

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

Tuesday, August 20, 2002

4:08 P. M. Special Session—American Tobacco Project

**Minutes**

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

Present: Chairman MaryAnn E. Black, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe W. Bowser and Becky M. Heron

Absent: Commissioner Philip R. Cousin Jr. (unexcused)

Presider: Chairman Black

**Business Deal Points for American Tobacco Project**

The Business Deal Points is the first document that memorializes the understanding that Durham County, the City of Durham, and Capital Broadcasting Corporation have reached with regards to the American Tobacco Project. While the document is non-binding and limited in specificity, it chronicles the project from its inception to build out. When all phases are complete, the project will represent a taxable investment of \$127,030,342. The completed project will result in approximately 179,400 square feet of retail space (including stores and restaurants), 603,200 square feet of office space, and 174,400 square feet of hotel and/or residential space. The development will bring an estimated 3,604 jobs into downtown Durham.

Resource Person(s): Mike Ruffin, County Manager; Chuck Kitchen, County Attorney; Carolyn Titus, Deputy County Manager; Pam Meyer, Budget and Management Services Director; George Quick, Finance Director; and Glen Whisler, County Engineer

County Manager's Recommendation: Authorize the County Manager and County Attorney to work with the City of Durham and Capitol Broadcasting Corporation and prepare for the Board's approval a development agreement and other legal documents that may be necessary for the redevelopment of the American Tobacco Complex in accordance with the "Business Deal Points."

Chairman Black asked that County Manager Ruffin and staff make the presentation to the Board of County Commissioners. Please do not go through each one of the points, point by point. The Board has already done that. The County Manager should highlight changes in the plan made by City Council. The Commissioners may talk and ask questions, if they wish.

Chairman Black said that in working with the County Manager, her previous concerns were resolved. I had a conversation with Mayor Bell about the concerns. We have worked through one issue that I think was creating a problem for at least one of the Commissioners.

County Manager Ruffin begin his presentation by thanking the team members who worked long and hard to get the project to this point. The members are as follows: Deputy County Manager Carolyn Titus, County Attorney Chuck Kitchen, Finance Director George K. Quick, Assistant County Attorney Carol Wolff, County Engineer Glen Whisler, Budget Director Pam Meyer, and Assistant to the County Manager Heidi Duer.

County Manager Ruffin said there is a lot of “give and take” in this project. It is a good deal for all of us and for Durham.

County Manager Ruffin’s presentation was a chronicle of what had been done, the major issues and concerns, and the business deal points. Also, the changes as a result of last night’s City Council meeting were incorporated into the presentation.

The County Manager discussed the following:

- Project Description
- Project Investment
- Public Contribution
- Business Deal Points
- Important Dates/Events
- Pre-Construction Activities (Between Deal Points & Development Agreement)
- Pre-Construction: (Activities Between Deal Points & Development Agreement Negotiations)
- Pre-Construction Activities: Phase One Elements
- Parking Garage Construction
- Timing of Construction
- City & County Participation
- Other Parking Considerations
- City and County Proposal
- Parking Garage Operations
- Executed Development Agreement
- Off-Site Infrastructure
- Changes Made by City Council
- ATC Project Timetable
- End of Presentation

The Commissioners asked questions and made comments about the Business Deal Points to which the County Manager, County staff, and Attorney Mike Hill (Capital Broadcasting Corporation) responded.

Vice-Chairman Reckhow requested additional information on the Performing Arts Theater in terms of the City's schedule for making a decision.

Commissioner Bowser wanted to know how much it would cost to place the utility lines underground in the renovation project.

Attorney Hill responded to Commissioner Bowser's question.

Commissioner Heron requested a cash flow schedule of revenues and expenditures. She wanted to know the annual projected cost to the taxpayers for the American Tobacco project.

At the request of Vice-Chairman Reckhow, the wording in the Business Deal Points was changed from "could" to "would" on page 6, line 232.

The Commissioners, County Manager Ruffin, and Attorney Chuck Kitchen had a discussion about revenue bonds and the rating bureaus relative to Durham County.

Chairman Black said the Commissioners agree with the changes made by City Council last evening with the exception of "at a rate of \$5 annually" as the agreed upon price for the land reserved for Phase B of the North Garage. The Commissioners have taken that out of the document. Mayor Bell has allowed the \$5 to be removed. The Commissioners also removed "also consider use of Yongue Architects in the project" on page 7, line 294.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to authorize the County Manager and County Attorney to work with the City of Durham and Capital Broadcasting Corporation and prepare for the Board's approval a development agreement and other legal documents that may be necessary for the redevelopment of the American Tobacco Complex in accordance with the "Business Deal Points" as amended today (change "could" to "would" on page 6—line 232, remove "at a rate of \$5 annually" on page 6—line 248, and remove "also consider use of Yongue Architects in the project" on page 7—line 294).

The motion carried with the following vote:

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

**Alcoholic Beverage Control (ABC) Board**

Vice-Chairman Reckhow said that Chairman Eric Michaux of the ABC Board wrote a letter to Chairman Black alerting the Commissioners to a bill currently moving through the General Assembly that would have negative implications to Durham County. It could result in Durham County losing \$232,000 a year in revenue from the ABC system. The money would be diverted to help the Department of Crime Control at the State level. I would like to see this Board authorize the County Manager to write a letter for the Chairman's signature to be faxed to the Durham Delegation urging them not to support this bill.

Chairman Black stated that she had talked to the County Manager regarding this issue and asked him to look into it.

County Attorney Kitchen advised the Chairman that the Board could not take action on this matter since this was a special called meeting for the American Tobacco project. You cannot take action on any other subject since one Board member is absent and cannot consent to it.

**Adjournment**

Chairman Black adjourned the Special Session at 5:15 p.m.

Respectfully submitted,

Garry E. Umstead, CMC  
Clerk to the Board