

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

Monday, March 12, 2007

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman Ellen W. Reckhow, Vice-Chairman Becky M. Heron, and Commissioners Lewis A. Cheek, Philip R. Cousin Jr., and Michael D. Page

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

Commissioner Remarks

Commissioner Cheek thanked the Commissioners for conducting business in his absence due to blood pressure ailments.

Commissioner Page requested that a resolution be drafted to honor the late N.C. Senator Jeanne Lucas. Senator Lucas passed away on Friday, March 9, 2007, in Hillsborough.

Announcements

Chairman Reckhow recognized Sammy Haithcock, Department of Social Services Director, to provide information on Earned Income Tax Credit (EITC). She encouraged low-income families to avail themselves of opportunities to receive tax assistance by applying for the EITC.

Mr. Haithcock expressed thanks to Chairman Reckhow for attending a recent press conference highlighting Durham's efforts to ensure that low-income citizens are informed regarding the EITC. He briefly discussed the requirements to apply for the EITC. Citizens with low to middle incomes whose tax returns are not complex or long may use the Volunteer Income Tax Assistance (VITA) program. For more information, citizens may call MoneyWise Durham at 682-5788.

Minutes

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to approve as corrected the February 12, 2007 Regular Session Minutes and as submitted the February 26, 2007 Regular Session Minutes of the Board.

The motion carried unanimously.

Professional Social Work Month Proclamation

Chairman Reckhow recognized March as Professional Social Work Month by reading the following resolution into the record:

PROCLAMATION

WHEREAS, social workers have the right education and experience to guide individuals, families, and communities through complex issues and choices; and

WHEREAS, social workers connect individuals, families, and communities to available resources; and

WHEREAS, social workers are dedicated to improving the society in which we live; and

WHEREAS, social workers stand up for others to make sure everyone has access to the same basic rights, protections, and opportunities; and

WHEREAS, social workers help people help themselves, whenever and wherever they need it most; and

WHEREAS, social workers have been the driving force behind important social movements in the United States and abroad; and

WHEREAS, social workers in the Durham County Department of Social Services invest in people so that they can contribute more to the economic and social wellbeing of our community; and

WHEREAS, social workers in the Durham County Department of Social Services ensure families' basic economic needs are met; provide access to health care and nutrition; help people find jobs; develop strong work habits and a career path; keep children and families safe; and help children become ready for and succeed in school:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, do hereby proclaim March 2007 as

“Professional Social Work Month”.

I commend this observance to our citizens and urge all citizens to join with the Department of Social Services in celebration and support of social workers and the social work profession.

This the 26th day of March, 2007.

/s/ Ellen W. Reckhow, Chairman

DSS Director Sammy Haithcock extended appreciation to the Board for recognizing the social work profession. He stated that DSS Social Workers help families get their basic economic needs met; provide access to health care and nutrition; help people find jobs, develop strong work habits, and a career path; keep children and vulnerable adults safe; and help children to be ready for and succeed in school.

Chairman Reckhow presented the proclamation to Mr. Haithcock.

March Anchor Award Winner—Joe Pearce

County Engineer Glen Whisler introduced Joe Pearce of County Engineering as the recipient of the March Anchor Award. He stated that Mr. Pearce is being acknowledged for his superior work and for his unending dedication to the Durham County Sedimentation and Erosion Control Program and the Stormwater Ordinance. Mr. Pearce has been with the County since 2005 and has greatly improved the coordination between the various departments, agencies, and jurisdictions involved in stormwater, erosion control, and flooding matters that citizens often inquire about.

Mr. Pearce thanked Engineering staff for the award and Durham citizens for contributing to the success of the Engineering Department.

Vice-Chairman Heron read a letter from a citizen praising Mr. Pearce for his knowledge and prompt assistance with constant erosion control issues in southern Durham County.

Chairman Reckhow presented the Anchor Award, honorary check, and \$200 check to Mr. Pearce.

RDU Airport Authority Annual Update

Steve Toler, Chairman, RDU Airport Authority, and Craigie Sanders, Secretary, provided the Board of Commissioners with an annual update that included information on new air service, restaurants in the terminals, and a status report of the new terminal construction. The public may view the report online at <http://www.rdu.com/Landing/annualreport/2006/2006AnnualReportFinal-small.pdf>.

Commissioner Page recommended a parking zone for those waiting to pick up travelers at terminal exits. He stated that currently at RDU, heightened security has made it nearly impossible to wait in the loading zone to pick up travelers.

Mr. Toler suggested that the public utilize the RDU Authority parking lot to park temporarily while waiting for travelers to arrive.

Commissioner Cheek made a suggestion to create a “cell phone lot” as a remedy for temporary parking. The public would park in an off-site lot for a limited period of time until their party phones them when ready to be picked up. Airports in Fort Lauderdale and Miami, Florida have similar lots.

Chairman Reckhow commented that security has become more aggressive at the unloading/loading zone at RDU.

Mr. Toler consented to relay to the Authority Vice-Chairman Heron's request for Durham City and County to benefit from the sales tax generated by RDU.

Mr. Sanders advised the Commissioners to communicate Vice-Chairman Heron's request to the Wake County Legislators. The RDU Airport Authority must be restructured in order for Durham County to receive the funds.

Vice-Chairman Heron recommended an interlocal agreement as a solution.

County Manager Mike Ruffin informed the Board that he pursued the sales tax issue in 2004 per a request by former County Commissioner Joe Bowser; it was dismissed.

Commissioner Page commented on the importance of recognizing Durham as part of RDU International Airport.

County Manager Ruffin announced that at the Durham Convention and Visitors Bureau's next meeting, it will discuss performing an audit of various issues at RDU to ensure that Durham is equally represented.

Mr. Toler gave complimentary remarks to the Board for allowing him to serve on the RDU Airport Authority.

Chairman Reckhow expressed a desire to see a change to the airport's façade in the newly-renovated Terminal A.

Mr. Sanders stated that changes to internal and external features would be considered during the renovations.

Consent Agenda

- a. Approve Grant Application from the Criminal Justice Resource Center to the NC Department of Corrections, Division of Community Corrections, for Criminal Justice Partnership Program Funds (this is a recurring grant application and approval process the County participates in each year);
- *b. Budget Ordinance Amendment No. 07BCC000052— Appropriate Issuance Costs for 2/3 Bonds Series 2006A and GO Bonds Series 2006B (approve to appropriate \$123,167 for bond issuance costs associated with the Bond issuances);
- *c. Budget Ordinance Amendment No. 07BCC000053— Technical Change to Budget Ordinance Amendment No. 07BCC000030;

- *d. Interlocal Agreement with the City of Durham—911 Emergency Communications Department—Community Alert Notification System (approve to fund half of the CodeRED system);
- *e. Offer to Purchase County Surplus Properties—300 East Main Street (Eligibility Building) and 306 East Main Street (vacant) (approve the sale by General Warranty Deed to Mr. David Revere of 300 E. Main LLC for \$324,900) *County Manager Ruffin responded in the affirmative to Chairman Reckhow's request for setting the \$324,900 aside to defray costs associated with the Capital Improvement Plan;*
- f. Legislative Proposal to Regulate the Sale of Handgun Ammunition (direct staff to prepare a letter to the Durham County Legislative Delegation supporting a bill which would regulate the sale of handgun ammunition);
- g. Approve the Sale of County Surplus Properties (approve the sale of 2304 Hart Street to Briscoe Enterprises for \$7,400 and the sale of 1206 Linwood Avenue to Sampson Harrell for \$1,380);
- h. Approval of Construction Contract for the Modernization and Upgrade of Elevators at the Durham County Judicial Building. Project No. DC072-48, Bid No. IFB 07-009 (authorize the execution of a construction contract with Progressive Contracting Company Inc. in the amount of \$327,300 [Base Bid Only] and any other related contracts including change orders, if necessary, not to exceed the available construction budget of \$360,030); and
- i. Execution of Design Contract Amendment with The Freelon Group, P.A., for the Proposed Durham County South Regional Branch Library. Project No. DC076-50/58 (authorize the execution of the amendment in the amount \$223,900 for additional architectural design services).

*Documents related to these items follow:

Consent Agenda Item No. b. Budget Ordinance Amendment No. 07BCC000052—Appropriate Issuance Costs for 2/3 Bonds Series 2006A and GO Bonds Series 2006B (approve to appropriate \$123,167 for bond issuance costs associated with the Bond issuances).

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000052

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2005-06 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL CAPITAL BOND06</u>			
Other Financing Source	\$0	\$100,036	\$100,036
<u>2/3 GENERAL CAPITAL BOND06</u>			
Other Financing Source	\$0	\$23,131	\$23,131

Expenditures:

<u>Function</u>			
<u>GENERAL CAPITAL BOND06</u>			
General Government	\$0	\$100,036	\$100,036
<u>2/3 GENERAL CAPITAL BOND06</u>			
General Government	\$0	\$23,131	\$23,131

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 12th day of March, 2007.

Consent Agenda Item No. c. Budget Ordinance Amendment No. 07BCC000053—
Technical Change to Budget Ordinance Amendment No. 07BCC000030.

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000053

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2005-06 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL CAPITAL BOND06</u>			
Other Financing Source	\$1,000,000	\$872,704	\$1,872,704
<u>2/3 GENERAL CAPITAL BOND06</u>			
Other Financing Source	\$200,000	\$201,792	\$401,792

Expenditures:

<u>Function</u>			
<u>GENERAL CAPITAL BOND06</u>			
General Government	\$1,000,000	\$872,704	\$1,872,704
<u>2/3 GENERAL CAPITAL BOND06</u>			
General Government	\$200,000	\$201,792	\$401,792

All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 12th day of March, 2007.

Consent Agenda Item No. d. Interlocal Agreement with the City of Durham—911 Emergency Communications Department—Community Alert Notification System (approve to fund half of the CodeRED system).

North Carolina
Durham County

Interlocal Cooperation Agreement
Community Alert Notification System

This is an Interlocal Cooperation Agreement (henceforth “Agreement”) between City of Durham, a North Carolina municipal corporation (hereinafter “City”), and County of Durham, a political subdivision of the State of North Carolina (hereinafter “County”). This Agreement is made pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes. The date of the Agreement is March 12, 2007.

City and County agree as follows:

Section I. Purpose.

The purpose of this Agreement is to set forth the obligations of the City and County related to the acquisition, payment and on-going maintenance of the CodeRED[®] Emergency Telephone Calling System (hereinafter ‘CodeRED’) for the citizens of the City and County through the City-County Emergency Communications Department. Emergency Communications Network, Inc. is the owner of the CodeRED system, which allows users to place pre-recorded telephone calls at high speed for the purpose of communicating matters of public interest and concern.

Section II. Obligations.

1. The City has entered into a Service Agreement with Emergency Communications Network, Inc. for CodeRED (hereinafter "Service Agreement"). For the period of February 1, 2007 through July 31, 2007, the County agrees to pay to the City the lesser of (i) an amount equal to 50% of the cost of the CodeRED services, which cost includes costs for Additional System Minutes, pursuant to the Service Agreement, or (ii) \$15,000.

The Service Agreement provides for annual extensions unless otherwise terminated by the City or contractor. For such extensions, the County agrees to pay to the City an amount equal to 50% of the cost of the CodeRED services, which cost includes costs for Additional System Minutes, pursuant to the Service Agreement. The City shall notify the County of the anticipated cost for any such extensions no later than April 1, of the then current fiscal year.

The County’s obligation to share equally in the cost of said Service Agreement does not include any finance charge or late payment penalties that may become due under said Agreement. To the extent, if any, the County pays the City for Additional System Minutes, the cost of which are later reimbursed by F.E.M.A., (Federal Emergency

Management Agency) the City shall refund to the County 50% of such F.E.M.A. reimbursement. To the extent, if any, F.E.M.A. reimburses the City for Minutes before the County has paid the City for such Minutes, the City shall not charge the County for the cost of such Minutes.

Payment from the County to the City for the initial period (February 1- July 31, 2007) shall be made in one lump sum during the FY '07 year-end reconciliation held pursuant to the City/County 911 Communications Interlocal Agreement. Thereafter, for any of such extensions, payment shall be made in monthly payments to the City based on the cost for the contract period.

2. The Director of Emergency Communications for the Durham Emergency Communications Center or his designee shall be responsible for maintaining the CodeRED system for the purposes of this agreement and shall be the contact person regarding questions that the County may have about the CodeRED system. The City shall apply for F.E.M.A. (Federal Emergency Management Agency) reimbursement for costs associated with CodeRED as may be available.

3. The City and County have jointly approved Community Alert Notification System (CodeRED) Procedures with an effective date 1-15-2007 regarding the use of the CodeRED system. The Procedures define, among other things, the authorized users, procedures for broadcasting messages and system capabilities. The Procedures may be modified jointly by the parties as deemed necessary at anytime. These Procedures, as may be amended from time to time, are incorporated herein by reference and made an integral part hereof.

Section III. General Terms of Agreement.

- A. Amendment. This Agreement may be amended upon mutual agreement of the City and County expressed in writing.
- B. Termination. Either the City or County may terminate this Agreement upon 60 days prior written notice.

Notwithstanding the foregoing, this Agreement will terminate automatically in the event the Service Agreement between the City and Emergency Communications Network, Inc. terminates. The County's 50% share of costs for proper charges for Additional System Minutes used before the termination shall be due within 30 days of the date of termination.

- C. Term. The term of this agreement shall begin on the date first written above and shall terminate in five (5) years unless terminated earlier as prescribed in this Section III. The governing body of each party hereto has determined that duration to be reasonable.
- D. Governing Law. This Agreement shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Agreement shall be brought in the General Court of Justice in the County of Durham and the State of North Carolina.
- E. Entire Agreement. This Agreement shall constitute the entire understanding between the City and the County and shall supersede all prior understandings and agreements relating to the subject matter hereof.

- F. Appointment of Personnel. The City Manager shall designate persons to carry out the City's obligations under this Agreement. The County Manager shall designate persons to carry out the County's obligations under this Agreement.
- G. City Policy Statement. THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONTRACTORS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONTRACTORS AND VENDORS UNDER CITY CONTRACTS.

IN WITNESS WHEREOF, the City and County have authorized this Interlocal Agreement for a Community Alert Notification System to be executed and attested by their undersigned officers.

CITY OF DURHAM
BY /s/ Patrick Baker, City Manager

ATTEST:
/s/ D. Ann Gray, City Clerk

COUNTY OF DURHAM
BY /s/ Michael M. Ruffin
Durham County Manager

ATTEST:
/s/ Vonda C. Sessoms, Clerk to the Board

Consent Agenda Item No. e. Offer to Purchase County Surplus Properties—300 East Main Street (Eligibility Building) and 306 East Main Street (vacant) (approve the sale by General Warranty Deed to Mr. David Revere of 300 E. Main LLC for \$324,900).

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in Durham County, North Carolina and properly described as follows:

300 East Main Street
PIN #0831-09-06-0553
Parcel ID #152973

306 East Main Street
PIN #0831-09-06-0590
Parcel ID #152973

WHEREAS, Mark Properties Inc. has made an offer to the County to purchase the above properties for \$137,000 and has made a bid deposit in the amount of \$10,000, which is not less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale;

2. Upset bids must be received within ten days after the date the notice is published;
3. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
4. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
5. When the bid has been successfully raised (upset), the new bid becomes the current offer;
6. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
7. When the bid has been successfully raised (upset), the procedure is repeated;
8. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
9. Should the Board of County Commissioners accept the final qualifying offer, a nonwarranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on March 12, 2007.

/s/ Vonda Sessoms
Clerk, Board of Commissioners

Public Hearing to Consider Allocating Economic Development Investment Funds to Nitronex Corporation

Chairman Reckhow opened the public hearing, which was advertised on Thursday, March 1, 2007, as required by Statute. She called signed speakers forward for comments.

Libby Barnes, President/CEO, Durham Chamber of Commerce, 304 Culpepper Court, Durham 27712, gave introductory remarks about positive impacts Nitronex's relocation to Durham would have on the community.

Jamie Glass, Dean of Continuing Education and Off-Campus Programs, Durham Technical Community College, 1637 Lawson Street, Durham 27703, discussed proactive measures being taken to help Durham residents obtain jobs created by this project.

Jerry O'Keeffe, Chair Elect, Durham Chamber of Commerce, gave an overview of the importance of Nitronex relocating to Durham.

Carolyn P. Titus, Deputy County Manager, reported that the Nitronex Corporation, designer and manufacturer of semiconductor products, is considering relocating its headquarters and establishing its manufacturing facility in Durham County. She stated that the proposed investment for the RTP facility is estimated to be in excess of \$24 million and would include the establishment of 200 new jobs within five years. Staff

recommended that the County participate in this economic development project by reimbursing Nitronex up to \$100,000 for the costs of relocation and employee training.

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, asked a series of questions relating to Nitronex's physical location, staffing of minorities, training facilities, and outreach plan for employing Durham citizens.

Commissioner Cheek called for a point of order. He stated that it is inappropriate for a citizen to cross-examine a company that the Board is considering for economic development. Comments should be limited to issues before the Board.

Chairman Reckhow allowed Ms. Peterson to finish her comments within the remaining 23 seconds.

Ms. Peterson proceeded to ask questions pertaining to salaries and employment of women at Nitronex.

Chairman Reckhow asked Deputy County Manager Titus to outline additional detail about how this incentive has been structured.

Ms. Titus explained that the contract allows the County to reimburse Nitronex for relocation and training. A specific amount has been designated for employee training of Durham residents. If Durham residents are not trained and hired, then the funds would not be provided.

Commissioner Page suggested that additional background information on companies be submitted to the Board for future incentive projects. He also requested a report on Nitronex's progress with meeting contract requirements.

Ms. Titus explicated that reports on recently approved economic incentive programs (since the adoption of the Finance Policy, November 14, 2005) have not been submitted to the Board because none of the contracts have begun; no funds have been disbursed.

Chairman Reckhow closed the public hearing and referred the matter back to the Board.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve entering into the standard reimbursement contract between the County of Durham and Nitronex Corporation in the amount of \$100,000 to allow for the reimbursement of costs associated with relocation and employee training.

The motion carried unanimously.

Chairman Reckhow thanked the Nitronex staff in attendance and stated that she looks forward to the company's relocation to Durham County.

Closed Session

Commissioner Cheek moved, seconded by Commissioner Cousin, 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).

The motion carried unanimously.

Reconvene to Open Session

Chairman Reckhow stated that the Board met in closed session; no action was taken; directives were given to staff.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 9:22 p.m.

Respectfully Submitted,

Yvonne R. Gordon
Deputy Clerk to the Board