

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

Monday, October 25, 2004

**ACTION MINUTES-DRAFT**

7:00 P.M. Regular Session

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, and Commissioners Philip R. Cousin Jr., Becky M. Heron, and Mary D. Jacobs

Absent: None

Presider: Chairman Reckhow

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

**Agenda Adjustments**

- Commissioner Jacobs added Update: Ethics Complaint against Internal Auditor.
- Chairman Reckhow announced the Board of County Commissioners' receipt of the Afterschool Leadership Award, "In Recognition of Leadership in Ensuring Quality Afterschool Programs for Durham Children and Youth", presented by the North Carolina Center for After School Programs (NC CAP).

**Minutes**

Commissioner Cousin moved, seconded by Commissioner Jacobs, to approve as submitted the September 13, 2004 Special Session and October 11, 2004 Regular Session Minutes.

The motion carried unanimously.

**Proclamation-Operation Breakthrough**

Chairman Reckhow read the following proclamation:

PROCLAMATION

WHEREAS, Operation Breakthrough Inc., the local Community Action Program, has been serving Durham County residents since 1964; and

WHEREAS, Operation Breakthrough Inc. is governed by an 18-member Board of Directors representing low-income constituents, the public and private sectors; and

WHEREAS, Operation Breakthrough Inc. provides valuable services to low-income people through programs such as Head Start, Community Services Block Grant, Smart Start Transportation, and Weatherization/Energy Conservation; and

WHEREAS, Operation Breakthrough Inc. is commemorating its Fortieth Year historical accomplishments at its Annual Board Meeting on Thursday, November 18, 2004; and

WHEREAS, Operation Breakthrough Inc. will recognize individuals and employees for their outstanding achievements and contributions to the organization:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim November 18, 2004 as

-OPERATION BREAKTHROUGH 40<sup>TH</sup> ANNIVERSARY CELEBRATION"

in Durham County. We urge all citizens to recognize this worthy organization.

This the 25<sup>th</sup> day of October, 2004.

Frank Johnson, Interim Executive Director, Operation Breakthrough, reported that Operation Breakthrough Inc., a non-profit Community Action Agency, has been serving Durham County residents since 1964. He became active in Operation Breakthrough in 1968. The Chairman of the Board of County Commissioners was asked to proclaim November 18 as Operation Breakthrough's 40<sup>th</sup> Anniversary Celebration in Durham County. Mr. Johnson thanked the Board for the acknowledgement.

Chairman Reckhow presented the proclamation to Mr. Johnson, along with her congratulations.

**Proclamation for Grief Awareness Week, November 2-8, 2004**

Chairman Reckhow invited Commissioner Cousin to read the following proclamation:

PROCLAMATION

WHEREAS, there are approximately 2 million deaths in the United States each year that directly affect 10-12 family members (excluding good friends and close colleagues), thus having an impact on approximately 20 million people; and

WHEREAS, in North Carolina, there are approximately 72,000 deaths each year; and  
WHEREAS, natural disasters like Hurricane Floyd, tragic deaths like 9/11, and suicides and school shootings touch countless lives and continue to have an impact long after the initial event; and  
WHEREAS, grieving is a natural and normal response to death and other losses and is a healthy way for people to take care of themselves; and  
WHEREAS, cultural traditions and religious institutions have historically recognized the need for community mourning rituals and individual grief expressions; and  
WHEREAS, all Durham County citizens are urged to be sensitive and supportive of their families, neighbors, friends, and colleagues who are adjusting to a significant loss in their lives; and  
WHEREAS, a week set aside for grief awareness will enhance solidarity with our human mortality and our common need for mourning and healing and will promote spiritual, mental, physical, and emotional health; and  
WHEREAS, we urge all Durham County citizens during this week to remember and support those who have experienced a significant loss in their lives; and  
WHEREAS, we urge all Durham County citizens during this week to participate in community activities and educational events to increase their own knowledge of the grief process so that neighborhoods, faith communities, and workplaces can create a more healing environment for those in grief:  
NOW, THEREFORE, BE IT RESOLVED that, I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim the first week in November 2004 as

**"GRIEF AWARENESS WEEK"**

in Durham County, in recognition of every person's right to grieve in the face of death and loss.  
This 25<sup>th</sup> day of October, 2004.

Helen Poole, Director of Major Gifts, Marketing, and Development for Duke Health Community Care, announced that November 2-8 is Grief Awareness Week. Representatives of the Duke Community Bereavement Services requested that a proclamation be issued to recognize Grief Awareness Week. Ms. Poole accepted the proclamation on behalf of the organization and expressed gratitude for the recognition.

**Proclamation for Animal Shelter Appreciation Week**

Chairman Reckhow proclaimed the week of November 7- 13 as National Animal Shelter Appreciation Week in Durham County.

Chairman Reckhow asked Commissioner Heron to read the proclamation as follows:

**PROCLAMATION**

WHEREAS, there are more than 73 million cats and 68 million dogs living in more than 63 million households across the United States, and more that 6,000 are served annually by the Durham County Animal Shelter; and  
WHEREAS, the irresponsibility of some pet owners has resulted in animals running loose and unsupervised, causing a threat to public health and safety; and  
WHEREAS, indiscriminate breeding allowed by irresponsible pet owners who have not had their companion animals spayed or neutered has contributed to pet overpopulation; and  
WHEREAS, animal shelter employees, like police officers and emergency medical personnel, must respond to these community problems and crises; and  
WHEREAS, animal shelters act as safe havens for homeless and abused animals, providing them with comfort and care; and  
WHEREAS, animal shelters help both animals and people in many ways: by returning lost pets to their owners, enforcing animal control laws, rescuing injured animals, educating the public, and matching up families with new animal companions; and  
WHEREAS, the work of animal shelters and the important services they provide often go unnoticed and unappreciated by the citizens:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby designate the week of November 7 to 13, 2004 as

**"ANIMAL SHELTER APPRECIATION WEEK"**

in Durham County, in recognition of the Durham County Animal Shelter providing lifesaving services to animals and people in our community.

This the 25<sup>th</sup> day of October, 2004.

Ms. Shafonda Price, Assistant Durham County Animal Shelter Manager, accepted the proclamation and thanked the Board.

**Proclamation for Home and Hospice Care Month**

Chairman Reckhow proclaimed the month of November as Home and Hospice Care Month in Durham County. She read the following proclamation into the record:

PROCLAMATION

WHEREAS, in-home health, hospice, and community-based services provide for an individual's health and social needs across the continuum of life - compassionate care which serves expectant mothers, infants, children, adults, the disabled and elderly, and also provides love, comfort, and support at the end of life; and

WHEREAS, in-home health, hospice, and community-based services enable Durham County citizens to access a wide variety of quality health and social services, including preventive care, acute care, sustainable long-term care, and palliative care; and

WHEREAS, these services include care provided by home health agencies, licensed home care agencies, hospice agencies, adult day care and adult day health care facilities, and home medical equipment companies; and

WHEREAS, in-home health, hospice, and community-based services build upon a strong tradition of care and compassion, striving to keep families intact and responsible while preserving an individual's independence and dignity in the setting of their choice; and

WHEREAS, Duke Community Hospice services has provided care to terminally ill patients and their families for 25 years:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim November 2004 as

"HOME AND HOSPICE CARE MONTH"

in Durham County. We urge our citizens to celebrate all in-home and community-based services. This 25<sup>th</sup> day of October, 2004.

Ms. Poole received the proclamation and extended gratitude to the Board.

**Consent Agenda**

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

- a. Property Tax Releases and Refunds for Fiscal Year 2004-05 (August);
- b. Contract with Tax Management Associates Inc. (to conduct audits; amount not to exceed \$200,000);
- c. Change in Durham County Fixed (Capital) Asset Policy (approve the amendments as recommended by the Finance Department);
- d. Interlocal Agreement-City-County Appearance Commission;
- f. (left blank intentionally);
- g. Budget Ordinance Amendment No. 05BCC000017-Fire Marshal/Emergency Management-FY 2004 State Homeland Security Grant Program Funding (\$438,522 received through the NC Department of Crime Control and Public Safety for expenditure in FY 2004-2005);
- h. Budget Ordinance Amendment No. 05BCC000018-Public Health (recognize revenue from Duke University Medical Center for \$102,497.00 to establish and hire Nutritionist III and Health Education Specialist);
- i. Work First Block Grant Plan for 2005-2007; and
- j. Modification to the Copier Management Service Contract (authorize the Manager to modify the contract with Commercial Equipment Inc. (CEI) to a five-year contract with no renewal options and authorize contract modification based on usage within budget appropriations).

The motion carried unanimously.

Following citizen comment by Ms. Victoria Peterson, P.O. Box 101, Durham, NC 27702:

Commissioner Heron moved, seconded by Commissioner Jacobs, to

approve Consent Agenda Item No. e. Budget Ordinance Amendment No. 05BCC000015-Sheriff's Office-Reconsideration of 2004 G.R.E.A.T. Grant for Gang Resistance Education (not to exceed amount of the grant award, \$43,695).

The motion carried unanimously.

**Tolling and Accounting Order to Extend the Review Period for Time Warner Cable's 2004 FCC-1240, 1235, 1205 Rate Filing Through January 2005**

Lowell L. Siler, Deputy County Attorney, stated that on October 1, 2004, Time Warner Cable submitted an FCC-1240 Updating Maximum Permitted Rates filing; FCC-1205 Determining Regulated Equipment and Installation costs; and FCC-1235 cost of Service Filing for Cable Network Upgrades for Regulated Cable Service with the County of Durham. Time Warner Cable's filing includes actual and estimated costs it may incur during the projected period January - December 2005, along with previous expenses from the "true up" period October 2003 - September 2004.

The Federal Communications Commission has promulgated ratemaking procedures that allow cable operators to estimate future external costs and costs associated with system upgrades, and recover those projected costs utilizing the FCC-1240 filing process, performed annually.

The County of Durham is certified with the FCC to regulate basic cable service, equipment and installation rates, and services within Durham County.

The FCC-§76.933 grants franchise authorities the ability to toll the time in which to review rate filings submitted by cable operators, extending the period of review from the initial 30 days to an additional 90 days (120 days total) past the original date of receipt by the franchise authority.

Durham County's Cable Consultant, Bob Sepe, Action Audits, LLC suggested that the Board toll the period for review.

The time period in which Durham County will have to review Time Warner Cable's FCC-1240 rate filing will be tolled 90 days past the original 30 days (120 days total) allowed by the FCC, extending the total review period deadline.

Chairman Reckhow called signed speaker Rev. James Vaughn, 3206 Cole Mill Road, Durham, NC 27712, forward to comment.

Commissioner Heron moved, seconded by Commissioner Cousin, to extend the review period deadline.

The motion carried unanimously.

**Major Site Plan-CCB-Bethesda (D04-278)**

Frank M. Duke, AICP, Planning Director, stated that Duane K. Stewart and Associates, on behalf of Central Carolina Bank and Trust Company, submitted a major site plan for additions totaling 834 square feet to an existing bank on a 1.305-acre site, zoned GC and F/J-B, including a landscape modification for street trees greater than 25 feet from the right of way and more than 100 feet apart along U.S. Hwy. 70, due to the dedication of a sanitary sewer easement. The property is located at the northwest corner of U.S. Hwy. 70 and Mineral Springs Road. (PIN 0840-04-80-0930)

Planning staff recommended approval.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve Major Site Plan-CCB-Bethesda (D04-278).

The motion carried with the following vote:

Ayes: Cousin, Heron, Jacobs, and Reckhow

Noes: None

Absent: Bowser (out of room when vote was taken)

**Update: Ethics Complaint against Internal Auditor**

Commissioner Jacobs informed the public that on October 13, 2004, the Chairman of the Institute of Internal Auditors Ethics Committee wrote a letter to Mr. Charlie Hobgood concerning the Committee's review of Mr. Hobgood's response to an ethics complaint filed by former County Manager Michael Ruffin.

The Commissioners discussed various interpretations of the following letter:

Dear Mr. Hobgood:

The IIA Ethics Committee reviewed your response to the complaint filed by Mr. Michael Ruffin.

Based on the documentation provided, we concluded that the principles and rules of conduct of integrity, objectivity, and competency were not breached during the course of

the audit and that the documentation principally relates to internal management issues. We believe that the principle and the rule of conduct of confidentiality were not breached since it is a Durham County Government law that the preliminary draft report was a public record.

However, the content and the tone of the emails exchanged with a person outside of the organization is certainly not in accordance with the ethical and professional standing expected from an internal auditor who is a member of The Institute of Internal Auditors.

You are strongly advised that, if you repeat this practice, you would not comply fully with the rule of conduct: "Internal auditors shall be prudent in the use and protection of information acquired in the course of their duties". Any further complaints along these lines will be dealt with greater severity.

Sincerely,

/s/Joyce Drummond-Hill, CIA, CCSA, CGAP, MIIA

### **Board and Commission Appointments**

Garry E. Umstead, CMC, Clerk to the Board, distributed ballots to the Commissioners to make appointments to several boards and commissions. The following citizens were selected:

#### Adult Care Home Community Advisory Committee

David N. Blodgett

Robert F. Deerin

Dorothy R. Gagnier

S. Celeste Toomke

Miles Simpson

#### Alcoholic Beverage Control Board

Charles D. Watts Jr.

Charles T. Wilson Jr.

#### Cable TV Advisory Board

Monique Velasquez

#### Community Child Protection Team/Child Fatality Prevention Team

M. Clare W. Fair

Karlene Fyffe

#### Criminal Justice Partnership Act Advisory Board

Judge Craig B. Brown

Robert Buchanan

Christin Coan

Ebony La'Toria Sneed

#### Durham Board of Adjustment

Daniel Edwards

#### Durham Convention and Visitor's Bureau

Commissioner Heron moved, seconded by Commissioner Jacobs, to reappoint E'vonne Coleman for another term on the DCVB in the visitor feature seat.

The motion carried unanimously.

#### Durham Library Board of Trustees

Mary S. Tenuta

#### Durham Workforce Development Board

Willie Benson (Private Sector)

Sharita Green (Public Sector)

#### Historic Preservation Commission

Robert Emerson

Christin Coan

#### Industrial Facilities and Pollution Control Financing Authority

Tracy J. Sanders

#### Juvenile Crime Prevention Council

Alvin Black (under 18)

Ronda Parker (Local Parks & Recreation)

#### Open Space and Trails Commission

Jeffry Whitlow  
Raleigh-Durham Airport Noise Abatement Committee  
Miles Simpson  
Women's Commission

Vice-Chairman Bowser moved, seconded Commissioner Cousin, to appoint Claise Feldman and Ebony La'Toria Sneed in 2 of the 3 at-large positions, as they received a majority vote.  
The motion carried unanimously.

**Closed Session**

Commissioner Cousin moved, seconded by Commissioner Heron, to adjourn to closed session to discuss matters relating to the location or expansion of business or industry pursuant to G.S. 143-318.11(a)(4) and to consider the performance of an individual public officer or employee pursuant to G.S. 143-318.11(a)(6).  
The motion carried unanimously.

**Reconvene to Open Session**

Chairman Reckhow announced that direction was given to staff in the Closed Session; no action was taken.

**Adjournment**

There being no further business, Chairman Reckhow adjourned the meeting at 10:30 p.m.



**Last updated: May 3, 2006**

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