

REVISED

THE BOARD OF COUNTY COMMISSIONERS

DURHAM, NORTH CAROLINA

Monday, December 10, 2001

AGENDA

5:00 P.M.

**Closed Session**

The Board of Commissioners is requested to adjourn to closed session pursuant to N.C.G.S. § 143-318.11(a)(6) to discuss the County Manager's work plan. **The Board will also discuss the location or expansion of industries or other businesses, and to consider economic development incentives pursuant to N.C.G.S. § 143-318.11(a)(4).**

Regular Session

7:00 P.M.

1a. Opening of Regular Session?Pledge of Allegiance

1b. Agenda Adjustments

*Commissioner Bowser asked to address a letter concerning co-sponsoring some of the joint meetings with Orange County regarding the Shearon Harris nuclear plant. Chairman Black set this item as #11.*

**Commissioner Heron announced an I-40 HOV management study walk-through at the Herald-Sun on Tuesday, December 11 from 5-8 p.m. This concerns a study for possible HOV lanes on I-40.**

**Vice-Chairman Reckhow asked to add an item regarding the Chapel Hill Town Council and joint planning in the area of the two jurisdictions (Chapel Hill and Durham).**

2. **Minutes**

October 22, 2001 Regular Session

**Commissioner Heron moved, seconded by Commissioner Bowser, to approve the October 22, 2001 Regular Session Minutes as submitted.**

***The motion carried unanimously.***

3. **3. Presentation of Platinum Level Achievement Award, the Golden Sneaker and the JDF Sneaker Squad Awards for the 2001 Walk to Cure Diabetes Campaign**

The Juvenile Diabetes Research Foundation (JDRF) annually hosts the Walk to Cure Diabetes Campaign for the Triangle region. Deputy County Manager Wendell M. Davis chaired this year's fundraising campaign. The Walk was held on September 15, 2001 at Nortel Networks. The "Durham County Pacesetters" represented approximately 80 of the 4,300 walkers who participated in the event and raised almost \$14,000. Durham County Government employees participated in this important community event because:

- •120 million people are afflicted worldwide by diabetes
- •A new case of diabetes is diagnosed every 40 seconds
- •16 million Americans suffer from the disease
- •5.4 million Americans remain undiagnosed
- •Diabetes kills one American every three minutes

As a result of the fundraising efforts of County employees, the County for the first time received the Platinum Level Achievement Award from Juvenile Diabetes Research Foundation International. Five team captains received either the Golden Sneaker Award or the JDF Sneaker Squad Award. The award winners are:

***Golden Sneaker Award***

Ronnie Butler ? General Services

Captain Manual Davidson ? Durham County Sheriffs Department

***JDF Sneaker Squad Award***

Deborah Craig-Ray ? Public Information and Governmental Affairs

Kara Warren ? Emergency Medical Services

David Skaggs - Tax Office

Resource Person(s): Wendell M. Davis, Deputy County Manager and Chairman of the 2001 Walk to Cure Diabetes Campaign

County Manager?s Recommendation: The Manager?s recommendation is that the Board accept the award and congratulate the County staff on a job well done.

#### 4. 4. Consent Agenda

- a. a. Final Offer to Purchase County Property (704 Gaston Ave.) (approve Mr. Roberts' offer of \$14,000 and prepare a non-warranty deed for the Chairman's signature);
- b. b. Sanitary Sewer Easement Across County Property (900 Scout Drive) (authorize the conveyance of the easement contingent upon the proper abandonment of the existing easement and instruct the County Attorney to draft a deed restriction);
- c. c. Lease Agreement (County Lot #17?Space for West Village) (authorize the execution of the Lease Agreement between Durham County and West Village, a Limited Partnership);
- d. d. Change in BOCC Fixed Asset Policy?Increase Capitalization Threshold From \$1,000 to \$5,000 and Change in Procurement Card Purchase Limit?Increase from \$1,000 to \$5,000 (approve the change in the Fixed Asset Policy increasing the capitalization threshold from \$1,000 to \$5,000 retroactive to July 1, 2001 and the change in the procurement card purchase limit from \$1,000 to \$5,000);
- e. e. Execution of Architectural Design Service Contract with Brown and Jones Architects, Inc., for the Addition and Renovation of the Lebanon Volunteer Fire Station Building?RFQ 02-001 Project No. DC064-30 (authorize the execution of a contract with Brown and Jones Architects, Inc., in the amount of \$31,540.00 for the purpose of renovating and expanding the Lebanon Fire station);
- f. f. Resolution to Release Funds to Triangle J Council of Governments (approve the release of funds to Triangle J Council of Governments; it requires no local appropriation and it is an annual action);
- g. g. Contract for Forest Ranger?NC Department of Environment and Natural Resources Agreement (approve the contract so the County can continue to receive the protection from forest fires as provided under contract);
- h. h. Budget Ordinance Amendment No. 02BCC000039?Office of the Sheriff?Recognize Deferred Revenue for the Sheriff's Office (approve Budget Ordinance Amendment No. 02BCC000039 to recognize \$12,473 in deferred revenue);
- i. i. Budget Ordinance Amendment No. 02BCC000037?Social Services?Recognize Deferred Revenue for the Department of Social Services (approve Budget Ordinance Amendment No. 02BCC000037 to recognize \$135,800 in deferred revenue for Social Services);
- j. j. Salary of Sheriff for Election Filing Period (Set the salary during the filing period at \$65,000 and assess and set the salary of the sheriff when the new or incumbent sheriff takes office after the election);
- k. k. Approval of Memorandum of Understanding with the Durham Public Schools (approve the Memorandum of Understanding);
- l. l. Resolution?Providing for Sale of Two-thirds and Refunding Bonds (adopt the resolutions providing for the sale of the bonds so that staff may continue with the process);
- m. m. Budget Ordinance Amendment No. 02BCC000036?Board of Elections?to Recognize and Appropriate \$10,000 grant from State BOE to Purchase Laptop Computers for One Stop No Excuse Voting (approve Budget Ordinance Amendment No. 02BCC000036 to appropriate \$10,000 in grant revenue as requested by the Board of Elections);
- n. n. Budget Ordinance Amendment No. 02BCC000040?Public Health to Recognize Revenue for the General Health Clinic (approve Budget Ordinance Amendment No. 02BCC000040 to recognize \$10,000 from the Department of Health and Human services for the CDC TB Elimination and Prevention Program);
- o. o. Budget Ordinance Amendment No. 02BCC000041?Mental Health?DD First-in-Families Grant (approve Budget Ordinance Amendment No. 02BCC000041 to appropriate \$60,000); and
- p. p. Budget Ordinance Amendment No. 02BCC000042?Mental Health?and Approval to Establish 2.5 Provisional Social Worker II Positions - State Adult Care Home Incentive Funds (approve Budget Ordinance Amendment No. 02BCC000042 to establish 2.5 FTE additional positions; appropriation of funds will total \$135,000 for F/Y 01-02).
- q. q. **Added item?Approval of Public Official Bonds (approve the bond of public officials, as they meet statutory requirements)**

***Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve Consent Agenda items 4(a), (b), (c), (e), (f), (g), (h), (i), (j), (l), (m), (n), (o), (p), and (q). Items 4(d) and 4(k) were pulled and placed at the end of the agenda as item #10 ½.***

***The motion carried unanimously.***

**5. 5. Public Comment?Land Use Plan Amendment #A01-10 (Southeast Durham Plan)**

Receive public comments and follow recommended actions to deny the request to amend the Future Land Use Map of the Southeast Durham Plan. The Southeast Durham Plan directs nonresidential development generally along two main corridors?US 70 and NC 98. The intersection of Sherron Road and NC 98 is identified in the Plan as a small neighborhood commercial node. The Plan specifically states that the small neighborhood scale commercial area contains a grocery store and drug store but should be limited to one quadrant of an intersection.

On April 25, 2001 the Planning Commission unanimously approved an amendment (Case A01-07) of the Plan to slightly expand the commercial node west of Sherron Road; to significantly expand the commercial node east of Sherron Road, and to allow high density residential or office uses east of Sherron Road. The applicant in both cases, RDSK, LLC proposes to further increase the size of the commercial area in the southwestern quadrant and to reduce the density of the residential portion of the southeastern quadrant. The intent of the Plan is to encourage new employment areas and neighborhood-scale commercial activities at the subject intersection. The Plan also encourages locating new high- and medium-density residential neighborhoods near the intersection of major roads, with direct access to thoroughfares. The Durham Planning Commission reviewed the applicant?s proposal at its meeting on July 25, 2001 and recommended denial (6-1).

Resource Person(s): Dick Hails, Interim Planning Director and T. E. Austin, Planning Supervisor

County Manager?s Recommendation: The Manager?s recommendation is that the Board receive public comment and, if appropriate, deny the request to amend the Southeast Durham Plan to further expand the commercial node and to decrease residential densities at the intersection of Sherron Road and NC 98.

***Chairman Black opened the public hearing which was properly advertised. Speakers for the item follow.***

**Mr. Jeff Roach of Horvath Associates Inc.**

Mr. Hugh Schrowang, 514 N. Waters Edge Drive, advised the Grove Park Homeowners Association was in favor of the amendment to the Southeast Durham Plan.

Mr. James Brinkley, 5210 Wake Forest Highway, supported low-density development.

Mr. Millard W. Page, 5222 Wake Forest Highway, supported low-density development in the area.

**Mr. Bill Patrick, 427 Olive Branch Road, supported low-density development.**

**Ms. Sue Harris, 245 Baddock Drive, encouraged low-density development.**

**Ms. Anna Eakes, 5218 Wake Forest Highway, did not support anything greater than low-density development.**

**Mr. Lee Lambert, 5214 Wake Forest Highway, supported low-density development with some commercial development.**

**Mr. Ken Everhart, 5203 Wake Forest Highway, preferred to keep the area low-density.**

**Mr. George W. Ray Jr., 5122 Wake Forest Highway, spoke in favor of the proposed commercial development.**

Mr. Robin Corkins, 5220 Wake Forest Highway, spoke in favor of low-density development for the plan.

**Mr. Stephen Hubbard, 5121 Wake Forest Highway, was in favor of some commercial development with adjoining low-density residential designation.**

***Chairman Black directed the County Manager to address Ms. Eakes' questions in a letter and to forward a copy to the County Commissioners.***

***The item was deferred to a later meeting, giving the Planning staff the opportunity to study the item and make revisions.***

6. **6. Public Hearing? Dale E. Schneider, Applicant (Rezoning Case P01-39)**

Dale E. Schneider will present to the Board of County Commissioners a request to rezone 5.92 acres located at 5307 Farrington Road, PIN 0709-03-30-5588 (Tax Map 485, Block 1, Lot 6A). Request: R-20 to RD (D) (F/J-B and MTC). The proposal is in general conformance with the small area plan and 2020 Plan. Staff recommends approval. The Zoning Committee of the Durham Planning Commission conducted a public hearing on October 10, 2001 and voted 7-0 to recommend approval.

The public hearing for this request was advertised on November 23 and 30, 2001 in the Durham Herald-Sun.

Resource Person(s): Nazeeh Abdul-Hakeem, Acting Planning Supervisor, and Dick Hails, Interim Planning Director

County Manager's Recommendation: The Manager's recommendation is that the Board hold the public hearing and approve the rezoning, if appropriate, based on public comment.

***Mr. Nazeeh Abdul-Hakeem, acting Planning Supervisor, presented the item for C/C Planning.***

***Chairman Black opened the public hearing which was properly advertised.***

***Speakers for the item follow.***

***Mr. Dale E. Schneider, the applicant for the rezoning, reported on the process he had followed in preparing for the rezoning request.***

***Mr. Bill Harriss, Mr. Dan Jewell, and Mr. I. Jarvis Martin, were present for any questions from the Commissioners.***

***Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to approve the rezoning request.***

***The motion carried unanimously.***

## **7. 7. Durham Public Schools-Purchase of Real Property**

On September 27, 2001, the Durham Public Schools Board of Education approved the purchase of real property for a new K-5 elementary school in the amount of \$1,071,030. The property is located at the corner of Ephesus Church Road and George King Road and is referred to as the Swain property. The parcel is 37.58 acres.

In order to fund the purchase of the property, the Board of Education also approved a change in the use of remaining 1991 Bond funds to serve as the required local match for funds from the Public School Capital Building Fund, a copy of which is included. These two sources of revenue, along with funds from the 2001 Bond and 1996 State Bond funds, provide the funds needed to purchase the land.

The Durham Public Schools Board of Education requests approval to purchase the property, approval to use the balance of \$104,062 remaining from the 1991 Bond fund, and approval of the application for Public School Capital Building Funds in the amount of \$312,186.

Resource Person(s): Hugh Osteen, Executive Director of Facilities Services, Durham Public Schools.

County Manager's Recommendation: The County Manager recommends that the Board approve the request as presented.

***Mr. Osteen presented the item and addressed the merits of the property.***

***The Commissioners asked questions which were answered by Mr. Osteen and County staff.***

***The Commissioners concurred to meet again on December 19, 2001 at 9:00 a.m. to again discuss this item.***

8. **8. Reimbursement Resolution for School Bonds**

As the general obligation bonds for public schools have now passed, the schools need to proceed with design work in order to put the projects out to bid. The schools may also want to begin work on some of the smaller projects. In order for this to be paid out of bond proceeds, a reimbursement resolution needs to be adopted. A portion of the approved bonds will probably be sold in late winter or early spring. The exact sale date will be determined based on a cash flow needs analysis by Budget. A copy of the reimbursement resolution is attached.

Resource Person(s): Chuck Kitchen, County Attorney.

County Manager's Recommendation: Approve the resolution so the County can be reimbursed for the school expenditures from bond proceeds.

***This item was not discussed at this meeting.***

9. **9. Budget Ordinance Amendment No. 02BCC000038 and Capital Project Amendment No. 02CPA000007?Survivable Ring Optical Fiber for Emergency Management and EMS**

The Board is asked to authorize staff to approve the proposal from Verizon Communications to install a SONET Fiber Ring for highly-reliable communications between Emergency Management/Emergency Operations Center (EOC), Emergency Medical Services main base, and Verizon's main switching office. This will allow continuous communications for these departments and in the event of an emergency, between these operations and county government offices in downtown Durham where the Joint Information Center (JIC) will be located.

After the relocation of the Emergency Operations Center (EOC) from the basement of City Hall to Broad Street, the risk of interruption of communications significantly increased due to the greater distance to telephone switching facilities and due to the above-ground telephone cables serving the new EOC location. If, during an emergency, a vehicle strikes a telephone pole along the cable route, a tree is blown across the wires, or lines fall due to an ice storm, the EOC and/or EMS could lose all communications until repairs are made.

In order to eliminate this risk, three options were investigated to provide backup communications in the event of failure of primary voice and/or data communications during an emergency. Because the Emergency Management/Emergency Operations Center and Emergency Medical Services main offices are relatively close to each other, and both need to maintain communications in an emergency, it was decided to seek a solution that would improve reliability at both sites.

Three possible backup alternative solutions have been explored: 1) wireless technology, 2) a diverse copper circuit, and 3) a fiber optic ring.



Use of wireless technology, while the least expensive, is not reliable in severe weather that would likely be cause for emergency operations in the first place and was not given further technical consideration.

Use of an alternate-route copper circuit has a moderate cost (estimated at about \$35,000), limited bandwidth potential, and still involves risk in severe weather due to aboveground cables and the need for human intervention.

A fiber optic ring has two separate, underground routes with data flowing in opposite directions in two fiber optic circuits that provide automatic fail over to all points on the ring should any link be cut. It also has redundant terminal equipment to ensure operation continues in the event of a hardware failure.

Staff has concluded that a fiber optic ring is by far the best solution due to the reliability inherent in its architecture. Fiber also offers greater bandwidth capabilities. This option is normally very expensive to implement. However, Verizon has made it more cost effective than an alternative copper circuit by absorbing a great deal of the cost.

Verizon has offered to install the fiber ring at their expense (\$212,800.00) if the County agrees to pay the one-time cost of \$23,923.26 for: 1) the installation of diverse route underground conduits on County property (\$11,503.52 at EMS & \$5,068.00 at Emergency Management); and 2) for purchase and installation of termination equipment (\$3,096.87 equipment plus \$579.00 installation at each location). Under this proposal, the cost to the County for the fiber optic ring solution is significantly lower than the less reliable copper circuit alternative. Monthly communications costs will increase by \$506.65 for Emergency Management and \$547.85 for EMS beginning at the conclusion of the installation in spring of 2002. This is approximately the same monthly increase projected for alternative copper circuits.

Emergency Management and Emergency Medical Services will pay the aforementioned installation and monthly cost for the remainder of the year from their current operating budgets. \$18,166 is available from remaining funds allocated to the Warrant Control Capital Project. It is recommended that these remaining funds be transferred from the capital project budget to the Information Technology Department operating budget to cover a portion of the one-time costs for installation of the SONET fiber optic ring. Information Technology will pay the balance for this fiscal year from funds already budgeted for network enhancements. The Warrant Control Capital Project will then be ready to be closed.

Resource Person(s): Jeff Batten, Emergency Management Director; Mickey Tezai, EMS Director; Perry Dixon, Director of Information Technology

County Manager's Recommendation: The Manager recommends that the Board authorize staff to approve Verizon's proposal, approve the Budget Amendment No. 02BCC000038, and the Capital Project Amendment No. 02CPA000007, and authorize staff to proceed implementing the SONET Fiber Ring. Also, the Manager recommends that the Board recognize Verizon's generous contribution to the community by partnering with the County in enhancing communications reliability at these two critical facilities.

***Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve Budget Amendment No. 02BCC000038, and the Capital Project Amendment No. 02CPA000007.***

***The motion carried unanimously.***

10. **10. Quasi-Judicial Hearing?M01-04?for a Major Special Use Permit for a Heliport**

Dale E. Schneider has submitted an application for a Major Special Use Permit to allow the use of a 5.92-acre, single-family residential property for a heliport, zoned RD (D), F/J-B and MTC. The property is located at 5307 Farrington Road; east side of Farrington Road, north of Wendell Road, west of I-40 (Tax References 485-1-006A; PIN 0709-03-30-5588); Governing Body approval of the Major Special Use Permit is required for a heliport in the Rural District.

Note: a rezoning from R-20 to RD (D) for this site is also on the BOCC agenda. This use permit can only be considered if the rezoning is approved.

Resource Person(s): Helen Youngblood, Senior Planner, Joint City/County Planning

County Manager's Recommendation: Hold the public hearing and evaluate the evidence presented. The Planning staff will make a recommendation after the hearing of this case. The County Manager will make a recommendation after the hearing of this case. After the hearing, one of these two motions is in order:

Motion A: (Approval with or Without Conditions) - To direct the Planning Director to prepare a decision granting with conditions the use permit in Case M01-04. (Commissioners should identify any conditions they wish to incorporate into their approval. Staff will prepare the decision for the Commissioners' next meeting for action); or

Motion B: (Disapproval) - To direct the Planning Director to prepare a decision denying the use permit in Case M01-04. (Commissioners should identify the findings they are unable to make so these can be incorporated into the decision. Staff will prepare the decision for Commissioners' next meeting for action).

***Ms. Youngblood, Senior Planner, Joint City/County Planning, presented the item and answered questions for the Board.***

***The Chairman opened the meeting for the proponents. The applicant, Mr. Dale Schneider, presented the commissioners with slides to represent the size of his helicopter compared to conventional helicopters and testified that his neighbors were not disturbed by his test flights. The Commissioners asked questions of Mr. Schneider.***

***There being no further questions, Chairman Black asked staff to continue. Ms. Youngblood recommended that the Commissioners approve the request with the conditions that there be no commercial operation and that the applicant limit use to between the hours of 7 a.m. and 9 p.m.***

***Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the Major Special Use Permit for a heliport with the conditions stated above. The Planning Director will prepare a decision granting with the conditions the use permit in Case M01-04.***

***The motion carried unanimously.***

**Item 10 ½--Items 4(d) and 4(k) were pulled and placed at the end of the agenda as item #10 ½.**

**Item 4(k)?Approval of Memorandum of Understanding with the Durham Public Schools**

**Commissioner Cousin presented his proposed changes to the MOU. The Commissioners offered and discussed other changes.**

**Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to extend the meeting until 11:20 p.m.**

**The motion carried unanimously.**

**Chairman Black opened the meeting for comments by Dr. Lavonia I. Allison, who had signed to speak on this item. Dr. Allison made her comments regarding her opposition to purchasing land for a new school in an area close to Chapel Hill rather than in the innercity where she feels it is more needed.**

**Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to direct the County Manager to write a letter for Chairman Black's signature to the Durham Public Schools Board of Education Chairman Kathryn Meyers. The letter should address the Commissioners' concern that earnest moneys were placed on land before the proposal to purchase land for a school was presented to the Commissioners.**

**The motion carried unanimously.**

**Item 4(d)?Change in BOCC Fixed Asset Policy?Increase Threshold from \$1000 to \$5000 and Change in Procurement Card Purchase Limit?Increase from \$1000 to \$5000.**

**The Commissioners raised concern with increasing the procurement card threshold to \$5000.**

**Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the item with the procurement card threshold changed to \$2500 with a review during the budget process.**

**The motion carried unanimously.**

**Item 11?Item added by Commissioner Bowser**

**Item 12?Item added by Vice-Chairman Reckhow**

**THE MEETING ADJOURNED AT 11:20 P.M.**