

THE BOARD OF COUNTY COMMISSIONERS
DURHAM, NORTH CAROLINA

December 9, 2002

7:00 P.M. Regular Session

AGENDA

1. **Opening of Regular Session**?Pledge of Allegiance

Chairman Reckhow opened the meeting with the Pledge of Allegiance.

2. **Agenda Adjustments**?3 Items Added

- **Report on restoration of services after ice storm and update on community efforts to meet needs of citizens**

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to send a letter to the State Utilities Commission to request that a public hearing be held to address the apparent lack of preparation by Duke Power Company for the ice storm which hit the area on Wednesday, December 4. Federal and state elected officials will be asked to attend. City government will be invited to participate in the public hearing. Duke Power will be asked to provide a full assessment of what occurred.

The motion carried unanimously.

- **Early Action Compact and Compliance with the 8-Hour Ozone Standard**
- **Board Appointment Process**

3. **Minutes**

September 17, 2002 Special Session Minutes

Commissioner Heron moved, seconded by Commissioner Cousin, to approve the September 17, 2002 Special Session Minutes as submitted.

The motion carried unanimously.

4. **Proclamation for "Durham Community Day" For Local Red Cross**

A proclamation has been prepared for the American Red Cross in observance of "Durham Community Day" and to encourage citizens to give blood and join the National Bone Marrow Registry on December 28th at the Red Cross Building at 4737 University Drive from 8:00am until 2:00pm. Kirsten Kruhm will make brief remarks about the event and receive the proclamation.

Resource Person(s): Kirsten Kruhm, CNNC Blood Services Director, American Red Cross

County Manager's Recommendation: Present the proclamation to Ms. Kirsten Kruhm, along with the sincere congratulations of the entire organization.

Chairman Reckhow read the proclamation into the record and thanked the Red Cross for staffing some of the storm shelters.

Ms. Kirsten Kruhm accepted the proclamation and thanked the County for its wonderful support during the storm crisis and for all the volunteers and food vendors that have helped in this humanitarian effort.

5. 5. Presentation of Property Tax Check by Durham County Habitat for Humanity

Durham County Habitat for Humanity builds affordable housing for qualifying Durham County residents who make less than 60% of the Median Family Income. The average income for the last 45 homebuyers is \$20,864. Each house is sold at 0% interest. Currently, 120 houses have been built, and over 102 mortgages are held by the organization. Of that number, 9 closings are scheduled for this month. The total taxes paid to Durham County on Durham Habitat-built homes will be \$105,447.

Bill Wismer of Habitat for Humanity and Homeowner Hilda Stephens, who lives at Jubilee Lane, will make a presentation of a symbolic check for \$105,447 and make brief remarks about the program.

Resource Person(s): Bill Wismer, Fiscal Director, Durham County Habitat for Humanity

County Manager's Recommendation: Receive the check and congratulate Durham County Habitat for Humanity for providing affordable homes in the Durham community.

Ms. Hilda Stephens presented a symbolic check to the County for \$105,447—the amount paid in taxes by Habitat homeowners. She thanked the Habitat for Humanity organization for making it possible for her to have her own home.

6. 6. Presentation of Golden Level Achievement Award, The Golden Sneaker, and the Juvenile Diabetes Foundation (JDF) Sneaker Awards for the 2002 Walk to Cure Diabetes Campaign

The JDF annually hosts the Walk to Cure Diabetes Campaign for the Triangle region. For the second year, Deputy County Manager Wendell M. Davis chaired the fundraising campaign. The Walk was held on September 14, 2002 at Nortel Networks and the "Durham County Pacesetters" represented approximately 50 of the 4,000 walkers who participated in the event, and raised approximately \$8,000. Durham County Government employees participated in the important community event because:

- •120 million people are afflicted worldwide by diabetes;
- •a new case of diabetes is diagnosed every 40 seconds;
- •16 million Americans suffer from the disease;
- •5.4 million Americans remain undiagnosed; and
- •Diabetes kills one American every three minutes

As a result of the fundraising efforts of County employees, the County received the Golden Level Achievement Award from JDF International and five team captains received either the Golden Sneaker Award or the JDF Sneaker Squad Award. The award winners are:

Golden Sneaker Award

Ronnie Butler—General Services
David Skaggs - Tax Office

JDF Sneaker Squad Award

Captain Manual Davidson-Durham Co. Sheriffs Dept.
John Ervin ? Mental Health

Resource Person(s): Wendell M. Davis, Deputy County Manager and Chairman of the 2002 Walk to Cure Diabetes Campaign

County Manager's Recommendation: The County Manager recommends that the Board accept the award and congratulate the County staff on a job well done.

Deputy County Manager Wendell Davis presented the Golden Level Achievement Award to the County and recognized Ronnie Butler, David Skaggs, Manual Davidson, and John Ervin and presented their awards.

7. **7. 2002 Durham County Government United Way Campaign Report**

Mike Turner, Chairman of the 2002 Durham County United Way Campaign, will provide the Board with a report on the successes of the 2002 campaign. The 2002 United Way Campaign Slogan is "Together, We Can Do The Most Good."

According to the Triangle United Way (TUW), "Durham County Government was the first local government to finish [its] 2002 United Way Campaign and the only local government to run a Model Campaign," according to Kim Shaw, TUW Loan Executive.

Twenty-four County departments collectively exceeded the 2002 goal of \$81,500 by \$3,543.24, with pledges totaling \$85,043.24. In addition, Leadership Participation increased by 36.89% and Per Capita employee-giving increased by 3.7 %.

A detailed report by department is attached.

Resource Person(s): Mike Turner, Chairman of the 2002 Durham County United Way Campaign

County Manager's Recommendation: The County Manager recommends that the Board receive the 2002 Durham County Government United Way Report, along with the sincere congratulations to the entire organization for a successful campaign.

Mr. Turner reported on the County's contributions to the 2002 campaign. The County's employees exceeded last year's contributions by 4.35 %.

8. **8. Cooperative Extension Receives County Performance Award**

The Board is requested to recognize the Durham County Center of Cooperative Extension as the recipient of the Epsilon Sigma Phi 2002 County Performance Award. Epsilon Sigma Phi, the national Fraternity of Cooperative Extension Professionals, recognizes seven counties annually with Performance Awards. These awards honor a total Extension program concept by the county staff in resource utilization. These efforts should result in significant changes in the lives and actions of county residents. The Durham staff was recognized for its commitment to working as a team, building partnerships and innovative programming. Outcomes highlighted in the award included the Family Resource Center at Eastway Elementary School, the Master Gardener Volunteer Program, community capacity building projects, food service employee training, emergency preparedness resources and the extensive number of partnerships with public and non-profit agencies for the delivery of educational programs throughout the county. The extension staff was presented this award at the North Carolina (Xi Chapter) of Epsilon Sigma Phi Annual Meeting on December 4, 2002

Resource Person(s): Carolyn P. Titus, Deputy County Manager

County Manager's Recommendation: Recognize the Durham County staff of Cooperative Extension for their commitment to teamwork and innovative program delivery; congratulate the Center's paid and volunteer staff on this accomplishment.

Ms. Titus reported on the efforts of the local Cooperative Extension Center and the award presented it. The Commissioners congratulated Ms. Cheryl Lloyd, Cooperative Extension Director, and staff members for this accomplishment.

9. **9. Consent Agenda**

- a. a. Cancellation of the December 23, 2002 Board of County Commissioners? Regular Session;
- b. b. Designation of Voting Delegate to the Legislative Goals Conference (appoint Chairman Reckhow as the voting delegate and Vice-Chairman Bowser as the alternate delegate);
- c. c. Capital Project Ordinance Amendment No. 03CPA000004?Close Durham Public School Projects (close the following Durham Capital School Projects: Burton Elementary, Pearson Elementary, Fayetteville Street Elementary, Morehead Elementary, and RN Harris Elementary, for a total Budget decrease of \$73,625.51);
- d. d. Contract Award for Sanitary Sewer System Evaluation and Capital Project Ordinance Amendment No. 03CPA000005?Establishing Collection Systems Rehabilitation Capital Project (approve this amendment establishing a new project named "Collection Systems Rehabilitation" with a budget of \$500,000, and authorize County Manager to execute the County?s standard Engineering Services Contract with Stearns & Wheler for the Sanitary Sewer System Evaluation with a not-to-exceed amount of \$303,189);
- e. e. Community Development Block Grant?2002 Scattered Site Housing Received Grant and Capital Project Ordinance Amendment No.03CPA000006?Establishing The Scattered Site Housing Program Project (receive the grant for \$400,00 and approve creation of a capital project for the purposes of administering the Community Development Block Grant Scattered Site Housing Program grant;
- f. f. Budget Ordinance Amendment No. 03BCC000025?DSS?Request to Accept New DSS Energy Administration Revenue (approve this amendment recognizing additional energy administration funding);
- g. g. Budget Ordinance Amendment No. 03BCC000026?Library?Institute of Museum and Library Services Grant to N. C. Museum of Life and Science/Durham County Library Partnership (approve this amendment);
- h. h. Budget Ordinance Amendment No. 03BCC000027?Public Health?To Recognize Revenue for The Nursing Division (approve this amendment to recognize \$1,500 from Holy Infant Catholic Church for the Maternity Care Coordination project);
- i. i. Budget Ordinance Amendment No. 03BCC000028?Public Health?To Recognize Revenue for the General Health Clinic (approve this amendment to recognize funds in the amount of \$3,000.00 for the General Health Clinic);
- j. j. Budget Ordinance Amendment No. 03BCC000029?Public Health?To Recognize Revenue for The General Health Clinic (approve this amendment to recognize funding of \$23,512 from Duke University Medical Center for the General Health Clinic for Latino testing);
- k. k. Budget Ordinance Amendment No. 03BCC000030?Public Health?To Recognize Revenue for The Environmental Health Division (approve this amendment to recognize \$55,000.00 from the Department of Health and Human Services for the childhood lead poisoning prevention program);
- l. l. Budget Ordinance Amendment No. 03BCC000031?Public Health?To Recognize Revenue for The General Health Clinic (approve this amendment to recognize \$5,000 from the Department of Health and Human Services for the TB clinic);
- m. m. Budget Ordinance Amendment No. 03BCC000032?Public Health?To Recognize Revenue for The Nursing Division (approve this amendment to recognize \$38,100 from Operation Breakthrough for a Public Health Nurse I for the Nursing Division);
- n. n. Budget Ordinance Amendment No. 03BCC000033?Public Health?To Recognize Revenue for The Division of Health Education (approve this amendment to recognize a one-time funding of \$28,000 from the Department of Health and Human Services for the Syphilis Elimination Project);
- o. o. Budget Ordinance Amendment No. 03BCC000034 Public Health Budget Amendment to Recognize Revenue for the Nursing Division (approve this amendment to recognize funds in the amount of \$86,133.00 for the Maternal Health Clinic);

- p. p. Purchase of Vehicles for the Sheriff's Office (authorize County Manager to enter into a contract with the lowest bidder, University Ford, Inc., for \$137,475.00 (Specification 1));
- q. q. Execution of Architectural Design Service Contract with The Freelon Group, P.A., for the Proposed Durham County East and North Regional Branch Libraries?RFQ 02-033?Project No.: DC073-48 (authorize the execution of an architectural design contract with The Freelon Group, P.A. in the amount of \$966,593.00);
- r. r. Cultural Master Plan Executive Committee Appointment (approve the addition of Connie Campanero to the Executive Committee of the Cultural Master Plan);
- s. s. City-County Joint Water and Sewer Billing Agreed-Upon Procedures Contract Extension (approve the amendment of the contract extending the date of completion for the joint water and sewer agreed-upon procedures to December 31, 2002 for Phase I and to March 11, 2003 for Phase II; both the City and County Manager were authorized under the original contract to grant a two-month extension);
- t. t. Approval of Major Special Use Permit Order (approval of this item); and
- u. u. The Durham Center?Sublease a Portion of the Property at 705 South Mangum Street to the Orange-Person-Chatham Area Mental Health Authority (OPC) (approve the sublease between the County and Orange-Person-Chatham Area Mental Health Authority for two (2) buildings located at 705 South Mangum Street).

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to approved Consent Agenda items 9(a), (b), (e), (f), (h), (i), (j), (k), (l), (n), (o), (r), and (t).

The motion carried unanimously.

Consent Agenda items 9(c), (d), (g), (m), (p), (q) and (s) were pulled for discussion. The following action was taken after each item was discussed.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve Consent Agenda item 9(c).

The motion carried unanimously.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve Consent Agenda item 9(d).

The motion carried unanimously.

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to approve Consent Agenda item 9(g).

The motion carried unanimously.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve Consent Agenda item 9(m).

The motion carried unanimously.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to approve Consent Agenda item 9(p).

The motion carried unanimously.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to approve Consent Agenda item 9(q).

The motion carried unanimously.

Chairman Reckhow requested that the Board see the site plans and architectural designs before they come before the Board for approval. Also, public building proposals should be seen by the Appearance Commission before the items come before the Board for approval.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve Consent Agenda item 9(s).

The motion carried unanimously.

The Board called for a report at the end of December and on Phase II at the end of January 2003.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to approve Consent Agenda item 9(u).

The motion carried unanimously.

10. **10. Durham Bicycle and Pedestrian Advisory Commission Annual Report**

The Durham Bicycle and Pedestrian Advisory Commission (BPAC) was established by the Board of County Commissioners and the City Council through an inter-local agreement in 2001. The new BPAC was charged with various tasks, each leading to the ultimate goal of integrating bicycling and walking fully into Durham's transportation policies and practices. The attached memo and report are provided in conformance with the inter-local agreement, which specifies that BPAC should make an annual report of its year's work to elected officials.

Staff recommends that the Board of County Commissioners receive the annual report from BPAC and allow a representative of the Commission to make a brief presentation to the Board.

Resource Person(s): Frank Duke, AICP Director, City-County Planning; Beth Timson, AICP Planner, City-County Planning

County Manager's Recommendation: The County Manager recommends that the Board receive the report.

The report was given which addressed the commission's goals of increasing participation of Durham citizens in biking and walking..

Commissioner Jacobs moved, seconded by Commissioner Heron, to receive the annual report of the Durham Bicycle and Pedestrian Advisory Commission.

The motion carried unanimously.

11. **11. Quasi-Judicial Public Hearing: Major Special Use Permit?New Elementary School ?A", Phase I?Ephesus Church Road (Case M02-04)**

--To hold a quasi-judicial public hearing to consider a Major Special Use Permit for a public school in the R-20 District.
--To direct the Planning Director to prepare an order for adoption for either 1) approval, 2) approval with conditions, or 3) denial, or to continue the hearing to a specified later meeting. A draft order for approval with staff-recommended conditions will be available at the meeting.

Coulter Jewell Thames, PA, on behalf of Durham Public Schools, has submitted a Major Special Use Permit for an 81,385 square-foot, two-story elementary school for 609 students, with 138 motor vehicle and nine bicycle parking spaces on a ±17.48 acre portion of a ±37.46 acre site. The property is located at the southeastern corner of the intersection of Ephesus Church Road and George King Road (PIN 0709-03-12-9503; tax reference 485-2-8; County Atlas Page 85, Blocks A-3, A-4). Governing Body approval of the Major Special Use Permit is required for public schools in the R-20 District. Notice of the governing board consideration of this Major Special Use Permit will be published in the newspaper in accordance with the requirements of the Durham Zoning Ordinance Section 13.2.2.3 Major Special Use Permits.

Resource Person(s): Frank M. Duke, AICP, Planning Director

County Manager's Recommendation: The County Manager recommends that the Board receive public comments on this application.

Persons who wished to speak/testify were sworn in by the Clerk to the Board.

Chairman Reckhow asked the Commissioners whether any one of them should be excluded from participation. No one responded.

Chairman Reckhow opened the Quasi-Judicial Public Hearing.

Mr. Frank Duke, City-County Planning Director, presented the staff report. Staff recommended approval of the request, based on its technical compliance with the Durham Code of Ordinances. The Board may suggest any refinements to the proposal.

The Commissioners asked questions of Mr. Duke, to which he responded.

Chairman Reckhow recognized the applicants for the proposal. Mr. Hugh O'Steen of Durham Public Schools and Mr. Dan Jewell of Coulter Jewell Thames, PA presented specifics of the proposed project.

The Commissioners asked extensive questions of the applicants, to which they responded.

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to extend the meeting time until 12:00 midnight.

The motion carried unanimously.

Chairman Reckhow opened the meeting for testimony. Dr. Lavonia I. Allison addressed the Board.

The County Commissioners held a lengthy discussion regarding reasons to approve or not approve this Special Use Permit.

The Board voted to extend the meeting until 12:30 a.m.

The motion carried unanimously.

Commissioner Heron moved, seconded by Chairman Reckhow, to approve the Major Special Use Permit and to make an effort to encourage City Council either by letter or appearance not to annex this property before the City Council.

The motion failed with the following vote:

Ayes: Heron and Reckhow

Noes: Bowser, Cousin, and Jacobs

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, not to approve the Major Special Special Use Permit based on reasons 1-3.

A substitute motion was offered.

Commissioner Jacobs moved, seconded by Chairman Reckhow, to delay action on this agenda item until the first Regular Session in January 2003.

The motion carried with the following 3-2 vote:

Ayes: Heron, Jacobs, and Reckhow

Noes: Bowser and Cousin

12. **12. Major Site Plan?New Elementary School ?A", Phase I?Ephesus Church Road (Case D02-421)**

Coulter Jewell Thames, PA, on behalf of Durham Public Schools, has submitted a site plan for Phase I of a new elementary school, consisting of an 81,385-square-foot, one- and two-story elementary school, with 138 motor vehicle and nine bicycle parking spaces on a ±17.48 acre portion of a ±37.46 acre site. The proposed facility will be located on the southeastern corner of the intersection of Ephesus Church Road and George King Road (PIN 0709-03-12-9503; tax reference 485-2-8; County Atlas Page 85, Blocks A-3, A-4). Governing Body approval is required for proposed buildings larger than 25,000 square feet. A Traffic Impact Analysis has been reviewed for this development. An additional agenda item for a Major Special Use Permit (with a public hearing) for this site needs to be approved prior to consideration of this Major Site Plan.

The Planning Staff recommends approval.

Resource Person(s): Frank M. Duke, AICP, Planning Director

County Manager's Recommendation: The County Manager recommends approval.

This agenda item was not heard due to the continuation of item #11 until the first Regular Session in January 2003.

Added Agenda Item??Early Action Compact and Compliance with the 8-Hour Ozone Standard"

This item was added in the afternoon of December 9, 2002.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to adopt the resolution.

The motion carried unanimously.

13. **13. Major Site Plan ? NC 98 & Sherron Road Development (Case D02-446)**

RL Horvath Associates, Inc., on behalf of RDSK, LLC, has submitted a site plan for 1) an 83,375-square-foot shopping center with five out-parcels, and with 437 motor vehicle and 21 bicycle parking spaces on a ±14.41 acre site; 2) 29,700 square feet of retail shops and 7,200 square feet of offices, with 183 motor vehicle and 12 bicycle parking spaces on a ±6.47 acre site; and 3) 82 single family lots on ±35.24 acres. The proposed development will be located on the southeastern and southwestern corners of the intersection of NC 98 and Sherron Road (Multiple PIN & tax references; Durham County Street Atlas Page 71, Blocks A-2 & A-3). Governing Body approval is required for proposed shopping centers larger than 75,000 square feet and for subdivisions of more than 50 lots. A Traffic Impact Analysis has been reviewed for this development as part of the rezoning process. This site plan conforms to the zoning development plan adopted by the Board of County Commissioners on January 28, 2002.

The applicant is also requesting a reduction in the landscape buffer in the SC(D) portion of the site. The requested buffer reduction, from 50 feet to 35 feet with a six-foot solid fence, may be approved if the Board finds that the proposed fence and buffer provide the same level of separation as a standard buffer with no fence. Alternatively, the Board may require redesign of the site plan to incorporate a different buffer design or the full 50-foot buffer width. Specific action on this item should be included in any motion by the Board.

Resource Person(s): Frank M. Duke, AICP, Planning Director

County Manager's Recommendation: The Planning Staff recommends approval with the landscape buffer reduction in the SC(D) District from 50 feet to 35 feet, based on the provision of a new fence within the buffer. The County Manager recommends that the Board approve the site plan.

The item was presented and discussed.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve the Major Site Plan including the reduction to the buffer.

The motion carried unanimously.

14. **14. Closed Session**

The Board of County Commissioners is requested to adjourn to closed session pursuant to G.S. 143.318.11 (a)(5) to instruct the County staff concerning the position to be taken on negotiating a proposed contract for the acquisition of real property owned by Crown of Righteousness Community Church at 6122 Barbee Road and the adjacent lot.

Commissioner Heron moved, seconded by Commissioner Jacobs, to adjourn to Closed Session.

The motion carried unanimously.

Reconvene to Open Session

As a result of the Closed Session, the Chairman directed staff to consider an alternative site.

THERE BEING NO FURTHER BUSINESS, THE MEETING ADJOURNED AT 12:30 A.M.