

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

Monday, July 1, 2002

9:10 A.M. Worksession

Minutes

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

Present: Chairman MaryAnn E. Black and Commissioners Joe W. Bowser, Philip
R. Cousin Jr., and Becky M. Heron

Absent: Vice-Chairman Ellen W. Reckhow (excused)

Presider: Chairman Black

Citizen Comments—Ralph McKinney

Mr. Ralph McKinney requested time on the agenda to make comments to the Commissioners. He talked to the Commissioners about protecting citizens' freedoms and how businesses in Durham target race and gender. He spoke to the Commissioners about his concerns relating to sexual abuse and other problems he has seen in the community.

Consider Suspension of Rules for July 1, 2002 Worksession

The Rules of Procedure to Govern Conduct of Work Sessions, adopted January 27, 1991, state that "...work sessions have been initiated for the purpose of discussion only..." However, the rules enable the Board by a majority vote to suspend the rules in the event "...action is required to be taken on a time-sensitive issue..." Inasmuch as the July 1, 2002 meeting was the only meeting for the month of July, several time-sensitive issues were placed on the agenda on which action must be taken.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: The Manager recommended that the Board vote to suspend its rules in order to take action on several time-sensitive issues.

Commissioner Bowser moved, seconded by Commissioner Heron, to suspend the rules in order to take action on several time-sensitive issues.

The motion carried with the following vote:

Ayes: Black, Bowser, Cousin, and Heron
Noes: None
Absent: Reckhow

Appointment—NCACC Annual Conference Voting Delegate

The Board of County Commissioners was asked to designate a Commissioner or other official as the voting delegate for the Annual Conference of the North Carolina Association of County Commissioners, which was being held in Forsyth County on August 22-25, 2002.

County Manager's Recommendation: Traditionally, the Board has designated the Chairman as the voting delegate and the Vice Chairman as the alternate. The Manager's recommendation was that the Board appoint a voting delegate and an alternate for the annual conference.

Chairman Black said she agreed to serve as the Credential Committee Chair at the North Carolina Association of County Commissioners Annual Conference.

Commissioner Bowser shared that he would not be attending the conference.

After some discussion, the decision was made to appoint Vice-Chairman Reckhow as the voting delegate and Chairman Black as the alternate.

Commissioner Heron moved, seconded by Chairman Black, to appoint Vice-Chairman Reckhow as the voting delegate and Chairman Black as the alternate delegate.

The motion carried with the following vote:

Ayes: Black, Bowser, Cousin, and Heron
Noes: None
Absent: Reckhow (excused)

Commissioner Heron suggested that the Commissioners inform the voters of any plans to travel, whether the trip is in-state or out-of-state, and whether Durham County is funding the trip. The purpose of the trip should also be stated.

Chairman Black informed the Commissioners at a previous meeting that she would be attending the National Association of Counties Annual Conference in New Orleans in July. She will not request that Durham County pay the expenses of this trip.

Commissioner Bowser said that he is considering going to the MDL meeting in Pittsburgh, Pennsylvania. If he goes, he may pay his own way.

Commissioner Heron said that she would not be traveling out of state in July.

County Manager Michael Ruffin and County Attorney Chuck Kitchen said that they would be attending the National Association of Counties Annual Conference in New Orleans in July.

Consent Agenda

Street Annexation Petition—Kintail Drive (East of Wexford Woods Trail) and Wexford Woods Trail (Wexford subdivision) (adopt the resolution to approve the addition of these streets to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation).

Commissioner Bowser moved, seconded by Commissioner Cousin, to approve the street annexation petitions for Kintail Drive and Wexford Woods Trail in the Wexford subdivision.

The motion carried with the following motion:

Ayes: Black, Bowser, Cousin, and Heron

Noes: None

Absent: Reckhow (excused)

The two resolutions follow:

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR ADDITION OF STATE MAINTAINED
SECONDARY ROAD SYSTEM

North Carolina

County of Durham

Road Description: Kintail Drive (East of Wexford Woods Trail) (the portion to be added is 1/10 mile)

WHEREAS, the attached petition has been filed with the Durham Board of County Commissioners requesting that the above described road, the location of which has been indicated in red on the attached map,* be added to the secondary road system; and

WHEREAS, the Board of County Commissioners is of the opinion that the above described road should be added to the secondary road system, if the road meets minimum standards and criteria established by the Division of Highways of the Department of Transportation for the addition of roads to the system:

NOW, THEREFORE, BE IT RESOLVED by the Durham Board of County Commissioners that the Division of Highways is hereby requested to review the above described road, and to take over the road for maintenance if it meets established standards and criteria.

CERTIFICATE

The foregoing resolution was duly adopted by the Durham Board of County Commissioners at a meeting on the 1st day of July, 2002.

Witness my hand and official seal this the 2nd day of July, 2002.

/s/ Garry E. Umstead
Clerk, Board of Commissioners
County of Durham

*In the office of the Clerk to the Board.

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR ADDITION OF STATE MAINTAINED
SECONDARY ROAD SYSTEM

North Carolina
County of Durham

Road Description: Wexford Woods Trail in Wexford subdivision (Wexford Woods Trail intersects with Carpenter Pond Road)

WHEREAS, the attached petition has been filed with the Durham Board of County Commissioners requesting that the above described road, the location of which has been indicated in red on the attached map,* be added to the secondary road system; and

WHEREAS, the Board of County Commissioners is of the opinion that the above described road should be added to the secondary road system, if the road meets minimum standards and criteria established by the Division of Highways of the Department of Transportation for the addition of roads to the system:

NOW, THEREFORE, BE IT RESOLVED by the Durham Board of County Commissioners that the Division of Highways is hereby requested to review the above described road, and to take over the road for maintenance if it meets established standards and criteria.

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Request for Donation for Rocket Tee Ball Team

A \$312 request was presented by the Rockets tee ball team to be used for an outing to Water Country. The request was presented to Commissioner Joe Bowser, who asked that the matter be placed on the agenda for disposition. By way of background, the County Manager does not have the authority to approve the request inasmuch as the budget ordinance does not include appropriations for recreation as a function.

Resource Persons: Joe Bowser, Commissioner, and Mike Ruffin, County Manager

County Manager's Recommendation: The Manager recommended that the Board consider the request and render a decision regarding the approval thereof.

Chairman Black asked Commissioner Bowser to explain the request since he was the Commissioner who was approached about the donation.

Commissioner Bowser said he was approached by the coach of the Rockets tee ball team several weeks ago with a request that he obtain recreation funds from County Government for the team to go to Water Country in Greensboro on July 20, 2002.

Commissioner Bowser said he talked to the County Manager and the County Attorney about this request. He was told that Durham County has no funds set aside for recreational purposes. Commissioner Bowser then asked the Manager if any money was set aside in discretionary funds that could be used for this project.

County Manager Ruffin said the budget ordinance is silent on this issue. There is no appropriation for recreation as a function in the ordinance. This will have to be a policy decision of the Board.

Commissioner Bowser stated that a fund to take care of small recreational expenses would be a great gesture for Durham County Government. Certainly, it would say to the coaches that their positive efforts and influences on our young people are appreciated. He appealed to his colleagues on the Board to approve this \$312 request and to do

whatever is necessary to put a policy in place to provide recreational funds for such purposes.

Chairman Black called for discussion.

Commissioner Heron said that many good programs and worth-while projects exist in the community. If such a policy were implemented, the floodgates would open with requests. Programs of this type could very easily acquire contributions from churches or civic organizations. It would be inappropriate for the County to set this policy.

Chairman Black had concerns about allocating money in the budget for recreational activities. The Commissioners would receive many requests for all types of programs.

Commissioner Cousin said that as a representative of the community of faith, he could immediately make arrangements to provide the money for the trip.

Commissioner Bowser expressed his appreciation to Commissioner Cousin.

Commissioner Bowser said the Commissioners, as leaders in the community, must look at the needs in the community. He has served as a Commissioner for six years, and each year he has left at least \$9,000 of his salary in the coffer that reverts back to the funding of this organization. I don't think anyone else on this Board has done that.

Chairman Black recommended that the County Attorney could look into this issue since Commissioner Bowser is unable to collect his full Commissioner salary because of his retirement plan. As long as Commissioner Bowser is on the Board and his salary is not being used, could he take his salary and put it into a special fund by the County for these types of projects?

County Attorney Kitchen said that a couple of issues would arise. One is whether it would be considered income for Internal Revenue Service purposes (probably not under the Red Cross rule). However, I am not familiar with Commissioner Bowser's particular retirement plan. In many plans, the money would still be considered as income since he would have control over it. The Board can make an appropriation in that amount to someone else, provided it is for a public purpose.

Chairman Black said that Commissioner Bowser and the County Attorney could work together and develop a plan.

Chairman Black conveyed that the Commissioners are concerned with helping and taking care of children. The Commissioners give money individually to various organizations throughout the year for various projects.

Commissioner Heron informed that she had left money in the County coffer because her earnings were limited by an Internal Revenue Service ruling until she reached a certain age.

Chairman Black reiterated that Commissioner Cousin agreed to take care of this request.

Commissioner Cousin said that he would assist with funding future projects.

Families First Project: Insuring Healthy Development of Children

The Board heard a presentation on the “Families First Project: Insuring Healthy Development of Children,” a multi-million dollar, multi-year initiative recently funded by the Duke Endowment. The Families First initiative, through the development of community collaboration—the families, their neighborhoods, communities, governmental agencies and nonprofit organizations—aims to strengthen the environment in which families live and provide necessary support for healthy family relationships, thereby addressing those factors that may place children at-risk for child abuse and neglect. The goal of the project is to reduce child abuse and neglect in Durham County by 50 percent within the next ten years. The project will develop multi-level interventions to meet this goal. The Center for Child and Family Policy and the Center for Child and Family Health staffs have already contacted numerous community leaders and agency representatives to help form the partnership.

Representatives of the “Families First Project” were requesting that the Board of County Commissioners endorse this community-wide initiative and were asking that the Board demonstrate its support by instructing the County Manager to appoint a staff representative to help provide leadership for the initiative. No County dollars were being requested for this fiscal year or future years.

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

County Manager’s Recommendation: The Manager recommended that the Board receive the presentation on the “Families First Project,” endorse the initiative, and direct the County Manager to appoint a staff representative to help provide leadership for the project.

Deputy County Manager Titus made introductory remarks about the agenda item. She stated that the two community organizations have recently developed and been funded for a community-wide project that aims to reduce child abuse and neglect in Durham County by 50 percent within the next ten years. The representatives wish to request Commissioner support, endorsement, involvement, and leadership in this very important project. Ms. Titus had met with these individuals and was very impressed with their desire to work with all sectors of the community.

Ms. Titus introduced the following three representatives who attended the meeting: Ms. Adele Spitz Roth, Project Director for Families First, Center for Child and Family Policy; Mr. Matt Epstein, Executive Director, Center for Child and Family Health; and Ms. Martha Coffman, Deputy Director, Child and Family Health.

Ms. Roth began the presentation. Our goal is to reduce child abuse and neglect in Durham County by 50 percent in ten years. We have received a 3½-year grant from the Duke Endowment with a ten-year commitment to go forward. The goals of the grant are very community-based and community-centered. The other aspect of the grant is to examine the policies that may perhaps either support or hinder the necessary services to these children and families. The third goal is to investigate what is working and what is not working. There is no evaluation component. The fourth component of the grant is to ascertain how to take this grant to other counties. We do have money for service development.

Mr. Epstein made additional remarks about the Families First Project.

The Commissioners asked questions and made remarks about the project to which Mr. Epstein and Ms. Roth responded.

Chairman Black asked the Commissioners to take a vote to endorse the program.

Commissioner Heron moved, seconded by Commissioner Cousin, to endorse the Families First Project and to assign Deputy County Manager Carolyn P. Titus to work with the committee.

The motion carried with the following vote:

Ayes: Black, Bowser, Cousin, and Heron

Noes: None

Absent: Reckhow (excused)

Closed Session

The Board was requested to adjourn to closed session regarding a claim and to preserve the attorney-client privilege pursuant to N.C.G.S. 143-318.11(a)(3) and regarding the acquisition of property pursuant to N.C.G.S. 143-318.11(a)(5).

Commissioner Heron moved, seconded by Commissioner Cousin, to adjourn into closed session.

The motion carried with the following vote:

Ayes: Black, Bowser, Cousin, and Heron
Noes: None
Absent: Reckhow (excused)

Reconvene Into Open Session:

Occupancy Tax for the Forest and Hampton Apartments

On May 31, 2002, Attorney Charles Mercer tendered two checks for the Hampton Apartments Association in the amount of \$84,934.89 and the Forest Associates, LP in the amount of \$56,093.93 under protest to pay occupancy taxes due from the two named entities.

There was also added a \$10.00-a-day penalty for nonpayment and 5 percent additional penalty for each additional month or fraction thereof until the occupancy tax is paid in accordance with the previous law which authorized the levy of the occupancy tax. According to the North Carolina General Statute and 1986 Resolution, the Board of Commissioners has the authority to forgive penalties. The penalties owed follow: 1) \$151,095.66 for the Hampton Apartments and 2) \$377,493.07 for the Forest Apartments.

Mr. Mercer believes the penalties are illegal, and that the tax does not apply to the apartment complexes. After negotiations, the Hampton Apartments and the Forest Apartments have both agreed to pay the penalties which would have been assessed under current N.C.G.S. § 153A-155 in the amount of \$49,360.09. The County Attorney's office recommends settling the claim for this amount. As part of the settlement, the apartments have agreed to relinquish any rights of further appeal and any right to claim a refund of monies paid.

Resource Person(s): Chuck Kitchen, County Attorney, and Lucy Chavis, Assistant County Attorney

County Manager's Recommendation: Accept the County Attorney's recommendation.

Commissioner Cousin moved, seconded by Commissioner Heron, to accept the County Attorney's recommendation to settle the claim for \$49,360.09. As part of the settlement, the apartments have agreed to relinquish any rights of further appeal and any right to claim a refund of monies paid.

The motion carried with the following vote:

Ayes: Black, Bowser, Cousin, and Heron
Noes: None
Absent: Reckhow (excused)

Chairman Black announced that the Commissioners gave directions to staff during the closed session.

Adjournment

Chairman Black adjourned the meeting at 11:15 a. m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board