

**REVISED**

**Change action requested in Closed Session.**

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

Monday, October 14, 2002

**AGENDA**

3:00 P.M.

**Closed Session**

The Board of Commissioners is requested to adjourn to closed session regarding an action involving the County entitled *In re Jhnetta Wright*, ERC 527336 to preserve the attorney-client privilege and to consider the **initial employment and** performance of public officers pursuant to G.S. § 143-318.11(a)(3) and (6).

**Regular Session**

7:00 P.M.

1. **Opening of Regular Session**?Pledge of Allegiance

2. **Agenda Adjustments**

*Vice-Chairman Reckhow added an item regarding bail bond policy.*

*Chairman Black recognized members in attendance of the Boy Scout Troop from St. Joseph's AME Church.*

3. **Minutes**

August 29, 2002 Worksession Minutes

*Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the August 29, 2002 Worksession Minutes.*

4. **4. October Anchor Award Winner-Barry Garner**

Barry Garner, Durham County Deputy Director of Elections, is the winner of this month's Anchor Award. In the attached nomination letter, Elections Director, Mike Ashe, detailed his comprehensive management of Durham County's "One Stop No Excuse Voting" process. Mr. Garner was noted for his exceptional technical and people skills, and for a strong work ethic that is second to none. Because of his diligence, the 19-day voting period was problem-free.

County Manager's Recommendation: The County Manager's recommendation is to present the October Anchor Award to Barry Garner, along with the sincere congratulations of the entire organization.

*Mr. Ashe, Director of Elections, introduced Mr. Garner and congratulated him on his accomplishment.*

**Mr. Garner thanked the Board for this recognition and the Board of Elections and his wife for their support.**

**The Board presented Mr. Garner with the Anchor Award and a \$200 check.**

**Dr. Lavonia Allison commented on the improved status of the Board of Elections.**

5. **5. Recognition by Central North Carolina Chapter of the American Red Cross**

The Central North Carolina Chapter of the American Red Cross has chosen to honor the County of Durham as being one of the top 10 Authorized Providers of Health and Safety programs for the 2002 fiscal year.

Resource Person(s): Lynn M. Sherrill, Chapter Manager; Cara Prell, Health and Safety Director, American Red Cross

County Manager's Recommendation: Receive the award and recognize Cathy Whisenhunt, Risk Manager, and Ngat Awass, Risk Management Specialist, for carrying out this Board directive to provide first aid, CPR, and AED programs for the employees.

**Ms. Cara Prell and Ms. Lynn Sherrill made congratulatory comments to Ms. Whisenhunt.**

**Ms. Whisenhunt and the Board thanked the American Red Cross for this recognition.**

6. **6. Resolution in Recognition of Duke Street Senior Center's Certification as "Senior Center of Excellence"**

The Duke Street Senior Center has been determined to be a "Senior Center of Excellence." The North Carolina Department of Health and Human Services Division on Aging recently issued this certification, which is valid from September 1, 2002-August 31, 2005. At the request of County Commissioner Becky Heron, a resolution has been prepared in recognition of the accomplishment. Ms. Joan Pellettier, Executive Director, will be in attendance to receive the resolution.

County Manager's Recommendation: Present the resolution to Ms. Pellettier along with congratulations of the organization for this accomplishment.

**The resolution was read into the record of the meeting. It was accepted by Ms. Pellettier.**

7. **7. Resolution Honoring 20<sup>th</sup> Anniversary of Developmental Therapy Associates, Inc.**

A resolution has been prepared in observance of the 20<sup>th</sup> anniversary of Developmental Therapy Associates, Inc. The firm provides occupational therapy along with speech/language therapy to children and adults. Ms Sandra Newton will receive the resolution on behalf of the organization.

County Manager's Recommendation: Present the resolution to Ms. Newton, along with the sincere congratulations of the entire organization.

**Commissioner Cousin read the resolution into the record of the meeting.**

8. **8. Consent Agenda**

- a. a. Budget Ordinance Amendment No. 03BCC000012-Department of Social Services (DSS)-Request to Accept Additional Revenue for Crisis Intervention Prevention Program (CIPP)

- (approve this budget amendment to accept the \$143,393 in additional intergovernmental revenue for the DSS CIP Program);
- b. b. Budget Ordinance Amendment No. 03BCC000013?Fire Marshal?Recognition Of Grant Revenue (approve this budget amendment to accept \$32,359 in grant funds to be added to the budget of the Office of the Fire Marshal/Emergency Management);
  - c. c. Budget Ordinance Amendment No. 03BCC000014 Library Services & Technology Act Grant to Durham County Library (approve this budget amendment to accept the LSTA Infrastructure Improvement grant award in the amount of \$54,879 and that the Durham County Library?s FY-03 budget be amended accordingly to reflect receipt of these additional restricted funds);
  - d. d. Budget Ordinance Amendment No. 03BCC000015 Durham County Library Foundation Allocation to Durham County Library (approve this budget amendment to accept the Durham County Library Foundation allocation of \$15,000 and that the Durham County Library?s FY-03 budget be amended accordingly to reflect the receipt of these additional funds);
  - e. e. Budget Ordinance Amendment No. 03BCC000016 Friends of the Library Donation to Durham County Library (approve this budget amendment to accept the Friends of the Durham County Library donation of \$8,000 and that the Library?s budget be amended accordingly to reflect receipt of these additional funds);
  - f. f. Budget Amendment No. 03BCC000017?Reduction of Capital Financing Fund Revenues and Expenditures (approve this budget amendment, amending the Capital Finance Fund FY2003 budget);
  - g. g. Budget Amendment No. 03BCC000018?Transfer of Funds from Public Education Tax District Funds to the County General Fund (approve this budget amendment, to close the Public Education Tax District Funds, in the amount of \$356,468, plus any additional accrued interest which may be available on the day of fund closing to the General Fund, the write-off of tax receivables older than 10 years (N.C.G.S. 105-348(A)), and the transfer of any receivable balances 10 years or less to the General Fund);
  - h. h. Quasi-Judicial Appeal?Helen Bass v. County of Durham (adopt the Final Decision which has been prepared in accordance with the Board?s prior ruling);
  - i. i. Restructuring of Area Mental Health Board (approve the resolution to bring the Mental Health Board structure into compliance with the new statute);
  - j. j. Area Mental Health Board?Appointments (appoint Mr. Quick and Mr. Wright to the Area Mental Health, Developmental Disabilities, and Substance Abuse Board);
  - k. k. Appointments?Juvenile Crime Prevention Council (JCPC) (approve appointments);
  - l. l. Appointments?Criminal Justice Partnership Advisory Board (approve appointments);
  - m. m. Adoption of the 2001-2002 Consolidation Annual Performance and Evaluation Report (CAPER) (adopt the 2001-2002 CAPER for submission to HUD); and
  - n. n. Capital Project Ordinance Amendment No. 03CPA000003 Application to the Public School Building Capital Fund?Durham Public Schools?Roof Replacement at Mangum Elementary School (approve the use of Public School Building Funds for roof replacement at Mangum Elementary School).

**County Manager Ruffin related for Commissioner Cousin that the request for a salary upgrade for Elections Board Director Mike Ashe would be considered later due to the budget constraints.**

***Vice-Chairman Reckhow moved, seconded by \_\_\_\_\_, to approve items 8(a) through 8(n) of the Consent Agenda.***

***The motion carried unanimously.***

**9. 9. Public Hearing?Draft of Work First Block Grant Plan for 2003-2005**

Work First is the primary program in North Carolina for administering the Temporary Assistance for Needy Families (TANF) Program. Since Work First is administered locally in each county, North Carolina law (NCGS 108A-27) requires each county to submit a County Work First Block Grant

(WFBG) Plan every two years. This fall, each county began the development of a new Work First Block Grant Plan to become effective October 1, 2003.

The first stages of plan development include the appointment of a committee of local leaders (a Work First Planning Committee) to assist in the development of its WFBG plan, and a recommendation to the Department of Health & Human Services (DHHS) for a county to be an electing or standard county.

On August 12, 2002 the Board of County Commissioners approved the list of members for Durham's Work First Planning Committee and also voted to have Durham remain a standard county.

By November 1, 2002, the BOCC must submit its new Work First plan to the DHHS. The Work First Planning Committee has completed its first draft of the plan and received input and comments from Durham's Department of Social Services Board on September 25, 2002. A draft of the plan was presented to the Board of County Commissioners at its Work Session on October 7, 2002, and the Board's suggestions and recommendations were incorporated into the plan.

The plan has been distributed for public comments during the period of October 8-13 and is now before the County Commissioners for the advertised public hearing. The plan will then be submitted to the Board of Commissioners at the October 28 meeting for final approval.

Resource Person(s): Jim Polk, Chair of the Work First Planning Committee; Dan Hudgins, DSS Director

County Manager's Recommendation: The Manager recommends that the Board hold the public hearing and receive public comment.

***Chairman Black opened the Public Hearing which had been properly advertised.***

***Dr. Lavonia I. Allison, Durham Committee on the Affairs of Black People, asked how Work First funds are being spent and how effective that spending has been. She asked for the extent of the successes and the program's weaknesses.***

***Chairman Black advised she had asked for an evaluation of the success rate of persons now released from the program.***

***DSS Director Dan Hudgins responded to the questions posed by Dr. Allison and Chairman Black.***

***There being no other persons signed to speak, Chairman Black closed the Public Hearing.***

***No formal action was taken on this item.***

10. **10. Public Hearing?Proposed Text Amendment TC 132?Related to Falls Lake Critical Area Definition**

The proposed zoning ordinance text amendment modifies the language of Section 5.5.4, Establishment of the District. The amendment acknowledges that the Falls/Jordan Critical Area (F/J-A) boundary is determined by the survey conducted by the County and approved in August 2000, rather than by the location established by the State, while the Falls/Jordan Protected Area (F/J-B) boundary is determined by the State's standard. A zoning map amendment will subsequently be submitted for consideration.

The Zoning Committee unanimously recommended approval of the proposed zoning ordinance text amendment after a public hearing on September 12, 2002. The Planning Department recommends adoption of this proposed text amendment by the Board of County Commissioners.

Resource Person(s): Keith Luck, Planning Supervisor, Durham City-County Planning Department

County Manager's Recommendation: The County Manager recommends that the Board adopt this proposed text amendment.

***The Public Hearing was opened and closed with no persons signed to speak.***

***Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to adopt this text amendment.***

***The motion carried unanimously.***

11. **11. Public Hearing? Proposed Zoning Text amendment TC 133? Related To Modification for Water Use Reduction**

Currently, the Durham Zoning Ordinance (Section 10) requires landscaping for all new development. Newly-planted landscape materials are under stress and may require more frequent watering than is typical; this stress is aggravated during drought conditions due to lack of water. The Zoning Ordinance could be modified to give the County the ability to grant extensions for single-family development that match current provisions for nonresidential and multi-family projects and permit an unlimited number of extensions for all development with no additional fees, so long as Durham remains in Stage 3 or higher drought conditions. The proposal also provides a technical change in Section 10 concerning the measurement of nursery stock so that the Section corresponds with American Nurserymen Association standards used elsewhere in the ordinance.

The Zoning Committee unanimously recommended approval of the proposal after conducting a public hearing on September 12, 2002.

The Planning Department recommends adoption of this proposed text amendment by the Board of County Commissioners.

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

County Manager's Recommendation: The County Manager recommends that the Board adopt this proposed text amendment.

***The Public Hearing was opened and closed with no persons signed to speak.***

***Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to adopt this text amendment.***

***The motion carried unanimously.***

12. **12. Durham-Chapel Hill Joint Planning Review Agreement**

To consider adoption of a resolution establishing the intent of Durham County, Durham City, and the Town of Chapel Hill to cooperate with regard to planning decisions in certain defined areas. This agreement was reviewed by legal and planning staffs from the three jurisdictions and was recommended by the Joint City-County Planning Committee. The Chapel Hill Town Council adopted the resolution recently and it is under consideration by the Durham City Council. The resolution supports the sharing of planning information among the three jurisdictions within an area near the joint planning boundaries of the entities.

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

County Manager's Recommendation: The County Manager recommends that the Board adopt the resolution.

***Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to adopt the resolution.***

***The motion carried unanimously.***

13. **13. Social Services Position Transfer for Day Care**

The Department of Social Services (DSS) requests that the current position of Executive Director of Durham's Alliance for Child Care Access (DACCA) be transferred from the Durham Partnership for Children to DSS. DACCA is a collaborative project of DSS, the Durham Partnership for Children, Child Care Resource and Referral, and Operation Breakthrough (which administers the child day care subsidy program for Durham County). The Executive Director position for DACCA has been an employee of the Partnership for Children, but the majority of DACCA's staff are DSS employees, and the program funding is part of the DSS budget. Therefore, the DACCA Leadership Team, representing all four partner agencies, is requesting that the position be moved from the Durham Partnership for Children to DSS and be changed to the title of Program Manager to assure that this position has clear authority with the staff to make hiring and firing decisions and for budget accountability.

The funding budgeted for this position will not change, as the Durham Partnership for Children will continue to contract with DSS to provide the funding for the salary and benefits. The current contract DSS has with the Partnership for \$75,190 to pay the Executive Director's salary and benefits is sufficient to cover this position. The position will be a Social Work Program Manager, at a salary grade 35, \$40,659-\$63,413. No county funding is required.

Durham County Human Resources is aware of this request and has approved the transfer, subject to the Board of Commissioners' authorization.

Resource Person(s): Dan Hudgins, Director, Durham County DSS

County Manager's Recommendation: The County Manager recommends approval of the transfer of the DACCA Executive Director position to DSS as a Social Work Program Manager at a salary grade 35.

***Commissioner Bowser moved, seconded by Commissioner Cousin, to approve the transfer of the DACCA Executive Director position to DSS as a Social Work Program Manager at a salary grade 35.***

***The motion carried unanimously.***

14. **14. Report on ABC Police**

At the direction of the Board, the County Attorney has researched the question of transfer of authority of the ABC police. The statute governing the enforcement of ABC laws is N.C.G.S. § 18B-501. The statute provides that it is at the option of the local ABC board to determine whether or not it will hire ABC police or contract with another law enforcement agency to enforce the ABC laws. A copy of the statute is attached.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Send a letter to the local ABC Board and request that they begin the process of contracting with the Sheriff's Department to enforce the ABC laws.

***The County Manager will send a letter to the local ABC Board. There was no formal action taken.***

15. **15. Durham Public Schools: Surplus of Real Property-Lowe's Grove Elementary School**

On July 12, 2001, the Durham Public Schools Board of Education declared the former Lowe's Grove Elementary School property to be surplus. The site has been closed since 1989 and is comprised of 16 acres and several buildings that are closed and no longer acceptable for public use. The School System's Long-Range Facilities Plan identifies the need to surplus this property and seek new school sites elsewhere. The County has reviewed its Capital Improvement Program and has no project(s) planned for which the site would be acceptable.

North Carolina General Statute 115C-518 requires that the Board of Education first offer the Board of County Commissioners the opportunity to acquire the property. If the Board of County Commissioners declines that offer, the decision regarding the disposition thereof is subsequently vested with the Board of Education.

Resource Person(s): Hugh Osteen, Assistant Superintendent of Operational Services, Durham Public Schools

County Manager's Recommendation: Authorize the County Manager to notify the school system that it does not intend to acquire the property.

***Chairman Black recognized the following citizens who had signed to speak:***

***Ms. Allison Donnelly, 2308 University Drive, Durham NC 27707, representing herself,***

***Ms. Audrey Evans, 1501 Cole Mill Road, Durham NC 27705, representing "Save Lowe's Grove Association" and herself,***

***Mr. Gus T. Godwin, 6606 Barbee Road, representing "Save Lowe's Grove Association",***

***Ms. Charlotte Maynor, 102 Lakeshore Drive, representing "Save Lowe's Grove Association",***

***Ms. Jean R. Sears, 2638 S. Alston Avenue, representing "Save Lowe's Grove Association", and***

***Mr. Phillip W. Evans, 1501 Cole Mill Road, Durham NC 27705, representing "Save Lowe's Grove Association".***

***The Board of Commissioners and Mr. Osteen held a lengthy discussion of the issue of this surplus property.***

***Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to forward a letter to the school board asking questions it discussed and the petition and to seek a response from the Durham Public Schools in the next 30 days.***

***The motion carried unanimously.***

**Bail Bond Policy**

***Vice-Chairman Reckhow related discussion by the Crime Task Force regarding the policies and practices of local magistrates. Based on the appointment process by Durham judges, it is not an easy process for supervision or dismissal. An effort should be made to increase the accountability of appointment and supervision of magistrates.***

***She suggested that the Board send a letter to the judges involved and Mayor Bell and indicate this Board's concern. She also asked that the County Attorney bring back a proposal for change in legislation.***

***Commissioner Bowser addressed the problem of short sentences for persons convicted of violent crimes.***

***Visit from Delegation from County Durham, England***

***Ms. Heidi Duer, Assistant to the County Manager, gave the schedule of events for the delegation's visit.***

***Adjournment***

***There being no further business, the meeting was adjourned at 9:30 p.m.***