

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

Monday, August 9, 2004

MINUTES

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chairman Ellen W. Reckhow, Vice-Chairman Joe W. Bowser (arrived at 7:33 p.m.), and Commissioners Philip R. Cousin Jr., Becky M. Heron, and Mary D. Jacobs

Absent: None

Presider: Chairman Reckhow

Closed Session-Personnel Matters

4:00 - 6:30 P.M.

The Board of County Commissioners adjourned to Closed Session to evaluate the following employees pursuant to North Carolina General Statute 143-318.11(a)(6):

4:00 p.m. to 4:30 p.m. Tax Administrator Kenneth Joyner

4:30 p.m. to 5:00 p.m. Sheriff Worth Hill

5:00 p.m. to 5:30 p.m. Register of Deeds Willie Covington

5:30 p.m. to 6:00 p.m. County Attorney Chuck Kitchen

6:00 p.m. to 6:30 p.m. Clerk Garry Umstead

7:00 P.M. Regular Session

Opening of Regular Session-Pledge of Allegiance

Action Resulting from the Closed Session-Personnel Matters

Commissioner Jacobs moved, seconded by Commissioner Cousin, to approve the annual salaries of the County officials as follows:

Tax Administrator Kenneth Joyner \$ 87,500

Sheriff Worth Hill \$ 97,000

Register of Deeds Willie Covington \$ 90,000

County Attorney Chuck Kitchen \$136,600

The motion carried with the following vote:

Ayes: Cousin, Heron, Jacobs, and Reckhow

Noes: None

Absent: Bowser (arrived late)

Agenda Adjustments

County Attorney Chuck Kitchen indicated an addition to the Closed Session at the end of the agenda regarding the discussion of matters relating to the location or expansion of industry.

Minutes

Commissioner Heron moved, seconded by Commissioner Jacobs, to approve as submitted the June 1, 2004 Budget Worksession and the July 26, 2004 Regular Session Minutes of the Board.

The motion carried with the following vote:

Ayes: Cousin, Heron, Jacobs, and Reckhow

Noes: None

Absent: Bowser (arrived late)

Resolution Honoring the Life of Dr. Charles DeWitt Watts

Dr. Charles DeWitt Watts, a pioneering African-American surgeon, former vice president and medical director of North Carolina Mutual Life Insurance Company, and founder of Lincoln Community Health Center, passed away on July 12, 2004. A resolution had been prepared honoring his life, accomplishments, and the extraordinary service he generously rendered to this community.

Chairman Reckhow postponed this item given that no family members were present to accept the resolution.

Consent Agenda

Commissioner Cousin moved, seconded by Commissioner Heron, to approve the following consent agenda items:

*a. Budget Ordinance Amendment No. 05BCC000005-Criminal Justice

Resource Center, Community Based Corrections-Reduction in Revenue and Personnel Cost Associated with Durham Drug Treatment Court Contract (reduce the agency's budgeted revenue and corresponding personnel expense line by \$12,538);

- b. Approve EMS Laundry Service Contract with Angelica Textile Services (approve the \$44,928 contract award);
- c. Contract Approval for CJRC-"A New Day" Juvenile Day Reporting Center with Bethesda Family Services Foundation (approve the \$25,000 contract);
- *d. Set a Public Hearing to Close East and West Institute Drive (SC04-04) (adopt the resolution and set the public hearing for August 23, 2004);
- *e. Contract Award for Elevator Maintenance on County Buildings (authorize the Manager to enter into a contract with Southern Elevator Company for \$58,524, plus additional "On-Call" elevator services at the quoted hourly rate; extend the contract terms for additional one-year periods, not to exceed four consecutive years);
- *f. Memorandum of Agreement Between Durham Technical Community College and County of Durham (agree for use of the County's Firing Range in the BLET curriculum);
- *g. Durham County ABC Board Service Agreement (agree to basic maintenance services for \$25,840.20, plus compensation for additional repair services as requested);
- h. Construction Contract for Renovation of Criminal Justice Resource Center (formerly Jail Annex, Johnson Motor Company Building) (authorize execution with D.W. Ward Construction Inc. for \$383,488 and execution of any change orders or related contracts);
- *i. Advancement of Revaluation Date (adopt the resolution from the Tax Administrator advancing the date to January 1, 2007);
- j. September 7 Worksession (approval for the September Worksession to convene at 1:30 p.m.);
- *k. Alston Village (Falls Pointe Apartments) Refunding (approve the two resolutions); and
- m. County Initiative for the \$100,000 HOME Investment Partnership Funds (approve the proposal submitted by The Durham Center).

The motion carried with the following vote:

Ayes: Cousin, Heron, Jacobs, and Reckhow

Noes: None

Absent: Bowser (arrived late)

Consent Agenda Item Removed for Discussion

Consent Agenda Item No. I. Approval of Federal Grant Offer to the Raleigh-Durham International Airport (accept the grant offer).

Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, Chairman of the Durham Committee on the Affairs of Black People, stated that the Federal grant offer is an excellent opportunity.

Commissioner Heron moved, seconded by Commissioner Jacobs, to accept the grant offered to the Raleigh-Durham International Airport for \$6,729,884 to expand the Terminal C Apron and relocate Taxiway D (Phase I).

The motion carried with the following vote:

Ayes: Cousin, Heron, Jacobs, and Reckhow

Noes: None

Absent: Bowser (arrived late)

Public Hearing and Budget Ordinance Amendment No. 05BCC00004-Office of the Sheriff-2004 Local Law Enforcement Block Grant Funds

Marcia Margotta, Sheriff's Comptroller, reported that the Office of the Sheriff submitted its on-line application for Durham County's share of the 2004 Local Law Enforcement Block Grant (LLEBG) and

received subsequent approval of a \$67,335 block grant award from the U.S. Department of Justice-Bureau of Justice Assistance. The purpose of the LLEBG Program is to reduce crime and improve public safety. The award could only be used in accordance with the seven purpose areas described for this grant program.

These intergovernmental funds awarded to Durham County would be used for the purchase of equipment for the Sheriff's communications and general field deputies.

The Sheriff established an Advisory Board as specified by the grant, which met on July 15, 2004 to recommend the proposed use for these funds. The equipment to be purchased as suggested by the Advisory Board is as follows: Network Security Software, HDU Training (bomb squad-Redstone, AL), Surveillance Equipment (SAC/NARC), Multi-Media Projectors (Gang Unit), Range Improvements, Bar Coding System (asset inventory & evidence collection/storage), Digital Movie Camera (Bull City Streets), Dialogue Projector/Teleprompter (Bull City Streets), POPAT Upgrades, and Crisis Negotiations Training. Such equipment and technology would enhance and improve the law enforcement abilities of the Sheriff-s Office and the County of Durham.

One of the special conditions of this grant award program was to conduct a public hearing to receive public comment as to the use of these funds. This public hearing was advertised in the Durham Herald-Sun newspaper on August 1, 2004 and August 8, 2004 to give proper notification.

No additional County funding was required and no subsequent year budget impact was anticipated. The Office of the Sheriff would provide the required grantee local cash match of \$7,482.00 from its current budget. The total appropriation was \$74,817.00; the expenditures and revenue recognized was \$67,335.00 from the grant award.

Chairman Reckhow opened the public hearing. As no one requested to speak, Chairman Reckhow closed the hearing and referred the matter back to the Board.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to approve the Advisory Board's recommendation for the proposed use of the 2004 LLEBG award funds and approve Budget Ordinance Amendment No. 05BCC000004 to accept grant funding and appropriate program spending.

The motion carried with the following vote:

Ayes: Cousin, Heron, Jacobs, and Reckhow

Noes: None

Absent: Bowser (arrived late)

Public Hearing-Doc Nichols Road Tract (P04-09)

Frank Duke, Planning Director, gave an overview of the agenda item. R. L. Horvath Associates Inc. was requesting to rezone a 288.13-acre site located on the east side of Doc Nichols Road between Olive Branch Road and Leesville Road from RD to PDR 3.39. PIN0769-01-19-6484; 0860-03-11-5310; and -32-3006. The proposal was in conformance with the small area plan.

The committed elements of the development plan follow:

1. Build a maximum of 976 dwelling units.
2. All single-family lots to be a minimum of 6,000 square feet.
3. No perimeter lots and no lots extended into stream buffers.
4. Site not to exceed 24% impervious surface.
5. A recreational swim club facility will be provided.
6. Construct left-turn lane at each site entrance on Doc Nichols Road.
7. Widen Doc Nichols Road to a 45 feet back-to-back curb and gutter section for the frontage of the site, including the frontage of the excluded Morton Property.
8. Dedicate 10 feet of additional right-of-way along the frontage of the site on Doc Nichols Road.
9. Construct northbound and eastbound left-turn lanes at the intersection of Olive Branch Road and Doc Nichols Road.
10. Construct westbound and southbound left-turn lanes at the intersection of Doc Nichols Road and Leesville Road.
11. Construct a westbound left-turn lane at the intersection of Olive Branch Road and NC 98.

Mr. Duke stated that staff recommends approval based on consistency with the adopted plan and conformity with technical requirements. The Zoning Committee of the Durham Planning Commission conducted a public hearing on June 8, 2004 and voted 7-0 to recommend denial, based primarily on the density requested.

Chairman Reckhow opened the public hearing that was properly advertised.

The following citizens spoke in opposition to the rezoning request:

Billy Sparks, 248 Bandoek Dr., Durham, NC 27703 (traffic concerns)

Bruce Harris, 245 Bandoek Dr., Durham, NC 27703 (environmental impact concerns, lack of diversity, and quality of life for the children)

Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702 (traffic, school impact, and environmental concerns)

William A. Drew Marsh III, Attorney for the applicant, 120 E. Parrish St., Durham, 27701, appealed to the Commissioners to approve the rezoning request.

Ronald Horvath, applicant, 16 Consultant Place, Durham, NC 27707, added to the argument given by Attorney Marsh in support of the rezoning.

As no one else requested to speak, Chairman Reckhow closed the public hearing and referred the matter back to the Board.

Commissioner Heron made a motion to deny the rezoning request.

Chairman Reckhow seconded the motion.

Commissioner Bowser moved to approve the request provided the townhomes are reduced from 150 to 100.

The motion failed for the lack of a second.

The Commissioners voted on the first motion, providing an ambiguous response.

The showing of hands determined that the motion to deny the request failed with the following vote:

Ayes: Heron and Reckhow

Noes: Bowser, Cousin, and Jacobs

Discussion ensued about the density issue and the reduction in townhouses.

Commissioner Jacobs moved, seconded by Chairman Reckhow, that the Board delay action on this request to give the Planning Director and the developer time to work out a reduction in the number of townhomes. Bring an amended plan back to the Commissioners at their September 13 Regular Session.

Mr. Horvath confirmed for Mr. Duke that he proffered the following:

1. As a committed element, add a traffic signal at Olive Branch and Doc Nichols Roads subject to NCDOT approval.
1. To comply with the new UDO, install sidewalks on all cul-de-sacs greater than 400 feet in length.
2. Change the overall number of units in the project.

Chairman Reckhow petitioned Mr. Horvath to provide a plan for an environmentally-friendly project.

Commissioner Jacobs' motion carried with the following vote:

Ayes: Bowser, Cousin, Jacobs, and Reckhow

Noes: Heron

Public Hearing-Plan Amendment A04-08-Junction Road Property

Planning Director Frank Duke stated that the property is comprised of 40.63 acres of a total of 75.88 acres on five parcels located on the east side of Junction Road, west of Woodland Park. The applicant is seeking medium-density residential and low-density residential designation to develop 249-single family units. The Northeast Durham Plan designates this site as an Employment Center, which allows high-density residential development but not medium- and low-density residential.

Staff has concluded that the applicant is correct that the proposed development would provide for a smooth transition from the low-density residential development from the south and east of the site to high-density residential. It is also true that more intense development would be difficult on the eastern portion of the site due to environmental constraints. Given these additional levels of detail, the change in designation is justified.

The proposal is consistent with the plans for the area and the Northeast Durham Plan.

The proposal for low-density residential and medium-density residential designations is compatible with

the surrounding development of the area, providing a transition between the higher densities encouraged within the Employment Center and surrounding lower density development.

There are no significant environmental constraints on development of the site with the proposed designation.

The requested change was evaluated to suggest its potential impact on the road network and schools. In each case, the impact of the change is evaluated based upon a change from the most intense development using the existing land use designation and zoning within that designation to the use proposed with the corresponding zoning request.

The proposed designation represents a decrease in traffic based on the designation shown in the Plan.

The schools to be affected by this development are: Merrick-Moore Elementary School, Neal Middle School, and Southern High School. The proposed designation represents an increase of students over the existing designation. The school system has the capacity to accommodate the increase.

Planning staff recommended approval based on the proposed designation's consistency with the language of the Northeast Durham Plan.

The Planning Commission voted denial 6-5 at its meeting of April 28, 2004, the primary reason being that the Northeast Durham Plan is one of the last plans adopted. Mr. Duke acknowledged that the Planning Commission recommended approval of the corresponding rezoning subsequent to denial of the plan amendment.

Commissioner Heron moved, seconded by Commissioner Cousin, to approve Plan Amendment A04-08-Junction Road Property.

The motion carried unanimously.

Closed Session

Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, requested elucidation regarding the process by which Closed Session minutes, principally involving personnel issues, are opened to the public.

Commissioner Jacobs moved, seconded by Commissioner Heron, that the Board adjourn to closed session to consider the competence, performance, or fitness of a public officer or employee and to discuss matters relating to the location or expansion of industry pursuant to G.S. § 143-318.11(a)(4) & (6).

The motion carried unanimously.

Chairman Reckhow announced that no action was taken in the Closed Session.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to excuse Commissioner Bowser from the 4:00 to 6:30 p.m. Closed Session.

The motion carried unanimously.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 9:50 p.m.

Respectfully submitted,
Vonda C. Sessoms
Deputy Clerk to the Board



Last updated: May 3, 2006

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