

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

Monday, June 14, 2004

7:00 P.M. Regular Session

ACTION MINUTES--DRAFT

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

Present: Chairman Ellen W. Reckhow, Vice-Chairman Joe W. Bowser, and Commissioners Philip R. Cousin Jr., Becky M. Heron, and Mary D. Jacobs

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session-Pledge of Allegiance

Agenda Adjustments

- Commissioner Jacobs asked the County Manager to give a brief justification for the proposed tax increase in his recommended FY 2004-05 budget.
- Commissioner Jacobs added an item pertaining to the audit as it relates to transfers from the Cafeteria Plan to the General Fund and insurance premium overcharges.
- Vice-Chairman Bowser revised the agenda to add: "Public Hearing-Zoning Ordinance Text Amendment-Package Plants in Watershed Critical Areas (TC 04-02)". (This item had been removed from the agenda several days prior to the meeting.)
- "Tax Revenues-Raleigh-Durham International Airport" was added by Vice-Chairman Bowser.
- Chairman Reckhow added "Communication to Our Legislators on Social Service and Education Cuts".

Minutes

Commissioner Heron moved, seconded by Commissioner Cousin, to approve as submitted the May 24, 2004 BOCC/Durham Public Schools Board Joint Session and the May 24, 2004 Regular Session Minutes of the Board.

The motion carried unanimously.

Resolution Honoring Mr. Anthony -Tony" Mulvihill

Mr. Tony Mulvihill, who recently lost his battle with cancer, was a respected community leader and tireless advocate for persons needing substance abuse treatment. This resolution recognizes Mr. Mulvihill's accomplishments and honors his memory.

Resource Person(s): Ellen Holliman, Interim Area Director, The Durham Center

County Manager's Recommendation: The Manager recommended that the Board approve the resolution and present it to the family of Mr. Mulvihill.

Chairman Reckhow read the following resolution into the record:

RESOLUTION

WHEREAS, Anthony Dennis Michael "Tony" Mulvihill lost his valiantly fought battle with cancer on April 6, 2004 at Duke University Medical Center; and

WHEREAS, he spent a lifetime as a dedicated and tireless advocate for the treatment of persons suffering from drug and alcohol addictions; and

WHEREAS, for more than 33 years, Mr. Mulvihill served as Executive Director of the Alcohol and Drug Abuse Council of North Carolina and helped many thousands of people in finding treatment for their addictions; and

WHEREAS, Mr. Mulvihill loved the Durham community and worked hard to make it a better place in which to live and raise families; and

WHEREAS, because of his extraordinary efforts, families and individuals affected by substance addiction have realized an improved quality of life; and

WHEREAS, he will long be remembered for his boundless energy, his professional expertise, and for his unique insights into the complex world of substance abuse and addiction:

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

MR. ANTHONY MULVIHILL

a compassionate public servant who unselfishly gave his talents to improve the lives of others. We call

upon citizens of Durham County to remember the numerous contributions he made in this community and beyond, and in the lives of those he touched during his extraordinary career.

This the 14th day of June, 2004.

/s/ Five Commissioners

Durham County Commissioners

Consent Agenda

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the following consent agenda items:

- *a. Budget Amendment No. 04BCC000075 (eliminate the budgeted transfer of \$400,000 from the Cafeteria to the General Fund; appropriate \$400,000 in additional property tax revenues in the General Fund);
- *c. Order for Impact Fee Hearing (adopt the proposed order denying the appeal of Mr. Brian Ruff);
- *d. To Set a Public Hearing to Close Flanders Street (SC03-13) (adopt the resolution and set the public hearing for June 28, 2004);
- *e. To Set a Public Hearing to Close Hillview Drive (SC03-14) (adopt the resolution and set the public hearing for June 28, 2004);
- *f. To Set a Public Hearing to Close Northwest Drive (SC03-15) (adopt the resolution and set the public hearing for June 28, 2004);
- *g. To Set a Public Hearing to Close Opal Street (SC03-16) (adopt the resolution and set the public hearing for June 28, 2004);
- *h. To Set a Public Hearing to Close Rondelay Drive (SC03-17) (adopt the resolution and set the public hearing for June 28, 2004);
- *i. To Set a Public Hearing to Close Wenham Court (SC03-18) (adopt the resolution and set the public hearing for June 28, 2004);
- *j. Board Appointments-The Durham Center Area Board (extend the current Area Board members' terms to four years [July 2004 to July 2008]);
- k. Appointment-Downtown Durham Inc. (appoint Commissioner Jacobs to the Downtown Durham Inc. Board of Directors [term to end November 2004]);
- l. Sheriff's Office-Purchase of Two Electronic Fingerprinting Systems-Live Scan (approve the exception to the formal bidding process to allow the Sheriff's Office to "piggyback" on the City of Durham's bid as allowed under state statute); and
- *m. Living Wage Policy (adopt to require service contractors to pay a living wage).

The motion carried unanimously.

Public Hearing on the 2004-05 Recommended Budget

The Board of County Commissioners conducted a public hearing to receive citizen input on the FY 2004-2005 recommended budget. To allow comments from all interested citizens, Chairman Reckhow set a time limit of three minutes for each speaker.

County Manager's Recommendation: The Manager recommended that the Board receive input from speakers and incorporate in the deliberations prior to finalization of next fiscal year's budget.

As requested by Commissioner Jacobs, Chairman Reckhow asked the County Manager to give a brief overview of the highlights in the budget and the rationale for the recommended 3-cent tax increase.

Public Hearing-Zoning Ordinance Text Amendment-Common Signage Plans in the Mixed-Use and Downtown Design Overlay Districts (TC 04-01)

In developing the UDO, concern was raised that existing requirements for common signage plans were too restrictive for Downtown and mixed-use projects, where greater variety in signage could stimulate visual interest. Accordingly, the UDO draft permits the DDRT to approve variations in all elements of a common signage plan. Design considerations may include compatibility with historic character, relation to architectural proportions, views, durability, and conformance with the design guidelines for downtown. This Amendment incorporates those changes in the Zoning Ordinance. The Zoning Committee of the

Durham Planning Commission reviewed the Amendment and voted to recommend Approval (6-0) at its April 14, 2004 meeting. The Durham City Council voted to approve (7-0) the amendment at its May 17, 2004 meeting.

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

County Manager's Recommendation: The Manager recommended that the Board hold a public hearing and, if appropriate, adopt the amendment to the Zoning Ordinance.

Mr. Duke presented additional information pertaining to the text amendment. He stated that the Zoning Ordinance establishes the elements of common signage plans to ensure uniformity. The proposed zoning text amendment permits the Durham Design Review Team (DDRT) to recommend additional variations in common signage plans in the Downtown Design Overlay District and the Mixed Use (MU) District. The draft amendment is intended to facilitate the design of varied and interesting signage in keeping with the organic and eclectic character of downtown or mixed-use development. Uniform signage, as required by the current sign ordinance provisions, may be appropriate for suburban shopping centers but is not in keeping with the downtown architecture and streetscape that the Downtown Durham Master Plan envisions or in mixed-use development.

Commissioner Heron moved, seconded by Commissioner Cousin, to adopt Zoning Ordinance Text Amendment-Common Signage Plans in the Mixed-Use and Downtown Design Overlay Districts (TC 04-01).

The motion carried unanimously.

Sheriff's Office-Gang Activity Presentation

Locally, Durham has over 3,000 confirmed gang members and countless local gangs and gang members are unaccounted. Statistically, local gangs are engaged in 84% of the drug trafficking and violent crimes. Although gang-related crimes are not as prevalent at this time in the unincorporated areas of Durham County as they are within City limits, they do heavily affect the safety in our schools and our detention facility. It is not against the law to belong to a gang. It is against the law to commit a crime, and this gang-related violence has dramatically increased over the past few years.

Intelligence and education are the community and law enforcement's strongest weapon against gang activity. People are needed to gather intelligence and educate the public. Through a partnership between the Sheriff's Office and Durham Police Department, an intelligence software package has been purchased and is being implemented. Currently, the Sheriff's Office has no dedicated resources to respond to this community crisis. The department is asking the Commissioners to evaluate this priority in the Durham Community.

Resource Person(s): C.W. Crabtree, Lt. Don Ladd, Deputy Dodson

County Manager's Recommendation: The Manager's recommendation was that the Board receive the presentation and provide direction as appropriate.

Deputy Chief Crabtree introduced Lt. Ladd to address the extent of the gang problem, situations that cause gang involvement, and the impact of gang activity in Durham.

Lt. Ladd gave the presentation.

Lt. Ladd concluded his presentation by stating that criminal gang activity affects each citizen of Durham County, regardless of race, sex, and social or economic position.

Chief Deputy Crabtree expounded on particular data presented by Lt Ladd. The Sheriff's Department would be capable of doing more to address the increasing gang problem with adequate resources. The four additional sworn law enforcement officers requested to gather intelligence and enter information into a gang database (jointly owned by the County and City with State capabilities [the State paid for the hardware]) had been removed from the budget.

Public Hearing-Zoning Ordinance Text Amendment-Package Plants in Watershed Critical Areas (TC 04-02)

The Zoning Ordinance prohibits the extension of sewer lines and the location of sewer facilities into watershed critical areas. The proposed zoning text amendment permits the location of sewer facilities and/or the extension of sewer lines into such areas to serve developments designed consistent with the principles of a Conservation Subdivision subject to the issuance of a major special use permit and establishes conditions for the issuance of such a permit. The Zoning Committee of the Durham Planning Commission recommended approval (5 - 2) at its May 11, 2004 meeting.

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

County Manager's Recommendation: The Manager recommended that the Board hold a public hearing and, if appropriate, adopt the amendment to the zoning ordinance.

Vice-Chairman Bowser added this item to the agenda, stating that the item had been removed from the agenda several days ago due to concerns of Commissioners Cousin and Heron. He commented that two Commissioners should not have the authority to defer an item. Vice-Chairman Bowser expressed that, in fairness to the petitioner, the item should not have been removed. Any decisions regarding this text amendment must be made by the Board as a whole, in conjunction with the petitioner.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to continue the public hearing on the "Zoning Ordinance Text Amendment- Package Plants in Watershed Critical Areas" to June 28 to allow staff to include the suggested language.

The motion carried unanimously.

Major Site Plan-Hamlin Road Bus Parking (D04-085)

Coulter Jewell Thames, P.A., on behalf of Durham County and Durham Public Schools, has submitted a site plan for a school bus parking lot with 68 parking spaces and a 1,344-square-foot office trailer to be added along with an existing building and parking lots on a 10.61-acre site. The proposed project will be located at the northwest corner of Hamlin Road and Industrial Drive and be accessed by two existing driveway entrances off Hamlin Road and a new driveway entrance off Industrial Lane. Street Atlas Page 43, Block B-2. PIN 0843-01-29-5738.

The site plan was denied by the Development Review Board due to the absence of a turn lane into the bus parking lot. The County is confronted with legal constraints that prohibit its ability to construct and pay for road improvements. A copy of General Statute 136-98 was included in the attachments. Approval of the site plan in its present configuration would allow staff to move forward with construction of the North Regional Library.

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

County Manager's Recommendation: The Manager's recommendation was that the Board approve the site plan.

Mr. Duke informed the Board that staff and the Development Review Board had recommended denial of the site plan because technical Ordinance requirements are not being met due to the absence of provisions for road improvements (turn lane). North Carolina law limits the ability of the County to make those road improvements. The Zoning Ordinance makes no provision for waving the technical requirements of the ordinance dealing with making improvements required to maintain safe and efficient traffic flow; however, the approving authority can make a determination that the improvements are not required. NCDOT and the City of Durham Transportation Division have continued to maintain that the turn lane is necessary.

Commissioner Heron moved that the Board approve the Major Site Plan-Hamlin Road Bus Parking (D04-085) and continue to work with DOT to identify monies to build the turn lane.

Commissioners Cousin and Jacobs were cautious about approving the site plan without a definite plan for turn lane construction.

The motion failed with the following vote:

Ayes: Heron and Reckhow

Noes: Bowser, Cousin, Jacobs

Noes: None

State Legislation to Phase Out North Carolina Counties Share of Medicaid

Statewide support was being sought to encourage sponsorship of legislation in the North Carolina General Assembly to phase out counties share of Medicaid over a five-year period. Durham County's share of Medicaid for FY 2005 is estimated at over \$10 million.

Resource Person(s) Mike Ruffin, County Manager

County Manager's Recommendation: The Manager recommended that the Board endorse the proposed legislation and authorize the Chairman to notify Durham County's legislative delegation of the Board's action.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to endorse the proposed legislation and authorize the Chairman to notify Durham County's legislative delegation of the Board's action.

The motion carried unanimously.

Confirmation of Human Resource Audit-Content

Commissioner Jacobs referenced correspondence the Board received from the County Manager regarding supporting documentation for the audit relating to 1995-1999 transfers from the Cafeteria Plan to the General Fund and related insurance premium overcharges. She stated that the information beginning with year 2000 would be sufficient. Commissioner Jacobs requested the Board's input.

Chairman Reckhow informed the Commissioners that the transfers into General Fund from Cafeteria Fund would be reflected in the budget. She advised that the records be retrieved, to the degree possible, starting at 1995 when the problem began. The Board should strive for completeness as opposed to expediency. Half of a report would do limited good in terms of understanding the situation.

County Manager Ruffin and County Attorney Kitchen explained that records prior to 1999 might have been destroyed due to water damage in the judicial building where the records were stored.

Vice-Chairman Bowser recommended using the records beginning in 1999 provided the the report would be available on June 28; otherwise, he would concur with Commissioner Jacobs's suggestion to begin with the year 2000.

Commissioner Jacobs moved, seconded Vice-Chairman Bowser, that the auditor go back to the year 1999 if the information can be available in time for the June 28 discussion, if not, the year 2000 would be sufficient.

Commissioner Heron amended the motion that the auditor go back to the year 1995, to the degree possible, provided the information is available for the June 28 discussion.

The amended motion carried unanimously.

Tax Revenues-Raleigh-Durham International Airport

Vice-Chairman Bowser added this item to permit discussion, suggesting that the Board move forward in pursuit of collecting Durham County's share of undedicated revenues generated at the Airport.

Chairman Reckhow referenced a letter from Mr. Reyn Bowman, offering to facilitate negotiations.

County Manager Ruffin informed the Board that at the May 28 meeting with Wake County and Raleigh City Managers, Mr. Bowman offered to proceed with developing a model to determine the amount of revenue involved. The offer was rejected by both Managers. They did not want to participate in the development of the report. The law is fully on their side; they have no legal obligation to share the revenues, as all the pertinent taxes are collected in Wake County. Both Managers stated that their recommendation to the Council and Commission would be not to consider an interlocal agreement to share in the revenues.

Commissioner Jacobs recommended further pursuit and investigation of this matter.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, that the Board direct Chairman Reckhow to send a letter to the Wake County Commissioners and the City of Raleigh to inform them that the Durham Commissioners will move forward in pursuit of collecting Durham County's share of undedicated revenues generated at the Airport. Copy the letter to the State Legislators.

The motion carried unanimously.

Communication to Our Legislators on Social Service and Education Cuts

Chairman Reckhow shared information she received regarding a chart showing public school funding as a percentage of the State's general fund budget. Approximately 30 years ago, 52 percent of the State's general fund budget was allocated to public school systems. If the adopted House budget were approved, the percentage would be reduced to 38.9 percent. Durham Public Schools stands to lose \$487,347. In addition, the Governor proposed a \$10 million increase in childcare subsidies; however, the House has decreased that amount to \$2 million, which may result in the elimination of about 2,000 children from the childcare subsidies program. Also, the Health Choice program for youngsters has been frozen. Chairman Reckhow recommended that the Board appeal to the State Senators to work towards restoring the education funding and, in particular, the childcare subsidy funding.

Vice-Chairman Bowser and Commissioners Cousin, Jacobs, and Heron concurred with Chairman Reckhow's suggestion.

Adjournment

Chairman Reckhow adjourned the meeting at 10:58 p.m.



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