

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

Monday, February 25, 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 Grand Opening and Special Dedication Ceremony for the new Durham County Courthouse will be held on Sunday, March 10 from 2pm-4pm. The Courthouse is located at 510 South Dillard Street. We will hold a formal ceremony beginning at 3pm and provide tours of the new facility. Please join us for this special event!

Minutes

Vice-Chair Howerton moved, seconded by Commissioner Page, to approve as submitted, the February 11, 2013 Regular Session Minutes of the Board.

The motion carried unanimously.

Recognition of Public Health Director Gayle Harris – 2013 Ham Stevens Award

Chairman Foster recognized Ms. Marqueta Welton, Deputy County Manager, who introduced the item.

Ms. Welton requested that Ms. Gayle Harris, Department of Public Health Director, be recognized for her selection as the recipient of the North Carolina Association of Local Health Directors' (NCALHD) Ham Stevens Award. Ms. Welton provided background information about the award, as well as an overview of Ms. Harris' accomplishments during her 41-year tenure with Durham County Government.

The Board extended congratulations to Ms. Harris for her accomplishment. Ms. Harris then gave brief remarks thanking the Board, the Durham Community and to her family for support during over her years of service.

Consent Agenda

Chairman Foster asked the Commissioners if they desired to pull any items from the Consent agenda. No items were pulled by commissioners or citizens.

Vice-Chair Howerton moved, seconded by Commissioner Page, to approve the following consent agenda items (6a, b, c, d, e, g, h and i):

- a. *Approve the Resolution authorizing the multi-year lease agreement between the Durham Public Schools Board of Education and Synovia Solutions, LLC, for GPS units and related hardware, software and services.;
- b. *Accept the property tax release and refund report for January, 2013 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report;
- c. Approve the attached contract amendment to the City/County agreement with Global Spectrum for management of the Durham Convention Center;
- d. Approve the Tax Administrator's request to begin advertising the 2012 tax liens in the month of March;

- e. Appoint a special Board of Equalization and Review, designate membership to this Board, appoint George Scott as Chair and Stephanie Gaither-Harris as Vice Chair; and approve compensation at a rate for 2013 at \$100.00 (Chairman) and \$85.00 (Member) and \$25.00 per hour for any hour over the three hour session;
- f. ITEM REMOVED;
- g. Amend the contract with County Tax Services, Inc. for property value discoveries and approve Budget Ordinance Amendment No. 13BCC000060 in the amount of \$125,000. Payment is made to CTSI 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;
- h. *Authorize the proposed amendments to Chapter 24 Article III of the Durham County Code of Ordinances related to Parking;
- i. Approve a proposed collaboration with the Environmental Protection Agency (EPA) and Durham County Library.

The motion carried unanimously.

*Document(s) related to this item follow:

Consent Agenda Item No. a.

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

WHEREAS, the Durham Public Schools Board of Education (“Board of Education”) wishes to enter into a continuing contract for capital outlay under N.C. Gen. Stat. § 115C-441(c1) with Synovia Solutions, LLC (“Synovia”) for the long-term lease of certain Global Positioning System (“GPS”) units and related hardware, for the licensing of software related to the equipment, and for the provision of services related to the GPS units and related hardware; and

WHEREAS, the contract will require the Board of Education to pay Synovia a total of up to \$637,200 over fifty-nine (59) months, beginning in the month of March 2013 and spanning over six fiscal years, in lease payments of up to \$43,200 for the 2013 fiscal year, \$129,600 for the 2014 fiscal year, \$129,600 for the 2015 fiscal year, \$129,600 for the 2016 fiscal year, \$129,600 for the 2017 fiscal year, and \$75,600 for the 2018 fiscal year; and

WHEREAS, the Board of Education anticipates allocating a portion of its local funding appropriated by the Durham County Board of Commissioners to cover the cost of the contract with Synovia; and

WHEREAS, the Board of Education anticipates approving the contract in its final form during the month of February 2013; and

WHEREAS, the contract with Synovia may be a continuing contract for capital outlay subject to the provisions of N.C. Gen. Stat. § 115C-441(c1).

NOW, THEREFORE, BE IT HEREBY RESOLVED, per N.C. Gen. Stat. § 115C-441(c1), that the Durham County Board of Commissioners agrees to appropriate sufficient funds to the Durham Public Schools Board of Education in ensuing fiscal years to meet the Synovia Solutions, LLC lease agreement contract obligations, so long as the amount the Durham Public Schools Board of Education shall be obligated to pay under that lease agreement contract shall not exceed the amounts recited above. Said funds shall be a part of, and not in addition to, regular appropriations made to the Durham Public Schools Board of Education.

Resolved, this 25th day of February, 2013 by the Durham County Board of Commissioners.

Fred Foster, Jr., Chairman

Consent Agenda Item No. b.

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc. the attached report details releases and refunds for the month of January, 2013.

Releases & Refunds for 2013 Taxes

Personal	\$ 507.20
Solid Waste	<u>\$ 75.00</u>
Total for 2013 Taxes and Fees	\$ 582.20

Releases & Refunds for 2012 Taxes

Real Estate	\$ 2,373.73
Personal	\$ 30,985.79
Registered Vehicles	\$ 50,660.52
Vehicle Fees	\$ 1,445.00
Solid Waste	<u>\$ 630.00</u>
Total for 2012 Taxes and Fees	\$ 86,095.04

Prior year's (2001-2011) releases and refunds for January, 2013 are in the amount of \$418,704.95. The current year and prior year's releases and refunds amount to \$504,799.99.

Consent Agenda Item No. h.

**ORDINANCE AMENDING CHAPTER 24 OF THE
DURHAM COUNTY CODE OF ORDINANCES**

WHEREAS, the North Carolina Legislature has, through Article 6 of Chapter 153A of the North Carolina General Statutes, delegated to counties the power to regulate by ordinance the stopping, standing, or parking of vehicles in specified parking areas; and

WHEREAS, the Commissioners of the County of Durham, pursuant to their authority granted under Article 6 of Chapter 153A of the North Carolina General Statutes, enacted a Parking Ordinance to regulate parking stopping and standing in specified areas of the County; and

WHEREAS, the Board of County Commissioners wishes to amend the Parking Ordinance to address concerns of the public health safety and welfare.

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

1) That Chapter 24, Article III, Section 24-62 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 24-62. - Areas adjacent to and beneath the County Judicial Building, Parking Lot #1.

(a) The parking area adjacent to and on the east side of the judicial building:

(1) The street address is 201 East Main Street, **and includes the parking area beneath and on east side of the County Judicial Building.**

~~(2) Parking area adjacent to and on east side of the county judicial building.~~

(2) The parking area immediately adjacent to and on the east side of the county judicial building is hereby designated as a restricted parking lot.

(3) Parking in the parking lot immediately adjacent to and on the east side of the county judicial building is hereby designated **a restricted parking lot** by the county manger or his designee, ~~for the use of the county sheriff's office, and the parking of any other vehicle except for those vehicles belonging to the county sheriff's office is hereby prohibited.~~ **All parking spaces in the area located adjacent to the county judicial building shall be used only by those individuals who have been designated by the county manager or his designee.**

(b) Area beneath the County Judicial Building:

(1) The parking area located beneath the County Judicial Building is hereby designated as a restricted parking lot.

(2) All parking spaces in the area located beneath the county judicial building shall be used only by those individuals who have been designated by the county manager or his designee. Further, those individuals designated as being allowed to park in such areas shall only park in such spaces as has been assigned to them by the county manager or his designee. Parking in the area by any other person is hereby prohibited.

(3) Parking in other than designated parking spaces in the parking area located beneath the county judicial building is hereby prohibited.

~~(4) The designation of the restricted parking area beneath the county judicial building shall not apply to or in any way affect any area designated as part of the county jail.~~

2) That Chapter 24, Article III, Section 24-76 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 24-76. - Areas adjacent to Durham Center—Day Activities facility—706 Rigsbee Street – Day Activities facility Lot #28.

- (a) ~~The street address is 706 Rigsbee Street.~~
- (b) ~~The parking area immediately adjacent to the Durham Center Day Activities **Lot #28** is hereby designated as a restricted parking lot **Monday through Friday 8am-5pm (hereinafter the “Restricted Times”).**~~
- (c) ~~During the Restricted Times, Lot 28 The parking area west and adjacent to the Durham Center Day Activities is hereby designated for use by the occupants and patrons of the Day Activities Facility, and for the use of the employees of the county which have been assigned parking in the lot by the county manager or his designee. Parking in the lot adjacent to the Durham Center—Day Activities for any other purpose is hereby prohibited.~~
- (d) ~~Parking in other than designated parking spaces in **Lot #28** the parking lot adjacent to the Durham Center Day Activities is hereby prohibited.~~

3) That Chapter 24, Article III, Section 24-81 of the Durham County Code of Ordinances is hereby added to read as follows:

Sec. 24-81. – Justice Center Parking Deck, Lot #39 and associated Surface Lot # 40 and Secured Lot #41.

- (a) **Justice Center Parking Deck, Lot # 39, the street address is 502 S. Dillard Street; (1) Lot #39 is hereby designated as a paid public parking garage.**
- (2) **Parking rates for the Courthouse Garage shall be set by the Board of County Commissioners and may change from time to time.**
- (3) **Parking in other than designated parking spaces in Lot #39 is hereby prohibited.**
- (b) **Justice Center Surface Lot behind the Justice Center Parking Deck, Lot #40. (1) Lot #40 is hereby designated as a restricted parking lot.**
- (2) **All parking spaces in Lot #40 shall be used only by those individuals who have been designated by the county manager or his designee. Further, those individuals designated as being allowed to park in such areas shall only park in such spaces as has been assigned to them by the county manager or his designee. Parking in the area by any other person is hereby prohibited.**
- (3) **Parking in other than designated parking spaces in Lot #40 is hereby prohibited.** (c) **Justice Center Parking Secured Lot adjacent to Surface Lot # 41.**

- (1) Lot #41 is hereby designated as a restricted parking lot, entry by access card only.**
- (2) All parking spaces in Lot #41 shall be used only by those individuals who have been designated by the county manager or his designee. Further, those individuals designated as being allowed to park in such areas shall only park in such spaces as has been assigned to them by the county manager or his designee. Parking in the area by any other person is hereby prohibited.**
- (3) Parking in other than designated parking spaces in Lot #41 is hereby prohibited.**

4. That Chapter 24, Article III, Section 24-65 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 24-65. - Area Parking Lot immediately east of the Health and Human Services Complex Lot #8, and parking garage beneath the Health and Human Services building Lot #8-A.

- (1) ~~Parking lot~~ Area immediately east of the Health and Human Services Complex Lot #8**
 - (a1)** The street address is 500 East Main Street.
 - (b2)** Lot #8 is hereby designated as a restricted parking lot.
 - (c3)** Lot #8 is hereby designated for the use of clients of the mental health, social services and public health departments and visitors to other county offices located in that building, and for use of the employees of the county who have been assigned parking in the lot by the county manager or his designee. Parking in the lot #8 for any other purpose is hereby prohibited.
 - (d4)** Parking in other than designated parking spaces in the lot #8 is hereby prohibited.

Duly authorized vehicles may stand temporarily while loading or unloading material at the loading dock or the other entrances to the rear of the health and human services complex; provided, however, that no vehicle shall block the access to the areas beneath the complex.

(2) Parking Garage beneath the Health and Human Services building, Lot #8-A

- (1) The street address is 414 East Main Street.**
- (2) Lot #8-A is hereby designated as a restricted parking garage.**
- (3) Lot #8-A is hereby designated for the use of the employees of the County who have been assigned parking in the garage by the County Manager or his designee. Parking in Lot #8-A for any other purpose is hereby prohibited.**
- (4) Parking in other than designated parking spaces in the Lot #8-A is hereby prohibited.**

5. The Chapter, as amended, is effective upon enactment, this the 25th day of February, 2013.

Advance Public Comments on the FY 2013-2014 Budget

Mr. Michael Ruffin, County Manager, noted that this item was not a statutorily required public hearing, but a public comment period provided for citizens.

As there were no citizens signed up to speak, Chairman Foster advised citizens to submit comments to the Board via traditional mail and email methods.

Commissioner Page requested that the Board be furnished with copies of any citizen comments that were received regarding the FY 2013-2014 budget.

Public Hearing - Unified Development Ordinance Text Amendment, Temporary Uses: School Modular Classrooms (TC1200009)

Chairman Foster recognized Mr. Steven Medlin, City-County Planning Director, to introduce the item.

Mr. Medlin certified that items 8, 9, 10 and 11 were properly advertised in according to the North Carolina General Statutes and the Unified Development Ordinances. He continued to say that affidavits had been completed and were included in the case file for public review.

Mr. Medlin provided an overview of the text amendment changes being proposed and how the changes would impact Durham Public Schools (DPS) and the City-County Planning Department.

Commissioner Page stated that he felt that the ordinance text amendments were advantageous, but recalled a time during his tenure on the Board when DPS was encouraged to move away from the use of modular classrooms.

Mr. Medlin responded stating that the intent of DPS was to deemphasize the use of modular classrooms and to only use them when school enrollment was above the capacity. He continued to say that the City-County Planning Department would provide the County Manager and the Superintendent of Schools with comprehensive lists regarding the capital needs of schools.

Chairman Foster opened the public hearing. There were no citizens signed up to speak. Chairman Foster closed the public hearing.

Commissioner Reckhow moved, seconded by Vice Chair Howerton to approve Unified Development Ordinance Text Amendment, Temporary Uses: School Modular Classrooms (TC1200009).

The motion passed unanimously.

Commissioner Jacobs inquired as to the need for the ordinance text amendments. Mr. Medlin replied that under the existing ordinance, modular classrooms were only allowed to remain on-site for up to five years.

Commissioner Jacobs echoed Commissioner Page's concerns. She suggested that the Board continue the discussion regarding the use of modular classrooms with DPS.

Public Hearing - Urban Growth Area (A1200010)

Mr. Medlin provided an overview of the case before the Board. Mr. Medlin remarked that the plan amendment would remove all references to the urban growth area from the policies and maps of the Durham Comprehensive Plan.

Chairman Foster opened the public hearing. There were no citizens signed up to speak. Chairman Foster closed the public hearing.

Commissioner Reckhow cited Objective 2.2.2 of the proposed amendment and questioned the wording of the last sentence. She suggested that the phrase “with a development pattern that emphasizes separation of uses” be removed.

Commissioner Reckhow then engaged Mr. Medlin in a discussion regarding the tier system of the Durham Comprehensive Plan.

Commissioner Jacobs expressed her agreement with Commissioner Reckhow’s comments and the need for mixed-use development. She questioned the Boards’ promotion of “smart growth” in accordance with the Durham Comprehensive Plan, given the proposed amendments. Mr. Medlin responded stating that the comprehensive plan was developed on the premise of “smart growth,” and that the plan is a policy instrument that must be constantly evaluated.

Vice Chair Howerton moved, seconded by Commissioner Reckhow to approve plan amendment case A1200010, Urban Growth Area with the suggested change to delete the phrase “with a development pattern that emphasizes separation of uses.”

The motion passed unanimously.

Public Hearing - Unified Development Ordinance Text Amendment, Family Care and Group Homes (TC1200011)

Mr. Medlin provided an overview of the case before the Board. Mr. Medlin remarked that the proposed ordinance would amend the Unified Development Ordinance, incorporating revisions to Article 5, Use Regulations.

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

Ms. Vivian McCoy requested that the Board deny the proposed ordinance text amendment. She commented that there was not an official list of the registered family care and group home service providers in Durham. Ms. McCoy also expressed the need to differentiate between “family care” and “group” home facilities. Lastly, Ms. McCoy voiced concern regarding the supervision of individuals in residential care facilities.

Chairman Foster closed the public hearing.

Commissioner Page questioned if there was a real sense of the number of group homes in Durham and if the Board received information regarding the type of facility operated by the Durham Rescue Mission at the Main Street location. He also expressed concern with the “family care” and “group” terminology.

Vice-Chair Howerton commented on the need for more staff to oversee group homes that operate in Durham. She questioned Mr. Medlin regarding whether the investigation of group homes was conducted by staff.

Mr. Medlin responded by saying that the Durham Rescue Mission is neither a family care home nor a group home, but is actually a congregate living facility by definition. He then reviewed the “family care” and “group” home terminology, which is in the ordinance. Mr. Medlin noted that

there was some differentiation in the zoning ordinance as to how the terms are defined by our municipality and by the State of North Carolina. He added that the City-County Planning Department received a monthly list of permitted and licensed group homes from the state that are used by zoning enforcement officers to enforce the ordinance and respond to potential code violations.

Commissioner Reckhow requested that Ms. McCoy clarify her statement to the Board. Ms. McCoy briefly elaborated on her previous remarks.

Commissioner Reckhow reviewed a document provided by Ms. Ellen Holliman, Alliance Behavioral Healthcare Director, regarding the occupancy capacity of group homes within the state. She suggested that Durham County establish a registration process for group and family care homes.

Vice-Chair Howerton commented regarding the costs associated with establishing a registration process and increased code enforcement. Mr. Medlin responded stating that an analysis was conducted of the associated costs and that the Planning Department would follow-up with city and county staff with options and he would await directives on how to proceed.

Vice-Chair Howerton referenced Mr. Medlin's earlier comment regarding additional inspection staff. Mr. Medlin discussed current staffing levels and future staffing needs.

Commissioner Jacobs expressed concern that the ordinance text amendments did not address the number of supervisory personnel that must remain on site at family care and group homes. She suggested that the ordinance be reassessed in the future.

Ms. Vivian McCoy again addressed the Board inquiring if state and local ordinances addressed the use of alcohol by family care or group home residents. She requested that it be included in the local ordinance.

The Board then engaged in a discussion regarding the need for supervision in family care and group homes.

Commissioner Reckhow moved, seconded by Commissioner Jacobs to approve unified development ordinance text amendment, Family Care and Group Homes (TC1200011).

AYES: Foster, Howerton, Jacobs and Reckhow

NOES: Page

The motion carried 4-1.

Commissioner Reckhow moved, seconded by Commissioner Page to direct the County Manager to prioritize the development of a family care/group home registration process with an accessible database.

The motion passed unanimously.

Board Appointments

Chairman Foster requested the Clerk to distribute ballots for the following appointments:

- a. Adult Care Home Community Advisory Committee
- b. City-County Appearance Commission
- c. Community Child Protection Team/Child Fatality Prevention Team
- d. Emergency Medical Services Council
- e. Open Space and Trails Commission

Commissioner Jacobs commented on the appointments to the Open Space and Trails Commission. She referenced a recent meeting of the Joint City-County Planning Commission, where it was discussed that an “At-Large” applicant could be appointed to the “Lebanon Township” vacancy due to the length of time that the vacancy had been advertised.

Commissioner Reckhow noted that she contacted the Clerk to the Board’s Office to inquire about the advertisement history of the Open Space and Trails Commission “Lebanon Township” vacancy. She stated that she was comfortable filling the aforementioned vacancy with an “At-Large” applicant.

Commissioners Jacobs and Reckhow expressed their desire to appoint an “At-Large” applicant to the Open Space and Trails Commission “Lebanon Township” vacancy.

The Board engaged in a brief discussion regarding the *Procedures for Citizen Appointments*.

Lowell Siler, County Attorney, provided his interpretation of the *Procedures for Citizen Appointments*, Application Process Section, Paragraph 8.

Commissioner Reckhow reiterated that the Open Space and Trails Commission “Lebanon Township” vacancy had been advertised for two full months.

Commissioner Page questioned if Lebanon Township would “lose its voice” if an “At-Large” person was appointed to the vacancy. Vice-Chair Howerton remarked that the area would not have adequate representation from the community.

Mr. James Jackson, Deputy Clerk to the Board, stated that the period in which the Open Space and Trails Commission “Lebanon Township” vacancy had been advertised was not unusual. He added that the length of advertisement is dependent on the vacancy in question.

The Board made the following appointments:

Adult Care Home Community Advisory Committee

Kendal Alford-Madden – unanimous
Patricia Crispell – unanimous
Chester Robinson – unanimous
Lasindra Webb – Howerton, Jacobs, Page

City-County Appearance Commission

Wayne Allsbrook – unanimous

Community Child Protection/Child Fatality Prevention Team

Dorothy C. Browne – unanimous

Harriet Sander – unanimous

Emergency Medical Services Council

Tanya Watkins – unanimous

Open Space and Trails Commission

Brian Buzby (At-Large) – unanimous

Lindsay R. Smart (Lebanon Township) – unanimous

Reynolds Smith (Mangum Township) – unanimous

Reserved for Items Pulled From Consent Agenda

There were no items pulled from the Consent Agenda.

Closed Session

Commissioner Page moved, seconded by Commissioner Jacobs, to adjourn into closed session pursuant to G.S. 143-318.11(a)(5) to instruct staff on the position to be taken concerning the acquisition of real property for open space at 1003 Santee Road owned by Capital Bank N.A.; 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; and called for a motion regarding the open space at 1003 Santee Road.

Commissioner Page moved, seconded by Commissioner Reckhow, to authorize the County Manager on behalf of the County to enter into an offer with Capital Bank N.A. to acquire real property located at 1003 Santee Road in the amount of \$950,000 and to execute any necessary documents to close the transaction by March 27, 2013.

AYES: Jacobs, Page and Reckhow

NOES: Foster and Howerton

The motion carried 3-2.

Vice-Chair Howerton commented on the need for open space, but indicated that she could not justify discretionary spending given the current economic climate. Chairman Foster concurred.

Commissioner Reckhow stated that the funds for the acquisition had been in a reserve from previous budgets, so it would not have a direct budgetary impact. She also commented that the acquisition was appropriate given the Eastern Open Space Plan. Commissioner Jacobs concurred.

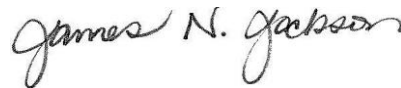
Commissioner Page stated that the property is an opportunity for Durham County to promote the Durham County Strategic Plan and create a useful area in that part of the county.

Adjournment

Commissioner Page moved, seconded by Commissioner Reckhow, to adjourn the regular session meeting.

The motion carried unanimously.

Respectfully Submitted,

A handwritten signature in cursive script that reads "James N. Jackson".

James N. Jackson
Deputy Clerk to the Board