

REVISED

Revision—Item No. 6a

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

Monday, October 8, 2007

County Commissioners' Chambers
200 East Main Street, Durham, North Carolina

AGENDA

“Public Charge”

The Board of Commissioners asks its members and citizens to conduct themselves in a respectful, courteous manner, both with the Board and fellow citizens. At any time, should any member of the Board or any citizen fail to observe this public charge, the Chairman will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chairman will recess the meeting until such time that a genuine commitment to the public charge is observed.

As a courtesy to others, please turn off cell phones during the meeting.

7:00 P.M. Regular Session

1. **Opening of Regular Session**—Pledge of Allegiance 5 min.
2. **Agenda Adjustments** 5 min.
3. **Announcements** 5 min.
 - The Vote for Learning 2007 Committee will hold a kick-off event for the 2007 Bond Referendum on Wednesday, October 10, 4:30 p.m., at the Durham Public Schools Staff Development Center located at 2107 Hillandale Road. The brief program will highlight the \$207.1 million bond issue for Durham Public Schools, Durham Technical Community College, and the North Carolina Museum of Life and Science.
 - The Transportation Advisory Committee will hold a public hearing on the Transportation Improvement Plan (TIP) on Wednesday, October 10, 7:00 p.m., in the Durham City Hall Plaza, Second Floor Committee Room.
4. **Minutes** 5 min.
 - a. September 10, 2007 Regular Session
 - b. September 24, 2007 Regular Session

5. **Recognition for Jose Diaz**

5 min.

Durham County EMS asks that the Board recognize the heroism of a young man who is responsible for saving his family from tragedy earlier this year. According to EMS reports, young Jose Diaz arrived home from school to find his grandmother exhibiting altered mental status due to hypoglycemia. Jose also saw that his grandmother had been cooking something on the stove, which had begun to burn. He immediately called 911. Durham Fire Department employees who responded found the elderly female disoriented and the house filled with smoke. Firefighters promptly took appropriate action.

As a result of Jose's quick thinking and his ability to stay calm, EMS supervisor Jackie Holmes believes he saved his family home and, more importantly, his grandmother's life. "I feel that he should be commended and his actions should be recognized so that others may follow his example", she concluded in a correspondence to the County Manager's Office.

Resource Person(s): Deborah Craig-Ray, Assistant County Manager, and Jackie Holmes, EMS Supervisor

County Manager's Recommendation: The Manager's recommendation is that the Board recognize Jose Diaz for his bravery and extraordinary efforts to save his grandmother's life and his family home.

6. **Consent Agenda**

20 min.

- a. Business Deal Points for the Durham County Memorial Stadium Renovations (approve the Business Deal Points and allow staff to move forward with the Development Agreement [**approval is subject to non-substantive changes made by the County Attorney**]);
- b. Purchase and Installation of Vehicle Exhaust System—EMS (approve the \$108,304 contract for the purchase and installation of the Plymovent Vehicle Exhaust System);
- c. Budget Ordinance Amendment No. 08BCC000011—Sheriff's Office—2007 G.R.E.A.T. Grant (approve \$47,950 for gang resistance education);
- d. Approve the Sale of County Surplus Property (812 S. Roxboro Street to Self Help Community Development Corporation for \$8,500; 3046 Ruth Street to Carl Malek for \$1,837; 5 Edgestone Place to John & Beth Gunn for \$1,097; 900 Piper Street to Johnny Peele for \$1,000; 3122 Hope Valley Road to Armando Guerrero for \$851; 915 E. Maynard Avenue to Nathan Turbyfill for \$500; and 900 Scout Drive to Nathan Turbyfill for \$500);
- e. Budget Amendment No. 08BCC000012 for \$100,000 to the Durham Public Schools for the City of Medicine Academy Lease (approve with an appropriation of General Fund fund balance).

7. **Public Hearing and Budget Ordinance Amendment No. 08BCC000010—Office of the Sheriff and City of Durham Police Department Acceptance of 2007 Edward Byrne Memorial Justice Grant (JAG)**

15 min.

Durham County and Durham City have been jointly awarded the 2007 Edward Byrne Memorial Justice Grant (JAG). JAG blends the previous Byrne Formula and Local Law Enforcement Block Grant (LLEBG) Programs to provide agencies with the flexibility to support a broad range of activities to prevent and control crime based on their own local needs and conditions. The 2007 JAG application was presented to the County Manager and the County Commissioners on May 24, 2007 via e-mail. Approval was given to submit application and to proceed with Interlocal Agreement which appoints the Sheriff's Office as fiscal agent for joint funds and agrees to 50/50 split of the funds with the City.

One of the conditions of this grant award is to conduct a public hearing to receive public comment as to the use of these funds. To give proper notification, this public hearing has been advertised in The Herald Sun newspaper on September 30, 2007, as well as on both Police Department and Sheriff's Office websites since June 1, 2007.

The Sheriff's Office funds will be used to fund, along with the Criminal Justice Resource Center, a case manager and supplies for a jail-based reentry program to support the Sheriff's Office Juvenile Assistance Program and to support the Durham County Gun Safety Team. The Police Department's funds will be used to support a gang prosecution attorney in the District Attorney's office and to supplement the Crime Prevention and Victim Services Unit and the Special Operation's Division informant fund. No additional funding is required. The total award is \$214,278.00 to be budgeted in the FY 2007-08 budget; the Sheriff's Office and Police Department will each receive \$107,139.00 from the grant award.

Resource Person(s): Captain Flamion, Sheriff's Office; Lt. Brown, Sheriff's Office; Kim Cook, Sheriff's Comptroller; Gudrun Parmer, Criminal Justice Resource Center Director; and Debbie Chelette, Durham Police Department

County Manager's Recommendation: Conduct the public hearing and congratulate the Sheriff and the Durham Police Department on receiving another grant award to support local law enforcement, criminal justice system, and community activities. The Manager recommends that the Board of County Commissioners approve Budget Ordinance Amendment No. 08BCC000010 in the amount of \$107,139.

8. **Public Hearing—Zoning Map Change—3905 Page Road (Z06-63)**

20 min.

To approve a request for a zoning map change for a 13.12-acre site located at 3905 Page Road, on the east side of Page Road, west of Airport Road and the Wake County line. Request: RR to IL.

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the *Comprehensive Plan* and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or alternatively, in the event that a motion to approve the item fails, the Commissioners adopt as support for their actions on the proposed zoning map change the determination that, notwithstanding its consistency with the *Comprehensive Plan*, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Staff recommends approval, based on consistency with the Comprehensive Plan and considering the information provided in the report.

Planning Commission Recommendation and Vote: Denial, 0-13 on August 14, 2007. The Planning Commission finds that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission does not believe this request is reasonable or in the public interest in light of the information in the staff report and comments received during the public hearing. The Commission recommends denial based on inconsistency with neighboring land uses, concerns regarding impacts on the environment, and the lack of a development plan in order to determine if adequate facilities and infrastructure is proposed.

Resource Person(s): Steven L. Medlin, AICP, Interim City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing on the proposed zoning map change and approve it, if appropriate, based on the comments received.

9. **Public Hearing—Plan Amendment, Davis Park West (A07-11)**

10 min.

To conduct a public hearing on a plan amendment for Davis Park West (A07-11); and to approve the requested change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Research and Research Applications to Commercial and from Suburban Tier to Compact Neighborhood Tier.

City-County Planning Department Recommendation: Approval based on the justification and meeting the criteria for plan amendments.

Planning Commission Recommendation: Approval, 13-0, August 14, 2007, based on information provided in the staff report and the justification and meeting the criteria for plan amendments.

Resource Person(s): Steven L. Medlin, AICP, Interim City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing and, if appropriate based on the comments received, approve Plan Amendment A07-11.

10. **Public Hearing—Plan Amendment, Finsbury II (A07-12)**

10 min.

To conduct a public hearing on a plan amendment for Finsbury II (A07-12); and to approve the requested change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Research and Research Applications to Medium Density Residential (6-12 DU/Ac.) and from Suburban Tier to Compact Neighborhood Tier.

City-County Planning Department Recommendation: Approval based on the justification and meeting the criteria for plan amendments.

Planning Commission Recommendation: Approval, 13-0, August 14, 2007 based on information provided in the staff report, the justification, and meeting the criteria for plan amendments.

Resource Person(s): Steven L. Medlin, AICP, Interim City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing and, if appropriate based on the comments received, approve Plan Amendment A07-12.

11. **Public Hearing—Unified Development Ordinance (UDO) Text Change—Portable On-Site Storage Units (TC07-06)**

10 min.

Receive public comments on Text Change – Portable On-Site Storage Units (TC07-06) - and adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 5, Use Regulations.

Resource Person(s): Steven L. Medlin, AICP, Interim City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing on the proposed UDO text change and, if appropriate based on the comments received during the hearing, approve the change.

12. **Public Hearing—Unified Development Ordinance (UDO) Text Change—Vehicle Stacking (TC07-03)**

10 min.

Receive public comments on Text Change – Vehicle Stacking (TC07-03) - and adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 10, Off-Street Parking and Loading, and Article 16, Definitions.

Resource Person(s): Steven L. Medlin, AICP, Interim City-County Planning Director

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing on the proposed UDO text change and, if appropriate based on the comments received during the hearing, approve the change.

13. **Quasi-Judicial Public Hearing—Transportation Special Use Permit—The Worship Center (T06-01)**

15 min.

Hold a quasi-judicial hearing to consider a Transportation Special Use Permit for Traffic Impact, in association with consideration of a Major Site Plan for development of a place of worship at the southwest corner of Lumley Road and Page Road. PIN 0759-04-51-0649

Direct the Transportation Manager to prepare an order for adoption, for 1) approval; 2) approval with conditions; or 3) denial, or to continue the hearing to a specified later meeting. (A draft order for approval with staff recommended conditions will be available at the meeting.)

Request: Transportation Special Use Permit

Staff Recommendation: Approval, based on technical conformance with Ordinance requirements. Staff will make a final recommendation following the hearing.

Resource Person(s): Steven L. Medlin, AICP, City-County Assistant Planning Director, and William E. Judge, PE, City Transportation Division

County Manager's Recommendation: The Manager recommends that the Board conduct a public hearing on the proposed Transportation Special Use Permit and approve it, if appropriate, based on the comments received.

14. **Major Site Plan—The Worship Center (D06-555)**

10 min.

If the Transportation Special Use Permit is approved, then approve a Major Site Plan including a landscape variation for "The Worship Center" submitted by Summit Engineering Inc., on behalf of William C. Logan, Sr. and Joe H. Call, for a 30,500 square foot place of worship with a 4,536 square foot accessory caretaker's building on a 9.10-acre site zoned Rural Residential (RR). The landscape variation is requested to allow the applicants to plant street trees five feet from the edge of a required utility easement, which will result in the trees being more than 30 feet from the right-of-way of Lumley Road. [The property is located at 5334 Lumley Road, at the southwest corner of Lumley and Page Roads. PIN 0759-04-51-0649]

The Development Review Board recommended approval of the site plan and landscape variation based on the unique site conditions created by a Duke Energy easement along Lumley Road, on April 27, 2007 by a vote of 8-0.

Resource Person(s): Steven L. Medlin, AICP, Interim City-County Planning Director

County Manager's Recommendation: The Manager recommends approval of the site plan with the requested street tree landscape variation.

15. **Camp Butner Joint Land Use Study**

15 min.

To receive a report from the Planning Department about the Camp Butner Joint Land Use Study and appoint a Board member to serve on the Study Planning Committee.

Planning Department Recommendation: Adopt the Resolution and appoint a Board member to serve on the Study Planning Committee

Resource Person(s): Steven L. Medlin, AICP, Interim Director, City-County Planning Department

County Manager's Recommendation: The Manager recommends that the Board receive the report and, if appropriate, adopt the Resolution and appoint a Board member to serve on the Study Planning Committee.

16. **Regulation of Solicitation on the Streets and Highways of Durham County**

30 min.

After receiving information regarding the possible adoption of an ordinance regulating solicitation in the rights-of-way outside the municipal limits of cities in Durham County, the Board passed, on April 9, 2007, an ordinance regulating solicitation on a 3-1 vote. As the ordinance was not passed by a unanimous vote of the Board, it was required to be passed on a second vote. However, due to the length of time since the first vote, the ordinance was considered again by the Board on July 23, 2007, and discussed at the October 1 Worksession. Following the discussion, the Board deferred the consideration of the Ordinance until this meeting.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Adopt the Ordinance as presented.

17. **Closed Session**

20 min.

The Board is requested to adjourn to closed session to consider the conditions of initial appointment of a public officer pursuant to N.C.G.S. § 143-318.11(a)(6).

3½ hrs.