to Bethesda Volunteer Fire Department** 5 min.

A resolution has been prepared in recognition of Chief Preston L. Burgess, who recently retired with 14 years as Chief and 40 years in total service to the Bethesda Volunteer Fire Department.

County Manager's Recommendation: The Manager recommends that the Commissioners extend congratulations and sincere thanks to Chief Preston Burgess for his outstanding service to the Durham community.

6. **Recognition of Mr. Sam Fuerst, Winner of the NC State Inspirational Teacher Award** 5 min.

In early May, North Carolina State University named Mr. Sam Fuerst as recipient of its Inspirational Teacher Award. This Northern High School career educator is an Honors and English as a Second Language (ESL) Earth Science teacher. He is a gifted teacher and a compassionate educator who seeks to help all students reach their highest

potential. The Durham Public Schools system is fortunate to have outstanding teachers like Mr. Fuerst among its ranks.

This award is very special because Mary Waligora, a former student at Northern High who just completed her first year at North Carolina State University, nominated Mr. Fuerst. He is one of only 25 teachers from North Carolina and several other states to receive this prestigious honor.

(North Carolina State University established the NC State Inspirational Teacher Award to recognize excellence in high school teachers in the United States. The Division of Enrollment Management and Services at the university initiated this program as a way of showing appreciation to the high school teachers whose hard work instilled a passion for learning in NC State students. NC State freshmen nominate teachers each fall and awards are given during the spring semester.)

Resource Person(s): Vice Chairman Becky Heron

County Manager's Recommendation: The Manager recommends that the Commissioners extend congratulations to Mr. Sam Fuerst on receiving this prestigious award.

7. **Recognition of Senior Planner Pratt Simmons of Durham City-County Planning Department**

5 min.

On August 1, 2006, the North Carolina Association of Zoning Officials, at its 25th Annual Meeting, presented Mr. Pratt Simmons with the award of North Carolina Zoning Official of the Year.

Mr. Simmons has been involved in Planning and Zoning for 22 years and has been a Zoning Officer with the Durham City-County Planning Department since 1998. He earned the State's designation of Certified Zoning Officer (CZO) in 1991. He has also held elected positions within the North Carolina Zoning Officials organization and is known throughout the state for his expertise. Mr. Simmons is currently the lead enforcement officer for Durham's District 1. Among other duties in this role, he has been exceedingly effective in working with interdepartmental operations, particularly the combined night and weekend investigations conducted with members of Fire, Police, and Housing Departments.

Resource Person(s): Wendell Davis, Deputy County Manager

County Manager's Recommendation: The Manager recommends that the Commissioners extend congratulations to Mr. Simmons for this honorable achievement.

8. **Consent Agenda**

10 min.

- a. Appointment of ABC Board Chairman (appoint Charles Watts Jr. as recommended by the ABC Board);
- b. Standard Non-Reimbursable Utility Contract with Keystone Crossings, LLC for the Extension of the County Sanitary Sewer System for the Keystone Crossings Subdivision (authorize the Manager to execute the contract for this addition to the System);
- c. Correction Deed (approve the deed to correct the title of the property conveyed to Jennifer L. Kirchherr at 103 Hickory Glen Lane);
- d. Ordinance Amending Fire Prevention Ordinance (adopt the proposed changes to bring the ordinance into compliance with the State Code);
- e. Offers to Purchase for the Human Services Complex (approve the purchase of 500 East Peabody Street for \$49,500, 510 East Peabody Street for \$550,000, and 201 and 203 S. Dillard Streets for \$160,000; and authorize the Manager to execute a lease with Greater Life Outreach Fellowship Church through June 30, 2007);
- f. Federal Farm and Ranchlands Protection Grant Agreement (approve the Cooperative Agreement between Durham County and the United States by and through the Commodity Credit Corporation for receipt of \$466,134 towards permanent farmland conservation easements, and authorize the County Manager to execute the Agreement); and
- g. Execution of Design Service Agreement with Roughton Nickelson De Luca Architects, P.A., for the Modernization and Upgrade of Elevators at the Durham County Judicial Building (RFQ #06-020) (authorize the execution of an architectural design contract in the amount \$46,000 plus additional services and reimbursable expenses estimated at \$9,000 for a combined total of \$55,000).

9. **Public Hearing on Trinity School**

10 min.

Trinity School of Durham and Chapel Hill Inc. (the "School") has requested that the Board of Commissioners hold a TEFRA hearing on a proposed financing by the school. The School is proposing to issue tax-exempt bonds for \$9,000,000 through the State of Colorado to be used for school expansion. The County of Durham has no responsibility or liability regarding the issuance of these bonds; however, the Board is required to hold a public hearing and adopt the resolution approving the project for the School to issue the bonds. The school is located on the Durham-Orange County line; therefore, Orange County must also hold a public hearing and approve the issuance.

Representatives of the School and Bond Counsel will be present to answer any questions regarding the project or the bond issue.

Resource Person(s): S. C. Kitchen, County Attorney

County Manager's Recommendation: The Manager recommends that the Board approve the proposed resolution, as the bonds are solely the responsibility of the School.

10. **Public Hearing—Zoning Map Change—3300 US 70 (Z06-30)**

15 min.

The Board is requested to approve a zoning map change for a 0.8-acre site located at 3300 US 70, west of Page Road Extension. [PIN 0759-04-64-0249 (partial)]  
Request: RR to CG

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the *Comprehensive Plan* and is reasonable and in the public interest in light of information presented in the public hearing and in the agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Commissioners adopt as support for their actions on the proposed zoning map change the determination that, notwithstanding its consistency with the *Comprehensive Plan*, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the agenda materials.

The Planning Department recommended approval based on consistency with the *Comprehensive Plan* and the information contained in the report.

Planning Commission Recommendation and Vote: Approval, 13-0 on June 29, 2006. The Planning Commission finds that the requested revision to the zoning districts of the UDO is consistent with the adopted *Comprehensive Plan* and recommends approval considering the information in the staff report and comments received during the public hearing.

Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing on the proposed zoning map change and approve, if appropriate, based on the comments received.

11. **Public Hearing—Zoning Map Change—107 Sherron Road (Z06-33)**

15 min.

The Board is requested to approve a zoning map change for a 0.56-acre site located at 107 Sherron Road, east of Sherron Road and south of NC 98. [PIN 0861-03-10-1149]  
Request: RS-20; F/J-B to CN; F/J-B

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the *Comprehensive Plan* and is reasonable and in the public interest in light of information presented in the public hearing and in the agenda materials.

Alternatively, in the event that a motion to approve the item fails, the Commissioners adopt as support for their actions on the proposed zoning map change the determination that, notwithstanding its consistency with the *Comprehensive Plan*, the request is neither

reasonable nor in the public interest in light of information presented in the public hearing and in the agenda materials.

Planning Department Recommendation: Approval, based on consistency with the *Comprehensive Plan* and the information contained in the report.

Planning Commission Recommendation and Vote: Approval, 12-1 on June 29, 2006. The Planning Commission finds that the requested revision to the zoning districts of the UDO is consistent with the adopted *Comprehensive Plan* and recommends approval considering the information in the staff report and comments received during the public hearing.

Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing on the proposed zoning map change and approve, if appropriate, based on the comments received.

12. **Amendment to the Durham County Animal Ordinance**

10 min.

Chapter 4 of the Durham County Code of Ordinances, entitled "Animals", regulates the keeping of animals within the County and establishes the general administration of Durham County Animal Control. The Ordinance was last amended in 2004. The Animal Control Advisory Committee has recommended additional changes to clarify or reflect the current manner in which the County administers the animal control program. One substantive change made to the Ordinance is the removal of barking dogs from the nuisance provision [Sec. 4-13(23)(i)]. Both the City and the County have a noise ordinance (City Code sec. 11-1, County Code sec. 14-26) which will be enforced by the City Police Department and the County Sheriff as applicable. The attorneys for the City Police Department and the Sheriff have been notified of the proposed amendment. A subcommittee of the Animal Control Advisory Committee was convened to review and propose amendments to the Ordinance. The proposed changes were submitted to the Advisory Committee, which in turn approved the changes and recommended them to the Board for approval.

If the Board chooses to enact the Ordinance, the amendments shall become effective immediately.

Resource Person(s): Carol W. Hammett, Assistant County Attorney, and Cindy Bailey, Animal Control Administrator

County Manager's Recommendation: The Manager recommends that the Board enact the proposed Ordinance Amending Chapter 4 of the Durham County Code of Ordinances.

13. **Appointment of Work First Planning Committee**

10 min.

North Carolina General Statutes Section 108-A-27 requires that the Board of County Commissioners (BOCC) appoint a committee of local leaders (a Work First Planning Committee) to assist in the development of its Work First Block Grant Plan. A critical part of each county's plan development is a decision as to whether the county will seek electing or standard county status.

In addition to developing the plan itself, the Work First Planning Committee has the responsibility to analyze the relative merits of "electing vs. standard" county status and forward its recommendation to the BOCC for consideration. Once the BOCC makes its decision on this status, it must notify the N. C. Department of Health and Human Services by August 31, 2006.

The Department of Social Services requests that the Board appoint Commissioner designees, if desired, and approve the Work First Planning Committee as suggested. The recommendation from this committee regarding the county's selection of "electing vs. standard status" will be placed on the August 28, 2006 regular meeting agenda for the Board's consideration and approval. (It is anticipated that the Work First Planning Committee will hold their first meeting to discuss electing versus standard county status for Durham on August 16, 2006.)

Resource Person(s): Jim Polk, Chairman of the Work First Planning Committee, and Sammy R. Haithcock, DSS Director

County Manager's Recommendation: The Manager recommends that the Board appoint Commissioner designees, if desired, and approve the Work First Planning Committee as recommended by the Department of Social Services.

14. **Closed Session**

30 min.

The Board is requested to adjourn to Closed Session to consider the performance of a public officer or employee pursuant to G.S. § 143-318.11(a)(6) **and to instruct staff concerning the position to be taken in negotiating the material terms for the acquisition of 247 S. Mangum owned by AREC 3, LLC (U-Haul Real Estate Company) pursuant to G.S. § 143-318.11(a)(5).**

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2¼ hrs.