

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

Monday, May 9, 2005

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 Ellen W. Reckhow, Vice-Chairman Becky M. Heron, and Commissioners Lewis A. Cheek, Philip R. Cousin Jr., and Michael D. Page

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

Agenda Adjustments

Chairman Reckhow reordered the agenda to discuss Consent Agenda Item No. e, Approval of the County's 10-Year Capital Improvements Program (CIP) (FY2006-FY2015), after Civic Center Management Agreement.

Announcements

Chairman Reckhow announced the following events sponsored by The Durham Center:

- Open House on Monday, May 16, 2005, from 3:00 to 5:00 p.m. at the Main Office, 501 Willard Street, to tour the Center and learn about mental health programs in the community.
- Town Hall Meeting on Wednesday, May 18, 2005, from 5:30 to 7:30 p.m. at the North Carolina Central University Student Union to seek ideas about improving services as they update their strategic plan.

Minutes

Commissioner Cousin moved, seconded by Vice-Chairman Heron, to approve as corrected the January 3, 2005 Worksession and April 25, 2005 Regular Session Minutes.

The motion carried unanimously.

Proclamation for “Mental Health Month”

Chairman Reckhow read the following proclamation:

PROCLAMATION

WHEREAS, mental health is essential to everyone's overall physical health and emotional well-being; and

WHEREAS, mental illness will strike one in five adults and children in a given year regardless of age, gender, race, ethnicity, religion, or economic status; and

WHEREAS, people who have mental illnesses can recover and lead full, productive lives; and

WHEREAS, an estimated two-thirds of adults and young people who have mental health disorders are not receiving the help they need; and

WHEREAS, the cost of untreated and mistreated mental illnesses and addictive disorders to American businesses, governments, and families has grown to \$113 billion annually; and

WHEREAS, community-based services that respond to individual and family needs are cost-effective and beneficial to consumers and the community; and

WHEREAS, the mental health advocacy groups locally and nationwide observe Mental Health Month every May to raise awareness and understanding of mental health and illness:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim May 2005 as

MENTAL HEALTH MONTH

in Durham County. We also call upon the citizens, government agencies, public and private institutions, businesses, and schools in Durham to recommit our community to increasing awareness and understanding of mental health and the need for appropriate and accessible services for all people who have mental illnesses.

This 9th day of May, 2005.

Carla Alston, Customer Service Administrator at The Durham Center, reported that mental illness affects one in five adults and children annually. In an effort to raise

awareness and understanding of mental health and mental illness, advocates locally and nationally observe Mental Health Month during the month of May. Ms. Alston accepted the proclamation and thanked the Board for the acknowledgement.

Durham County Government Week Food Drive—Trophy Presentation

Deborah Craig-Ray, Assistant County Manager, announced that in honor of National County Government Week, Durham County Government held a countywide canned food drive. The food was distributed to AIDS Alliance Services – Carolina (AAS-C), a valued community organization that answers the needs of Durham’s low-income segment of the HIV-Positive/AIDS population. The AAS-C food pantry shelves have never been filled to capacity and are emptied every week because the needs of the citizens that AAS-C serves are so great. Ms. Craig-Ray extended thanks to Nina Bullock, Legal Secretary in the County Attorney’s Office, and Will Glenn, Public Information Specialist, for leading and publicizing the initiative.

Chairman Reckhow presented trophies to the following departments for collecting the most food:

- Small Dept.: Office of the County Attorney (County Attorney Chuck Kitchen)
- Medium Dept.: Tax Administration (Kimberly Simpson, Deputy Tax Administrator)
- Large Dept.: The Durham Center (Ellen Holliman, Director)

Chairman Reckhow congratulated the winning departments and thanked staff for their participation.

Proclamation Observing May 15-21, 2005 as EMS Week in Durham County

Governor Michael F. Easley proclaimed the week of May 15-21, 2005 as Emergency Medical Services Week in North Carolina. The Board was requested to approve the proclamation that recognizes the efforts of the EMS team and celebrates the vital contributions made every day by EMS providers in our community. These selfless medical professionals provide lifesaving care 24 hours-a-day, seven days-a-week, to those in need.

Vice-Chairman Heron read the following proclamation into the record:

PROCLAMATION

WHEREAS, emergency medical services are a vital public service that Durham County citizens depend upon; and

WHEREAS, throughout this nation, the members of emergency medical services teams are a lifeline to many in need of lifesaving care 24 hours-a-day and seven days-a-week; and

WHEREAS, access to quality emergency medical care tremendously raises both the recovery and survival rate of those who suffer from unexpected illness and injury; and

WHEREAS, the emergency medical services system consists of emergency physicians, emergency nurses, emergency medical technicians, paramedics, firefighters, educators, administrators, and others; and

WHEREAS, whether career or volunteer, the members of emergency medical services teams engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills and effectiveness; and

WHEREAS, it is appropriate to recognize the accomplishments of emergency medical services providers by joining other communities across America in celebrating Emergency Medical Services Week:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim

“EMERGENCY MEDICAL SERVICES WEEK”

in Durham, North Carolina during the week of May 15-21st. We urge all citizens to observe this week and celebrate the vital role that emergency medical service workers play in the healthcare continuum.

This the 9th day of May, 2005.

Mickey Tezai, EMS Director, thanked the Board for issuing the proclamation.

Consent Agenda

Commissioner Cousin moved, seconded by Commissioner Cheek, to approve the following consent agenda items:

- a. Contract Operations of the Triangle Wastewater Treatment Plant—RFP#: 05-017 (authorize the Manager to enter into a contract with United Water Hydro Management LLC for an amount not to exceed \$2,046,690 for FY 2005-2006 and approve annual adjustments authorized in this contract subject to availability of funds);

- b. Cooperative Extension—Position Change to Support Strengthening Families Initiative (approve the expansion of position C513001 from .37 full-time equivalent to .65 full-time equivalent);
- c. Replacement Chilled Water Plant at the Lincoln Community Health Center (authorize the Manager to enter into a contract with Comfort Engineers for \$108,900 to replace the chilled water plant and associated piping and equipment and to execute change orders, if necessary, not to exceed \$10,890 [10%]; the total contract shall not exceed \$119,790); and
- *d. Capital Project Amendment No. 05CPA0000011—Telecommunications System Upgrade (award \$1,410,000 toward the bid to Verizon and authorize the Manager to execute all necessary documents for the purchase of the equipment from Verizon).

The motion carried unanimously.

In reference to Consent Agenda Item No. a., Chairman Reckhow commended staff on the excellent write-up in terms of outlining the criteria and evaluation process. County Manager Mike Ruffin extended the compliments to County Engineer Glen Whisler and Utility Division Manager Chuck Hill.

*Documents related to these items follow:

Consent Agenda Item No. d. Capital Project Amendment No. 05CPA0000011—Telecommunications System Upgrade (award \$1,410,000 toward the bid to Verizon and authorize the Manager to execute all necessary documents for the purchase of the equipment from Verizon).

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Capital Project Ordinance
Amendment No. 04CPA0000011

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2004-05 Capital Project Ordinance is hereby amended to reflect budget adjustments for

GENERAL FUND

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
Telecommunications System Project	\$0	\$1,410,000	\$1,410,000

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

This the 9th day of May, 2005.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. f. Public Library Facilities Naming Policy (approve as reviewed by the Commissioners at their May 2, 2005 Worksession).

Chairman Reckhow recognized signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, for comments.

Commissioner Cheek related his understanding of the policy procedure.

Chairman Reckhow thanked Judge Willis P. Whichard, President of the Durham Library Foundation; J. Peter Anlyan, Director; and Library Director Philip Cherry for their work on the policy.

Commissioner Cheek moved, seconded by
Commissioner Page, to approve Consent Agenda Item
No. f.

The motion carried unanimously.

Adopt the 5-Year Consolidated Action Plan and FY 2005-2006 Annual Action Plan for Use of HOME/ADDI Funds

Katherine Simmons, Assistant Director, City of Durham Department of Housing and Community Development, introduced this item. The City Council and Durham County Board of Commissioners have each held two public hearings to receive citizen comments on the proposed priorities for use of HOME Investment Partnership/American Dream Downpayment Initiative (HOME/ADDI) funds by Durham Consortium over the next five years to address housing and community development needs in Durham, as required by the U.S. Department of Housing and Urban Development (HUD). The 5-Year (2005-2010) Consolidated Action Plan sets forth the priorities, goals, and strategies for the next five years.

The FY 2005-2006 Annual Action Plan sets forth the specific sub-recipients and activities that are recommended for funding with HOME/ADDI, CDBG, and Emergency Shelter Grant (ESG) allocations during the first fiscal year of the new 5-Year Plan. The draft 5-Year Plan, which staff continues to assemble, and the proposed FY 2005-2006 sub-recipients and activities have been available to the public since April 2, 2005. Public comments will continue to be used to refine the Plan before finalization and submission to HUD.

Commissioner Page asked for an explanation about the difference in dollar amounts between “requested” and “recommended” funding for JRUTH Inc. He inquired about assistance to aid the organization to prevent programs from being cut.

Ms. Simmons and Larry Jarvis, Associate Director, addressed Commissioner Page’s questions.

Chairman Reckhow recognized signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, for comments.

In relation to Dr. Allison’s concern about the recommended funding for code enforcement, Chairman Reckhow recapped the Commissioners’ request at the April 25 meeting for staff to relay the Board’s funding concerns to City Council.

Ms. Simmons updated the Board on the code enforcement funding issue. City Council delayed action until its May 16 meeting.

Vice-Chairman Heron asked Ms. Simmons how the City plans to use the \$480,000 for code enforcement.

Ms. Simmons explained that the funds would be used to compensate the City for: (1) inspections within HUD-recognized areas; and (2) activities that are considered a part of code enforcement for HUD.

The Commissioners briefly discussed the function of code enforcement, in which the County has no monetary involvement.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to: 1) adopt the 5-Year Consolidated Action Plan and FY 2005-2006 Annual Action Plan for use of HOME/ADDI for submission to the U.S. Department of Housing and Urban Development; and 2) authorize the Durham City Manager on behalf of the Durham Consortium to execute all administrative requirements and contractual documents necessary for implementation of the Annual Action Plan to include all HOME/ADDI program agreements and other Annual Action Plan documents.

The motion carried unanimously.

Major Site Plan—Freudenberg Materials Storage Building (D04-665)

Frank M. Duke, AICP, Planning Director, stated that O’Neal Inc., on behalf of Freudenberg Nonwovens-Tuft Division, submitted a major site plan for a 3,720-square-foot material storage building at the existing manufacturing facility on a 164-acre site zoned I-2 and F/J-A. The property is located at 3500 Industrial Drive. (PIN 0844-03-22-4584).

Planning staff recommended approval.

Vice-Chairman Heron moved, seconded by Commissioner Cousin, to approve Major Site Plan—Freudenberg Materials Storage Building (D04-665).

The motion carried unanimously.

Civic Center Management Agreement

Carolyn P. Titus, Deputy County Manager, introduced the request for the Board to approve a new Civic Center Management Agreement with the Shaner Hotel Group, operator of the downtown Durham Marriott Hotel. As co-owners of the Durham Civic Center, the City and County have jointly held a Management Agreement and a Catering Agreement for operation of the facility since it was built in 1987. The current contracts with the Shaner Hotel Group were entered into in 1999 and have been extended through May 31, 2005. The Board of County Commissioners received a presentation on the new management agreement at the May 2, 2005 Worksession and provided direction and feedback to staff.

Changes to the agreement, requested by the Management Company since the May 2, 2005 Worksession, do not alter the agreement as presented on May 2 and are summarized as follows:

1. **Effective Date:** The date of the agreement was changed from January 1, 2005 to June 1, 2005. The retroactive date was initially set so as not to provide an incentive for delaying contract negotiations. However, since more time has transpired than originally anticipated, the financial reconciliation for the past five months would be most difficult. Therefore, the June 1, 2005 date was agreed upon. In order to allow for a smooth and seamless transition, language has been added in Section 17.19 that continues the 1997 contract, as amended, from June 1, 2005 through June 30, 2005. Thus, the terms of the new contract will be effective starting July 1, 2005 to coincide with the fiscal year. For the month of June, however, the terms of the old agreement will remain in effect.
2. **Section 5.4:** In this section regarding budget, the language was revised to include a provision that states that the Management Company is not to expend funds in

excess of the budget, which is included to further articulate the indent of the parties to approve a budget and have the Center operated in a fiscally sound manner within budget. Further, the revisions clearly state the process for submitting budget amendments in the event the Management Company anticipates budget shortfalls. The process includes reviews and recommendation from the Authority and approval by the Board and Council.

3. **Section 10.2.1.2:** The requirement for Bailee Liability was deleted since the Management Company does not have this specific coverage. However, the Management Company does have sufficient coverage to protect them from theft by employees or agents and is required to take all reasonable precautions to control and prevent the theft of any funds associated with the Civic Center (sec. 8.1).
4. **Section 11.2.1:** In the section under “Employment Practices”, the word “qualified” was inserted at the request of the Management Company to address occupational qualifications of employees, and Management Company’s need to address qualifications as necessary (disabled employees cannot be assigned to jobs that they are unable to do because of their disability).
5. **Section 11.3:** The City’s M/WBE Ordinance has been changed to a SDBE.
6. **Section 11.6:** In the section addressing “Livable Wage”, a sentence was added to clarify that the City Manager had determined that this contract is not subject to the City’s Livable Wage Ordinance.
7. **Section 13.1.2 (d):** In the “Termination” section, paragraph (d) was deleted. The provision was repetitive and caused some confusion. The other default provisions are adequate to address this discontinuance of service by Management Company.
8. **Exhibit A:** The last two (2) cost centers were added to account for Food, Beverage, and Banquet Expenses. These items were negotiated previously but left out of the allocation schedule inadvertently.
9. **Exhibit B:** The financial reporting form was revised to reflect additional and different information needed by the City’s Finance Office for monthly reporting.

The two other agreements governing Civic Center operations (Air Lease Agreement and City-County Interlocal Agreement) remain in full force and effect until their expiration seventy-five (75) years from project inception in 1987.

Vice-Chairman Heron asked questions of Ms. Titus pertaining to the Exhibit A, Cost Allocations for Shared Expense Categories.

Vice-Chairman Heron commented that the Board was not given adequate time to review the contract. She communicated that the County may lose money with the agreement.

Chairman Reckhow clarified that the contract would save the County approximately \$100,000.

Commissioner Cheek expressed support for the agreement. He explained that the Civic Center's purpose is not to make money; it creates an environment to attract visitors to spend money in the community.

Vice-Chairman Heron reiterated her comment about limited time to review the agreement.

Chairman Reckhow synopsized the County's past payments and future savings for the Civic Center.

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve the Civic Center Management Agreement and enter into the contract with the City of Durham and the Shaner Hotel Group Properties Two Limited Partnership for a period of five (5) years.

The motion carried unanimously.

Chairman Reckhow thanked staff for their hard work.

Approval of the County's 10-Year Capital Improvements Program (CIP) (FY2006-FY2015)

Staff reviewed the 10-Year CIP for FY2006-2015 with the Board of County Commissioners, initially at the April 4, 2005 Worksession and again at the April 18, 2005 CIP Special Session. The final review was held at the May 2, 2005 Worksession.

County Manager Mike Ruffin reviewed the project changes made as a result of those meetings. The project cost changes were: Detention Center Expansion & Renovation Project; Detention Center Fingerprinting Area Project; and Durham Public Schools Capital Projects. The Board had been given the following information: Attachment 2—a listing of all the projects; Attachment 3—detailed each project showing the costs as well as the recommended funding. Attachment 4—the Capital Finance Plan (CFP) Model to support this CIP.

County Manager Ruffin explained to the Board that prior to the meeting, Chairman Reckhow had questioned the FY09-10 project costs for Durham Public Schools. In addition, she recommended postponing renovations to the Main Library.

Chairman Reckhow stated that delaying the projects would result in lower finance costs.

Vice-Chairman Heron commented on the possible decrease in usage of the Main Library due to the construction of new libraries over the next ten years.

County Manager Ruffin informed Vice-Chairman Heron that usage of the library would be monitored over the next couple of years.

Commissioner Cheek inquired about types of renovations. He expressed concern that delaying library renovations may create safety and structural issues.

Chairman Reckhow informed Commissioner Cheek that the libraries are receiving regular maintenance.

Glen Whisler, County Engineer, enlightened Commissioner Cheek on prior library maintenance (i.e. roofing and chiller replacement).

County Manager Ruffin clarified that delaying the renovation by one year should not create major maintenance issues. He forewarned the Board that if citizens vote against the bond in 2009, then alternative financing for the renovations must be considered.

Commissioner Page concurred with Commissioner Cheek's concern about delaying renovations.

Chairman Reckhow recommended delaying action on the 10-Year Capital Improvements Program.

County Manager Ruffin reminded the Board of the Manager's FY05-06 Recommended Budget, which is due in two weeks. The Board may approve the projected costs for FY05-06; however, approval of the 10-year plan may be delayed.

The Commissioners concurred to postpone action until the Library Board is informed of the project delay by one year.

Chairman Reckhow called signed speaker Victoria Peterson, P.O. Box 101, Durham, NC 27702, forward for comments.

Chairman Reckhow addressed Ms. Peterson's comments, stating that \$4 million has been appropriated in a contingency fund for a vocational-technical center.

Board and Commission Appointments

The Board appointed the following citizens to the Women's Commission in at-large positions:

Joyce Loeb sack
Laura Walters

Closed Session

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to adjourn to Closed Session pursuant to G.S. § 143-318.11(a)(5), the Board is requested to adjourn to Closed Session to instruct staff concerning the position to be taken on the terms of possible acquisition of 306 S. Roxboro Street owned by Scarborough and Hargett Funeral Home.

The motion carried unanimously.

Reconvene to Open Session

Chairman Reckhow announced that in closed session, direction was given to staff; no action was taken.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 9:05 p.m.

Respectfully submitted,

Vonda C. Sessoms
Clerk to the Board