

THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA

Monday, March 25, 2002

AGENDA

4:00 P.M. ? 6:00 P.M.

Discussion of FY 2003 Budget with County Department Heads

County department heads have been invited at the request of the Board of County Commissioners to discuss their FY 2003 budget requests. The Manager has requested that each department head be prepared to provide a three-minute briefing regarding how the state shortfall will affect his or her budget requests.

Resource Person(s): Mike Ruffin, County Manager, and Pam Meyer, Budget and Management Services Director

County Manager's Recommendation: Receive the presentations and advise the staff if additional action is necessary.

7:00 P.M.

Regular Session

1. **Opening of Regular Session**?Pledge of Allegiance
2. **Agenda Adjustments**?none
3. **Minutes**
 - a. a. February 4, 2002 Worksession
 - b. b. February 11, 2002 BOCC/Library Board of Trustees
 - c. c. February 25, 2002 BOCC/Area Board of Mental Health
 - d. d. February 25, 2002 Regular Session
 - e. e. February 26, 2002 BOCC Retreat (continued)
 - f. f. March 11, 2002 Closed Session

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the February 4, 2002 Worksession Minutes as corrected. The February 11, 2002 BOCC/Library Board of Trustees, February 25, 2002 BOCC/Area Board of Mental Health, February 25, 2002 Regular Session, February 26, 2002 BOCC Retreat (continued), and March 11, 2002 Closed Session Minutes of the Board were approved as submitted.

The motion carried unanimously.

4. **Proclamation for Dr. James H. Ammons**

Events culminating with the official installation of Dr. James H. Ammons as Chancellor of North Carolina Central University are planned for the first week in April 2002. A proclamation has been prepared for the Board of County Commissioners? approval designating April 6, 2002 as "Dr. James H. Ammons Day" in Durham County.

Dr. Ammons brought his vision to the University in July 2001. As he assumed the mantle of leadership, he noted his desire to enhance the image and academic offerings at North Carolina Central University. In particular, he stated his desire to expand course offerings to attract top student achievers and hope to add degree programs in pharmacy, computer engineering, software engineering, actuarial science journalism, and architecture. He also noted that he wants the university to offer Ph.D. programs in education and biomedical sciences.

In short order, Dr. Ammons has become actively involved in the Durham community and has received local honors. The News & Observer named Dr. Ammons of the "10 to Watch in 2002." He was selected as the honorary chair of 2001 "Light up Durham" and co-chair of the Durham Public Education Network.

County Manager's Recommendation: Approve the proclamation and forward to Dr. James H. Ammons along with the Board's best wishes for his successful tenure as Chancellor of North Carolina Central University.

5. **Proclamation for National Nutrition Month**

National Nutrition Month is observed annually to emphasize the importance of maintaining a healthy lifestyle through making healthful eating choices for a lifetime. The Chairman has been asked to proclaim March as "National Nutrition Month" in Durham County. Tracey Bates, Health Promotion Nutritionist for the Public Health Department, will receive the proclamation.

County Manager's Recommendation: Approve the proclamation and present it to Ms. Bates.

6. **Introduction of the New City-County Planning Director**

The Board had an opportunity to meet Mr. Frank Duke, the newly appointed Joint City-County Planning Director. Mr. Duke comes to Durham from the state of Florida where he served as the Director of the Planning Division of Palm Beach County in West Palm Beach, FL. As Planning Director for Florida's largest county geographically, he was responsible for the implementation, interpretation, and amendment of the County's comprehensive plan. Prior to being named Director in 1997, he was the Senior Supervising Planner for the South Florida Water Management District for West Palm Beach, where he led the development of the District Water Management Plan and served as Director of Community Development and Planning for Bay County (Panama City, FL) from 1982 to 1989. He has held other planning and economic analyst positions in Tallahassee and Sarasota.

Mr. Duke holds Bachelor of Arts degrees from Auburn University and the University of Alabama at Birmingham. He earned a Master's degree in Planning from Florida State University in 1987, with a concentration in housing and economic development. He also holds a Master's degree in History from Auburn University.

Resource Person(s): Wendell M. Davis, Deputy County Manager

County Manager's Recommendation: The Manager's recommendation was that the Board welcome Mr. Duke as the new City-County Planning Director.

7. **Donation of Conservation Easement by Irmgard S. Hill**

Irmgard S. Hill owns a 32-acre tract of land in northern Durham County. Ms. Hill has offered to donate a conservation easement to Durham County, which will cover this land. However, in order to consummate the donation, the County must agree to accept the conservation easement.

This 32-acre parcel is one tract within the larger Quail Roost Farm complex. The property is primarily in open pasturelands for horses, and includes a large farm pond. The property includes naturalized woodland along Mountain Creek, a tributary of the Little River Reservoir, which forms the western property line. The property includes an existing dwelling and associated barn and outbuildings, which will not be restricted by the easement.

In August 2001, the BOCC adopted the Little River Corridor Open Space Plan, which specifically recommends the preservation of Quail Roost Farm as open space due to its importance for farmland, wildlife habitat, and scenic character. This easement is significant, both in its being a donated farmland easement under the county's farmland preservation program, but also as the first within the Little River watershed.

The County is fortunate to have the continued existence of Quail Roost Farm as a major contributor to the scenic character in northern Durham, and is further fortunate that the property owner is committed to preserving these values with a permanent conservation easement.

Resource Person(s): Wayne Cash, Chairman, Farmland Preservation Board, and Lowell L. Siler, Deputy County Attorney

County Manager's Recommendation: Accept the conservation easement.

Vice-Chairman Reckhow moved, seconded by Commissioners Bowser and Heron, to accept the conservation easement.

The motion carried unanimously.

8. **Hearing to Consider Refund of Excise Taxes due to Incorrect Recording**

The Board of Commissioners has received a request to refund one-half of the excise taxes erroneously paid to the Register of Deeds. The property is purported to be located entirely in Orange County, but the deed for the property was recorded in both Orange and Durham Counties. G.S. § 105-228.37 requires that the Board hold a hearing to consider the refund request.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Hold the mandated hearing and adopt the order, if appropriate, based on the evidence presented.

Removed from the agenda.

9. **9. Consent Agenda**

- a. a. Property Tax Releases and Refunds for Fiscal Year 01-02 (accept the property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- b. b. Cancellation of the April 1, 2002 BOCC Worksession (cancel the April 1, 2002 Regular Session of the Board);
- c. c. Renewal of Ambulance Franchise for Johnston Ambulance Service (approve the franchise renewal as requested);
- d. d. Conveyance of Surplus Vehicle (authorize the County Manager to convey the surplus vehicle described herein in consideration for the limited use of the vehicle for a public purpose only, and to publish notice of such conveyance as required by G.S. §160A-267); and
- e. Northeast Durham Small-Area Plan (accept the revised plan recommendations and adopt the Northeast Durham Small-Area Plan. Actual revisions have not been made to the plan given that the City Council has not had an opportunity to consider the plan).

Chairman Black removed consent agenda item No. 9(e). Two citizens signed to speak on that item.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve consent agenda item Nos. 9(a, b, c, and d).

The motion carried unanimously.

The Northeast Durham Small Area Plan had been approved at the February 11, 2002 Regular Session. The plan would be forwarded to the City Council for its approval.

10. **Amendment of the Contract for the Wastewater Utility Rate and Fee Study to Include the Phase II Financial Feasibility Study**

The Board is requested to approve a feasibility study for the financing of Phase II of the Triangle Wastewater Treatment Plant improvement project. A proposal was received from Raftelis Financial Consultants to complete this work as an amendment to the current contract for a rate/fee study, approved by the Board on November 12, 2001. The cost of the feasibility study is \$ 44,200 (not to exceed).

The planning and design of the Triangle Wastewater Treatment Plant (TWWTP) upgrade and expansion project has been underway for several years to meet new regulatory requirements and provide additional capacity for future customers. It is critical that this project proceed to meet the January 1, 2004 regulatory requirements to remove Nitrogen. The Board of County Commissioners approved construction contracts for Phase I of the project on January 14, 2002. Phase II plans were submitted to the State of North Carolina in December 2001. Advertisement for bids is expected in April 2002 and construction is expected to begin in July 2002.

Phase II will be financed with Special Obligation Bonds (SOBs) as per the approved Capital Improvements Program (CIP). To proceed with financing, a feasibility study is required. The feasibility study is required by the Local Government Commission (LGC) to demonstrate the adequacy of cash flow for debt service purposes and to determine, if any, additional support is needed. Special Obligation Bonds were recommended because we believe there will be insufficient coverage to support Revenue Bonds. Generally, a debt coverage ratio of 1.75 to 2.5 is required for Revenue Bonds (all from rate).

Much of the same data collection and analysis is required for both the rate/fee study and feasibility study; therefore, we recommend that the current contract with Raftelis Financial Consulting be amended to include the feasibility study. The fee of \$44,200 was negotiated for this service. Combining the two studies achieves cost savings of approximately \$16,000.

Resource Person(s): George Quick, Director of Finance; Pam Meyer, Budget Director; Chuck Kitchen, County Attorney; Glen E. Whisler, P.E., County Engineer; and Wendell M. Davis, Deputy County Manager

County Manager's Recommendation: The Manager's recommendation is that the Board authorize the County Manager to execute a contract amendment with Raftelis Financial Consultants for a Feasibility Study for TWWTP improvements at a cost not to exceed \$44,200. This feasibility study is critical to allow the County's project to proceed to meet regulatory requirements and provide additional capacity for future customers. Furthermore, the Manager is recommending the appropriation of \$44,200 from Enterprise Fund retained earnings (Budget Ordinance Amendment No. 02BCC0000056) to the Wastewater Treatment Plant project (Capital Project Amendment No. 02CPA0000014), which will be reimbursed upon issuance of Special Obligation Bonds related to this project. The third and final phase of the financing for this project is underwriting, which is being awarded in a related agenda action at tonight's meeting.

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to approve agenda item No. 10.

The motion carried unanimously.

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to direct the County Manager to engage in discussions with the City with the goal of obtaining a long-term contract.

The motion carried unanimously.

11. Triangle Wastewater Treatment Plant Project (Phase II)?Underwriting Contract for Special Obligation Bonds

On Friday March 8, 2002, Durham County closed the RFP (02-027) for underwriting services relative to an issuance of special obligation bonds to finance Phase II of the Triangle Wastewater Treatment Plant project. The Local Government Commission requires an underwriter for the issuance of special obligation bonds. After a review of all proposals, staff recommends the firm of Jackson Securities Incorporated (Atlanta, GA) and Morgan Keegan & Company Inc. (Durham, NC) as Co-Managing Underwriters at a cost of \$107,423.50. The basis for this recommendation is cost. All of the bidders reflect acceptable experience and expertise to accomplish the mission. The other bidders follow:

Bank of America	\$135,586.00
Wachovia	\$137,253.15
Legg Mason	\$141,950.00
Salomon Smith Barney	\$161,210.05
BB&T	\$179,250.00

Morgan Keegan & Company Inc. requested to participate as Co-Managing Underwriters only.

The Bonds will be used to finance improvements for Phase II of the Triangle Wastewater Treatment Plant project. This project has been in design for several years and is necessary to meet new regulatory requirements. The project is approved in our CIP for \$35 million; however, only \$25 million must be issued for this phase. The award meets all of the County's MWBE requirements as set forth in the County's MWBE Ordinance.

Resource Person(s): George K. Quick, Finance Director; Pam Meyer, Budget Director; Chuck Kitchen, County Attorney; and Glen Whisler, P.E., County Engineer

County Manager's Recommendation: Authorize the County Manager to execute a contract with Jackson Securities Incorporated and Morgan Keegan & Company Inc. as Co-Managing Underwriters for the Underwriting of the Special Obligation Bonds for TWWTP improvements at a cost not to exceed \$107,423.50.

A motion was made and seconded to authorize the County Manager to execute the contract.

The motion carried unanimously.

12. Site Plan Approval for EMD Pharmaceuticals (D01-792)

Coulter, Jewell, Thames, PA, on behalf of EMD Pharmaceuticals, has submitted a plan for a 213,350 square-foot manufacturing warehouse, lab/research and office building and 186 parking spaces on a ±109.052-acre site, zoned I-2 and F/J-A Watershed Overlay. The property is located on the west side of Teknika Parkway, on the south side of Red Mill Road, and east of Old Oxford Road. (Tax

reference 950-1-1 (part); PIN 0845-02-67-5196 (part); Durham County Street Atlas Page 30, Block D-1, Page 31, Block A-1, Page 36, Blocks C-4 and D-4, and Page 37, Block A-4). Governing Body approval is required for site plans greater than 25,000 square feet and for all non-residential projects in the F/J-A. Notice of the governing board consideration of this site plan has been published in the newspaper in accordance with the requirements of the Durham Zoning Ordinance Section 5.5.5.1 for non-residential projects within the F/J-A. A Traffic Impact Analysis has been reviewed and accepted by the Transportation Department. Improvements to be made as a result of that study are reflected on the site plan. The Planning staff is recommending that the plan be approved.

Resource Person(s): Teri Danner, Senior Planner and Steve Medlin, Planning Supervisor

County Manager's Recommendation: The Manager's recommendation is that the Board discuss this matter and approve the site plan.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the site plan.

The motion carried unanimously.

13. **Resolution Providing for Issuance of Bonds and Reimbursement Resolution for Library Bonds**

The initial sale of the majority of the bonds authorized by the November referendum is set for April 16, 2002. The first sale will be in the amount of \$68,410,000. All of the bonds are not being sold due to the various schedules for construction of the projects. To comply with the arbitrage rules of the Internal Revenue Service, a small portion of the bonds will be sold at a later date. The proposed proceedings set forth the legal framework necessary to effectuate this sale of the bonds.

Also included in the proposed proceedings is a reimbursement resolution for any expenditures made within 60 days of the resolution for library purposes. Bond counsel has suggested that a reimbursement resolution would be appropriate so there is no question as to whether the preliminary expenditures for libraries would be able to be repaid from the bond proceeds.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Approve the two resolutions so that the sale of the GO bonds may proceed in an orderly manner.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the two resolutions.

The motion carried unanimously.