

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

Monday, March 11, 2013

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman Fred Foster, Jr., Vice-Chair Brenda A. Howerton, and Commissioners, Wendy Jacobs, Michael D. Page, and Ellen Reckhow

Absent: None

Presider: Chairman Fred Foster, Jr.

Opening of Regular Session—Chairman Foster asked everyone to join in the Pledge of Allegiance.

Agenda Adjustments

There were no adjustments to the agenda.

Announcements

Chairman Foster made the following announcements:

- “In Touch with Durham County,” the Durham County Television show, airs on Cable TV Channel 8 at 8:30 a.m. and 12 noon on Mondays; and 8:30 a.m., 12 noon and 6:30 pm on Tuesday–Sundays. Our County Commissioners’ meetings are also rebroadcast on Thursdays at 2:00 p.m., Saturdays at 9:00 p.m., and Sundays at 9:00 p.m.
- Durham County needs you! If you have a few hours to commit, Durham County has a number of boards and commissions that can benefit from your participation. We invite you to make a difference in our community. Contact the Clerk’s Office at 919-560-0025, visit the County’s website, or email Clerk@dconc.gov for more information. Please note that all City and County taxes must be current at the time of application.
- The Durham County Department of Social Services' office hours will be changing. Effective June 24, 2013 the agency’s operating hours to the public will be 7:30 am - 5:30 pm;
- The new Durham Diabetes Coalition television show, “Living Healthy” is currently airing nightly at 7:00pm on Durham Government Television, Time Warner Cable Channel 8. The 30-minute program features segments on topics such as nutrition, physical activity, local resources, diabetes information, and personal stories of Durham residents living with type 2 diabetes. The purpose of the show is to give residents tips and tools to live a healthy lifestyle and help people manage their diabetes successfully.

Chairman Foster announced that Durham County received a letter from Sharon Allred Decker, North Carolina Secretary of Commerce. Chairman Foster read the letter into the record. The letter notified Durham County that it was awarded a Community Development Block Grant (CDBG) in the amount of \$600,000. Mr. Michael Ruffin, County Manager, noted that the grant was for the Rougemont water system restoration project.

Commissioner Page inquired whether the funds awarded were surplus stimulus funds. County Manager Ruffin stated that surplus stimulus funds were received by Durham County, but that the CDBG was of a different funding source.

Commissioners commented that the language of the letter was confusing because it referenced that the funding was for "scattered site housing" for low income individuals. Mr. Ruffin stated that contrary to the language of the letter, these CDBG funds were from another source designated for emergency needs related to infrastructure.

Minutes

Chairman Foster announced that the Minutes will be submitted April 8, 2013 for approval.

Presentation of Anchor Award to County Engineer Glen Whisler

Chairman Foster recognized Mr. Michael Ruffin, County Manager, who introduced the item.

County Manager Ruffin requested that Mr. Glen Whisler, Department Engineering and Environmental Services Director, be presented with an Anchor Award to formally recognize his exemplary performance regarding the implementation of the County's Capital Improvement Plan. Mr. Ruffin commented that Mr. Whisler's leadership skills resulted in a significant time and cost savings to Durham County. Mr. Ruffin continued by stating that the new Durham County Courthouse project would not have been successful without Mr. Whisler's expertise in planning, staffing and project management. County Manager Ruffin also made reference to Mr. Whisler's willingness to complete any task, despite the time commitment or complexity.

The Board and Lowell Siler, County Attorney, extended congratulations to Mr. Whisler for the accomplishments made during his tenure. Mr. Whisler gave brief remarks thanking the Board, staff, citizens and his family for support during his years of service.

Consent Agenda

Chairman Foster asked the Commissioners if they desired to pull any items from the Consent agenda.

Commissioner Reckhow moved, seconded by Vice-Chair Howerton, to approve the following consent agenda items (6a, b, c, d, e, f, h, i, j, k, l, m and n):

- a. *Approve the resolution and appoint County Review Officers to perform functions as listed in N.C.G.S. 47-30.2 and to cancel the appointment of a County Review Officer;
- b. *Approve the Ordinance amending Article IV of Chapter 26 of the County of Durham Code of Ordinances;

- c. Approve the re-appointment of Dr. Nancy Henley to the Durham County seat designated for an individual with clinical expertise on the Board of Directors of Alliance Behavioral Healthcare;
- d. Approve the First Amendment to the Interlocal Agreement for Reclaimed Water Supply with the Town of Cary and authorize the Manager to execute the amendment;
- e. Authorize the County Manager to amend the design contract with The Freelon Group (TFG), P.A., to include the additional Construction Administration (CA) Phase and related services for the DCHS project in the amount of \$670,596.00 plus reimbursable expenses and additional services if necessary, estimated at \$33,530.00 for a total \$704,126.00, thus increasing the overall total compensation for basic design, construction administration and additional services including reimbursement to \$10,733,776.00;
- f. Approve the proposed Interlocal Agreement with the City of Durham for a Joint Disparity Study;
- g. ITEM REMOVED;
- h. Approve the recommendation from the Durham County Library Board of Trustees to proceed with naming opportunity in the following library location: Southwest Regional Library;
- i. Approve the janitorial services contract with A Plus Group, LLC beginning April 1, 2013 through June 30, 2013 in the annual amount of \$65,013.00 and authorize the Manager to execute the contract and amendments or renewals as necessary over the next four consecutive years;
- j. *Amend the contract with Tax Management Associates for property value discoveries and approve Budget Ordinance Amendment No. 13BCC000061 in the amount of \$75,000. Payment is made to TMA only after the County has collected the tax, at a rate of 30% of the amount collected. There is no additional cost to the County whereas this fee is deducted from new revenue collected;
- k. *Approve Budget Ordinance Amendment No. 13BCC000062 to appropriate \$50,000 from General Fund fund balance to pay for out of county placement costs for the Youth Home;
- l. *Approve the new Interlocal cooperation agreement (see attachment) for the division of sales tax between the County of Durham and the City of Durham for the period July 1, 2013 through June 30, 2018, and authorize the County Manager to sign of this agreement;
- m. Award the engineering services contract to Roughton Nickelson Deluca Architects (RND) for Administration Building elevator modernization & upgrade engineering services in an amount not to exceed \$50,000 and authorize the Manager to execute the contract;
- n. *Adopt the Resolution authorizing the Research Triangle Regional Public Transportation Authority to levy an additional three dollar (\$3.00) vehicle registration tax on motor vehicles registered in Durham County.

The motion carried unanimously.

*Document(s) related to this item follow:

Consent Agenda Item No. a.

**DURHAM COUNTY
RESOLUTION APPOINTING REVIEW OFFICERS**

WHEREAS, G. S. 47-30.2 requires the Board of County Commissioners in each County, by resolution, to appoint a person or persons to serve as Review Officer to review each plat before it is recorded and certify that it meets the statutory requirements for recording; and

WHEREAS, it is the desire of Durham County Board of Commissioners to insure an expeditious review of all maps and plats as required by G. S. 47-30.2 before they are presented to the Register of Deeds for recording.

NOW THEREFORE, BE IT RESOLVED, effective March 11, 2013 that Susan Greene, David Goldston, Judy F. Hosford, Darnell Allen, Dawn Perry, Kevin Locklear and Aloysius Corcoran in the Durham County Land Records Office are hereby appointed to perform all responsibilities as required for the Review Officer under the appropriate North Carolina General Statutes.

BE IT FURTHER RESOLVED that in accordance with the appropriate North Carolina General Statutes the Review Officer(s) named herein may from time to time delegate such authority as required to insure the expeditious review of all maps and plats.

BE IT FURTHER RESOLVED that a copy of this Resolution designating the Review Officer(s) be recorded in the Durham County Register of Deeds Office and indexed in the name of the Review Officer.

This is the 11th day of March, 2013.

Fred Foster Jr., Chairman
Durham County Board of Commissioners

V. Michelle Parker-Evans
Clerk to the Board

Consent Agenda Item No. b.

**ORDINANCE AMENDING CHAPTER 26 OF THE
DURHAM COUNTY CODE OF ORDINANCES**

WHEREAS, the North Carolina Legislature has, through N.C.G.S. § 153A-275, vested counties with the authority to establish public enterprise systems, including wastewater collection, treatment, and disposal systems and to adopt adequate and reasonable rules to protect and regulate those systems owned or operated by it; and

WHEREAS, this ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for Durham County and

enables the county to comply with all applicable state and federal laws, including the Clean Water Act and the General Pretreatment Regulations; and

WHEREAS, the County of Durham adopted a local ordinance, codified in Article IV of Chapter 26 of the Durham County Code of Ordinances, which sets forth the requirements for direct and indirect contributors into the wastewater collection and treatment system on September 26, 1994; and

WHEREAS, the North Carolina Legislature has, through N.C.G.S. §§ 153A-275, 153A-121, and 153A-123, vested the Board of County Commissioners with the authority to enact this Ordinance.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOETH ORDAIN:

1) That Chapter 26, Article IV, Section 26-152 of the Durham County Code of Ordinances is hereby amended to read as follows:

All users shall provide appropriate reports to the POTW Director as the POTW Director may require to implement this Article IV, Sewer Use.

2) That Chapter 26, Article IV, Section 26-188 of the Durham County Code of Ordinances is hereby amended to read as follows:

(4) All records relating to compliance with Pretreatment Standards in accordance with 15A NCAC 02H .0913 shall be made available to officials of the approval authority and EPA upon their written request.

3) These amendments shall take effect upon enactment.

Approved by the Durham County Board of County Commissioners, this the 11th day of March, 2013.

Consent Agenda Item No. j.

DURHAM COUNTY, NORTH CAROLINA
FY 2012-13 Budget Ordinance
Amendment Number 13BCC000061

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY:
That the 2012-13 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 FUND</u>			
Taxes	\$268,055,631	\$75,000	\$268,130,631

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
General Government	\$85,769,444	\$75,000	\$85,844,444

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

Approved March 11, 2013

Consent Agenda Item No. k.

DURHAM COUNTY, NORTH CAROLINA
FY 2012-13 Budget Ordinance
Amendment Number 13BCC000062

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY:
That the 2012-13 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 FUND</u>			
Other Financing Sources	\$22,117,301	\$50,000	\$22,167,301

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Public Safety	\$47,189,460	\$50,000	\$47,239,460

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

Approved March 11, 2013

Consent Agenda Item No. l.

**INTERLOCAL COOPERATION AGREEMENT
FOR THE DIVISION OF SALES TAX
BETWEEN THE COUNTY OF DURHAM AND
THE CITY OF DURHAM**

This Agreement made, dated, and entered into as of the ____ day of ____, 2013, between the County of Durham, a political subdivision of the State of North Carolina, hereinafter referred to as the "County" and the City of Durham, a North Carolina municipal corporation, hereinafter referred to as the "City". This Agreement is made pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes.

WITNESSETH:

WHEREAS, Pursuant to N.C.G.S. 105-472, the governing bodies of the County and the City passed resolutions in April 1995 setting forth a per capita method of distribution of sales tax which would be fair and equitable to both governments; and

WHEREAS, in lieu of the County changing the method of sales tax distribution, the City and County desire to enter into this interlocal agreement in order to continue distribution of sales tax revenues between the City and County of Durham in a fair and equitable manner.

NOW THEREFORE, for and in consideration of mutual covenants contained herein and the mutual benefits to result therefrom, the parties hereby agree as follows:

1. DEFINITIONS:

A. Sales Tax Revenue: The Local Government Sales and Use Tax Revenues collected and distributed pursuant to Articles 39 (First One-Cent), 40 (First One-Half Cent), 42 (Second One-Half Cent) and 44 (Local Government Hold Harmless Provisions, to the extent still distributed) of Chapter 105 of the General Statutes of North Carolina, levied by the County as of the date of this Agreement.

2. PURPOSE: The purpose of this Agreement is to provide for the continued distribution of Sales Tax Revenues between the City and County of Durham in a fair and equitable manner. This Agreement is adopted in lieu of the Board of County Commissioners changing the method of distribution of Sales Tax Revenues from the *per capita* method of distribution to the *ad valorem* method of distribution. It is further the purpose of this Agreement to provide for a more certain method of distribution of Sales Tax Revenues in order for both governing bodies to better plan annual budgets.

3. DISTRIBUTION OF SALES TAX REVENUES:

A. Method of Distribution. The Sales Tax Revenues will continue to be distributed on a *per capita* basis between the County of Durham and its municipalities. Upon distribution of the Sales Tax Revenues by the Secretary of Revenue and receipt of same by the County and its municipalities, the total will be ascertained by the County Chief Financial Officer and of this total, minus the amount distributed to the Town of Chapel Hill and the City of Raleigh, the County will be entitled to 58 percent and the City will be entitled to 42 percent. The County Chief Financial Officer shall be responsible for calculating the agreed upon allocation and providing the information to the City for remittance.

B. Once the total is ascertained and upon receipt of the remittance amount, the City shall pay to the County on a monthly basis by wire transfer the difference between what is actually received by the City from the Secretary of Revenue and what the City is entitled to by virtue of this Agreement.

4. RECORDS AND AUDITS:

A. Records. Records maintained by the City showing the amount received from the Secretary of Revenue and the calculation of the amount distributed to the County shall be available for inspection at any time to the County upon reasonable notice to the City.

B. Audits. The County may, at its own expense, provide for an audit of the records relating to sales taxes owed to the County and received by the City from the Secretary of Revenue.

5. DURATION:

A. This Agreement will take effect on the 1st day of July, 2013.

B. This Agreement shall endure for five years through and until June 30, 2018, unless terminated sooner as set forth in Subparagraph "5C". The

governing body of each party hereto has determined this duration to be reasonable.

- C. This Agreement may be terminated by either party with at least six (6) month's prior written notice; however, termination shall be effective only at the end of a fiscal year.

6. GENERAL PROVISIONS:

- A. This Agreement shall be recorded in the Office of the Clerk of both the City and County.
- B. Amendments to this Agreement shall be effective only when reduced to writing and duly executed by parties.
- C. 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.
- D. The laws of the State of North Carolina shall control and govern this Agreement.
- E. This Agreement sets forth the entire agreement between the County and the City and supersedes any and all other agreements on this subject between the parties.
- F. Any claims, disputes or other controversies arising out of, and between parties to this Agreement which may ensue shall be subject to and decided by the appropriate division of the General Court of Justice of Durham County, North Carolina.
- G. The subject headings of the paragraphs are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no interpretation shall be made to the contrary.
- H. This Agreement is made for the benefit of the City and the County and not for any other entity or person.
- I. The rights and duties under Articles 3 and 4, and subparagraph "6H", survive the termination or expiration of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed on the day and year first above written, in their respective names by their proper officials.

CITY OF DURHAM

ATTEST:

D. Ann Gray, City Clerk

BY _____
Thomas J. Bonfield, City Manager

COUNTY OF DURHAM

ATTEST:

Michelle Parker-Evans, Clerk to the Board

BY _____
Michael M. Ruffin, County Manager

Consent Agenda Item No. n.

**RESOLUTION AUTHORIZING THE RESEARCH TRIANGLE REGIONAL PUBLIC
TRANSPORTATION AUTHORITY TO LEVY AN ADDITIONAL \$3 VEHICLE
REGISTRATION TAX ON MOTOR VEHICLES REGISTERED IN
DURHAM COUNTY**

WHEREAS, the Durham County Board of Commissioners has adopted the Durham County Bus and Rail Investment Plan; and

WHEREAS, the Durham County Bus and Rail Investment Plan provides for the levy and disbursement of the full amount of the eight dollar (\$8.00) motor vehicle registration tax authorized by North Carolina General Statute §105-561; and

WHEREAS, the Research Triangle Regional Public Transportation Authority currently levies a motor vehicle registration tax of five dollars (\$5.00) on vehicles registered in Durham County; and

WHEREAS, the Research Triangle Regional Public Transportation Authority desires to increase the levy to the full amount of the tax and the Durham County Board of Commissioners desire to authorize such levy.

NOW, THEREFORE, BE IT RESOLVED, that the Durham County Board of Commissioners hereby authorizes the Research Triangle Regional Public Transportation Authority to levy an additional three dollars (\$3.00) motor vehicle registration tax as authorized by North Carolina General Statute §105-561.

Adopted this the 11th day of March 2013.

Fred Foster, Jr., Chair
Durham County Board of Commissioners

(STAMP/SEAL)

Attest:

V. Michelle Parker-Evans
Clerk to the Board of Commissioners

Public Hearing and Resolution Regarding the Levy of a Seven Dollar (\$7.00) Vehicle Registration Tax on Motor Vehicles Registered in Durham County

Ms. Carol Hammett, Deputy County Attorney, provided information to the Board regarding the agenda item. Ms. Hammett expounded on the public hearing and the proposed vehicle registration tax.

Chairman Foster opened the public hearing and recognized citizens who signed up to speak.

Mr. Mike Shiflett spoke in favor of the adoption of the vehicle registration tax. He urged the Board to levy the tax as a dedicated source of revenue to fund the Bus and Rail Investment Plan.

Chairman Foster closed the public hearing.

Commissioner Reckhow moved, seconded by Vice-Chair Howerton to levy a seven dollar (\$7.00) vehicle registration tax on motor vehicles registered in Durham County.

The motion passed unanimously.

Interlocal and Implementation Agreement For Public Transportation

Chairman Foster recognized Ms. Carol Hammett, Deputy County Attorney, to introduce the item.

Attorney Hammett noted that the current agenda item was directly related to the previous agenda item. Attorney Hammett provided an overview of the Interlocal and implementation agreements, noting that they were necessary to direct the funds collected to the Triangle Transit Authority for the purpose of funding the Bus and Rail Investment Plan.

Commissioner Reckhow commented on the need for regular financial reporting to the Board as stated in the agreement. Commissioner Reckhow noted that up to fifty percent of the division of fee funds may be used by the Durham Area Transportation Authority (DATA) for the increased costs of existing service. She reiterated the importance of maintaining existing service while adding new service.

Commissioner Jacobs requested periodic reports of how the interlocal implementation agreement would affect the implementation of the Bus and Rail Investment Plan.

Commissioner Reckhow expressed uncertainty regarding the outcome, but stated that projections with regard to sales tax revenues were made conservatively.

David King, Triangle Transit Authority, stated that the Triangle Transit Authority would provide the reports requested by Commissioner Jacobs. He introduced his colleagues and commented on the progress of the Triangle Transit Authority and various funding sources.

Attorney Hammett commented that the investment plan is a “fluid” document and that it will be reviewed and amended as needed.

Vice-Chair Howerton moved, seconded by Commissioner Reckhow to approve (i) the proposed Interlocal Agreement with the City of Durham, the City of Raleigh and the Town of Chapel Hill; and (ii) the proposed Implementation Agreement with the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (MPO) and the Research Triangle Regional Public Transportation Authority (TTA).

The motion passed unanimously.

Reserved for Items Pulled From Consent Agenda

There were no items pulled from the Consent Agenda.

Closed Session

Vice-Chair Howerton moved, seconded by Commissioner Jacobs, to adjourn into closed session pursuant to G. S. 143-318.11(a)(4) to discuss matters relating to the location or expansion of a business or industry; and pursuant to G.S. § 143-318.11(a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee.

The motion carried unanimously.

Reconvene to Open Session

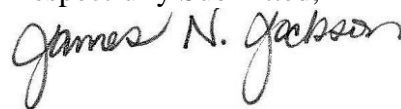
Chairman Foster announced that the Board met in closed session; directives were given to staff.

Adjournment

Vice-Chair Howerton moved, seconded by Commissioner Reckhow, to adjourn the regular session meeting.

The motion carried unanimously.

Respectfully Submitted,



James N. Jackson
Deputy Clerk to the Board