

January 9, 2006 Regular Session

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

Monday, January 9, 2006

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, Michael D. Page, and Philip R. Cousin Jr.

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session

Chairman Reckhow welcomed everyone to the Monday, January 9, 2006 Regular Session of the Board of County Commissioners. She asked everyone to rise and join in the Pledge of Allegiance.

Agenda Adjustments

Commissioner Cheek requested the addition of an agenda item regarding **Roadside Solicitation**.

Announcements

Chairman Reckhow announced the following:

- The City and County of Durham will host the first annual Dr. Martin Luther King Jr. Employee Observance program on Friday, January 13, at noon at First Presbyterian Church, 305 E. Main Street. Guest speaker will be Dr. Clifford A. Jones, Senior Pastor of Friendship Baptist Church in Charlotte. The program will also feature the Sheriff's Color Guard and a City and County employees' choir. Chairman Reckhow thanked Commissioner Page for putting the idea forward and for all his work in planning the program.
- Applications are now being accepted for the award winning City-County Neighborhood College. The nine-week program provides citizens with valuable information about the overall operations of their City and County Governments. Applications may be downloaded from the County's website or citizens may call 560-0008. The deadline for accepting applications is January 27.
- A workshop will be held on the recently adopted Unified Development Ordinance (UDO) on Saturday, January 21, from 8:30 a.m. until noon in the Council Chambers, 101 City Hall Plaza. Chairman Reckhow asked persons to attend who are interested in zoning and development issues and/or wish to learn more about the new UDO regulations that are now operative in the community.
- The Board of County Commissioners Annual Retreat is being held Thursday, January 12, at 8:00 a.m. at the Museum of Life and Science. Notebooks for the retreat have been placed at each Commissioner's station. Chairman Reckhow reminded the Commissioners to bring the Comprehensive Annual Financial Report to the retreat.

Minutes

Vice-Chairman Heron moved, seconded by Commissioner Page, to approve as submitted the December 5, 2005 BOCC/City Council, December 5, 2005 Worksession, and the December 12, 2005 Regular Session Minutes of the Board.

The motion carried unanimously.

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Chairman Reckhow commended the Clerk's office for the excellent minutes, particularly the Joint BOCC/City Council meeting minutes on the adoption of the UDO.

Public Health—Recognize Heather Wasser, MPH, RD, LDN, Recipient of a Public Health Award

Chairman Reckhow declared that the Health Department wished to recognize Heather Wasser, a Nutritionist with the Durham County Health Department, for receiving the Public Health Staff Recognition Award from GlaxoSmithKline for her work in helping teachers and food preparation staff better understand good nutrition. The award was presented at the Annual N.C. Public Health Association Meeting in October.

Rebecca Freeman, Director of Nutrition Services, thanked the Commissioners for recognizing Ms. Wasser for receiving the award. She informed the Commissioners that Ms. Wasser is a Master's Prepared Public Health Nutritionist, a registered dietician, and a licensed dietician/nutritionist in North Carolina. Ms. Wasser knows that children must learn good eating habits early to maintain healthy lifestyles as they move into adulthood. She uses creative and fun methods to communicate with teachers and food staff, assesses menus for nutritional value and compliance with child nutrition rules at childcare centers, and provides nutrition information to parents. She is always willing to spend extra time evaluating classrooms and developing tailored action plans to help the centers raise their licensing ratings. Durham's Partnership for Children, which funds this project and submitted the nomination, wrote, "Under Wasser's guidance, many children in Durham County are eating healthier meals and becoming more productive students."

Ms. Wasser spoke briefly about the importance of the Nutrition Consultation Project. She expressed gratitude to Durham's Partnership for Children for the nomination.

Chairman Reckhow thanked Ms. Wasser for her work and congratulated her for receiving the award.

Recognition of Government Finance Officers Association (GFOA) Distinguished Budget Presentation Award for FY 2005-2006 Durham County Budget Document

Chairman Reckhow recognized County Manager Mike Ruffin to introduce the item.

In August 2005, the Budget & Management Services Department submitted Durham County's FY 2005-2006 Budget Document for consideration to GFOA for its Distinguished Budget Presentation Award. To receive the award, a governmental unit must publish a budget document that meets program criteria as a policy document, operations guide, financial plan, and communications device.

County Manager Ruffin stated that Durham County received notification at the end of December that a panel of independent reviewers had completed their examination of Durham County's budget document and voted to award Durham County the GFOA Distinguished Budget Presentation Award. This is the second year in a row that Durham County has applied for and received this award, which is the only national awards program in governmental budgeting.

Pam Meyer, Director of Budget and Management Services, expressed that her staff undertook the challenge about three years ago. This year, staff will be working on improving next year's document. She thanked her entire staff, particularly Kevin Etheridge, who has included this project in his workplan.

Chairman Reckhow congratulated Ms. Meyer and requested that she extend gratitude to her staff for their excellent work.

Consent Agenda

Commissioner Cousin moved, seconded by Vice-Chairman Heron, to approve the following consent agenda items:

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- a. Document Management/Imaging Vendor Contract— Social Services (approve the contract award to OneSource and authorize the Manager to execute the required contract documents);
- b. Extension of the Listing Period for Business Personal Property (authorize the Tax Assessor to grant extensions for the listing of business personal property until March 15, 2006 for taxpayers who request an extension during the month of January 2006);
- *c. Capital Project Amendment No. 06CPA000006—Durham Public Schools 2001 & 2003 General Obligation Bond Project Adjustments (approve Capital Project Ordinance Amendment No. 06CPA000006 transferring \$367,129 in unused 2003 General Obligation Bond funding from several completed school capital projects to two uncompleted school capital projects, and transferring \$583,455 in unused 2001 General Obligation Bond funding from four complete projects to four new school capital projects. The four new capital projects being created are Durham School of the Arts—Gym roof & windows project [\$125,000]; Jordan High—Auditorium project [\$225,000]; Northern High—HVAC Upgrades project [\$177,830]; and Jordan High—HVAC Upgrades project [\$55,625]);
- *e. Property Tax Releases and Refunds for Fiscal Year 2005-06 (accept the property tax release and refund report for November 2005 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- *f. Budget Ordinance Amendment No. 06BCC000031— Public Health—Recognize Temporary Aid to Needy Families (TANF) Grant Funds in the amount of \$33,328 from the N.C. Department of Health and Human Services and Temporarily Increase a Part-time Public Health Nurse I Position;
- *g. Budget Ordinance Amendment No. 06BCC000032— Public Health—Recognize Grant Funds in the amount of \$5,000 From Healthy Carolinians through the N.C. Department of Health and Human Services;
- *h. Budget Ordinance Amendment No. 06BCC000033— Public Health—Recognize Grant Funds in the amount of \$10,000 from the Physical Activity and Nutrition Branch of the N.C. Division of Public Health to implement the Smart Moves Program);
- *i. Budget Ordinance Amendment No. 06BCC000034— Social Services—Recognizing Additional Revenue approve an increase in Crisis Intervention Prevention [\$24,879] and Workforce Investment Act (WIA) HealthCare Initiative at Durham Technical Community College [\$41,000], for a total of \$65,879); and
- j. Contract with Smart Data Strategies Inc. (approve the contract to provide software and training for the Tax Administration Department not to exceed \$49,740).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. c. Capital Project Amendment No. 06CPA000006—Durham Public Schools 2001 & 2003 General Obligation Bond Project Adjustments (approve Capital Project Ordinance Amendment No. 06CPA000006 transferring \$367,129 in unused 2003 General Obligation Bond funding from several completed school capital projects to two uncompleted school capital projects, and transferring \$583,455 in unused 2001 General

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Obligation Bond funding from four complete projects to four new school capital projects. The four new capital projects being created are Durham School of the Arts—Gym roof & windows project [\$125,000]; Jordan High—Auditorium project [\$225,000]; Northern High—HVAC Upgrades project [\$177,830]; and Jordan High—HVAC Upgrades project [\$55,625]).

DURHAM COUNTY, NORTH CAROLINA
 FY 2005-06 Capital Project Ordinance
 Amendment No. 06CPA000006

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2005-06 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects:

| Project | <u>Current Budget</u> | <u>Increase</u> | <u>Decrease</u> | <u>Revised Budget</u> |
|--|-----------------------|-----------------|-----------------|-----------------------|
| Pearson Elementary School Project | \$300,000 | | \$48,357 | \$251,643 |
| Smith Elementary School Project | \$185,000 | | \$13,621 | \$171,379 |
| Technology Improvements Project | \$1,987,000 | | \$300,000 | \$1,687,000 |
| Burton Elementary School Project | \$75,000 | | \$5,151 | \$69,849 |
| Spaulding Elementary School Project | \$6,000,000 | \$340,000 | | \$6,340,000 |
| Hamlin Facilities/Transportation Project | \$200,000 | \$27,129 | | \$227,129 |
| Harris Elementary School Project | \$4,246,375 | | \$565,567 | \$3,680,808 |
| Oak Grove Elementary School Project | \$998,715 | | \$5,291 | \$993,424 |
| Durham School of the Arts Project | \$382,801 | | \$3,999 | \$378,802 |
| Facilities/Transportation Project | \$245,000 | | \$8,598 | \$236,402 |
| DSA - Gym Roof & Windows Project | \$0 | \$125,000 | | \$125,000 |
| Jordan High – Auditorium Project | \$0 | \$225,000 | | \$225,000 |
| Northern High - HVAC Upgrades Project | \$0 | \$177,830 | | \$177,830 |
| Jordan High - HVAC Upgrades | \$0 | \$55,625 | | \$55,625 |

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

This the 9th day of January, 2006.

Consent Agenda Item No. e. Property Tax Releases and Refunds for Fiscal Year 2005-06 (accept the property tax release and refund report for November 2005 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details releases and refunds for the month of November 2005.

Releases & Refunds for 2005 Taxes:

| | |
|-------------------------------|--------------|
| Real Estate | \$ 24,772.84 |
| Personal | \$ 44,345.66 |
| Registered Vehicles | \$ 29,636.74 |
| Vehicle Fees | \$ 485.00 |
| Solid Waste | \$ 80.00 |
| Total for 2005 Taxes and Fees | \$ 99,320.24 |

Prior years' (1996-2004) releases and refunds for November 2005 are for \$17,335.29. The total current year and prior years' releases and refunds amount to \$116,655.53.

(Recorded in Appendix A in the Permanent Supplement of the January 9, 2006 Regular Session Minutes of the Board.)

Consent Agenda Item No. f. Budget Ordinance Amendment No. 06BCC000031—Public Health—Recognize Temporary Aid to Needy Families (TANF) Grant Funds in the amount of \$33,328 From the N.C. Department of Health and Human Services and Temporarily Increase a Part-time Public Health Nurse I Position.

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DURHAM COUNTY, NORTH CAROLINA
FY 2005-06 Budget Ordinance
Amendment No. 06BCC000031

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 FUND</u> | | | |
| Intergovernmental | \$296,731,260 | \$33,328 | \$296,764,588 |

Expenditures:

| <u>Activity</u> | | | |
|---------------------|---------------|----------|---------------|
| <u>GENERAL FUND</u> | | | |
| Human Services | \$363,718,531 | \$33,328 | \$363,751,859 |

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

This the 9th day of January, 2006.

Consent Agenda Item No. g. Budget Ordinance Amendment No. 06BCC000032—Public Health—Recognize Grant Funds for \$5,000 From Healthy Carolinians through the N.C. Department of Health and Human Services.

DURHAM COUNTY, NORTH CAROLINA
FY 2005-06 Budget Ordinance
Amendment No. 06BCC000032

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 FUND</u> | | | |
| Intergovernmental | \$296,764, 588 | \$5,000 | \$296,769,588 |

Expenditures:

| <u>Activity</u> | | | |
|---------------------|---------------|---------|---------------|
| <u>GENERAL FUND</u> | | | |
| Human Services | \$363,751,859 | \$5,000 | \$363,756,859 |

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

This the 9th day of January, 2006.

Consent Agenda Item No. h. Budget Ordinance Amendment No. 06BCC000033—Public Health—Recognize Grant Funds in the amount of \$10,000 from the Physical Activity and Nutrition Branch of the N.C. Division of Public Health to implement the Smart Moves Program).

DURHAM COUNTY, NORTH CAROLINA
FY 2005-06 Budget Ordinance
Amendment No. 06BCC000033

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 FUND</u> | | | |
| Intergovernmental | \$296,769,588 | \$10,000 | \$296,779,588 |

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Expenditures:

| <u>Activity</u> | | | |
|---------------------|---------------|----------|---------------|
| <u>GENERAL FUND</u> | | | |
| Human Services | \$363,756,859 | \$10,000 | \$363,766,859 |

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

This the 9th day of January, 2006.

Consent Agenda Item No. i. Budget Ordinance Amendment No. 06BCC000034—Social Services—Recognizing Additional Revenue approve an increase in Crisis Intervention Prevention [\$24,879] and Workforce Investment Act (WIA) HealthCare Initiative at Durham Technical Community College [\$41,000], for a total of \$65,879).

DURHAM COUNTY, NORTH CAROLINA
FY 2005-06 Budget Ordinance
Amendment No. 06BCC000034

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 FUND</u> | | | |
| Intergovernmental | \$296,779,588 | \$65,879 | \$296,845,467 |

Expenditures:

| <u>Activity</u> | | | |
|---------------------|---------------|----------|---------------|
| <u>GENERAL FUND</u> | | | |
| Human Services | \$363,766,859 | \$65,879 | \$363,832,738 |

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

This the 9th day of January, 2006.

Consent Agenda Item Removed for Discussion

Consent Agenda Item No. d. Capital Project Amendment No. 06CPA000007—Durham Public Schools (DPS)—Applications to the Public School Building Capital Fund (approve appropriating Public School Building Capital Fund funds to the Durham School of the Arts Gym roof & windows project [\$375,000] and a new project—Northern High School chiller replacement project [\$270,000]).

Ms. Victoria Peterson, P.O. Box 101, Durham, NC 27702, with Durham Citizens Rebuilding Communities, requested that the item be removed for her comments. She questioned whether Durham Public Schools has a Minority/Women Business Enterprise Program similar to that of the County.

Chairman Reckhow directed County Manager Ruffin to follow up with an inquiry to the Durham Public Schools' Superintendent and forward the response to the Commissioners and Ms. Peterson.

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to approve Capital Project Amendment No. 06CPA000007—Durham Public Schools (DPS)—Applications to the Public School Building Capital Fund (approve appropriating Public School Building Capital Fund funds to the Durham School of the Arts Gym roof & windows project [\$375,000] and a new project—Northern High School chiller replacement project [\$270,000]).

The motion carried unanimously.

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DURHAM COUNTY, NORTH CAROLINA
2005-06 Capital Project Ordinance
Amendment No. 06CPA000007

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2005-06 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects:

| Project | <u>Current Budget</u> | <u>Increase</u> | <u>Decrease</u> | <u>Revised Budget</u> |
|---|-----------------------|-----------------|-----------------|-----------------------|
| DSA - Gym Roof & Windows Project | \$125,000 | \$375,000 | | \$500,000 |
| Northern High – Chiller Replacement Project | \$0 | \$270,000 | | \$270,000 |

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

This the 9th day of January, 2006.

New Voting System for Durham County Board of Elections

Mike Ashe, Director of Elections, stated that the Board is requested to approve the purchase of the M100 optical scan voting system and the iVotronic touch screen voting system from Elections Systems and Software. The M100 optical scan system will be the primary system in the precincts and will present very little change to the voters. The iVotronic touch screen, the secondary system, will meet the Federal requirement to allow a blind voter to cast a secret ballot and will allow Elections to meet the State requirement to report absentee (one-stop) votes by home precinct. This purchase is mandated by State law and is contingent upon the receipt of grant funding from the State Board of Elections to cover the cost. The County's request for grant funds must be at the State Board of Elections no later than January 20, 2006.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the purchase of the new voting system; the purchase will be funded entirely with grant funds from the State.

The motion carried unanimously.

Chairman Reckhow thanked the Elections Board, Director Ashe, and staff for the long hours they spent on this project.

In response to Chairman Reckhow asking if the replaced equipment will be held in reserve, Mr. Ashe replied that the State Board of Elections has de-certified all of the equipment in the state because of the new law. The dated equipment will be stored for at least a year to make sure the new systems are running smoothly.

Roadside Solicitation

Commissioner Cheek expressed that roadside solicitation continues to be a problem in Durham. He raised the issue twice before while serving on the City Council—the first time with no results and the second time a permitting process was enacted, “which has been of very little value”. The same people soliciting on the same street corners convey that they are not improving their situations. Commissioner Cheek stated that the County Attorney informed him this morning that Durham County has no related ordinance. Commissioner Cheek voiced concern about safety and humanitarian issues. He suggested that the County Commissioners enact a ban, directing the Sheriff's Department to issue citations and a pre-prepared list of public/private entities in Durham that provide aid and assistance for the hungry, homeless, sick, etc. Until the County takes action to control the situation, solicitation will continue; persons in need will continue to get no help. He requested that the County Commissioners discuss, at an appropriate time, whether to enact a County ordinance to preclude all roadside solicitation within the right-of-way. Commissioner Cheek directed the County Manager to request that Mr. Ashley from the Herald-Sun be present at tomorrow's Joint City-County Committee meeting for discussion of this issue.

Chairman Reckhow expressed concern that many roadside solicitors do not wear orange

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safety vests as required by the current ordinance.

Chairman Reckhow asked County Attorney Chuck Kitchen to advise whether the County has the ability to regulate roadside solicitation given that the roads outside the City limits are State-owned and maintained.

The County Attorney referenced a specific state statute (153a-126) which provides specifically that a county may, by ordinance, prohibit or regulate begging or otherwise canvassing the public for contributions.

Per a question posed by Vice-Chairman Heron, County Attorney Kitchen responded that an ordinance adopted by the County Commissioners would only apply outside the four municipalities unless the municipalities pass a resolution for the ordinance.

Vice-Chairman Heron aired support for Commissioner Cheek's concerns, especially involving safety and poverty.

Commissioner Cousin mentioned the impact of such an ordinance on charitable organizations and newspaper vendors.

Commissioner Page spoke to the plight of many citizens who have been denied County services.

Chairman Reckhow suggested that this discussion continue at a future worksession.

Resolutions Authorizing Condemnation for Courthouse

Chairman Reckhow stated that this has been very difficult issue for the Commissioners. For the past two years, the Board has been negotiating in good faith to acquire two parcels owned by Scarborough and Hargett Funeral Home, Inc. and AREC 3, LLC (U-Haul). The courthouse has been planned for the location south of the Detention Center for about 15 years. It is the optimal location because it will allow for tunnel access between the jail and the courthouse to greatly facilitate the transfer of prisoners to court, and provide a large measure of safety for both the Sheriff's deputies and the prisoners.

County Attorney Kitchen spoke about the two resolutions authorizing condemnation (use of eminent domain powers) of property for a new courthouse and related parking. If the resolutions are passed, a notice will be sent to owners of the two properties and anyone who has a deed of trust on the property. No formal condemnation action can be filed for a minimum of 30 days after the notice is sent; often it takes five or six weeks before papers are filed. The fair market value of the properties as determined by independent appraisals will be deposited with the court when the actions are filed. During that time, negotiations will continue with the owners. The County hopes a resolution or settlement can be reached prior to filing the condemnation action.

Deputy County Manager Wendell Davis stated that the Members Appraisal Institute (MAI) appraisal on the U-Haul site was \$1,350,000; the MAI appraisal on the Scarborough & Hargett site was \$1,520,000.

County Attorney Kitchen remarked that the notices will include the two figures; however, the appraisals are not binding as to the amounts.

William Thomas, 119 E. Main Street, Durham 27701, one of the attorneys representing Scarborough & Hargett Funeral Home, appealed to the Commissioners to vote against the pending resolution to condemn. Mr. Thomas provided a history of the funeral home, its design, and its owners. He conveyed the difficulty in finding a site with comparable access and zoning.

Ms. Victoria Peterson, P.O. Box 101, Durham, NC 27702, expressed concern that the County did not seriously consider other properties on which to build the courthouse.

Commissioner Cheek stated that this issue is a no-win situation; however, a government building must be constructed. Plans were made for the courthouse long before he became a

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Commissioner; nevertheless, the optimal location was chosen. Unfortunately, decisions must be made knowing that some people will be hurt. He made a vow at the beginning of his term as a Durham County Commissioner to vote his conscience in the best interest of all Durham County citizens. The good of the whole must be placed ahead of the good of a few. Commissioner Cheek expressed that voting for eminent domain is the right thing to do.

Commissioner Cheek asked if the lawyers (Jay Ferguson and William Thomas), representing Scarborough & Hargett, could answer questions pertaining to the methodology in the appraisal by Mr. Pines.

Attorney Thomas replied that the attorneys were present at the meeting to address the propriety of taking the business, not the appraisal. He told Commissioner Cheek to give him a telephone call; he would review the questions and respond, if appropriate.

Commissioner Cheek asked where Mr. Pine lives.

Mr. Thomas responded that Mr. Pine is an internationally recognized funeral consultant, who has been president of an organization that evaluates funeral homes. Mr. Pine resides in New York.

Commissioner Cheek asked if Mr. Pine had ever been found to be an expert witness in the courts in the state of North Carolina.

Mr. Thomas asked Commissioner Cheek to send this and any further questions to him as a part of settlement discussions.

Commissioner Cheek stated that governmental entities must follow the law of the state, which requires that the fair market value be paid. He did not believe that the information provided by Mr. Pine is consistent with the laws of the state of North Carolina; therefore, agreeing to the proposed settlement would be contrary to his responsibility as a member of the Board of County Commissioners. Commissioner Cheek stated he would vote in favor of the resolution to commence eminent domain proceedings against both Scarborough & Hargett and U-Haul. As far as he knew, U-Haul has never responded to a request to negotiate for settlement.

Chairman Reckhow stated that the Board has worked actively with Scarborough & Hargett and has attempted to avoid tonight's agenda item. She thanked Deputy County Manager Wendell Davis and Finance Director George Quick for leading the County's negotiation efforts over the past two years. She stated to Mr. Scarborough her desire for an amicable resolution, even if the Board proceeds with the resolution.

Vice-Chairman Heron commented that she does not like the idea of eminent domain, but she feels it is best for the whole of Durham County.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the resolution to commence eminent domain proceedings against the Scarborough & Hargett Funeral Home property.

The motion carried with the following vote:

Ayes: Cheek, Heron, and Reckhow

Noes: Cousin and Page

Absent: None

Commissioner Page spoke about the difficulty of the issue that was before the Commissioners. The Scarboroughs are citizens of Durham County and have been his friends for a long time. The funeral home is known to be respectable and dignified and provides wonderful leadership and service. He voted against eminent domain not because he is unaccountable to County government, but because of his support of the Scarborough family. However, he does have questions that were not answered tonight in regards to the appraisal. Commissioner Page expressed a desire to work out a solution prior to the court document being filed.

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Commissioner Cousin stated that his vote was not a surprise to the other Commissioners. He empathized with the predicament of the Scarborough family. He mentioned that he is a clergyman and serves the church that the Scarborougs have attended for the past 100 years. He hoped this action tonight would not preclude an amicable settlement being reached in the near future. Commissioner Cousin informed the citizens that his vote tonight was in no way derelict of his responsibility as a County Commissioner.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the resolution to commence eminent domain proceedings against the property owned by AREC 3, LLC for the construction of a courthouse with related parking facilities.

The motion carried with the following vote:

Ayes: Cheek, Heron, and Reckhow
Noes: Cousin and Page
Absent: None

Closed Session

Commissioner Page moved, seconded by Commissioner Cheek, to adjourn to closed session pursuant to N.C. G.S. § 143-318.11(a)(1) to prevent the disclosure of information that is privileged or confidential pursuant to N.C.G.S. § 143-318.10(e). In addition, adjourn to Closed Session pursuant to N.C.G.S. § 143-318.11(a)(6) to consider a personnel matter.

The motion carried unanimously.

Reconvene to Open Session

Chairman Reckhow announced that the Board met in closed session; direction was given to staff; no action was taken.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 9:20 p.m.

Respectfully submitted,

Vonda C. Sessoms
Clerk to the Board