

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

Monday, March 22, 2004

ACTION MINUTES--DRAFT

5:30 P.M.

Closed Session

Commissioner Heron moved, seconded by Commissioner Cousin, that the Board adjourn to closed session to discuss a claim and to preserve the attorney-client privilege and to establish and instruct the staff regarding the position to be taken on behalf of the public body in negotiating the price and other material terms of a proposed contract for the acquisition of real property, said property being inactive railroad property owned by Norfolk and Southern located roughly parallel to Roxboro Road through northern Durham County into Person County and a line through the City of Durham known as the Duke Beltline, pursuant to

G.S. § 143-318.11(a)(3)& (5).

The motion carried unanimously.

7:00 P.M. Regular Session

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

2. **Agenda Adjustments**

Chairman Reckhow announced that action on the March 3, 2004 Worksession Minutes would be deferred until a future meeting so changes can be made. Consent agenda item No. g. was removed for staff to do further work.

3. **Minutes**

Commissioner Heron moved, seconded by Commissioner Jacobs, to approve as submitted the January 29, 2004 Annual Retreat and the March 8, 2004 Regular Session Minutes of the Board.

The motion carried unanimously.

4. **Consent Agenda**

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

- a. Property Tax Releases and Refunds for Fiscal Year 2003-04 (accept the February property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- b. Budget Ordinance Amendment No. 04BCC0000058-Tax Administration-Increasing Property Tax Revenue by \$350,000 Collected Through Personal Property Audits and Foreclosure Settlements (approve the budget ordinance amendment increasing property tax revenue by \$350,000 to support increased fee payments for new billable property found and for increased foreclosure activity; these funds, if spent, will bring in significantly more revenue than the actual dollars budgeted);
- e. Budget Ordinance Amendment No. 04BCC000063-Approve the Recommended Financing of the Project, Including Reimbursement of General Fund Fund Balance (approve the budget ordinance amendment refunding funds from General Fund fund balance in the amount of \$3,425,000) (computer software project); and
- h. Request to Award Contract to Aramark Facility Services to Replace Sally Port Slider Door Hardware at the Durham County Detention Center (approve the contract with Aramark Facility Services to sub-contract Southern Steel to replace the slider door components of six doors needing attention as identified by the Detention staff; authorize the County Manager to execute a contract with Aramark Facility

Services in the amount of \$37,500).

The motion carried unanimously.

The following consent agenda items were removed and following discussion:

Chairman Reckhow moved, seconded by Vice-Chairman Bowser, to approve consent agenda item No. c.

c. Budget Ordinance Amendment No. 04BCC000061-Fire Marshal-State Homeland Security Grant Program-Recognize DHS Part II Grant Money (approve the budget ordinance amendment in the amount of \$687,370 received from the Department of Homeland Security through the North Carolina Department of Crime Control and Public Safety; it is requested that the grant monies be recognized and applied to Durham County Emergency Management).

The motion carried unanimously.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve consent agenda item No. d.

d. Budget Ordinance Amendment No. 04BCC000062-Social Services-Requesting CAP/DA Social Worker Position (approve the budget ordinance amendment as presented).

The motion carried unanimously.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve consent agenda item No. f.

f. Request for Contract Award to Applied Control Technologies to Repair and Upgrade the Current HVAC System for the Health Services Building With Andover Controls (authorize the County Manager to enter into a contract with Applied Control Technology for \$219,874 to repair existing HVAC mechanical components and upgrade the environmental [HVAC] Andover Controls with the existing Direct Digital Control [DDC] system and execute change orders, if necessary, not to exceed \$10,994 [5%]; the total contract amount shall not exceed \$230,867).

The motion carried unanimously.

5. Major Site Plan-Ample Storage (D03-267)

The Board was requested to approve a Major Site Plan for a 47-unit mini-storage warehouse on 0.471 acres located on the north side of Wolfpack Lane, west of Old Oxford Highway.

Duane K. Stewart Associates, on behalf of Lampe Management Company, has submitted a site plan for a 47-unit indoor mini-storage warehouse with three parking spaces on a 0.471-acre site. The proposed project will be located on the north side of Wolfpack Lane, west of Old Oxford Highway, and is to be accessed by a driveway entrance off Wolfpack Lane. Street Atlas Page 42, Block D-2. PIN 0833-02-79-7150 (Tax reference 783-01-004G).

RESOURCE PERSON(S): Frank M. Duke, AICP, Planning Director

COUNTY MANAGER'S RECOMMENDATION: The Manager's recommendation is that the Board receive the presentation and approve the site plan.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve Major Site Plan-Ample Storage (D03-267).

The motion carried unanimously.

6. Capital Project Ordinance Amendment No 04CPA000011-Little River Regional Park and Natural Area Construction Project

The 391-acre Little River Regional Park and Natural Area is jointly owned by Orange and Durham Counties and will be jointly managed by the two counties. Both Orange and Durham County Boards of Commissioners approved the site plan in June 2003. Park development will include the entrance road and parking area, caretaker's residence, two picnic shelters, restroom facilities, children's play area, an accessible trail loop with picnic amenities, and a trail system to include walking/hiking, mountain biking, and equestrian trails.

The park project includes several elements that are being handled under separate contracts. Project elements underway under separate contracts include improvements to the hiking and walking trails, renovations to incorporate and reuse historic outbuildings on the site, and the relocation of a home for a caretaker's residence. The majority of construction for the park went out for bid in January 2004. Orange County handled the bidding, since the construction will be managed by Orange County. Durham County will be billed by Orange County for its proportionate share of the construction expenses. Three bids were received with the low bid at \$706,166. With this construction cost now firmed up, the overall project budget for the park has increased to \$992,276. Two separate grants previously received totaling \$312,000 help to lower the two counties' portion of this development budget. The remaining one-half portion for each county's share is \$340,138.

Durham County has an overall Little River Regional Park capital project account that includes funding for Durham County's share of both the land acquisition expenses and development phases of the park. This capital project account presently totals \$711,376, which includes \$229,088 available for anticipated development expenses using a combination of park and recreation bonds and previously approved county contribution. An additional \$111,050 is needed to pay for the extra development expenses, which are anticipated to be sufficient to finish construction at the park. The needed funds are available in the Open Space Acquisition and Development capital project budget. The funds had been reserved for matching funds for potential New Hope acquisitions but can be reallocated since the CWMTF grant for New Hope acquisitions has expired and the County presently has no willing sellers in that project area.

RESOURCE PERSON(S): Glen Whisler, County Engineer; Jane Korest, Open Space and Real Estate Manager; and Mike Giles, Open Space Land Manager

COUNTY MANAGER'S RECOMMENDATION: The Manager recommended that the Board approve the Little River Regional Park and Natural Area amended development budget and Capital Project Ordinance Amendment No. 04CPA000011 to increase the Little River Regional Park capital project from \$711,376 to \$822,426.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the Little River Regional Park and Natural Area amended development budget and Capital Project Ordinance Amendment No. 04CPA000011.

The motion carried unanimously.

7. Health Trust Fund Transfer Request

The BOCC is requested to transfer \$1,500,000 from MDL to US Trust (Fixed Income Managers). The purpose for this transfer is in recognition of US Trust's performance over the past two years. In November 2001, MDL was given an additional \$3,000,000 (transferred from US Trust) because of its outstanding performance. This transfer will put both managers on par.

The Finance Department does not believe a change in managers is appropriate at this time but will continue to monitor the performance of all our managers and report to the BOCC as required.

RESOURCE PERSON(S): George K. Quick, Finance Director

COUNTY MANAGER'S RECOMMENDATION: The Manager recommends that the BOCC authorize the above recommendation.

Commissioner Jacobs moved, seconded by Vice-Chairman Bowser, to authorize the request to transfer \$1,500,000 from MDL to US Trust.

The motion carried unanimously.

8. Interlocal Agreement with the City of Durham for Community Learning Center

On December 1, 2003, the Board of County Commissioners approved the creation of the Community Learning Center under the supervision of the Criminal Justice Resource Center. The target population for the program is students who are expelled from DPS (permanently removed), suspended for 365 days (not allowed on DPS property, often for a weapon charge), or who are ineligible for the Lakeview option due to safety concerns. The program serves up to ten students and operates Monday through Friday from 9:00 a.m. to 12:30 p.m.

On December 4, 2003, the City Council approved funding in an amount not to exceed \$27,960 for this program, authorizing the City Manager to negotiate and execute an interlocal agreement with the County. The initial interlocal agreement approved by the Board of County Commissioners on January 5, 2004 had been submitted to the City of Durham in December 2003. In February 2004, the County Manager's office received a response from the City Manager's office suggesting several changes to the original version based upon a City Council directive. The City Council has requested

that language be amended in the interlocal to address early termination, method of payment, and more detailed reporting requirements. The amendments have been made to the original interlocal agreement. Staff has reviewed the amended changes and recommends approval.

RESOURCE PERSON(S): Gudrun Parmer, Criminal Justice Resource Center, and Carol Hammett, County Attorney's Office

COUNTY MANAGER'S RECOMMENDATION: The Manager's recommendation is that the Board authorize the Manager to execute an interlocal agreement with the City of Durham for the Community Learning Center. The program will be evaluated at the end of the fiscal year to determine the future viability of the initiative.

Commissioner Heron moved, seconded by Commissioner Jacobs, to authorize the Manager to execute an interlocal agreement with the City of Durham for the Community Learning Center. The program will be evaluated at the end of the fiscal year to determine the future viability of the initiative.

The motion carried with the following vote:

Ayes: Bowser, Heron, Jacobs, Reckhow

Noes: None

Absent: Cousin (out of room during vote)

9. Budget Ordinance Amendment No. 04BCC000064-Self Insurance Fund Unemployment Compensation and Worker's Compensation Expenditures

Due to an especially bad year for unemployment and worker's compensation claims, additional monies are required for both of these self-insured accounts. Unemployment insurance was budgeted in the amount of \$100,000 for FY 02-03. The actual amount of the compensation billed was \$215,938.52. Unemployment benefits are paid by the State and are subsequently reimbursed by the County in the following fiscal year with the bill being paid in November or December. The principal reason for the more than doubling of the cost of unemployment appears to be the poor economy. Instead of being able to find new employment after leaving the County, former employees have continued to receive benefits. The current year's unemployment is worse than last year's with a projected cost of near \$250,000. This amount will need to be included in next year's budget.

The amount of worker's compensation claims has also increased this year. Worker's compensation claims have historically been difficult to estimate, as they tend to vary widely from year to year. This year has seen a drop in the number of claims, but an increase in serious injuries. One older claim has been proposed to be settled by the County's former excess insurance carrier for \$225,000, which would have to be paid initially by the County with a partial reimbursement of \$185,000 after payment. This settlement amount is awaiting approval by Medicare. In addition to this amount, the other worker's compensation claims are projected to be approximately \$175,000 above the budgeted amount of \$560,000.

The total amount of unemployment compensation and worker's compensation claims are approximately \$515,000 over budget for the current fiscal year. Savings in other line items in the Risk Management budget have been identified totaling \$35,000. This leaves a shortfall of \$480,000 for the current year.

Staff requests that the Board accept the County Manager's recommendation to transfer \$480,000 of unrecognized General Fund property tax revenue to the Self Insurance Fund to cover these unexpected expenditures.

As part of the approved FY 03-04 Budget, \$350,000 was budgeted as a transfer to the General Fund from the Self Insurance Fund to aid in balancing the overall General Fund budget. This budgeted transfer, in effect, decreases the amount of General Fund dollars supporting this amendment to a net of \$130,000.

RESOURCE PERSON(S): Chuck Kitchen, County Attorney; Cathy Whisenhunt, Risk Manager; and Marie Shaw-Simmons, Senior Human Resources Analyst

COUNTY MANAGER'S RECOMMENDATION: The Manager recommends that the Board approve Budget Ordinance Amendment No. 04BCC000064 recognizing and transferring \$480,000 of property tax revenue from the General Fund into the Self Insurance Fund for unexpected unemployment compensation and worker's compensation claim expenditures.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to approve Budget Ordinance Amendment No. 04BCC000064 recognizing and transferring \$480,000 of property tax

revenue from the General Fund into the Self Insurance Fund for unexpected unemployment compensation and worker's compensation claim expenditures.

The motion carried unanimously.

10. **Ethics Policy**

The Board previously considered changes to the current ethics policy. As directed, the current ethics policy is revised to include the provisions of the North Carolina Association of County Commissioners suggested ethics policy for county commissioners. The incorporation is accomplished by adding a section providing for additional standards of conduct for county commissioners. The draft also reflects those changes that were previously directed by the Board at the February 23 meeting.

RESOURCE PERSON(S): Chuck Kitchen, County Attorney

COUNTY MANAGER'S RECOMMENDATION: The Manager recommends that the Board review the proposed revised ethics policy and approve, if appropriate.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the revised ethics policy.

The motion carried unanimously.

11. **Board and Commission Appointments**

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

- Durham Bicycle and Pedestrian Advisory Commission
- Durham and Wake Counties Research and Production District
- Environmental Affairs Board

RESOURCE PERSON(S): Garry E. Umstead

COUNTY MANAGER'S RECOMMENDATION: The Manager recommended that the Board of County Commissioners vote to appoint members to the above-mentioned boards/commissions.

The following appointments were made:

Durham and Wake Counties Research and Production District (six vacant positions)

Millie Estep

Martie Gregory

Sally Johnson

Durham Bicycle and Pedestrian Advisory Commission

Diane Daniel

Environmental Affairs Board

Richard V. Crume (engineering)

William T. Harnett (air resources)

12. **Closed Session**

Commissioner Cousin moved, seconded by Commissioner Jacobs, that the Board adjourn to closed session to consider conditions of appointment of a public officer and to discuss matters relating to the relocation or expansion of industry in Durham County pursuant to G.S. § 143-318.11(a)(4) & (6).

The motion carried unanimously.

Reconvene to Open Session

Commissioner Cousin moved, seconded by Commissioner Heron, to amend the employment agreement between the County of Durham and County Manager Michael M. Ruffin as it relates to Section 4. Termination and Severance Pay.

The motion carried unanimously.

Colvard Farms Development-'Permit Deadline

Vice-Chairman Bowser asked how the permit process for Colvard Farms Development Company LLC could be accelerated. Essential permits must be issued by July 1. Homes proposed in the development will be connected to the wastewater treatment plant in Chatham County. Developers of this private project need to move forward quickly. The 120 homes, ranging in price from \$1 to \$2 million, will generate huge tax revenue for Durham County, while requiring no County funding.

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to ask the Planning Department and the Planning Commission to treat the text amendment allowing this private wastewater facility as a priority item and, specifically, that the Planning Commission move the item forward at its next meeting.

The motion carried unanimously.

Adjournment

Chairman Reckhow adjourned the meeting at 10:57 p.m.



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