

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

Monday, April 9, 2012

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 Michael D. Page, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe Bowser, Brenda A. Howerton, and Pam Karriker

Absent: None

Presider: Chairman Page

Opening of Regular Session—Pledge of Allegiance

Agenda Adjustments

There were no adjustments to the agenda.

Announcements

Chairman Page read the following announcements:

- “In Touch with Durham County,” the Durham County Television show, airs on Cable TV Channel 8 at 8:30 a.m. and 12 noon daily; 4:00 p.m. on Mondays; and 6:30 p.m. Tuesday-Sundays. Our County Commissioners’ meetings are also rebroadcast on Thursdays at 2:00 p.m., Saturdays at 9:00 p.m., and Sundays at 9:00 p.m.
- Governor Purdue has proclaimed April 14-28, as the 2012 Spring Litter Sweep. Durham County's General Services Department strongly encourages churches, civic organizations, schools, businesses, Adopt-A-Highway volunteers, and concerned citizens to join in a cleanup. For more information, contact Durham County General Services at 919-560-0433.
- The Friends of the Durham Library will hold its “Book Sale” April 13-15 at the Main library, located at 300 North Roxboro Street. On Friday, April 13 from 4pm to 7pm a Friends members’ event is sponsored... but you may join at the door. On Saturday, April 14, the sale begins at 10am and ends at 4pm. On Sunday, April 15 from 2-5pm, come to the \$7 dollar Bag Sale in the auditorium and garage.

Minutes

Commissioner Howerton moved, seconded by Vice Chair Reckhow, to approve the March 26, 2012 Regular Session and March 10, 2012 PAC 4 Meeting Minutes.

The motion carried unanimously.

Recognition of Human Resources Benefits Staff for Securing \$186,520 in Early Retiree Reimbursement Program Funds (ERRP)

Chairman Page recognized Diane Pearson, Benefits Manager. Ms. Pearson shared details on securing \$186,520 in Early Retiree Reimbursement Program (ERRP) funds through the Federal government's Affordable Care Act.

The monies will be used to defray the cost of the County's health plan.

Ms. Pearson indicated that the Federal funds have now been exhausted.

The Board commended Ms. Pearson on her initiative and efforts to secure the funds.

Proclamation – Let's Move-Durham/Walk-A-Mile With A-Child

Chairman Page read the following Proclamation:

Let's Move-Durham/Walk-A-Mile With-A-Child

WHEREAS one third of our children in North Carolina between the ages of 10 and 17 are overweight or obese; and,

WHEREAS 23% of low income children in Durham County between the ages of 2 and 4 are overweight and an additional 17.5% are obese; and,

WHEREAS 20% of our youth do not engage in the recommended daily hour of physical exercise; and,

WHEREAS overweight or obese children have an increased risk of becoming overweight or obese adults; and,

WHEREAS the long term health risks of obesity include diabetes, hypertension, heart disease and stroke; and,

WHEREAS Durham, North Carolina, the City of Medicine, strives to be a model of quality living and family life in the state and the country;

BE IT RESOLVED that Saturday, June 2nd, 2012 be dedicated "Let's Move-Durham" day in keeping with the First Lady's initiative for regular exercise and healthy living; and,

BE IT FURTHER RESOLVED that we, the Durham Board of County Commissioners, encourage our youth to attend the Walk-A-Mile With-A-Child event at Solite Park on Fayetteville Road in Durham, June 2nd 2012 to begin exercising and becoming better informed about good nutrition and healthy life-style choices.

This the 9th day of April, 2012.

Michael D. Page, Chairman

Dr. Sheila Allison thanked the Board for the recognition. She stated that the day was to encourage life style changes for the community. There are several community partners, including Durham Public Schools and the Health Department participating in the activities.

Chairman Page noted that the event fits in with the County's Strategic Plan initiative.

Vice Chair Reckhow suggested trying to promote the event year round.

Proclamation – National Volunteer Week

Chairman Page read the following Proclamation:

NATIONAL VOLUNTEER WEEK APRIL 15- 21, 2012

WHEREAS, thousands of Durham County citizens utilize their time and talent to make a real difference in the lives of their fellow citizens; and

WHEREAS, during this week, all over the nation including Durham County, volunteers will be recognized for their compassion, understanding and commitment to service; and

WHEREAS, the giving of oneself in service to others empowers the giver and the recipient, alike; and

WHEREAS, experience teaches us that government by itself cannot solve all of our social problems; and

WHEREAS, citizen participation is essential for good government; and

WHEREAS, the health and well-being of Durham County is enhanced by neighbors helping neighbors and that this spirit of volunteerism is especially important in these challenging economic times; and

WHEREAS, Durham County's volunteer force is a great treasure; and

WHEREAS, volunteers are vital to our future as a caring and productive community; and

WHEREAS, the North Carolina Association of Volunteer Administration and its affiliate, the Durham Area Volunteer Administrators represent hundreds of volunteer resource managers whose mission is to provide education and leadership towards effective volunteer management; and

WHEREAS, Durham County recognizes the value of its volunteers and proudly joins other North Carolina counties and our Nation in celebrating National Volunteer Week.

NOW, THEREFORE, BE IT RESOLVED that I Michael D. Page, Chairman of the Durham County Board of Commissioners, do hereby proclaim the week of April 15- 21, 2012 as

“NATIONAL VOLUNTEER WEEK”

in Durham County. All Durham County citizens are encouraged to continue to make positive changes in their communities with their actions, big and small. Further let us be encouraged to recognize the valuable services provided by caring and committed volunteers of all ages throughout every area of life in Durham County.

This the 9th day of April, 2012.

Michael D. Page, Chairman
Durham County Board of Commissioners

Mr. Chuck Hemric, President of the N. C. Association of Volunteer Administration and Ms. Von Brown, Volunteer Coordinator of Durham County’s Welcome Baby program were present to accept the Proclamation.

Chairman Page thanked Mr. Hemrick and Ms. Brown for their work, and thanked all the volunteers in the community for their volunteer efforts.

Consent Agenda

Chairman Page noted that item “a” had been pulled. He asked the Commissioners if they desired to pull any items from the Consent agenda. No items were pulled by Commissioners or citizens.

Vice Chair Reckhow moved, seconded by Commissioner Howerton to approve the following consent agenda items:

- b. *Adopt the Resolution in support of the NC Turnpike Authority application to designate the Triangle Expressway as a NC Scenic Byway;
- c. *Approve the resolution and establish the Durham County Criminal Justice Advisory Committee;
- d. *Approve Budget Ordinance No. 12BCC000066 recognizing additional revenues in the amount of \$60,456 for the Energy Neighbor Fund and Special Children Adoption Fund programs;
- e. *Approve Budget Ordinance Amendment 12BCC000067 to amend the budget as indicated to increase the budget for Durham County Cooperative Extension;
- f. *Approve Budget Ordinance Amendment 12BCC000068 to amend the budget to increase the budget for Durham County Cooperative Extension Welcome Baby Program;

- g. *Authorize the creation of the eleven Deputy Sheriff positions and approve Budget Amendment 12BCC000069 appropriating \$198,820 of fee revenue to support 2.5 months costs for the 11 new positions;
- h. *Approve the creation of the Finance Officer position (1.00 FTE) and approve Budget Amendment 12BCC000070 appropriating \$12,914 of fee revenue to support 2.5 months costs for the new position;
- i. Amend Durham County's Minority and Women Business Ordinance to extend the effective date to December 31, 2013. (Ordinance made a part a part of permanent records).

The motion carried unanimously.

*Document(s) related to this item follow:

Consent Agenda Item No. b.

**Board of Commissioners Resolution
In Support of the NC Turnpike Authority Application to
Designate the Triangle Expressway as a NC Scenic Byway**

WHEREAS, the North Carolina Department of Transportation has enacted the Scenic Byway designation in order to portray the diverse beauty and culture of the Tar Heel State and provide travelers with safe and interesting alternate travel routes; and

WHEREAS, the Triangle Expressway is located in Durham and Wake Counties, extending south from the NC 147/I-40 interchange in the Research Triangle Park to the Northern Wake Expressway, and then northeast to the Northern Wake Expressway (NC 540)/NC 54 interchange and to the south to NC 55 Bypass in Holly Springs; and

WHEREAS, the NC Turnpike Authority proposes to submit an application to the North Carolina Department of Transportation (NCDOT)-Scenic Byways for the Triangle Expressway; and

WHEREAS, the NC Turnpike Authority has developed an aesthetic design guide to create a consistent and memorable appearance of the hard features of the roadside with the bridges, sign structures, and tolling features being designed to complement the architecture of the State Capitol region and a landscape restoration plan to provide a sustainable landscape that showcases the distinct and beautiful natural features of the North Carolina Piedmont Region; and

WHEREAS, the NC Turnpike Authority believes that the natural aesthetic beauty of the corridor, combined with enhanced landscaping treatments and architectural features, has created a destination roadway that qualifies the facility as a Scenic Byway; and

WHEREAS, the North Carolina Turnpike Authority has asked Durham County to support the Scenic Byway application;

NOW THEREFORE BE IT RESOLVED BY THE DURHAM COUNTY BOARD OF COMMISSIONERS that the Board of Commissioners of Durham County, North Carolina hereby expresses its support of an application to be filed by the NC Turnpike Authority to the North Carolina Department of Transportation Scenic Byways Program.

This 9th day of April, 2012

Consent Agenda Item No. c.

**RESOLUTION ESTABLISHING THE
DURHAM COUNTY CRIMINAL JUSTICE ADVISORY COMMITTEE**

WHEREAS, The Durham County Criminal Justice Partnership Advisory Board was established in 1995 as a statutory requirement to participate in the state-local Criminal Justice Partnership Program grant process, and

WHEREAS, The enabling legislation for the Criminal Justice Partnership Advisory Board, Article 6A of Chapter 143B of the General Statute, was repealed in June 2011 as part of HB 642, the Justice Reinvestment Act of 2011, and

WHEREAS, the Board of County Commissioners desires to create another advisory committee to assist in developing a comprehensive continuum of services for the adult criminal justice system, identifying services gaps, and developing intervention strategies.

NOW, THEREFORE, BE IT RESOLVED by the Durham County Board of Commissioners that the Board hereby establishes the following advisory committee:

Name of Committee: the Durham County Criminal Justice Advisory Committee

Purpose: The purpose of the Criminal Justice Advisory Committee (CJAC) is to develop a comprehensive continuum of services for the adult criminal justice system, identify services gaps, and develop intervention strategies and comprehensive solutions. The CJAC is advisory in nature and has no authority over any public or private entity.

Membership: The Advisory Committee shall be comprised of 24 representatives from Durham County and State agencies, community organizations and members at-large. Members appointed to the CJAC are subject to the County's Procedure for Citizen Appointments. The following members will be appointed by the Durham County Board of Commissioners (BOCC) and serve two-year terms:

1. Durham County Commissioner
2. Durham Police Chief or designee
3. Durham County Sheriff or designee
4. Superior Court Judge of the 14th Judicial District
5. Chief District Court Judge of the 14th Judicial District
6. Durham Public Defender or Criminal Defense Attorney
7. Durham County District Attorney or designee
8. Durham County Public Health Director or designee
9. Durham County Social Services Director or designee
10. Local MCO/ LME Director or designee
11. Durham County Manager or designee
12. 14th Judicial District, Division of Community Corrections District Manager

13. Treatment Alternatives to Street Crime (TASC) Director
14. Member of Durham Business Community
15. Citizen
16. Citizen

The following members will be appointed by the CJAC membership and serve two-year terms. Members appointed by the CJAC are subject to the same eligibility and attendance rules as members appointed by the BOCC.

1. Community College or other educational institution
2. Local Mental Health or Substance Abuse Provider
3. Local Non-Profit Organization
4. Housing Provider
5. Ex-Offender
6. Specialty Court Judge
7. Employment & Training Provider
8. Faith-Based Organization

A Chairman, Vice-Chairman and Secretary shall be appointed among the members of the CJAC at the first meeting of each calendar year. A majority of the members present shall create a quorum. Meetings shall be held at least quarterly at the Durham County Criminal Justice Resource Center, additional meetings may be scheduled by the Chairman. All notifications of meetings shall be published no less than 48 hours prior to the meeting through the Clerk to the Board's office as required by state law.

Subcommittees:

Ad hoc committees may be formed as deemed necessary by the chairperson to address specific topics or tasks. The frequency and times of meetings will vary depending on need. Participants on ad hoc committees can be non-members.

Essential Partners:

Certain positions are essential to the effectiveness of the CJAC, including Judicial District Manager, MCO/LME Director and TASC Director. The individuals in those positions will be asked to participate on the CJAC in an ex-officio (non-voting) capacity, if they do not qualify for full membership under current Durham County eligibility requirements.

Shared Values:

- Reduce the demand for County jail beds,
- Reduce the number of Durham County residents in state prison facilities,
- Develop a continuum of programs, services and sanctions that provides options to the criminal justice system,
- Pursue initiatives that are respectful towards victims, offenders and the community,
- Pursue funding for initiatives through grant opportunities and requests to local and state government.

Consent Agenda Item No. d.

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2010-11 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 Contributions & Donations	\$76,459,304	\$60,000	\$ 76,519,304

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$110,714,553	\$60,456	\$110,775,009

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

This the 9th day of April, 2012.

Consent Agenda Item No. e.

DURHAM COUNTY, NORTH CAROLINA
FY 2009-10 Budget Ordinance
Amendment No. 12BCC000067

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2010-11 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	\$76,519,304	\$1,500	\$76,520,804

Expenditures:

<u>GENERAL FUND</u>			
Economic and Physical Development	\$ 5,202,979	\$1,500	\$ 5,204,479

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

This the 9th day of April, 2012.

Consent Agenda Item No. f.

DURHAM COUNTY, NORTH CAROLINA
FY 2010-11 Budget Ordinance

Amendment No. 12BCC000068

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$76,520,804	\$840	\$76,521,644

Expenditures:

<u>GENERAL FUND</u>			
Economic and Physical Development	\$5,204,479	\$840	\$ 5,205,319

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

This the 9th day of April, 2012.

Consent Agenda Item No. g.

DURHAM COUNTY, NORTH CAROLINA
FY 2010-11 Budget Ordinance
Amendment No. 12BCC000069

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Service Charges	\$ 14,456,004	\$198,820	\$ 14,654,824

Expenditures:

<u>GENERAL FUND</u>			
Public Safety	\$ 45,887,862	\$198,820	\$ 46,086,682

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

This the 9th day of April, 2012.

Consent Agenda Item No. h

DURHAM COUNTY, NORTH CAROLINA
FY 2010-11 Budget Ordinance
Amendment No. 12BCC000070

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Service Charges	\$ 14,654,824	\$ 12,914	\$ 14,667,738

Expenditures:

<u>GENERAL FUND</u>			
Public Safety	\$ 46,086,682	\$ 12,914	\$ 46,099,596

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

This the 9th day of April, 2012.

Consent Agenda Item No. i.

(Ordinance attached – Appendix A)

Presentation and Resolution re: Hydraulic Fracturing in Durham County

Chairman Page recognized Vice Chair Reckhow to present the item. Vice Chair Reckhow introduced Deborah Luecken, Environmental Affairs Board (EAB) Chair. The Joint City-County Planning Committee reviewed the item about six months ago and felt it was important to have the local EAB weigh in on the issue.

Vice Chair Reckhow gave an overview of the process. The EAB put together an excellent report. The report raises some issues beyond what the Department of Natural Resources concluded. That State felt that fracking could be done if 20 conditions were met. Some of the conditions will take more study.

Ms. Luecken shared background on hydraulic fracturing “fracking.” Vertical drilling for oil or gas is legal in North Carolina. The difference is the fracking calls for vertical drilling first followed by horizontal drilling. The rock is then fractured. Horizontal drilling is not legal in North Carolina at this time; however, the Legislature is considering the option.

The EAB spent many months studying the issue, assembled large database of report. There were several discrepancies found. There are studies underway that will give us more information in four years.

The EAB summarized their findings into themes and made the following five recommendations:

- (1) The General Assembly should postpone the decision to legalize fracking until 2016. If legalized, Durham should put a moratorium on drilling until 2016;

- (2) Durham must develop and agree on a comprehensive list of requirements to ensure the safety of citizens before allowing any drilling. Local Government should not shoulder the costs associated with the cleanup;
- (3) Durham must maintain the authority, to determine exactly where and when fracking might be done safely, and to apply more stringent requirements if necessary. Local judgment should be used in Durham to ensure safety of our residents;
- (4) On-site wastewater must be stored in closed tanks in order to minimize potential health risks to humans, wildlife and ecosystems due to accidental releases;
- (5) Any wastewater resulting from fracking operations must be subject to stringent, verified, third-party treatment.

Ms. Luecken thanked the Board for considering the report. She felt that 2015 would provide more knowledge.

Vice Chair Reckhow added that waiting for the EPA study in 2014 would provide more information. She emphasized the importance of local government having authority over where fracking occurred.

Ms. Leucken referenced a map that showed the shell gas area in Durham County. The map indicated the affected area being more of the lower half of the county.

Commissioner Howerton questioned changes to the Resolution. Vice Chair Reckhow responded that the EAB reviewed the draft and suggested four additional "Whereas" statements that strengthened the Resolution (2nd-5th Whereas).

Commissioner Karriker commended the EAB on the report and echoed the need for local control in Durham.

Commissioner Bowser questioned whether the other affected counties (Granville, Wake, Chatham, Lee, Moore, Orange and Harnett) were being petitioned or taking action. Vice Chair Reckhow stated that Creedmoor (Granville County) was the first to adopt a Resolution on Fracking.

Commissioner Bowser expressed the need to have the Resolutions similar to make traction with the Legislature. Lee County has passed a Resolution. Kathleen Snyder, Planning Department, stated that Durham County's resolution was similar to Lee County's.

Commissioner Bowser expressed concern that Durham may not garner the same attention if the Resolution was submitted alone. He encouraged working with other counties to strengthen the Resolution.

The Board concurred that the surrounding counties that were affected should receive a copy of the Resolution (Granville, Harnett, Lee, Wake, Chatham, Orange, Moore) along with a cover letter signed by the Chair and a copy of the report or a link to the report.

Chairman Page read the following resolution:

**Durham Board of County Commissioners
Resolution**

WHEREAS, hydraulic fracturing, or “fracking,” refers to a method of extracting natural gas that involves fracturing rock thousands of feet below the surface with a high-pressure mixture of sand, water and industrial chemicals in order to reach pockets of natural gas trapped in shale and coal deposits; and

WHEREAS, extensive hydraulic fracturing can affect the housing of Durham citizens, including confusion about property valuations, uncertainty about mineral rights, and increased rental costs for low-income renters, and

WHEREAS, local governments will incur increased costs for services such as regulatory compliance monitoring, maintenance of roads and bridges, and increased policing and other social services, etc., and

WHEREAS, local government should retain its ability, through zoning and its general police power, to assure that hydraulic fracturing, if legally authorized and feasible, is performed in a manner that minimizes negative impacts to local communities; and

WHEREAS, millions of gallons of fresh water will be required for each stimulation or fracturing of a gas well, which may occur 20 or more times in the lifetime of a well, and the resulting wastewater is contaminated with fracking chemicals, and toxic substances from underground shales, including corrosive salts, heavy metals and carcinogens such as benzene; and

WHEREAS, the wastewater which results from hydraulic fracturing operations has limited disposal options, and wastewater treatment plants are not equipped to remove these chemicals; and

WHEREAS, there are documented impacts on the environment and public health from other states where hydraulic fracturing is used, including contamination of drinking water wells, surface waters and air quality; and

WHEREAS, many residents of Durham County rely on private water wells and community water wells supplied from groundwater; and

WHEREAS, this is a poorly regulated industry due to a 2005 federal loophole exempting hydraulic fracturing from most federal environmental regulations including the Clean Water Act, the Clean Air Act, the Emergency Planning and Community Right to Know Act, and the Safe Drinking Water Act; and

WHEREAS, the Triassic basin, which includes areas in Durham County and the City of Durham, has been identified as having geologic shales that contain underground deposits of this natural gas.

NOW THEREFORE BE IT RESOLVED, that we, the members of the Durham County Board of Commissioners, urge the North Carolina General Assembly to take no action and pass no legislation that would legalize hydraulic fracturing or horizontal drilling in NC at least until the EPA study of hydraulic fracturing impacts on the full water life cycle is finalized (at least 2014), federal regulatory actions are

considered, and the consequences of this process on the health, environment and economy of our state have been fully evaluated, in order to protect our environment and safeguard the property rights, health, and drinking water of our citizens.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the leadership of the North Carolina General Assembly and the Durham Legislative Delegation.

This the 9th day of April, 2012

Michael D. Page, Chairman

Ellen W. Reckhow, Vice-Chairman

Joe W. Bowser

Pam Karriker

Brenda A. Howerton

Commissioner Bowser questioned the reference to “housing of Durham citizens” in the second paragraph. He wanted to make sure Durham County housing was included. Vice Chair Reckhow responded that it was implied that Durham included Durham County.

Vice Chair Reckhow moved, seconded by Commissioner Howerton to approve the Resolution on Hydraulic Fracturing. A copy of the resolution will be sent to the leadership of the North Carolina General Assembly and the Durham Legislative Delegation.

The motion carried unanimously.

The Board again thanked the EAB for their work on this issue.

Vice Chair Reckhow asked that the Resolution also be sent to the NC Association of County Commissioners.

Vice Chair Reckhow moved, seconded by Commissioner Howerton that the Resolution on Hydraulic Fracking along with the study be sent to the NC Association of County Commissioners.

The motion carried unanimously.

Closed Session

The Board was requested to adjourn to Closed Session pursuant to G. S. 143-318.11(a)(4) to discuss matters relating to the location or expansion of a business or industry.

The Board was requested to adjourn to closed session pursuant to G.S. 143.318.11(a)(3) to consult with an attorney in order to preserve the attorney-client privilege, and to discuss the lawsuit regarding Geraldine Robinson vs. Joe W. Bowser and Durham County Board of Commissioners, et al. which was filed in Durham County Superior Court Case No. 12CVS002044.

Commissioner Howerton moved, seconded by Vice Chair Reckhow to adjourn to Closed Session.

The motion carried unanimously.

Reconvene from Closed Session

Chairman Page stated that the Board met in Closed Session and provided direction to staff. No action was taken.

Adjournment

There being no further business, Chairman Page adjourned the meeting at 8:50 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michelle", followed by a horizontal line extending to the right.

V. Michelle Parker-Evans
Clerk to the Board