

**\*REVISED**

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

Monday, November 12, 2001

**AGENDA**

7:00 P.M.

**Regular Session**

1. **Opening of Regular Session** Pledge of Allegiance
2. **Agenda Adjustments**
3. **Minutes**
  - a. a. September 10, 2001 Regular Session
  - b. b. September 24, 2001 Regular Session

***Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the September 10, 2001 Regular Session Minutes as corrected and the September 24, 2001 Regular Session Minutes as submitted.***

***The motion carried unanimously.***

4. **Resolution Honoring Henry Scherich**

Commissioner Ellen Reckhow has asked that this item be prepared honoring Mr. Henry Scherich. Mr. Scherich, who is President of Measurement Inc., recently gave his workers a \$2,000 bonus, which many chose to donate to various charities in light of the September 11<sup>th</sup> terrorist attacks. A resolution has been prepared for the Board to adopt.

County Manager's Recommendation: Approve the resolution and present to Mr. Scherich along with the Board's sincere congratulations for his corporate generosity.

Vice-Chairman read the resolution into the public record. The Commissioners expressed their appreciation for Mr. Scherich's generosity to his employees and for promoting public philanthropy.

5. **Consent Agenda**

- a. Resolution declaring results of bond election (adopt the resolution reflecting the outcome of the election);

- b. Closed Session minutes approval of minutes to be opened (approve the nine sets of closed session minutes);
- c. Board appointment Juvenile Crime Prevention Council (JCPC)(appoint Mr. Donnie Phillips to the Chief Court Counselor designated position);
- d. Performance report for Health Care Trust Fund (based on performance, increase MDLs fund level by \$3 million and reduce US Trust's fund level by \$3 million);
- e. Community Development Block Grant?2002 Scattered Site Housing from State Department of Commerce Division of Community Assistance (receive presentation and authorize County Manager to prepare RFP for consulting services);
- f. Standard nonreimbursable contract for extension of County sanitary sewer system (authorize County Manager to execute the utility contract with Lichtin Arrington, LLC to extend County sewer system by 125LF of 12" and 902 LF of 8" pipe to serve Arrington-Building 7 and adjacent lots);
- g. Contract award for wastewater utility rate and fee study (authorize the County Manager to execute a contract with Raftelis Financial Consulting in the amount of \$44,870);
- h. Vehicles for Sheriff, General Services, Emergency Management Services, and Engineering Departments (authorize County Manager to enter into a contract with University Ford for \$426,942.00; Bobby Murray Chevrolet Inc. for \$39,340.94; and Sir Walter Chevrolet for \$28,557.93 for a total of 23 vehicles);
- i. Final offer to purchase County property (704 Gaston Avenue) (approve offer of \$14,000 by Mr. Bryant Roberts and prepare a nonwarranty deed for the Chairman's signature);
- j. Left blank intentionally
- k. Left blank intentionally
- l. Budget Ordinance Amendment No. 02BCC000031?General Services NC Department of Agriculture pesticide container recycling program grant (approve Budget Ordinance Amendment No. 02BCC000031 and accept the \$8,309.75 grant);
- m. Budget Ordinance Amendment No. 02BCC000032?Enterprise Fund appropriation for IBM Tivoli Industrial Extension Policy reimbursements (approve Budget Ordinance Amendment No. 02BCC000032 to appropriate \$30,300 to cover two payments to IBM Tivoli due this fiscal year);
- n. Budget Ordinance Amendment No. 02BCC000033?FY 2001-2002 Encumbrances (approve Budget Ordinance Amendment No. 02BCC000033 to pay outstanding purchase orders and service contracts at the end of FY 2001); and
- o. \*Budget Ordinance Amendment No. 02CPA000005 and 02BCC000034?Approval of construction contract for additions and renovations to the Community Shelter for H.O.P.E.Project No. DC061-30?Bid No. IFB 01-025 (authorize appropriation of funds and execution of contracts and any necessary change orders in the total amount of \$1,734,237).

***Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approved consent agenda items 5(a), (b), (c), (d), (e), (f), (g), (h), (l), (m), and (n).***

***The motion carried unanimously.***

---

***The Commissioners by consensus agreed to table consent agenda item 5(i) for 30 days. Mr. Bill Martin, Real Property Manager, advised he would contact the bidder for the property regarding the Board's concerns and offer a report when the item is returned to the agenda.***

---

***Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the County Manager's recommendation: that the Board authorize fund appropriation and contract execution with the named contractors (C. T. Wilson Construction Co. Inc., ABC Plumbing Co. Inc., Southern Piping Co. Inc., and Pendergraph Electric Inc.) and any necessary change orders in the total amount of \$1,842,895. Also recommended was the appropriation of \$47,636 to the Capital Finance Fund from the General Fund. The Board is to advise the County Attorney on drafting a Declaration of Deed Restriction, which is required for HOME funds disbursement.***

***The motion carried unanimously.***

6. **Update on ABC Board**

Mr. Eric Michaux, Chairman of the Durham County ABC Board, is present to provide an update on the ABC Board.

Resource Persons: Eric Michaux, Chairman, Durham County ABC Board

County Manager's Recommendation: Receive the report and advise the staff if any additional information/action is necessary.

ABC Board Chairman Eric Michaux presented the ABC update. Vice-Chairman and Mr. Michaux discussed security measures in connection with recent robberies at several ABC stores. Commissioner Heron and Mr. Michaux discussed the recent audit. Commissioner Bowser, Commissioner Heron, and Chairman Black discussed audit, personnel, and security concerns with Mr. Michaux.

7. **Public Hearing Major Site Plan?Bethesda Christian Academy?D01-531**

**Request Approval of Major Site Plan**

Bethesda Christian Academy has submitted a site plan for a 1,584 square-foot modular classroom on an 11.9-acre tract (Tax Map 643-01-004; PIN 0749-02-78-4419). The modular unit is being proposed as an addition to an existing private school. A Traffic Impact Analysis study was required for this project because of an increase in the maximum student population threshold from 232 to 360 in two phases.

**The Development Review Board reviewed and approved this plan at its October 19, 2001 meeting with the recommendation that all road improvements be installed prior to the issuance of Certificates of Occupancy for each phase. At its October 23, 2001 meeting, the Board of Adjustment approved the Minor Use Permit for the school expansion with a condition that the road improvements for Phase One be installed by August 1, 2002 instead of prior to Certificate of Occupancy.**

Resource Person(s): Dennis Doty, Planner, and Steve Medlin, Planning Supervisor.

County Manager's Recommendation: The County Manager's recommendation is that the Board approve this Site Plan with the Board of Adjustment conditions regarding the installation of road improvements for Phase One.

***Chairman Black opened the meeting for public comment. The only speaker signed was Mr. Brian Van Horn, 4409 Cottondale Drive, who requested the Board to approve the site plan.***

***Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the site plan with the Board of Adjustment conditions regarding the installation of road improvements for Phase One.***

***The motion carried unanimously.***

8. **Land Use Plan Amendment #A01-13 (Mangum Township Plan)**

Adopted in 1997, the Mangum Township Plan recognizes the need to accommodate reasonable, planned growth while providing protection for the unique character of the Township. The Plan directs nonresidential development generally in the area between the confluences of the Eno, Little, and Flat Rivers.

Based on the adopted FLUM, a portion of the subject site is designated for commercial uses with the remainder designated for industrial uses. However, the subject site and most of the surrounding area is currently zoned for industrial uses. A change of future land use designation would not increase or expand the amount or location of land currently zoned for industrial uses.

The plan amendment applicant, EMD Pharmaceuticals, Inc., requests that the Mangum Township Plan FLUM be amended to designate the area bounded by Old Oxford Road, Red Mill Road, and Teknika Parkway for industrial land uses. The Durham Planning Commission reviewed the request at its meeting on October 24, 2001 and unanimously recommended approval (11-0).

Resource Person(s): Dick Hails, Interim Planning Director and Dwight Yarborough, Senior Planner

County Manager's Recommendation: Amend the Mangum Township Plan FLUM to designate the area bounded by Old Oxford Road, Red Mill Road, and Teknika Parkway for industrial land uses.

***The two persons signed to comment on this item chose to withdraw:  
Mr. Lou Goetz, 3531 Stoneybrook, and  
Mr. Dan Jewell, 1025 Gloria Avenue.***

***Commissioner Bowser moved, seconded by Commissioner Heron, to approve the request to amend the Mangum Township Plan FLUM to designate the area bounded by Old Oxford Road, Red Mill Road, and Teknika Parkway for industrial land uses.***

***The motion carried unanimously.***

9. **Status Report on the Durham Comprehensive Plan Update**

The Comprehensive Plan update provides an opportunity for citizens and elected officials to take stock and see if the growth and development policies in present plans still make sense after several years of rapid change. The Durham 2020 Comprehensive Plan was adopted in late 1995, so an update now is appropriate. Preparing the update of the Comprehensive Plan will take about two years and is expected to be complete in the summer of 2003. The process will utilize professional planners to translate input from citizens into draft goals, objectives, and policies. A citizens steering committee will provide pragmatic direction and oversight. A broad citizen participation program will include two Public Forums; periodic newsletters, cable TV programs, and a Website dedicated to this topic; and an extensive mailing list of interested citizen who express an interest in being kept informed. The Durham Planning Commission, the City Council, and the County Board of Commissioners will conduct public hearings as they each consider adoption of the updated Plan. This process has been designed to best utilize the time and energy of citizens and staff to produce a workable Plan for Durham's future.

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

County Manager's Recommendation: The County Manager's recommendation is that the Board receive the status report on the Durham Comprehensive Plan update.

***Commissioner Cousin moved, seconded by Commissioner Bowser, to appoint Vice-Chairman Reckhow to sit on the citizens' steering committee representing the County Commissioners.***

***The motion carried unanimously.***

10. **New Hope Trail Easement Donation**

In April 2001, the Board approved funding for trail improvements for the 2.2-mile long nature trail along the New Hope Creek in southwestern Durham County just south of 15-501. Approximately half of the trail is located on private property, and the property owner has donated a fifty (50) foot wide trail easement to complete the 2.2-mile trail loop. The four (4) foot wide trail itself has already been completed by volunteers and County staff with the permission of the property owner. The easement will allow the County to construct the approved trail improvements and open the trail to the general public

The trail easement will allow the County to continue its implementation phase of the New Hope Creek Corridor Plan, which includes nature trails, passive nature-based recreation, and public access. The property owner, Boulevard Properties, is a supporter of the New Hope concept and is willing to work with the County, the City of Durham, and other agencies to implement the Plan.

The trail easement is adjacent to the County-owned parcel and the City of Durham future park site adjacent to Githens Middle School. This partnership will offer the public and the City and County the chance to work together in providing environmental education opportunities, passive nature based recreation, and the experience of the New Hope Creek environment.

Resource Person(s): Dick Hails, Interim Planning Director, and Mike Giles, Open Space Land Manager

County Manager's Recommendation: The Manager's recommendation is that the Board accept the trail easement donation from Boulevard Properties along New Hope Creek

***Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to accept the trail easement donation from Boulevard Properties along New Hope Creek.***

***The motion carried unanimously.***

***Vice-Chairman Reckhow asked that a letter of thanks be sent to the property owner donating the easement.***

11. **Approve Sole Source of Communication Repeaters From Local Law Enforcement Block Grant Funds**

The Office of the Sheriff is requesting the Board's approval of a sole source exemption to allow the purchase of three (3) Communication Repeaters from Motorola (Piedmont Communications Co. Inc.). Justification for this sole source purchase is based on North Carolina's G.S. 143-129(f), which allows an exemption from formal bidding "when standardization or compatibility is the overriding consideration". Further written justification is enclosed for the required record of purchases approved under the sole source exemption.

The Board of County Commissioners approved the funding for these Repeaters on September 24, 2001. This funding is part of the 2001 Local Law Enforcement Block Grant. The cost of the equipment is \$37,761.75. After adding sales tax, freight, programming, and installation the amount would be \$46,132.45 (breakdown attached). No further County funding would be necessary for this purchase. Purchasing department has approved this item.

Resource Person(s): Nancy Dellinger; Major Mike Andrews

County Manager's Recommendation: The County Manager recommends the Board to approve the sole source exemption for Motorola (Piedmont Communications Co., Inc.) to furnish, install, and program the Repeaters for the Sheriff's Office.

***Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the sole source exemption for Motorola (Piedmont Communications Co., Inc.) to furnish, install, and program the Repeaters for the Sheriff's Office.***

***The motion carried unanimously.***

12. **Refunding Bonds**

A refunding bond proposal has been proposed by our financial consultant, Davenport & Company, L.L.C. Davenport has suggested that the County Commissioners authorize the refunding of approximately \$35,485,000 in 1992 bonds. The projected net savings would be \$1,502,402. This is based on current market rates, and the savings can and probably will fluctuate with market conditions. In refunding the existing bonds, no additional debt will be incurred. This is just a restructuring of existing debt. It should also be noted that the refunding bonds would be paid off in the same time period as the existing 1992 bonds. The actual amount to be requested in the legal documents to be approved will be an amount not to exceed \$39,000,000. This will allow for additional savings if market conditions are favorable at the time of the actual bond sale. A copy of the refunding analysis is attached.

The Preliminary Resolution authorizing proceeding with the bonds and the Bond Order is being prepared by Bond Counsel, and will be sent to the Board prior to the meeting. The required public hearing is proposed to be set for November 26, 2001. This date will allow for the required 30-day notice period prior to a proposed sale date of January 8, 2002, which date has been reserved for the County by the Local Government Commission contingent upon the Board deciding to go forward with the refunding.

Resource Person(s): Chuck Kitchen, County Attorney; George Quick, Finance Officer

County Manager's Recommendation: Approve the Preliminary Resolution and approve the introduction of the Bond Order setting the public hearing on November 26, 2001.

***Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to approve the introduction of the Bond Order setting the public hearing on November 26, 2001.***

***The motion carried unanimously.***

### 13. **Board and Commission Appointments**

Garry E. Umstead, CMC, Clerk to the Board, will distribute ballots to make appointments to the following boards and commissions:

- •Adult Care Home Community Advisory Committee?**Gregory Badger**
- •Area Mental Health Board?**Cynthia M. Wiford**
- •Durham Convention and Visitors Bureau?**William A. Kalkhof**
- •Raleigh-Durham Airport Noise Abatement Committee?**Christopher Voigt**
- •Transportation Advisory Board?**Joseph E. Kilsheimer**

***The Commissioners made the above appointments to the boards and committees.***

Resource Person: Garry E. Umstead, CMC, Clerk to the Board

**\*THE FOLLOWING ITEMS HAVE BEEN ADDED AS OF 11/9/01:**

### 14. **Refunding Bonds and 2/3's Bonds**

A bond issue of 2/3's bonds for projects in the County's Capital Improvements Plan (CIP) is proposed. The maximum amount available for issue is approximately \$11.05 million. A list of the proposed projects from the CIP is attached.

It should be recalled that 2/3's bonds are general obligation bonds which are limited to 2/3's of the amount of principal debt retired in the previous fiscal year. These bonds do not require voter approval, and for this reason, are the most cost-effective form of financing available to the County. These bonds must be issued before the refunding bonds.

The preliminary resolution and proposed bond order are attached.

Resource Person(s): Chuck Kitchen, County Attorney; Pam Meyer, Budget Director; George Quick, Finance Officer

County Manager's Recommendation: Approve the preliminary resolution and introduce the bond order setting the public hearing on the bond order for November 26, 2001.

***Commissioner Heron moved, seconded by Commissioner Bowser, to approve the preliminary resolution and introduce the bond order setting the public hearing on the bond order for November 26, 2001.***

***The motion carried unanimously.***

15. **Establishing a Six-Month Moratorium on New Telecommunications Tower Applications**

In June of this year, both Durham City Council and the Durham Board of County Commissioners approved a zoning text amendment affecting regulations for telecommunications towers. Among the elements of that amendment is the provision of independent consultant to review the documentation provided by the tower applicant and to advise the approving authority (usually the Board of Adjustment) on its accuracy. A Request for Proposals (RFP) that was issued in follow-up to this ordinance approval is limited to the direction given by that approval.

However, there is now interest in expanding the scope of professional services related to towers substantially beyond that identified in the current RFP to include additional services, such as a tower master plan, an overhaul of regulations, and issues regarding communications equipment within rights-of-way and on other jurisdiction-owned sites. This interest arises from concerns with the number of towers that have been approved or are potentially requested, with changes in dimensional standards accounting for newer technologies, with wise use of local government-owned facilities as possible sites for communications facilities, and with avoiding interference with local government communications such as essential for emergency services. To accommodate this interest, the RFP would have to be amended and reissued. Therefore, the previous RFP process has been put on hold.

Analysis: Revision to and re-issuance of the RFP, consultant selection, and contract approvals are expected to require up to six months. It can be expected that applications for site plan and/or use permit approval for new towers and for towers replacing nonconforming towers would continue to be submitted during that time period. The Attorney's office advises that the legal way to not process or act on applications is through enactment of a moratorium.

Attached is a resolution setting a public hearing on such a moratorium for the Board's November 26 meeting. Such a moratorium would apply to all new towers allowed by right, all new towers allowed with a use permit, and all towers replacing nonconforming towers. It would allow applications received prior to September 5 to be processed, provided the applicant can show to the satisfaction of the County that no interference with emergency communications or governmental dispatch capabilities will result. It would not apply to antennas co-locating on existing towers, buildings, or other structures.

Resource Person: Sheila Stains-Ramp, Interim Assistant Planning Director, C/C Planning

County Manager's Recommendation: Adopt the resolution to set a public hearing to receive public comment and consider establishment of a moratorium on acceptance or review of applications for new towers or replacement towers.



***Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to schedule a public hearing at the first Regular Session in December to consider establishment of a moratorium on acceptance or review of applications for new towers or replacement towers.***

***The motion carried unanimously.***

**THE MEETING WAS ADJOURNED AT 9:46 P.M.**