

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

Monday, June 28, 2004

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 Joe W. Bowser, and Commissioners Philip R. Cousin Jr., Becky M. Heron (arrived at 7:09 p.m.), and Mary D. Jacobs

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

Agenda Adjustments

Vice-Chairman Bowser made a motion, seconded by Commissioner Jacobs, to move Progress Report on Benefits Audit (Item No. 18a) and County Manager's Reviews of Internal Audit of HR (18b) to follow the Anchor Award presentation.

The motion carried with the following vote:

Ayes: Bowser, Cousin, Jacobs

Noes: Reckhow

Absent: Heron (arrived late)

Vice-Chairman Bowser made a motion, seconded by Commissioner Cousin, to move FY 2004-2005 Budget Ordinance Adoption (Item No. 15) to follow County Manager's Reviews of Internal Audit of Human Resources.

The motion carried unanimously.

Minutes

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve as submitted the June 14, 2004 Regular Session Minutes of the Board.

The motion carried unanimously.

June Anchor Award Winner—Kara Warren

Kara Warren, Staff Assistant III for the Purchasing, Supplies, and Education Department at EMS Station 6 and Nationally-Certified Child Passenger Safety Technician, was selected to receive the June Anchor Award. Ms. Warren had been instrumental in installing car seats at Durham County EMS Station 6, which was designated as a Car Seat Checking Station by the NC Department of Insurance and the Office of the State Fire Marshal.

Kevin Wilson, EMS Education Coordinator, stated that when the program started in 2001, Ms. Warren installed 100 seats; 249 seats in 2002; and in 2003, Kara installed 275 car seats. (The number of car seats installed each year is expected to increase.) Many times, parents arrive without an appointment to have car seats installed or inspected, and Ms. Warren stops to assist. Car seat installation requires 45 minutes to an hour, which pulls Ms. Warren from her job responsibilities at EMS. Ms. Warren has demonstrated her outstanding customer service, her ability to be a compassionate person, and her capacity to care about the well-being of Durham County's children. She is always pleasant and accommodating to parents or caregivers while scheduling appointments, answering questions, and/or providing driving directions.

Ms. Warren accepted the Anchor Award and the \$200 check.

Progress Report on Benefits Audit

Charlie Hobgood, Internal Audit Manager, prepared a progress report on the status of the benefits audit. The engagement letter for the benefits audit included nine tasks, several of which were complete; however, since the audit was incomplete, no draft of the audit, including recommendations, was available.

County Manager Ruffin explained that this matter dates back to year 1995. The County had a revelation of a \$2.2 million deficit in its benefits fund, the Cafeteria Plan, which was established in the mid 1990s. In the first year or two of the plan, the Commissioners were advised of a \$1.3 million deficit and a \$900,000 projected future deficit. A benefits consultant, Coopers & Lybrand, was employed to assist the County with the development of a strategy to resolve the current deficit, as well as assist with a long-term remedy to avoid future deficits. The October 9, 1995 and November 6, 1995 BOCC meetings were devoted to discussions with representatives from Coopers & Lybrand regarding recommended options. The Board eventually settled on the option to extend 1995 rates for life insurance and short- and long-term disability to generate additional monies.

An investigation of the 1995 events and the additional charges to employees for life insurance and long- and short-term disability was performed last fall (2003). Consequently, the County's Internal Auditor was directed to undertake this particular audit.

County Manager Ruffin introduced Mr. Hobgood to provide the progress report on the status of the benefits audit.

Mr. Hobgood stated that the audit was being conducted in response to a Board directive regarding transfers from the Cafeteria Plan Fund to the General Fund. The objectives and answers follow:

1. *Determine the amount of transfers from the Cafeteria Plan Fund to the General Fund and the purpose of the transfers.*

Transfers of \$1 million each were made from the Cafeteria Plan Fund to the General Fund on May 24, 2000 and February 13, 2001 for a total of \$2 million. The transfers were used for General Fund expenditures with no indication that the transfers were expected to be used for any other purpose. An additional \$400,000 transfer was included in the 2004 budget ordinance; however, that transfer has not been made.

2. *Determine how the surplus in the Cafeteria Plan Fund was generated.*
This objective has not yet been addressed.

3. *Determine how much of the surplus was due to vacancies in departments and how much was due to the extra charge for life insurance.*
This objective has not yet been addressed.

4. *Determine how many employees used personal funds to buy life insurance.*
719 out of 1700 employees (information obtained from employees' open-enrollment forms during calendar year 2000).

5. *Determine who was responsible for setting employee rates for life insurance between FYs 1995 and 2004.*

Discussions with Human Resources personnel indicate that the County Commissioners authorized that rates charged to employees for life insurance continue at 1995 rates for calendar year 1996. Additionally, Human Resources personnel indicated that the rates remained constant through calendar year 2002 in spite of actual rate changes from the vendor. The Board received the recommendation to continue the 1995 rates from a consultant with the firm of Coopers and Lybrand. Oral representations made by Human Resources personnel will be corroborated through a review of appropriate documentary evidence.

6. *Determine the basis for the life insurance rates.*

Discussions with Human Resource personnel indicate that rates charged to employees for 1995 were actual rates charged by the vendor. Human Resources personnel indicated that rates charged to employees for calendar years 1996 through 2002 were the same rates as those charged by the vendor for calendar year 1995. Oral representations made by Human Resources personnel will be corroborated through a review of appropriate documentary evidence.

7. *Determine when the County stopped showing a budget line for retirement benefits.*
Doctors Health Plan and Wellpath of Carolina were offered to retirees in 1998 and 1999, respectively, and were never budgeted. The County stopped budgeting for all retiree benefits in 2001.
8. *Determine who authorized the transfers.*
The County Commissioners authorized the transfers in each of the original budget ordinances for fiscal years ending June 30, 2000 and 2001. The actual funds were transferred by general journal entry from the Cafeteria Plan Fund to the General Fund. Additionally, the budget ordinance for FY 2004 included a transfer of \$400,000 from the Cafeteria Plan Fund to the General Fund; however, it appears that the actual transfer will not be made.
9. *Determine the cost of retirement benefits for fiscal years 1995 through 2004.*
Information for fiscal year 1995 was unavailable. For fiscal years 1996 through June 10, 2004, expenditures for retiree benefits totaled \$4,443,910.

Commissioner Heron inquired about the companies that offered benefits to retirees prior to 1998.

Mr. Hobgood stated, “Carolina Physicians, Blue Cross/Blue Shield, Prudential, and Kaiser.”

Commissioner Heron directed that this information be provided in the final report.

Commissioner Jacobs’ question pertained to answer No. 5, “rates remained constant through calendar year 2002 in spite of actual rate changes from the vendor”—was the change an increase or decrease?

Mr. Hobgood responded that the rates for 1996 decreased.

Commissioner Jacobs inquired about the \$1 million transfers on May 24, 2000 and February 13, 2001.

County Manager Ruffin responded that he was employed by Durham County in November 2000, subsequent to the May 24, 2000 transfer. Although he was the County Manager during the February 13, 2001 transfer, the transfer was approved in the FY 2000-01 Budget Ordinance, also prior to his employment.

Chairman Reckhow interjected that she inquired about the two Board-approved transfers to the General Fund, being told that the Cafeteria Plan is funded at 100% of the County’s workforce; however, not all of these funds were expended due to employee vacancies, turnover, and/or hiring freezes, which created a surplus. The Commissioners finalized, at their last meeting, that the \$400,000 transfer will not be made in FY 2004-05. The surplus issue would be addressed when question No. 3 is answered.

Commissioner Jacobs asked for clarification in regards to answer No. 9—“expenditures for retiree benefits totaled \$4,443,910”.

Chairman Reckhow stated that the fall 2003 report received by the Board showing yearly insurance discrepancies totaled much less than \$4,443,910.

Mr. Hobgood explained that the \$4,443,910 expenditure for retiree benefits for FY 1996 through June 10, 2004, was the gross expenditure, not the amount in excess of retiree contributions.

Vice-Chairman Bowser asked for further explanation of answer No. 4—“719 out of 1700 employees”.

Mr. Hobgood conveyed that only calendar year 2000 was assessed, representing the actual number of employees having out-of-pocket expenditures for life insurance.

Vice-Chairman Bowser directed Mr. Hobgood to determine whether these employees would have had out-of-pocket expenses if the 1995 rates for life insurance and short- and long-term disability insurance had not been extended.

Vice-Chairman Bowser asked the difference between what employees paid versus actual rates.

Neither Mr. Hobgood nor Ms. Knight, Human Resources Director, knew the amount.

Vice-Chairman Bowser asked Human Resources staff to explain the source of the \$4,443,910 referenced in answer No. 9.

Chairman Reckhow reiterated that excess funds in the Cafeteria Plan resulted from the plan being funded at 100% of the County’s workforce. A surplus was created due to employee vacancies, turnover, and/or hiring freezes; however, the plan must be funded at 100% to prevent a similar deficit that occurred in the mid 1990s.

Vice-Chairman Bowser stated his opinion that a surplus in the Cafeteria Plan Fund should be used to offset employee out-of-pocket expenses for family health insurance.

Mr. Hobgood elaborated on answer No. 5 as requested by Commissioner Cousin.

Commissioner Cousin asked Mr. Hobgood to include insurance rate fluctuations from 1995 through 2004 in his final report.

Commissioner Heron explicated the Cafeteria Plan, stating that a portion of the surplus resulted from employees not using their entire bi-weekly flex benefit credit.

Commissioner Jacobs expressed that employees should not have been overcharged for benefits. She asked County Manager Ruffin if he were concerned that Human Resources

never reminded the Board of Commissioners that rates charged for employee life insurance were not synonymous with rates that vendors were passing to the County.

County Manager Ruffin responded that he was concerned. Subsequent to being informed of the issue, he obtained verbatim transcripts of the 1995 October and November Commissioner meetings. The November 6, 1995 meeting transcript revealed that the Board would extend the rates for two years to resolve the \$2.2 million deficit. Then Chairman MaryAnn Black asked staff to return to the Board with a longer-term strategy. Primary responsibility to follow up was vested with Interim County Manager Michael Palmer. County Manager Ruffin spoke with Mr. Palmer in January 2004; however, Mr. Palmer could not recall details about the matter. Other relevant changes would have been part of the FY 1997 Budget, prepared under County Manager David Thompson, who began employment on April 19, 1996. During a conversation between Mr. Ruffin and Mr. Thompson in January 2004, Mr. Thompson stated that he did not recall the issue being raised with him. The January 2001 Board-approved transfer prompted County Manager Ruffin to investigate the reason for the Cafeteria Plan Fund surplus. He was told that the surplus was created because 100% of the cost of employee benefits was placed in the fund, but not expended. County Manager Ruffin conveyed that reasons for the surplus were unspent funds and differences in the insurance charges. Mr. Hobgood's engagement letter would discern the amounts.

Commissioner Jacobs asked Chairman Reckhow and Commissioner Heron, who both served as Commissioners in 1995, if they remembered whether insurance rates were to be extended for two years or for a longer period.

Chairman Reckhow responded that the Commissioners had viewed the solution as a short-term fix.

Mr. Hobgood stated that an underpayment to benefit vendors might have contributed to the Cafeteria Plan Fund surplus.

Chairman Reckhow recommended that Mr. Hobgood consider, in his audit, that employees are allowed to contribute personal pre-tax dollars for childcare and medical expenses.

Commissioner Cousin expressed apprehension that County Manager Ruffin and two former managers were unaware of the revenue streams in the budget process.

Chairman Reckhow suggested that upon audit completion, the Board should seriously examine the Cafeteria Plan. She directed Mr. Hobgood to forward a schedule regarding audit completion to the County Manager so the Board would know when to expect the complete audit.

County Manager's Reviews of Internal Audit of HR

The County Manager notified the Board of Commissioners through a June 7, 2004 Memorandum of his findings relative to an internal audit of the Human Resources Department. The Manager's review was confined to the documentation that the Internal

Audit Manager and Human Resources Director submitted to support their findings, as well as interviews conducted in closed sessions on April 12, 2004 and April 26, 2004. County Manager Ruffin also held follow-up interviews with Mr. Hobgood, Ms. Knight, and several individuals Mr. Hobgood had interviewed.

County Manager Ruffin presented the Internal Audit of the Human Resources Department—
County Manager’s Review:

Internal Audit Function

- Initiated in mid-1980s
- Audit process guided by:
 - Internal Audit Charter
 - Internal Audit Policy Statement

Internal Audit Charter

- Enabling document that structures the internal audit process
- All internal audits governed by Institute of Internal Auditor’s *Code of Ethics and Standards for the Professional Practice of Internal Auditing and Statement of Responsibilities*
- Independent appraisal
- Authority granted for full, free, and unrestricted access to any and all County records
- Internal management tool

Internal Audit Policy Statement

- Includes some of the Charter provisions
- Includes a 13-point mission statement
“Review the established systems to ensure compliance with those policies, plans, procedures, laws, and regulations that could have a significant impact on operations...”
- Establishes reporting procedures

Auditor’s Engagement Letter

- Issued and signed January 15, 2004
- Objectives:
 - Reliability and integrity of recorded transactions
 - Compliance with policies, directives, procedures, etc.
- Scope of Work:
 - Employee Relations and Policy
 - Technical Services
 - Benefits
 - Administration

Audit Summary

- Did not address three of the four areas outlined in Engagement Letter:
 - Employee Relations and Policy
 - Technical Services
 - Benefits
- Administration was the only area reviewed

Audit Findings

- Eleven Findings including:
 - Favoritism
 - Policy violations
 - Improper delegation of authority
 - Inadequate oversight
 - IRS violations
 - Failure to execute required contract

Finding #1: Favoritism

- Audit lumped in 218 promotions and 41 reclassifications, all of which complied with County policy
- Promotion—An employee competes for and wins appointment to a new position with greater duties and responsibilities and higher salary
- Reclassification—An employee's duties and responsibilities change with no change in salary. Reclassifications correct salary inequities.
- Average Promotion: 9.21%
- All 58 promotions of more than 5% initiated by department heads, not Human Resources
- Human Resources did not appropriate \$652,575. Funds for positions are maintained in departments and approved by department heads.
- Favoritism—Two employees in similar situations treated differently
- No pattern of favoritism in documentation submitted by the auditor
- Auditor based finding on interviews with two department heads (out of 27):
 - Emergency Medical Services
 - Information Technology
- "I interviewed several department heads regarding their experiences related to promotions within their departments. Several indicated that they were told by the Human Resources Manager that the maximum increase for promotions is the greater of 5% or Step A of the new grade. One department head indicated that he was told the maximum increase for a promotion is the greater of 10%, or step A of the new position grade." (Internal Auditor)
- "I told Charlie when he alluded to favoritism that I did not think that was going on. I told him when he asked me about the policy that it was 5%, or whatever it takes." (Mickey Tezai, EMS Director)
- "I did not say that there's favoritism going on. I think he's going beyond his report in the way he's describing it, to tell you the truth. It makes me look like I don't understand the County's policy. I've gotten 12% before." (Perry Dixon, IT Director)

Finding #2: Reclassifications above County Policy

- “10 (reclassifications) resulted in salary increases in excess of the compensation policy.” (Internal Auditor)
- None of the 10 violated County rules
- County policy states that the employee must receive “at least 5% or the minimum of the higher grade level, whichever is higher.”

Finding #3: Performance Appraisals Not Performed in HR

- “I judgmentally selected 7 employees within Human Resources and reviewed 16 performance appraisals.” (Internal Auditor)
- Only 13 performance appraisals enumerated by the auditor during the County Manager’s investigation
- 10 not signed by the department head
- 7 were not dated
- 6 were not signed by the employee

Finding #4: Appraisal Records in Disarray

- “I observed records scattered about the Director’s office in an unorganized fashion.” (Internal Auditor)
- No records found on HR Director’s desk after completion of audit
- “The auditor observed me looking in several stacks within my office for workplans he requested.” (Jackye Knight)

Finding #5: Internal Equity Calculations not by Policy

- Published guidelines have two-fold purpose:
 - Correct internal salary inequities
 - Address salary compression issues
- “Ten years of additional experience should have been considered...” (Internal Auditor)
- Guidelines do not permit any money for more than ten years of experience

Finding #6: Workplans not Available for HR Employees

- Three shortcomings enumerated:
 - Workplans for new employees in 30 days
 - Workplans not on correct forms
 - Supervisors did not have copies of workplans
- “Violation of this policy shall lead to disciplinary action up to and including dismissal.” (Internal Auditor)
- Performance Management Process Policy does not require:
 - Workplans for new employees within 30 days of employment
 - Workplans to be placed on a particular form
 - Supervisors to maintain copies of workplans
 - Employees have copies of workplans. No employee copies were requested during the audit.

Finding #7: Improper Use and Delegation of Signature Authority

- Two primary findings:
 - HR Director's signature as the Manager's designee should be in the Manager's Signature Box
 - HR Director should not delegate County Manager's signature authority to subordinates
- HR Director to permit use of a signature stamp by subordinates is not a delegation of signature authority
- None of the 20,000 pay actions reviewed found to be non-compliant with approved procedures

Finding #8: County Manager or Designee Approval not Performed

- "Employees granted increases of varying amounts without appropriate review outside of Human Resources Department or approval by the County Manager or his designee." (Internal Auditor)
- HR Director is an approved designee to sign off on increases where County Manager approval is required.

Finding #9: Cafeteria Plan in Violation of Federal Regulations

- One of most serious allegations of the entire audit
- "Penalties for non-compliance with the plan can include imposition of employment and income tax withholding liability with regard to all employee pre-tax and employer contributions to the plan." (Internal Auditor)
- "Durham County could be required to pay both the employer and employee portions of these taxes." (Internal Auditor)
- "Code 125 does not directly establish any requirements regarding the form of a cafeteria plan document." (Carl Boehm, Tax Attorney, Robinson Bradshaw & Hinson)

Finding #10: Discrimination Testing not Performed

- "The Human Resources Department has not performed the required discrimination testing for at least the past 5 years." (Internal Auditor)
- "The Code does not require that the test be run, merely that a plan not violate the nondiscrimination requirements." (Carl Boehm)

Finding #11: Contract not Executed for Cafeteria Plan Service

- "A contract has not been executed with the dependent care and medical reimbursement administrator. Failure to properly execute a contract subjects the County to potential loss from failure of the administrator to perform or other deviations from expected performance." (Internal Auditor)
- "Code Section 125 does not require that cafeteria plans document their arrangements with outside vendors in formal written agreements." (Carl Boehm)

General Concerns About Audit

- No exit interview was scheduled by the Internal Audit Manager with HR Director before preliminary draft was released
- Audit may not have followed required *Standards for the Professional Practice of Internal Auditing and Statement of Responsibilities*.
- “Internal auditors should have an impartial, unbiased attitude and avoid conflicts of interest.” (Attribute Standard 1120)
- “If independence or objectivity is impaired in fact or appearance, the details of the impairment should be disclosed to appropriate parties.” (Attribute Standard 1130)
- “When Charlie and I talked, he was real unhappy that he couldn’t get an adequate raise for Nicolas.” (Perry Dixon)
- “Internal auditors should base conclusions and engagement results on appropriate analyses and evaluations.” (Performance Standard 2320)
- None of the suggested analysis techniques taught by the Institute of Internal Auditors was used.

What’s Happening?

- Change is already taking place:
 - Appropriate delegation of County Manager’s signature authority under discussion by County’s Senior Management Team
 - Best Practices Survey for Salary Administration in progress
 - Contract for Dependent Care and Medical Reimbursement Administrator has been negotiated and signed
 - Performance appraisals to be signed before salary increases are processed
 - Employee Relations Division of HR will review all pay increases to ensure compliance with procedures
 - Creation of Internal Audit Review Committee
 - External review of County’s audit process will be completed during FY05 (Required every five years by standards adopted through County’s Audit Charter)
 - Disciplinary actions are currently under consideration by the County Manager.

Commissioner Jacobs referenced statements in the letter from Robinson, Bradshaw & Hinson, P.A.—

- *“Code 125 does not directly establish any requirements regarding the form of a cafeteria plan document, other than requiring that a plan be written. The best practice is generally to prepare formal written amendments that set forth precise revisions to the terms of the plan. This is not, however, a legal requirement. Moreover, it is generally a good practice to restate the plan document from time to time, so that is easy to read the plan’s terms in one self-contained document. (Such a restatement would incorporate each of the amendments adopted since the prior restatement.) Again, this is not legally required, but simply strikes us as a good business practice.”*
- *“The Code does not require that the test be run, merely that a plan not violate the nondiscrimination requirements. Of course, we recommend that clients run the discrimination tests annually to ensure that the plan passes the tests. Running the*

tests is a good business practice, and can serve to avoid an unpleasant surprise in the event of an IRS audit. It is also worth noting that there is significant confusion in the legal community as to what exactly Code Section 125 requires in the way of nondiscrimination. Because of this uncertainty, it is much more important that employers maintain a record of what they believe the requirements to be, and document how they have attempted good faith compliance.”

- *“Code Section 125 does not require that cafeteria plans document their arrangements with outside vendors in formal written agreements. However, the medical care reimbursement plan is a ‘group health plan’ under HIPAA’s rules. Under the privacy rule, a group health plan must enter a ‘business associate agreement’ with any third party that creates or receives ‘protected health information’ on its behalf.”*
- *“Conclusions—It does not appear that Conditions 1 or 2 violate any provisions of Code Section 125. The issues raised are essentially recommendations for improving administrative processes. With respect to Condition 3, the medical reimbursement plan should enter a business associate agreement with each of its ‘business associates.’ Please let me know if we can be of further assistance.”*

Commissioner Jacobs stated appreciation for the County’s concern with legal requirements; nevertheless, she recommended the development and execution of a system with internal controls and best practices (effective management and administration) to apply to all departments.

County Manager Ruffin explained that a Best Practices Evaluation has been initiated. The Internal Auditor did not refer to “best practices”, but stated legal requirements and non-compliance by the County, which could result in substantial penalties. “That is simply not the case.” Mr. Ruffin agreed that governance and administration of the Cafeteria Plan should be examined, as well as best practices which the County should consider following.

Commissioner Jacobs asked questions. County Manager Ruffin made the following responses:

- *Are workplans required for new employees within 30 days of employment?*
Workplans are required upon completion of the probationary period of employment (six months).
- *Commissioner Jacobs referred to a statement in the Employee Handbook—“A workplan which reflects job duties must be prepared and given to the employee within the first 30 days of employment.” Is this a part of the Policy or is it irrelevant as a part of the performance review?*
The actual policy or procedure that governs the workplan is the County’s Performance Management Process Policy, which does not require the completion of a workplan within the first 30 days of employment.
- *Why do discrepancies exist between the Employee Handbook and the Performance Management Process Policy?*
“I do not have an answer for that.”

- *Are the standards different in Human Resources (HR) than in other County departments regarding performance appraisals and salary increases?*
“Absolutely. There were different standards for the signature.” All performance appraisals are routed through Employee Relations, except those in HR; however, in the future, the same standards will apply to all departments.
(Commissioner Jacobs expressed concern about the lack of consistency and that all departments were not held to the same standards.)
- *Must workplans be placed on a particular form?*
The Performance Management Process Policy does not specify that particular forms be used.

Commissioner Jacobs asked the County Attorney about legal ramifications concerning unsigned performance appraisals.

County Attorney Kitchen responded that a problem would exist with a potential lawsuit if the performance appraisal was unsigned or undocumented that a review did occur. The County’s Policy controls the Employee Handbook (not a part of the employee contract under NC law) if there is a discrepancy.

Commissioner Jacobs expressed concern about the County Manager delegating his signature authority.

Commissioner Heron stated that this audit did not meet her expectations or provide adequate information.

Vice-Chairman Bowser posed the following questions. County Manager Ruffin responded:

- *Do the same standards of professionalism apply to Human Resources’ response to the audit as apply to the Internal Auditor?*
Those standards cited in my presentation are the standards that the Auditor should follow in performing the audit.
- *Did you read the memo from Human Resources Director Jackye Knight to Charlie Hobgood regarding “Response to Draft Audit Findings and Recommendations of the Human Resources Department?”*
Yes.
(Vice-Chairman Bowser opined that the memo was unprofessional and reflected an angry tone.)
- *Do you have a concern with the tenor reflected in that letter?*
My comment in the June 7 Memorandum to the Board was, “Ms. Knight’s response seemed to have been written for the newspaper rather than the Auditor.”
- *Did Ms. Knight verbally request that you set aside the “flawed report”?*
I do not recall that request being made verbally; however, as a part of her official response, that would certainly constitute, in part, her request.

- *Did you consult the tax attorney regarding “Finding No. 11: Contract not Executed for Cafeteria Plan Service”?*
The attorney concluded that absent HIPPA, no contract would be required for that service.
Did you find that particular recommendation to be okay?
A contract was not required. The Auditor was either unaware or failed to mention the HIPPA requirement for a contract. The contract was in process so the point became mute. The contract was signed because of HIPPA, not because of the internal audit. In essence, this finding was satisfied.
- *Do you remember making the comment that a supervisor is not required to keep a copy of employee workplans?*
My written comments state that the Policy does not require supervisors to have copies of workplans.
(Vice-Chairman Bowser questioned how supervisors could monitor employees without possessing copies of the written workplans.)
- *Does the Policy require that employees keep copies of their workplans?*
Employees are required to have copies of their workplans, according to the Policy.
- *How did you determine that the excess \$13,461 in annual employee compensation was not a violation?*
The compensation policy establishes a minimum that must be awarded due to a reclassification, not a maximum. No violation could have occurred since no excess is stipulated by the Policy.
- *Do the Mental Health and Sheriff’s Office have final say about salaries that are paid to their employees?*
Yes, with some exception to the Sheriff. Mental Health is an authority; the Sheriff is an elected official. Elected officials must sign on and agree to County policies, and in all cases, the Sheriff has not done that. Mental Health is currently an authority; however, that will change with the transition next year. Final signature authority is left solely with Mental Health, and in most cases, solely with the Sheriff.
- *Did you base your review of the audit findings on whom you trusted or was your review objective?*
Trust was not a factor. The information received and follow up on the interviews formed the basis for my conclusions.
- *Were the claims in the audit and the responses simply one individual’s word against the other?*
I tried to prove or disprove comments of the Auditor. In some cases, it is clearly one person’s word against another. Several issues raised with the Findings could not be verified.
- *Did you look at all 217 promotions over the three-year period?*
Yes. None was found to be in violation of the Policy. The Auditor did not allege that the promotions were in violation, rather the process, implying that different standards governing promotions were being conveyed.
- *Did you interview five department heads or two department heads regarding the claim of favoritism?*
I interviewed the five departments that were interviewed by Mr. Hobgood, who based his findings on two specific interviews with IT and EMS Directors.

Vice-Chairman Bowser clarified, corroborated by Chairman Reckhow, that the internal audit of the Human Resources Department was directed by the entire Board of County Commissioners because of an external, independent audit performed by the County's audit firm of Cherry, Bekeart and Holland, LLP in November 2003.

Commissioner Cousin read the statement from Attorney Boehm under Finding No. 10, "The Code does not require that the test be run, merely that a plan not violate the nondiscrimination requirements". He asked County Attorney Kitchen how a determination could be made that a plan does not violate the nondiscrimination requirements if the plan is never tested.

County Attorney Kitchen responded that he spoke with Attorney Boehm about this issue. Mr. Boehm communicated to Attorney Kitchen that no testing is required under Code 125; nevertheless, the County must not discriminate. The test, a part of the Federal Register, has never been adopted because of the furor it created in the business community.

Commissioner Cousin asked County Attorney Kitchen whether an employee terminated for following a Handbook directive that conflicts with County Policy would have legal recourse.

County Attorney Kitchen applied in the affirmative. "It is important that the Handbook reflect the Policy."

Commissioner Cousin commented that a best practice would be to require that employees and supervisors sign workplans and appraisals.

County Manager Ruffin and Chairman Reckhow assented.

Commissioner Jacobs stressed that the Internal Auditor disclosed issues that can facilitate County Government in operating more effectively and efficiently.

Chairman Reckhow called the following citizens forward who had signed to speak on this agenda item:

Ms. Lois Murphy, 200 Clarion Bridge Way #211, Durham, NC, secretary of the Durham Branch NAACP

Mr. Fred Foster Jr., 5718 Whippoorwill Street, Durham, NC 27704

Ms. Thelma Glenn White, 1015 Jerome Road, Durham, NC 27713

Chairman Reckhow suggested that the County Manager return at the August Worksession with a schedule for an implementation plan regarding the signature requirement. She also asked the County Manager to consider the recommended changes (i.e., alignment of forms). As an outgrowth to "What's Happening? Best Practices Survey for Salary Administration in Progress," the Board should revisit the County's Policies and Procedures—Personnel Administration, ascertaining that it corresponds with best practices.

FY 2004-2005 Budget Ordinance Adoption

The Durham County Manager formally presented the FY 2004-05 annual budget to the Durham County Board of Commissioners. This submission is in accordance with the Local Government Budget and Fiscal Control Act, which requires adoption of the budget ordinance no later than July 1.

County Manager Ruffin announced good news—the Medicaid appropriation was revisited for FY 2004-05 and reduced by approximately \$1.3 million and then again by \$600,000. Accordingly, he recommended a reduction in the proposed tax rate increase from 3 cents to 2.7 cents.

Vice-Chairman Bowser asked about the \$3.7 million that was reverted to the budget from Medicaid.

Pamela Meyer, Director of Budget and Management Services, replied that the savings was anticipated at the end of this fiscal year; however, the estimate has been revised to less than \$3 million. The unspent funds will be allocated to Fund Balance at the end of the current fiscal year.

Vice-Chairman Bowser asked if the tax rate could be reduced by one cent due to these additional Medicaid funds.

Chairman Reckhow elucidated that the Medicaid excess this fiscal year resulted from assistance from the Federal Government because of the recession and budget cuts. This help will probably be unavailable in the upcoming fiscal year. The tax rate cannot be reduced by the entire amount because some of the windfall was due to federal revenue sharing.

Vice-Chairman Bowser asked County Manager Ruffin how much revenue is received from a one-cent tax rate.

County Manager Ruffin replied that the amount is \$2,016,000.

Chairman Reckhow noted the amendment for the teachers' supplement pertaining to the 12% for teachers with less than 10 years experience and 13% for teachers with ten or more years experience.

Vice-Chairman Bowser appealed to the Board to endorse \$20,000 in funding for the Read Seed Program on Holloway Street.

Commissioner Heron deemed the plea inappropriate at this time.

Commissioner Cousin suggested that the request be presented to the Board in August.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to approve the FY 2004-2005 Budget Ordinance.

The motion carried unanimously.

Chairman Reckhow remarked that the tax rate increase would be 2.7 cents, creating an overall tax of .79.

Mr. Larry Hester and Ms. Denise Hester, 3526 Abercromby Drive, Durham, NC 27713, petitioned the Commissioners to allocate funds to reconstitute the Career and Technical Education Task Force.

Chairman Reckhow stated that the Career and Technical Education Task Force Report would be placed on a future Board agenda for discussion.

ANNUAL BUDGET ORDINANCE

Durham County
North Carolina
FY 2004-05

WHEREAS, the proposed budget for FY 2004-05 was submitted to the Board of Commissioners on May 24, 2004 by the Durham County Manager and filed with the Clerk to the Board on that date pursuant to G.S. 159-11;

WHEREAS, on June 14, 2004, the Durham County Board of Commissioners held a public hearing on the budget pursuant to G.S. 159-12;

WHEREAS, on June 28, 2004, the Durham County Board of Commissioners adopted a budget ordinance making appropriations and levying taxes in such sums as the Board of Commissioners considers sufficient and proper in accordance with G.S. 159-13;

BE IT ORDAINED by the Durham County Board of Commissioners that for the purpose of financing the operations of Durham County, North Carolina for the fiscal year beginning July 1, 2004 and ending June 30, 2005, there are hereby appropriated from taxes and other revenues the following by function and fund:

Section 1. Summary of Appropriations by Fund and Function - FY 2004-05

June 28, 2004 Regular Session Minutes Page 18	General Fund	Debt Service Fund	Special Revenue Funds	Capital Financing Fund	Enterprise Fund	Enterprise Debt Service Fund	Total Appropriation
General Government	\$23,407,124	---	\$134,267	---	---	---	\$23,541,391
Public Safety	\$38,305,213	---	\$5,576,663	---	---	---	\$43,881,876
Transportation	\$12,500	---	---	---	---	---	\$12,500
Environmental Protection	\$2,856,535	---	---	---	---	---	\$2,856,535
Economic & Phys. Development	\$3,057,407	---	\$333,184	---	---	---	\$3,390,591
Human Services	\$316,483,648	---	---	---	---	---	\$316,483,648
Education	\$83,044,943	---	---	---	---	---	\$83,044,943
Cultural and Recreation	\$7,933,889	---	---	---	---	---	\$7,933,889
Other-Nondeptl/Transfers	\$3,277,965	\$34,586,815	\$958,053	\$34,795,508	\$3,794,861	\$3,293,961	\$80,707,163
Utilities	---	---	---	---	\$3,357,290	---	\$3,357,290
Total Appropriations	\$478,379,224	\$34,586,815	\$7,002,167	\$34,795,508	\$7,152,151	\$3,293,961	\$565,209,826
Less: Other Financing Sources*	(\$2,898,384)	(\$32,979,094)	(\$100,000)	---	---	(\$3,280,911)	(\$39,258,389)
Net Appropriations	\$475,480,840	\$1,607,721	\$6,902,167	\$34,795,508	\$7,152,151	\$13,050	\$525,951,437

*Includes Transfers From Other Funds and Reimbursements

Section 2. Summary of Revenues by Fund and Revenue Category - FY 2004-05

	General Fund	Debt Service Fund	Special Revenue Funds	Capital Financing Fund	Enterprise Fund	Enterprise Debt Service Fund	Total Appropriation
Property Taxes	\$144,105,407	---	\$4,041,766	\$17,772,501	---	---	\$165,919,674
Licenses & Permits**	\$30,441,310	---	\$2,771,134	\$16,042,933	\$473	---	\$49,255,850
Intergovernmental Revenues	\$256,184,744	---	---	---	---	---	\$256,184,744
Service Charges	\$30,738,596	---	---	---	\$10,400	---	\$30,748,996
Miscellaneous Income	\$3,707,783	\$776,712	---	\$480,074	\$373,740	\$13,050	\$5,351,359
Enterprise Charges	\$3,000	\$262,362	---	---	\$6,323,200	---	\$6,588,562
Total Revenue	\$465,180,840	\$1,039,074	\$6,812,900	\$34,295,508	\$6,707,813	\$13,050	\$514,049,185
Other Financing Sources*	\$10,300,000	\$568,647	\$89,267	\$500,000	\$444,338	\$0	\$11,902,252
Total Resources	\$475,480,840	\$1,607,721	\$6,902,167	\$34,795,508	\$7,152,151	\$13,050	\$525,951,437

*Includes only Fund Balance Appropriated

** Includes Sales Taxes

Section 3. For the purpose of raising revenues to finance appropriations for the foregoing expenditures, the following ad valorem taxes are hereby levied on all property subject to ad valorem taxes within the county on January 1, 2004 at an anticipated collection rate of 97.5 percent. Rates are per \$100.00 of assessed valuation of taxable property.

District	Rate	District	Rate
Durham County-countywide	\$.7900	Lebanon Fire District	\$.0670
Bahama Fire District	\$.0600	New Hope District	\$.0650
Bethesda Fire District	\$.0650	Parkwood Fire District	\$.1100
Eno Fire District	\$.0640	Redwood Fire District	\$.0825

Section 4. There is hereby levied a tax at the rate shown below, per \$100.00 valuation of property listed for taxes as of January 1, 2004, for property located within the Durham County portion of the Durham-Wake Counties Research Triangle Park Research and Production Service District for the raising of revenue for said district. The anticipated collection rate is 97.5 percent.

	Tax Rate	Appropriation
Research & Production Service District	\$.0187	\$333,184

There is hereby appropriated to the Durham-Wake Counties Research and Production Service District from the net proceeds of this tax the amount of \$333,184, for use in said district in such manner and for such expenditures as is permitted by law from the net proceeds of this tax. In the event the actual net proceeds from the tax levy of the Research and Production Service District exceed the appropriated amount, the actual net proceeds from the tax shall constitute the appropriation from said tax levy.

Section 5. Charges for services and fees by county departments, excluding those established by state statute, are levied in the amounts set forth in the attached Fee Schedules. (See Attachment #1)

Section 6. The following authorities shall apply to transfers and adjustments within the budget:

- a. The County Manager may authorize transfers within a function up to 15% cumulatively without report to the Board.
- b. The County Manager may transfer amounts up to \$20,000 between functions of the same fund with a report to the Board of Commissioners at the subsequent regular meeting of the Board.
- c. The Budget Officer may approve intradepartmental transfer requests between appropriation units and between departmental programs within the limits of the approved budget.
- d. The County Manager may enter into the following agreements within funds:
 - Form and execute grant agreements within budgeted appropriations;
 - Execute leases of up to \$30,000 for normal and routine business within budgeted appropriations;
 - Enter consultant, professional, maintenance or other service agreements of up to \$20,000 within budgeted appropriations;
 - Approve annual renewals for service and maintenance contracts;

- Purchase of apparatus, supplies, materials or equipment and construction or repair work not requiring formal bids by law;
 - Reject any and all bids and readvertise to receive bids;
 - Waive any bonds or deposits, or performance and payment bonds requirements when authorized or permitted by applicable law.
- e. County Manager can transfer between functions, and/or funds for merit, pay plan adjustments, health benefits, and reclassification of funds.
- f. Transfers between funds and transfers from the contingency account may be executed **only** by the Board of Commissioners.

Section 7. In accordance with North Carolina General Statute 115D-54, the following appropriations are made to Durham Technical Community College. All accumulated and unexpended and unencumbered amounts at the end of the fiscal year shall be reported to Durham County within 30 days of the completion of the external audit.

Current Expense Fund	\$3,058,716
Capital Outlay Fund	<u>\$ 408,795</u>
Total Appropriation	\$3,467,511

Section 8. In accordance with G.S. 115C-429(b), the following appropriations are made to the Durham Public Schools. The budget resolution adopted by the Durham Public Schools Board of Education shall conform to the appropriations set forth in the budget ordinance.

The total local appropriation for Durham Public Schools for FY 2004-05 is as below:

Current Expense	\$ 77,899,932
Capital Outlay	<u>1,500,000</u>
Total Appropriation	\$79,399,932

- a. In addition, the Durham Public Schools budget should reflect local appropriations by purpose, function, and project. Once adopted, such resolution shall not be amended without the prior approval of the Board of Commissioners if the cumulative effect of such amendment would be to increase or decrease the amount of county appropriations allocated by purpose, function, or project by 15 percent or more.
- b. The Board of Commissioners and the County Manager shall be informed in writing of the audited fund balance amounts within 30 days of completion of the external audit.
- c. Transfers between capital outlay and current expense shall be approved by the Board of Commissioners.
- d. Durham Public Schools is authorized to use Public School Building Capital Funds and Public School Building Bond Funds for capital outlay requests, with the approval of the Board of Commissioners.

Funding (including debt service) exceeds the required merger agreement rate of \$1,960 per pupil.

Section 9. In addition, it is the intent of the Durham County Board of Commissioners in appropriating these funds that the Board of Education allocates sufficient funds to continue the teacher supplement at a rate of 12 percent for teachers with less than 10 years experience; and 13 percent for teachers with 10 years or more experience.

Section 10. In accordance with G.S. 159-13.1, the following financial plans for intragovernmental service funds are hereby approved.

RISK MANAGEMENT FUND

Estimated Revenue	\$1,872,053
Estimated Expense	\$1,872,053

EQUIPMENT LEASING FUND

Estimated Revenue	\$ 991,453
Estimated Expense	\$ 991,453

CAFETERIA PLAN FUND

Estimated Revenue	\$11,280,355
Estimated Expense	\$11,280,355

Section 11. In accordance with G.S. 159-14, the following trust funds are established and the proceeds are estimated as follows:

Law Enforcement Officers Trust Fund	\$132,488
George Linder Memorial Fund	\$250
Community Health Trust Fund	\$1,310,000

Section 12. This ordinance incorporates an amendment in the capital financing policy to designate County Contribution at 10% of dedicated revenues for pay-as-you-go projects instead of 20%.

Section 13. In accordance with G.S. 159-13, a copy of this ordinance shall be filed with the County Manager, the Finance Officer, the Clerk to the Board, and the County Tax Administrator.

Adopted this the 28th day of June, 2004.

Department	Type of Fee	FY 2003-2004 Adopted Fees	FY 2004-2005 Adopted Fees
Animal Control	Impoundment		
	1st Offense + boarding fee + civil penalty	\$25	same
	2nd Offense + boarding fee + civil penalty	\$60	same
	3rd Offense + boarding fee + civil penalty	\$95	same
	4th Offense & subsequent offenses	\$150	same
	Boarding		same
	Dogs	\$9/day	\$12/day
	Cats	\$6/day	\$8/day
	Civil Penalties		
	1st Offense	\$25/Offense	\$50/Offense
	1st Offense/after 72 hours	\$50	\$50/Offense
	2nd Offense	\$50/Offense	\$100/Offense
	2nd Offense/after 72 hours	\$75	\$100/Offense
	Registration		
	Unaltered animals	\$25/animal	\$75/animal
Altered Animals	\$5/animal	\$10/animal	
Elections	Reports - Letter Size	\$.01 per page	same
	Diskettes and CDs - Processing Fee	\$25	same
	Labels - Duplex on 8 1/2 X 11 paper	\$.01 per page	same
	Copies	\$.05 per page	same
	Street Index (Address + Precinct Information)	\$12.50	same
	Certificates	\$1	same
	Maps:		
	- 8 1/2 X 11	\$2	same
- 34 X 42	\$10	same	
Fire Marshal	see attached detail		
General Services	Solid Waste Management Fee	\$65.00/year	\$75.00/year
Register of Deeds	Copy Fees - uncertified copies	\$.25 /page from Copier; \$.10 /page from Computer	same
	Instruments in General	\$14 1st page (\$3 each additional page)	same
	Deeds of Trust & Mortgages	\$14 1st page (\$3 each additional page)	same
	Non-Standard Document	\$25 plus recording fee	same
Register of Deeds	Probate	\$2	same
	Plats	\$21 (plus \$5 for certified copy)	same
	Right of Way Plans	\$21 (\$5 each additional page)	same
	Certified Copies	\$5 1st page (\$2 each additional page)	same
	Comparison of copy for certification	\$5	same
	Notary Public Qualification	\$10	same
	Marriage Licenses:		same
	Issuing a license	\$50	same
	Issuing a delayed certificate w/one certified copy	\$20	same
	Proceeding for correction w/one certified copy	\$10	same
	Certified Copies of Birth, Death and Marriages	\$10	same

Public Health	Well Permit (includes one water sample)	\$250	same
	Water Sample	\$50	same
	Well & Septic Tank Reports	\$200/report	same
	Septic System Improvement Permits:		
	Conventional Systems	\$140	same
	Low Pressure System Installation (includes monitoring)	\$525	same
	Pump conventional permit	\$275	same
	Reconnection Permit	\$100	same
	Type V System (plan review)	\$15/connect	same
	Type V System (inspection)	\$115	same
	Type V System (monitoring)	\$10/connect/annual	same
	Application for Improvement Permit 0-2 acres	\$175	same
	Application for Improvement Permit 2-5 acres	\$200	same
	Application for Improvement Permit 5+ acres	\$125+\$10/acre	\$225+\$10/acre
	Appeal Charge 0-2 acres	\$75	same
	Appeal Charge 2-5 acres	\$100	same
	Appeal Charge 5+ acres	\$125+\$10/acre	same
	Appeal of Permit Condition	\$100	same
	Individual Swimming Pool Fee	\$150/year	same
	Each additional swimming pool per complex	\$75	same
Wading Pool or Spa Permit	\$40	same	
Public Health	Pool Plan Review (includes initial permit)	\$200	same
	Tattoo Artist Permits	\$100	same
Library	Overdue fines:		
	0-40 days(excluding juvenile books)	15 cents/day, maximum \$6/book	25 cents/day, maximum \$6/book
	over 40 days (including juvenile books):	\$6/book	\$10/book
	Legal Notice Fee	\$15/account at time of notification 60 days	\$15/account at time of notification 60 days
	Video tapes, filmstrip viewers	\$1.00/day up to \$20/item when 20 days overdue	\$1.10/day up to \$20/item when 20 days overdue
	AV rental equipment	\$5.00/day per item, no maximum	\$5.10/day per item, no maximum
	Bookmobile adult collection	5 cents/day, maximum charge of \$10 (begins at 5 cents on 8th day)	15 cents/day, maximum charge of \$10 (begins at 5 cents on 8th day)
	Duplicating	10 cents/page	10 cents/page
Out-of-county users	\$35	\$35	
NOTE: Library also charges for lost & damaged books as well as overdue penalties and equipment rents.			
Environmental	Permits, one acre or less (per job charge)	\$205	same
Engineering	Permits for more than 1 acre (per acre charge)	\$425	same
	Reinspection Fee	\$100	same
	2nd Reinspection Fee	\$200	same
	Unauthorized Land Disturbance Activities		
	Permits for more than 1 acre (per acre charge)	\$850	same
	Permits, one acre or less (per job charge)	\$390	same
	Reissuance of Revoked Permits		
Permits for more than 1 acre (per acre charge)	\$425	same	

	Permits, one acre or less (per job charge)	\$205	same
	Extensions		
	Permits for more than 1 acre (per acre charge)	\$107	same
	Permits, one acre or less (per job charge)	\$52	same
	Plan Review, per acre charge	\$65	same
Utilities	Monthly Service Fees (County customers with City Water)	\$2.15 per hundred cubic feet	\$2.37 per hundred cubic feet
	Monthly Service Fees (County customers without City Water):		
	1 or 2 Bedrooms	\$11.65	\$12.82
	3 Bedrooms	\$26.22	\$28.84
	4 or more Bedrooms	\$44.43	\$48.87
Utilities	Plan Review Fee (per submittal)	\$65	same
	Inspection/Management Fee (per linear foot)	\$1.00	same
	Re-inspection Fee (per inspection)	100	same
	Lateral Fee (per service)	\$1,500	same
	Capital Recovery Charges:		
	Single Family (Min. 2 Bedrooms)	\$548 each	same
	Single Family (Each Bedroom above 2)	\$274 per Bedroom	same
	Multi-Family Units (Apartments, Duplexes, etc.; Min. 2 Bedrooms)	\$548 each	same
	Multi-Family Units (Apartments, Duplexes, etc.; Each Bedroom above 2)	\$274 per Bedroom	same
	Multi-Family (Motels, Hotels)	\$274 per Room	same
	Multi-Family (Motels, Hotels with cooking facilities in room)	\$400 per Room	same
	Nursing/Rest Home	\$137 per Bed	same
	Nursing/Rest Home with Laundry	\$274 per Bed	same
	Office - per shift	\$56 per Person	same
	Factory - per shift	\$56 per Person	same
	Factory with Showers - per shift	\$80 per Person	same
	Store, Shopping Center, Mall	\$274 per 1000 s.f.	same
	Store, Shopping Center, Mall with Food Service	\$91 per Seat	same
	Restaurant (Greater of Per Seat or Per 15 s.f. of dining area)	\$91	same
	Restaurant - 24 Hour Service	\$115 per Seat	same
	Restaurant - Single Service	\$56 per Seat	same
	School - Day with Cafeteria, Gym, Showers	\$34 per Student	same
	School - Day with Cafeteria Only	\$28 per Student	same
	School - Day with neither Cafeteria nor Showers	\$24 per Student	same
	School - Boarding	\$137 per Person	same
	Church (not including Food Service, Day Care, Camps)	\$6 per seat	same
	Miscellaneous (based on Daily Average Flow)	\$2.281 per Gallon	same
Emergency Medical Services (EMS)	Basic Life Support (BLS) Service Fee + Mileage	\$375 + \$6 per mile	\$375 + \$6 per mile
	Advance Life Support #1 (ALS #1) Service Fee + Mileage	\$425 + \$6 per mile	\$425 + \$6 per mile
	Advance Life Support #2 (ALS #2) Service Fee + Mileage	\$475 + \$6 per mile	\$475 + \$6 per mile

Extra Attendant	\$25 per transport	same
Special Event Coverage (3 hour minimum)	\$75 per hour	\$75 per hour
Waiting Time (After initial 30 minutes)	\$50 per 30 minutes	same
Treatment (without transport)	\$200	\$200
Bike Team Services	\$50 per hour	same

**DURHAM CITY-COUNTY PLANNING DEPARTMENT
 FISCAL YEAR 2004-2005 FEE SCHEDULE**

Section 1

The fees to be charged by the Durham Planning Department shall be as follows:

A. Rezoning Applications:

(Per-acre fees shall be calculated on a whole-acre basis, rounded up. Cases with multiple zones, or, as in MU, multiple use categories, are charged the highest base fee applicable according to the zone or use categories proposed, plus the per-acre fee according to the acres in each of the categories proposed.)

1. **Single-Family Residential zone, 1 acre or less:** \$250, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign
2. **Single-Family Residential zone (non-PDR), greater than 1 acre and less than or equal to 20 acres:** \$2,250, plus \$55 per acre, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign
3. **Single-Family Residential zone (non-PDR), greater than 20 acres):** \$2,975, plus \$55 per acre, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign
4. **PDR zone, less than or equal to 30 acres:** \$3,225, plus \$55 per acre, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign
5. **PDR zone, greater than 30 acres:** \$3,475, plus \$55 per acre, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign
6. **Office, Residential other than Single-Family or PDR, Commercial, Industrial, or Research zone:** \$3,750, plus \$65 per acre, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign
7. **Re-reviews:** Half of original filing fee, up to \$3,500. (Original fee covers the first review and first re-review; re-review fees are chargeable on each subsequent re-review submittal.)

B. Board of Adjustment Applications:

1. **Custodial Care:** (single-family unit on same lot as primary residential unit, for custodial care purposes) \$75, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign
2. **Small Day Care Use Permit (up to 12 persons being cared for), or Non-revenue-generating Single-Family Use Permit:** \$475, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign

3. **Communications Facility Minor Use Permit:** \$3,165, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign, plus consultant review fee based on contract charges
4. **All other BOA applications** (any other Use Permit, any Appeal, any Variance, etc.): \$1,200, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign

C. Major Special Use Permit Applications:

1. **Communications Facility Major Use Permit:** \$3,165, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign, plus consultant review fee based on contract charges
2. **All Other Major Use Permit Applications:** \$1,925, plus Technology surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign

D. Site Plans:

1. **Administrative Site Plan:** \$375, plus 4% Technology Surcharge
2. **Simplified Site Plan:** \$1,750, plus \$25 per 1000 square feet of gross building area, or \$25 per lot, of \$25 per attached dwelling unit; plus Technology Surcharge of 4%
3. **Minor Site Plan:** \$2,500, plus \$25 per 1000 square feet of gross building area, or \$25 per lot, of \$25 per attached dwelling unit; plus Technology Surcharge of 4%
4. **Major Site Plan:** \$3,100, plus \$25 per 1000 square feet of gross building area, or \$25 per lot, of \$25 per attached dwelling unit; plus Technology Surcharge of 4%
5. **Re-reviews:** Half of original filing fee, up to \$3,500. (Original fee covers the first review and first re-review; re-review fees are chargeable on each subsequent re-review submittal.)
6. **Landscaping Extension:** Major Non-Residential: \$300; Minor Non-Residential \$150; Residential \$75; plus Technology Surcharge of 4%

Subdivisions:

7. **Preliminary Plat:** \$2,500, plus \$25 per lot; plus Technology Surcharge of 4%
8. **Final Plat:** \$675, plus \$25 per lot, plus Technology Surcharge of 4%
9. **Minor/Exempt Final Plat:** \$135, plus \$25 per lot, plus \$25 per lot; plus Technology surcharge of 4%
10. **Re-review:** Half of original filing fee, up to \$3,500. (Original fee covers the first review and first re-review; re-review fees are chargeable on each subsequent re-review submittal.)
11. **Landscaping Extension:** Major Non-Residential: \$300; Minor Non-Residential \$150; Residential \$75; plus Technology Surcharge of 4%

E. Landscape Re-Inspections: \$100, plus Technology Surcharge of 4%

F. Land Use Plan Amendments: \$1,500, plus Technology Surcharge of 4%, plus Surcharge for Advertising

G. Street/Alley Closing Applications: \$1,200, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Signs (typically 2 per street closed)

H. Zoning or Subdivision Ordinance Text Amendments: \$1,500, plus Technology Surcharge of 4%, plus Surcharge for Advertising

- I. Vested Rights Determinations:** \$475, plus Technology Surcharge of 4%, plus Surcharge for Advertising and Letter Notice
- J. Formal Letters of Interpretation:** \$40, plus Technology Surcharge of 4%
- K. Zoning Verification Letters:** \$40, plus Technology Surcharge of 4%
- L. Business Verification Letters:** \$40, plus Technology Surcharge of 4%
- M. Home Occupation Inspection and Permits:** \$50, plus Technology Surcharge of 4%
- N. Street Renaming Petitions:** \$1,200, plus Technology Surcharge of 4%, plus Surcharges for Advertising, Letter Notice and Sign(s)
- O. Notification Surcharges:**
 - 1. Newspaper Advertising** for
 - i. Rezoning, Land Use Plan Amendment: \$125; if case has to be heard by both governing bodies, \$190
 - ii. BOA, Major Use Permit, Street Renaming Petition, Street Closing or Vested Rights Determination: \$90
 - iii. Zoning or Subdivision Ordinance Text Amendment: \$190
 - 2. Letter Notice** for
 - i. Rezoning, Land Use Plan Amendment: \$90
 - ii. BOA, Major Use Permit, Street Renaming Petition, Vested Rights Determination, or Street Closing: \$50
 - 3. Signs** for
 - i. Rezoning, BOA, Major Use Permit, Street Renaming Petition: \$100 each. However, if additional signs are necessary to adequately notify neighbors, additional signs will be charged for at the case intake.
 - ii. Street Closing: \$200 At least 2 signs are required per street; however, if additional signs are necessary to adequately notify neighbors, additional signs will be charged for at the case intake.
- P. Department Publications:** Priced according to printing costs. Most publications presently available at the on-call counter are \$5.
- Q. Copies on Large-Format Copier:** \$1 per square foot
- R. Photocopies:** \$0.20 per page
- S. Standard size (52" x 72") Color Maps:** \$15.00

Section 2

The fees to be charged by the Durham Planning Department, the Durham Inspections Department, and the Durham Public Works Department (for the review of a Traffic Impact Analysis) shall include an additional 4% Technology Surcharge to support the establishment, maintenance and updating of the "one-stop shop" workload automation program and equipment.

The Technology Surcharge shall expire August 1, 2007 unless renewed by the County Commissioners prior to the expiration date.

DURHAM CITY-COUNTY INSPECTIONS DEPARTMENT BUILDING PERMIT FEE SCHEDULE FOR FISCAL YEAR 2004-2005	
Effective March 1, 2003	
Schedule/Description	FY 2004-05 Adopted Fee
SCHEDULE A	
New Residential Dwellings (One and Two Family, including Townhouse unit ownership)	
Up to 1200 s.f. (gross area)	\$146.00
1201 to 1800 s.f.	\$260.00
1801 to 2400 s.f.	\$302.00
2401 to 3000 s.f.	\$343.00
3001 to 3600 s.f.	\$404.00
3601 to 4200 s.f.	\$463.00
4201 to 5000 s.f.	\$532.00
5001 s.f. and over	\$579.00
SCHEDULE B	
New Multifamily Residential Buildings (apartments, condominiums, triplex and fourplex)	
1 st unit	\$250.00
Each additional unit, per building	\$94.00
SCHEDULE C	
Accessory Buildings	
No footing	\$40.00
footing	\$80.00
SCHEDULE D	
Residential Renovations and Additions	
Additions: 0 - \$10,000 - no footing	\$83.00
Additions: \$10,000 & over - no footing	\$166.00
(add \$40.00 if footing required)	
Interior Renovations: 0 - \$10,000	\$83.00
Interior Renovations: \$10,000 & over	\$166.00
SCHEDULE E	
Nonresidential Buildings (based on cost of construction using the latest publication of Southern Building Code "Building Valuation Data", referencing type of construction and occupancy group with adjustment factor for North Carolina)	
0 - \$5000	\$104.00
\$5001 to \$50,000	\$104.00
	Plus \$7.80 per thousand or fraction thereof over \$5000
\$50,001 to \$100,000	\$456.00
	Plus \$6.60 per thousand or fraction thereof over \$50,000
\$100,001 to \$500,000	\$786.00
	Plus \$4.32 per thousand or fraction thereof over \$100,000
Over \$500,000	\$2,513.00

	Plus \$1.25 per thousand or fraction thereof over \$500,000
SCHEDULE F	
Miscellaneous:	
Mobile Home (unit installation and foundation)	\$125.00
Modular Home (unit installation and foundation)	\$166.00
Moving permit (including new foundation)	\$83.00
Demolition Permit:	
Up to 5,000 s.f.	\$42.00
Over 5,000 s.f. (no additional cost per thousand)	\$83.00
Demolition associated with forthcoming permit	\$42.00
Residential Re-roofing (addition)	\$42.00
Commercial Roofing/Re-roofing	
0 to \$20,000	\$83.00
Over \$20,000	\$125.00
Residential Decks (single and two family)	\$83.00
Change of Occupancy permit (if no building permit is otherwise required/no construction necessary)	\$42.00
Reinspection Fees:	
Not ready for inspection	\$100.00
8 or more code violations found	\$100.00
2 nd reinspection	\$100.00
3 rd reinspection	\$200.00
4 th reinspection	\$300.00
Search and duplication fee for past permit, inspection and Certificate of Compliance records (no cost to homeowner)	\$10.00/page
Address change on permit:	
Detached single-family and duplex	\$10.00
Multiple units (cost per building)	\$25.00
Issuance of duplicate placard	\$3.00
Work begun without permit	Double Fee
Voiding of permits (no maximum)	15% of permit cost
Homeowner's Recovery Fund	\$5.00
Change of contractor (no maximum)	15% of permit cost
Stocking Permit	\$40.00
Partial Occupancy	\$40.00
Posting of Occupancy (not associated with a permit)	\$40.00

DURHAM COUNTY FIRE PREVENTION & PROTECTION CODE		
Adopted Fee Schedule for Inspections, Permit Services and Violations		
Fiscal Year 2004-2005		
Effective July 1, 1993		
PENALTIES & FEES		
Ordinance Code #	Description of Violation	Amount of Penalty
401.4.1	Permit not posted or kept on premises	\$50.00
501	Unpermitted open Burning (Immediate)	\$500.00
502.5.1	Careless use of lighted object (Immediate)	\$500.00

504, 706	Use of non-approved heating appliance	\$50.00
504.7.1	Breach in fire wall/firestops	\$50.00
504.7.3	Fire or exit door inoperative	\$200.00
504.7.4	Fire tower door open (Immediate)	\$500.00
506.1.2	"No Smoking" signs not posted where required	\$50.00
506.3.3	Smoking in prohibited areas (Immediate)	\$500.00
603.2	Sprinkler or fire alarm inoperative	\$200.00
Section 13	Fire hydrants not complying with code	\$50.00
603.8	Sprinkler/standpipe not complying with code	\$50.00
603.9	Standpipe not complying with code	\$50.00
603.15.6	Sprinkler heads blocked/covered (Immediate)	\$500.00
603.17	Street address numbers not posted	\$50.00
603.17	Street address numbers not visible	\$50.00
603.18	Sprinkler/standpipe needs testing	\$50.00
603.18	Fire alarm system needs testing	\$50.00
802	Storage in fire tower or access (Immediate)	\$500.00
802	Blocked egress (Immediate)	\$500.00
802.1.1, 3101.5.3	Locked exit doors (Immediate)	\$500.00
802.2, 3101.13.1	Overcrowding (Immediate)	\$500.00
802.3, 3101.6.6	Fire exit or aisle blocked (Immediate)	\$500.00
802.4	Storage in or on fire escape (Immediate)	\$500.00
803	Exit or egress door needs repair	\$50.00
805.2.1	Blocked stairwells or stairways (Immediate)	\$500.00
807, 3101.12	Exit illumination and marking	\$50.00
807.2	No required exit directional signs	\$50.00
809.2	Approved fire evacuation plan required	\$50.00
809.3	Fire drill performance not acceptable	\$50.00
809.3.2	No monthly fire drill reported	\$50.00
901	Improper use of flammable liquids (Immediate)	\$500.00
901	Flammable liquid not stored according to code	\$50.00
901.7	Improper dispensing of flammable liquid (Immediate)	\$500.00
902.2	Aboveground tanks not diked	\$50.00
902, 903	Tank installation not according to code	\$50.00
904, 905	Tank storage not according to code	\$50.00
1002	Spray painting in non-approved area	\$50.00
1002.2	Spray booth not complying to code	\$50.00
1503	Compressed gas cylinders not secured	\$50.00
2201.2	No hazardous materials permit	\$50.00
2201.3	Chemical storage is not according to code	\$50.00
3101.13.2	Maximum occupancy not posted	\$50.00
3101.14	Use of open flame cooking device	\$50.00
PENALTIES & FEES (continued)		
	Failure to get tank work permit prior to work	\$200.00
	Failure to obtain permits required by code	\$200.00
	All other violations of the code	\$50.00
<i>NOTE: The term "Immediate" as it appears above means that the Fire Marshal's Office may issue a citation immediately and the violation must be corrected by the violating party immediately.</i>		

FIRE PREVENTION PERMIT FEES		
Section 1: The fees set forth in this section are fixed for the issuance of the permits required by the Fire Prevention Code. Such permits, unless stated otherwise on the face of the permit, shall be valid for a period of one year from the date of issue, subject to revocation for failure to comply with the fire Prevention Code. Renewal of permits shall be subject to fees in effect for the period of renewal. Less than five (5) permits issued upon a single, concurrent inspection shall be subject to a total maximum fee of \$200.00; five (5) or more permits issued upon a single, concurrent inspection shall be subject to a total maximum fee of \$275.00.		
Technical Code #	Description of Activities Requiring Permits	Fee
402.1	Airports, Heliports and Helistops	\$50.00
402.2	Bowling Pin & Alley Resurfacing & Refinishing	\$50.00
402.3	Cellulose Nitrate Motion Picture Film	\$50.00
402.4	Cellulose Nitrate Plastic (Pyroxylin)	\$50.00
402.5	Combustible Fibers	\$50.00
402.6	Compressed Gases	\$50.00
402.7	Crude Oil Production	\$50.00
402.8	Cryogenic Fluids	\$50.00
402.9	Dry Cleaning Plants	\$50.00
402.10	Explosives, Blasting Agents, Ammunitions (storage only) <i>This is a 90 day permit.</i>	\$100.00
402.10	Blasting (explosives) <i>This is a 90 day permit.</i>	\$100.00
402.11	Flammable and Combustible Liquids (per site or service station)	\$50.00
402.12	Flammable Finishes	\$50.00
402.13	Fruit Ripening Processes	\$50.00
402.14	Fumigation & Thermal Insecticide Fogging	\$50.00
402.16	High Piled Combustible Stock	\$50.00
402.17	Liquefied Natural Gas (LNG)	\$50.00
402.18	Liquefied Petroleum Gas	\$50.00
402.19	Lumber Storage	\$50.00
402.20	Magnesium	\$50.00
402.21	Mechanical Refrigeration	\$50.00
402.22	Motion Picture Projection	\$50.00
402.23	Organic Coatings	\$50.00
402.24	Ovens	\$50.00
402.25	Pipelines for Flammable or Combustible Liquids	\$50.00
402.23	Places of Assembly	\$50.00
402.27	Pulverized Particles (Dust)	\$50.00
402.28	Repair Garages	\$50.00
402.29	Tank Vehicles for Flammable/Combustible Liquid	\$50.00
402.30	Erection of Tents and Air Supported Structures (per site plus \$10.00 per Tent)	\$50.00
402.31	Tire Rebuilding Plant	\$50.00
402.32	Wrecking Yards, Junk Yards, Waste Handling Plants	\$50.00
502.3	Storage of Readily Combustible Materials	\$50.00
502.6	Manufacture and Storage of Matches	\$50.00
902.5	Installation, abandonment, removal or retrofitting of any AGST or UGST (per site)	\$150.00
2002.1.1	Manufacture of fireworks allowed by state law	\$50.00
2002.1.2	Sale, possession, use and distribution of fireworks for display outside	\$250.00
2006.1	Discharge of fireworks inside a building	\$500.00
<i>All other permit fees required by the Technical Code and not listed shall be \$50.00</i>		

USER FEES		
Plans Review:		Fee
	Subdivision (plus \$20 per fire hydrant required)	\$30.00
Building - New and Renovations:		
	Building less than 5,000 s.f.	\$50.00
	Building 5,000 - 10,000 s.f.	\$90.00
	Building 10,000 s.f. or more (plus \$20 per 5,000 s.f. over 10,000 s.f.)	\$90.00
Hazardous Chemicals:		
	Class A - 55 gals. or 500 lbs.	\$50.00
	Class B - 55 to 550 gals. or 550 to 5,000 lbs.	\$200.00
	Class C - 550 to 5,500 gals. or 5,000 to 50,000 lbs.	\$300.00
	Class D - 5,500 gals. or 50,000 lbs.	\$400.00
INSPECTION FEE SCHEDULE		
All owners or tenants of buildings in Durham County, which are required to be inspected by the Durham County Fire Marshal's Office are subject to the following inspection fee schedule:		
Inspection Activities:		Fee
	Periodic Inspection	None
	First inspection pursuant to permit application	None
	First re-inspection for non-compliance if code requirements are met	None
	First re-inspection for non-compliance if code requirements are NOT met	\$100.00
	Second and subsequent re-inspections for non-compliance	\$200.00

Consent Agenda

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

- *a. Property Tax Releases and Refunds for Fiscal Year 2003-04 (accept the May property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- b. Contract with Total Billings Inc. (approve contract renewal with Total Billings Inc. to design, print, and mail forms for Tax Administration; the contract amount is not to exceed \$79,000 and \$100,000 for postage);
- *c. Main Library Chilled Water Plant and Boiler Replacement (approve the replacement of the Main Library chiller and boiler systems and authorize the Manager to execute a contract for services with Jeff Hargett Mechanical Inc. for \$155,440; authorize the Manager to execute change orders, if necessary, not to

- exceed \$15,544. The total contract amount shall not exceed \$170,984);
- d. Request to Approve Durham's Home and Community Care Block Grant Funding Plan Through the Department of Social Services (approve the funding plan as presented; funding has been incorporated into the Manager's proposed FY 2005 Budget);
 - *e. Lease Agreement to CBK 1, Inc. for Restaurant/Canteen Services (approve the lease agreement and authorize the County Manager to execute);
 - *f. Budget Ordinance Amendment No. 04BCC000077 and Capital Project Amendment No. 04CPA000017—Criminal Justice Resource Center Renovation Project (approve the \$270,000 transfer from the Criminal Justice Resource Center budget and \$125,000 from unrecognized property tax revenue; approve the establishment of a capital project ordinance amendment for \$395,000 for renovating the Jail Annex [formerly Johnson Motor Company Building] for the Criminal Justice Resource Center);
 - *g. Offer to Purchase County Property (612 Bingham Street) (pursue the upset bid process; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process);
 - h. General Ledger Accounting for the Vic Pearson Memorial Relief Fund Owned by the Emergency Medical Services (EMS) Department (accept the opinions of the Institute of Government, the LGC, and the County's audit firm, CB&H, and approve that the County account for and administer the Vic Pearson Memorial Relief Fund within the Trust and Agency Funds of the County's general ledger according to GAAP, GASB, and Policy guidelines. When approved, the Fund will be subject to the annual audit as are all funds owned and administered by the County);
 - i. Sale of Fixed Asset (Emergency Generator) From Enterprise Fund to General Fund (approve the sale of the emergency generator for \$25,000 and that the proceeds from the sale remain within the Enterprise Fund and not be remitted to Durham Public Schools [DPS] as the sale of surplus properties, as this asset has not been declared surplus);
 - k. Service Contract for the Operation of the Animal Shelter (authorize the County Manager to execute a

- one-year services contract with the Animal Protection Society of Durham Inc. not to exceed \$432,365.00);
- l. Salary Setting for Board of Elections Director (receive the recommendation of Elections Board and set the salary of Director Michael Ashe at \$73,240 effective August 1, 2003, and \$76,352.71 effective July 1, 2004);
 - m. Research Triangle Institute/Research Triangle Foundation Petitions for Abandonment of State Road 2017 and 1989 from N.C. Secondary Road System (Case: SC04-04) (approve the petition and forward it to the Department of Transportation for action);
 - n. Approval of Federal Grant Offer to the Raleigh-Durham International Airport (accept the \$7,000,000 grant offer to construct runway safety area extensions);
 - o. Request for Refund of Deposit (2300 Fitzgerald Avenue) (permit the Rudds to withdraw their bid and refund their deposit to them);
 - p. Durham Public Schools-Acquisition of Real Property—Vacant Lot Adjacent to Y.E. Smith Elementary School (approve the request as presented);
 - *q. Budget Ordinance Amendment No. 04BCC000078—RTP Special Park Tax District (approve appropriating \$18,608 fund balance and \$24,010.53 additional tax monies);
 - *r. Budget Ordinance Amendment No. 04BCC000079—Butner/Mangum Special District (approve for the Mangum/Butner Special District.);
 - *s. Sublease Amendment for 501 Willard Street to Telecare Mental Health Services of North Carolina Inc. (approve and authorize the Manager to execute the proposed amendment);
 - t. Construction Contract for the Durham Center for Senior Life Project (authorize execution of a contract with Blair Construction Inc. for \$4,380,705.00 (Base Bid Only) for construction and execute any other related contracts including change orders, if necessary, not to exceed the project budget of \$4,486,605.57);
 - *u. Budget Ordinance Amendment No. 04BCC000080 and Capital Project Ordinance Amendment No. 04CPA000018—Special Project Grant by the Congress in the VA-HUD-Independence Agencies Appropriations Act (recognize \$67,061 in grant revenue received from Congress which is pass-through funding for Urban Ministries for furniture and equipment and \$67,061 for the Senior Center capital project DC071 for furniture and equipment);

- *v. Extension of Civic Center Management and Catering Agreements (authorize the County Manager to enter into the Agreements with the City of Durham and the Shaner Hotel Group extending the term of the current Agreements to December 31, 2004 to allow for the completion of the negotiation process);
- w. Purchase of Library Books and Cataloging/Processing Services (authorize the County Manager to enter into a contract with Baker & Taylor Inc. for an amount not to exceed \$553,000, with an option to renew the contract for four successive one-year periods);
- x. Acquisition of 50 Acres on the South Fork of the Little River Owned by Sean P. and Kristi Scully (authorize the Manager to execute a purchase offer for the three tracts for a total price of \$500,000, with \$1,000 in earnest money);
- *y. Copier Management Service Program for Durham County (authorize the Manager to enter into a three-year contract with Commercial Equipment Inc. at the rates of \$.0193 for standard or network connected digital copiers and \$.19 for digital color copiers with the option to renew annually for three additional one-year periods and the authority to modify the contract based on usage within budget appropriations);
- *z. Interest Rate Swap (receive the presentation and approve the Swap arrangement subject to LGC approval);
- aa. Major Site Plan - Hamlin Road Bus Parking (D04-085) (to approve the site plan); and
- bb. Approval of Construction Contract and Interlocal Cooperation Agreement for the Hamlin Road School Bus Parking Project (Project No: DC077-50; Bid No: IFB 04-030) (to authorize execution of contract with Asphalt Experts, Inc., for construction of the Hamlin Road School Bus Parking Lot located at 2011 Hamlin Rd., Durham, for use by Durham Public Schools, in the total amount of \$766,400.00 and to execute any change orders or related contracts, if necessary, not to exceed a project cost \$816,400.00. In addition, the Board is requested to authorize the County Manager to execute an Interlocal Cooperation Agreement with the Durham Public Schools to fund a portion of the base bid and alternates G1, G2 and G3 at an estimated cost of \$96,002. This amount would be deducted from the \$125,000.00 purchase price for the Milton Road property).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. a. Property Tax Releases and Refunds for Fiscal Year 2003-04 (accept the May property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the attached report details releases and refunds for the month of May 2004.

Releases & Refunds for 2003 Taxes:

Real	\$	7,013.30
Personal	\$	26,150.43
Registered Vehicles	\$	14,138.89
Vehicle Fees	\$	<u>135.00</u>
Total for 2003 Taxes and Fees	\$	47,437.62

Prior years' (1999-2002) releases and refunds for May 2004 are in the amount of \$15,054.44.

The total current year and prior years' releases and refunds amount to \$62,492.06.

(Recorded in Appendix A in the Permanent Supplement of the June 28, 2004 Regular Session Minutes of the Board.)

Consent Agenda Item No. c. Main Library Chilled Water Plant and Boiler Replacement (approve the replacement of the Main Library chiller and boiler systems and authorize the Manager to execute a contract for services with Jeff Hargett Mechanical Inc. for \$155,440; authorize the Manager to execute change orders, if necessary, not to exceed \$15,544. The total contract amount shall not exceed \$170,984).

<u>Contractor</u>	<u>Base Bid</u>	<u>Alt 1 (ADD)</u>	<u>Total</u>
Jeff Hargett Mechanical Inc. 6845 Spencer Dixon Road Greensboro, NC 27455	\$106,720	\$48,720	\$155,440

Consent Agenda Item No. e. Lease Agreement to CBK 1, Inc. for Restaurant/Canteen Services (approve the lease agreement and authorize the County Manager to execute).

Lease Agreement between Durham County and CBK, 1 to utilize space located in the ground level of the Old Courthouse at 200 East Main Street, Durham, North Carolina in order to

provide restaurant/canteen services to patrons and employees. The name of the restaurant shall be "Courthouse Canteen" or a similar name approved by the County.

The term of the Lease Agreement is one (1) year, commencing on July 1, 2004 and ending at 11:59 p.m. on June 30, 2005. Rent will be \$250.00 per month for the term of the Lease. Tenant shall also provide a security deposit in the amount of \$250.00 upon execution of the Lease. Maintenance and repair of the facility is divided between the parties with the County responsible for maintenance and repairs, such as structural, mechanical and electrical systems, and pest control, and the Tenant responsible for all routine maintenance such as daily cleaning and janitorial services, grease trap container, and security systems.

Consent Agenda Item No. f. Budget Ordinance Amendment No. 04BCC000077 and Capital Project Amendment No. 04CPA000017—Criminal Justice Resource Center Renovation Project (approve the \$270,000 transfer from the Criminal Justice Resource Center budget and \$125,000 from unrecognized property tax revenue; approve the establishment of a capital project ordinance amendment for \$395,000 for renovating the Jail Annex [formerly Johnson Motor Company Building] for the Criminal Justice Resource Center).

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000077

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2003-04 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>			
Taxes	\$136,956,074	\$125,000	\$137,081,074

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$ 37,871,763	(\$270,000)	\$ 37,601,763
Other	\$ 19,281,742	\$395,000	\$ 19,676,742

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

This the 28th day of June, 2004.

(Budget Ordinance Amendment recorded in Ordinance Book _____, page _____.)

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Capital Project Ordinance
Amendment No. 04CPA0000017

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2003-04 Capital Project Ordinance is hereby amended to reflect budget adjustments.

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
Criminal Justice			
Resource Center			
Renovation Project	\$-0-	\$395,000	\$395,000

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

This the 28th day of June, 2004.

(Capital Projects Ordinance Amendment recorded in Ordinance Book _____, page _____.)

Consent Agenda Item No. g. Offer to Purchase County Property (612 Bingham Street) (pursue the upset bid process; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process).

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in the Durham County, North Carolina and properly described as follows:

612 Bingham Street
PIN #0831-20-71-6119
Parcel ID #114520

WHEREAS, Victory Temple Holy Church has made an offer to the County to purchase the above property for \$6,000 and has made a bid deposit in the amount of \$300 which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within ten days after the date the notice is published;

3. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
4. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
5. When the bid has been successfully raised (upset), the new bid becomes the current offer;
6. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
7. When the bid has been successfully raised (upset), the procedure is repeated;
8. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
9. Should the Board of County Commissioners accept the final qualifying offer, a nonwarranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on June 28, 2004.

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

Consent Agenda Item No. q. Budget Ordinance Amendment No. 04BCC000078—RTP Special Park Tax District (approve appropriating \$18,608 fund balance and \$24,010.53 additional tax monies).

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000078

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2003-04 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>SPECIAL PARK DISTRICT FUND</u>			
Taxes	\$320,848	\$ 24,011	\$344,859
Other Financing Sources	\$ -0-	\$ 18,608	\$ 18,608

Expenditures:

<u>Activity</u>			
Economic & Phys. Dev.	\$320,848	\$ 42,619	\$363,467

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

This the 28th day of June, 2004.

(Budget Ordinance Amendment recorded in Ordinance Book _____, page _____.)

Consent Agenda Item No. r. Budget Ordinance Amendment No. 04BCC000079—
 Butner/Mangum Special District (approve for the Mangum/Butner Special District.).

DURHAM COUNTY, NORTH CAROLINA
 FY 2003-04 Budget Ordinance
 Amendment No. 04BCC000079

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the
 FY 2003-04 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>SPECIAL BUTNER FUND</u>			
Taxes	\$ 12,222	\$ 907	\$13,129
Other Financing Sources	\$ -0-	\$20,350	\$20,350

Expenditures:

<u>Activity</u>			
<u>SPECIAL PARK DISTRICT FUND</u>			
Public Safety	\$ -0-	\$21,257	\$21,257

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

This the 28th day of June, 2004.

(Budget Ordinance Amendment recorded in Ordinance Book _____, page _____.)

Consent Agenda Item No. s. Sublease Amendment for 501 Willard Street to Telecare Mental
 Health Services of North Carolina Inc. (approve and authorize the Manager to execute the
 proposed amendment).

STATE OF NORTH CAROLINA
SUBLEASE AMENDMENT
COUNTY OF DURHAM

This First Amendment to the Sublease is made and entered into this 28th day of June , 2004, by and between the **COUNTY OF DURHAM**, a political subdivision of the State of North Carolina, hereinafter referred to as “Sublessor,” and Telecare Mental Health Services of North Carolina, Incorporated, hereinafter referred to as “Sublessee”.

WHEREAS, On May 11, 2004, the parties entered into a Sublease Agreement for space in the building located at 501 Willard Street in Downtown Durham (hereinafter “Sublease Agreement”); and the Sublease Agreement lease term was to expire on June 30, 2004; and

WHEREAS, the parties hereto desire to modify the term of the Sublease Agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. Term: The term of the Sublease is hereby amended to be a month-to-month tenancy. Notwithstanding the foregoing, the term of the sublease shall end no later than November 30, 2004, and the Sublessee shall have no right to hold over past the termination of the Sublease Agreement.
2. This Sublease is subject to the terms and conditions of the Lease Agreement between the County and North Carolina Mutual Life Insurance Company for 501 Willard Street, with said lease agreement expiring on November 30, 2004 (hereinafter the “Master Lease”) which agreements are hereby incorporated by reference as if fully set forth herein.
3. All of the terms and conditions of the original Sublease Agreement are hereby incorporated herein by reference as if fully set out herein and are still valid unless amended by this Amendment.

IN TESTIMONY WHEREOF, This Sublease Agreement has been executed by the parties hereto, in triplicate originals, as of the date first above written.

Consent Agenda Item No. u. Budget Ordinance Amendment No. 04BCC000080 and Capital Project Ordinance Amendment No. 04CPA000018—Special Project Grant by the Congress in the VA-HUD-Independence Agencies Appropriations Act (recognize \$67,061 in grant revenue received from Congress which is pass-through funding for Urban Ministries for furniture and equipment and \$67,061 for the Senior Center capital project DC071 for furniture and equipment).

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000080

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2003-04 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	\$299,863,419	\$67,061	\$299,930,480

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Environmental Protection	\$ 2,681,451	\$67,061	\$ 2,748,512

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

This the 28th day of June, 2004.

(Budget Ordinance Amendment recorded in Ordinance Book _____, page _____.)

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Capital Project Ordinance
Amendment No. 04CPA0000018

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2003-04 Capital Project Ordinance is hereby amended to reflect budget adjustments for

Senior Center Project

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
Senior Center	\$5,500,000	\$67,061	\$5,567,061

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

This the 28th day of June, 2004.

(Capital Projects Ordinance Amendment recorded in Ordinance Book _____, page _____.)

Consent Agenda Item No. v. Extension of Civic Center Management and Catering Agreements (authorize the County Manager to enter into the Agreements with the City of Durham and the Shaner Hotel Group extending the term of the current Agreements to December 31, 2004 to allow for the completion of the negotiation process).

THIRD AMENDMENT TO CIVIC CENTER
MANAGEMENT AGREEMENT

North Carolina
Durham County

THIS AMENDMENT TO CIVIC CENTER MANAGEMENT AGREEMENT, is made and entered into by and among the City of Durham, a North Carolina municipal corporation (hereinafter the "City"), the County of Durham, a political subdivision of the State of North Carolina (hereinafter the "County"), and Shaner Hotel Group Properties Two Limited Partnership, a Delaware limited partnership (hereinafter "Shaner"). The date of this Amendment to Agreement is _____ 2004.

WHEREAS, on October 9, 1987, the City, County and Durham Hotel Company ("DHC") entered into the Civic Center Management Agreement (hereinafter the "Management Agreement") pertaining to, among other things, management of the Durham Civic Center. By a First Amendment dated April 17, 1999, the term of the Management Agreement was extended to March 14, 2004, and by a Second Amendment dated April 19, 2004, the term of the Agreement was extended to June 30, 2004; and,

WHEREAS, the City and County recognize Shaner has made significant investment in downtown Durham and performed during the terms of the Management Agreement, which has enhanced the efforts to market the Durham Civic Center; and,

WHEREAS, the City, County and Shaner desire additional time to reach consensus on terms for continued management by Shaner; and,

WHEREAS, by Assignment and Assumption of the Civic Center Management Agreement effective July 9, 1996, by and between Shaner and DHC, and a Consent Estoppel and Release by and between City and County and DHC, DHC assigned to Shaner, its interest, rights and obligations under the Management Agreement, and Shaner is now the Hotel Company under the Management Agreement; and,

WHEREAS, the City, County and Shaner desire to amend the Management Agreement.

NOW THEREFORE, the City, County, and Shaner agree as follows:

1. Shaner will make available to the City and County any and all financial reports and records reflecting the results of operations upon the request of the City and County, in accordance with Article VII of the Management Agreement:
2. The term of the Management Agreement shall be extended to and include December 31, 2004:

3. The provisions and terms of payment and accounting of any new agreement, which may result from negotiations to have Shaner continue to manage the Civic Center, shall be retroactive to July 1, 2004.
4. Except as amended hereby, the provisions of the Management Agreement are reaffirmed and remain in full force and effect.

The City, County, and Shaner have each authorized this Amendment to Agreement to be duly executed under seal.

THIRD AMENDMENT TO CIVIC CENTER
CATERING AGREEMENT

North Carolina
Durham County

THIS AMENDMENT TO CIVIC CENTER MANAGEMENT AGREEMENT, is made and entered into by and among the City of Durham, a North Carolina municipal corporation (hereinafter the "City"), the County of Durham, a political subdivision of the State of North Carolina (hereinafter the "County"), and Shaner Hotel Group Properties Two Limited Partnership, a Delaware limited partnership (hereinafter "Shaner"). The date of this Amendment to Agreement is _____ 2004.

WHEREAS, on October 9, 1987, the City, County and Durham Hotel Company ("DHC") entered into the Civic Center Catering Agreement (hereinafter the "Catering Agreement") pertaining to, among other things, food and beverage management for the Durham Civic Center. By a First Amendment dated April 17, 1999, the term of the Catering Agreement was extended to March 14, 2004, and by a Second Amendment dated April 19, 2004, the term of the Agreement was extended to June 30, 2004; and,

WHEREAS, the City and County recognize Shaner has made significant investment in downtown Durham and performed during the terms of the Catering Agreement, which has enhanced the efforts to market the Durham Civic Center; and,

WHEREAS, the City, County and Shaner desire additional time to reach consensus on terms for continued catering management by Shaner; and,

WHEREAS, by Assignment and Assumption of the Civic Center Catering Agreement effective July 9, 1996, by and between Shaner and DHC, and a Consent Estoppel and Release by and between City and County and DHC, DHC assigned to Shaner, its interest, rights and obligations under the Catering Agreement, and Shaner is now the Hotel Company under the Catering Agreement; and,

WHEREAS, the City, County and Shaner desire to amend the Catering Agreement.

NOW THEREFORE, the City, County, and Shaner agree as follows:

5. Shaner will make available to the City and County any and all financial reports and records reflecting the results of catering operations upon the request of the City and County, in accordance with Article VII of the Management Agreement:
6. The term of the Catering Agreement shall be extended to and include December 31, 2004:
7. The provisions and terms of payment and accounting of any new agreement, which may result from negotiations to have Shaner continue to manage the catering at the Civic Center, shall be retroactive to July 1, 2004.
8. Except as amended hereby, the provisions of the Catering Agreement are reaffirmed and remain in full force and effect.

The City, County, and Shaner have each authorized this Amendment to Agreement to be duly executed under seal.

Consent Agenda Item No. y. Copier Management Service Program for Durham County (authorize the Manager to enter into a three-year contract with Commercial Equipment Inc. at the rates of \$.0193 for standard or network connected digital copiers and \$.19 for digital color copiers with the option to renew annually for three additional one-year periods and the authority to modify the contract based on usage within budget appropriations).

Copier Management Service Program Bid Proposal

Vendor	Rate Standard Digital Copier	Rate Network Connected Digital Copier	Rate Color Digital Copier
Commercial Equipment, Inc.	\$.0193	\$.0193	\$.19
Commercial Ofc. Equip (COECO)	\$.0240	\$.0280	----
IKON Office Solutions	\$.0226	\$.0253	\$.47
McRae Office Solutions	\$.0220	\$.0220	\$.95
Tereck OfficeSolutions	\$.0322	\$.0327	----

Consent Agenda Item No. z. Interest Rate Swap (receive the presentation and approve the Swap arrangement subject to LGC approval).

RESOLUTION ADOPTING AN INTEREST RATE SWAP AGREEMENT POLICY
 STATEMENT, AUTHORIZING THE EXECUTION AND DELIVERY OF AN
 INTEREST RATE SWAP AGREEMENT, AND RATIFYING THE FINANCE
 DIRECTOR'S FILING OF AN APPLICATION WITH THE LOCAL
 GOVERNMENT COMMISSION FOR THE APPROVAL OF SUCH INTEREST

RATE SWAP AGREEMENT AND PAYMENT OF THE REQUIRED FEES TO
THE LOCAL GOVERNMENT COMMISSION

BE IT RESOLVED by the Board of Commissioners for the County of Durham, North Carolina:

Section 1. The Board of Commissioners for the County of Durham, North Carolina (the "County") has determined and does hereby find and declare as follows:

(a) The North Carolina General Assembly enacted legislation in 2003 that allows governmental units such as the County to enter into interest rate swap agreements for the primary purpose of managing interest rate costs of its obligations or interest rate risks.

(b) The County has identified an opportunity to achieve significant interest rate savings on its debt obligations by entering into an interest rate swap agreement.

(c) In order to provide for the prudent procurement of and entering into interest rate swap agreements, the Board of Commissioners for the County (the "Board of Commissioners") desires to adopt an interest rate swap policy substantially in the form and substance suggested by the North Carolina Local Government Commission (the "Local Government Commission").

Section 2. The Board of Commissioners hereby adopts the Interest Rate Swap Agreement Policy Statement attached hereto as Exhibit A.

Section 3. The Board of Commissioners has determined and does hereby find and declare as follows:

(a) The County has issued approximately \$254,930,000 of outstanding general obligation bonds.

(b) After consideration and consultation with financial advisors to the County, the Board of Commissioners has determined that the County is likely to achieve economic benefits from implementing a synthetic fixed rate refinancing in conjunction with a portion of its general obligation bonds having a principal outstanding amount of \$125,810,000 (the "Bonds"). The Board of Commissioners understands and acknowledges that such economic benefits are not guaranteed to be achieved and that the proposed transaction involves risk.

(c) There have been presented at this meeting drafts of a Master Agreement and attached Schedule (collectively the "Swap Agreement") with RFPC, LLC (the "Counterparty") and a draft of an Interest Rate Swap Term Sheet under which the County and the Counterparty would enter into an interest rate swap transaction with respect to the Bonds (the "Transaction"). Under the Transaction, the County will agree to make fixed interest rate payments to the Counterparty on a notional amount not to exceed \$125,810,000 and the Counterparty will agree to make fixed interest rate payments to the County on the same notional amount, adjusted for the current relationship between an index based on taxable variable rates and an index based on tax-exempt variable rates. The notional amount of the Transaction shall be reduced from time to time to the extent the Bonds are redeemed or mature.

(d) The County is authorized to enter into the Transaction pursuant to G.S. Chapter 159, Article 13, §§ 159-193 to 200, inclusive, as enacted by Chapter 388, Session Laws of 2003.

Section 4. Subject to the limitations set forth in this resolution, the Finance Director of the County (the "Finance Director") is hereby authorized to negotiate the terms of

the Transaction on behalf of the County. The Swap Agreement shall be substantially in the form presented at this meeting, with such changes as shall be negotiated by the Finance Director in connection with the Transaction. Subject to the prior approval of the Local Government Commission, the Finance Director is hereby authorized to execute and deliver the final Swap Agreement on behalf of the County. Subject to the prior approval of the Local Government Commission, if required, the Finance Director is also authorized to execute and deliver such amendments to the Swap Agreement from time to time as deemed necessary, in consultation with the County's financial advisors, to reduce the risk or improve the benefit of the Transaction to the County.

Section 5. The Board of County Commissioners hereby ratifies the filing of an application by the Finance Director and payment of the required fees to the Local Government Commission for approval of the County entering into the Swap Agreement and the Transaction under the terms set forth in this resolution, and the Local Government Commission is hereby requested to approve the same. In connection with the Local Government Commission's consideration of such application, the Board of Commissioners makes the following findings and determinations:

- (a) The Transaction is necessary or expedient for the better management by the County of its interest rate costs.
- (b) The County's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with law.
- (c) The County is not in default regarding any of its debt service obligations.

(d) No increases in taxes are expected to be necessary to enable the County to make the payments expected to be required with respect to the Swap Agreement.

Section 6. RFPC, LLC is hereby approved as the Counterparty under the Swap Agreement; provided that, in connection with the closing of the Transaction, the Counterparty shall deliver a surety bond insuring its obligations with respect to the Transaction substantially in the form of Exhibit D to the Schedule attached to the Swap Agreement. The Board of Commissioners hereby determines, in light of existing facts and circumstances, that entering into the Swap Agreement by the County will promote its interests by encouraging and rewarding innovation.

Section 7. Public Financial Management is hereby approved as the Financial Advisor to the County in connection with the Transaction.

Section 8. Robinson, Bradshaw & Hinson, P.A. is hereby approved as Special Counsel to the County in connection with the Transaction.

Section 9. All officers of the County are each hereby authorized to execute and deliver on behalf of the County the various certificates, proofs, instruments or other documents to be executed in connection with the delivery of the Swap Agreement and the closing of the Transaction. All actions previously taken by any of such officers on behalf of the County in connection with the Transaction are hereby approved, ratified, and confirmed.

Section 10. This resolution shall take effect upon its passage.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. j. Judicial Building 7th Floor Roof Projection Replacement (authorize the execution of a contract to Baker Roofing Company for \$66,850, and authorize the Manager to execute change orders, if needed, not to exceed \$6,685; total project cost will not exceed \$73,535).

Vice-Chairman Bowser inquired about the portion of the roof which must be replaced and whether it had ever been replaced.

General Services Director Mike Turner replied that the outer-most ledge on the 7th Floor has never been replaced.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve consent agenda item No. j.

The motion carried unanimously.

Durham County Bid Tabulation
FRFP #04-029
Durham County Judicial Building 7th Floor Roof Projection

BIDDER	Base Bid— Lump Sum	Alternate #1 Bid Lump Sum	Alternate #2 Bid Lump Sum Price
Baker Roofing Company	\$38,350	\$108,425	\$66,850
Pickard Roofing	No bid		

Public Hearing—Proposed Secondary Road Construction Program for Durham County (2004-2005)

Mr. Battle Whitley, P.E., District Engineer for the North Carolina Department of Transportation, Division of Highways, Division Five introduced Assistant District Engineer Tasha Johnson-Harris, Deputy Division Engineer Wally Bowman, and Division Maintenance Engineer Ricky E. Greene Jr. He then presented the Board with the Annual Secondary Road Construction Program for Durham County (2004—2005).

Commissioners asked the following questions and made comments. Mr. Whitley and Mr. Bowman responded:

Vice-Chairman Bowser: *Will the Hampton Road project be completed before schools reopen?*

The project was partially funded in the Annual Secondary Road Construction Program for Durham County for 2002—2003 and was fully funded in 03-04. It is currently 30 to 40% complete and should be finished before schools reopen.

Who is responsible for vehicle damage caused by potholes in I-85 near The Street at Southpoint?

If the contractors do not make repairs in a timely manner, they are financially responsible. Citizens may file claims. Granite Construction Co. is the contractor for that particular project. Citizens may call Division Five for contact information.

Avondale and Duke Street accesses have been closed for six months. When will they be reopened?

We will find out and send that information to the Commissioners. Public releases are created periodically with this information.

When will the Guess and Hillandale Roads be closed? Make sure they are closed for a minimum amount of time.

The closings should be in approximately six months, but will not occur simultaneously.

Who is responsible for cleaning the enormous amount of litter on the roadsides of I-40 between Durham and Raleigh?

Durham and Wake Counties. We will make a notation of your comments.

Commissioner Heron: *Was the Erwin Road resurfacing in last year's budget.*

Yes.

Is the contractor for Guess Road paying penalties because of the severe delay in project completion.

Yes. The project has been very difficult because of extensive utility delays.

Chairman Reckhow: *NCDOT should be the conduit for complaints. I made a request of Jon Nance for an accounting of projects for the past five years (start date, anticipated completion date, and actual completion date) and never received a response. A suggestion is to assess whether the contractors have the capacity to complete projects on time.*

Mr. Nance is working on a response. Time above and beyond normal extensions was granted to contractors in 2002 and 2003 because of severe weather delays.

Chairman Reckhow opened the public hearing that was properly advertised. As no one requested to speak, she closed the public hearing and referred the matter back to the Board.

Commissioner Heron moved, seconded by Commissioner Jacobs, to approve the Proposed Secondary Road Program for Durham County (2004-2005).

The motion carried unanimously.

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
SECONDARY ROADS CONSTRUCTION PROGRAM

Durham County

FY 04-05 Anticipated Allocation

Highway Fund	\$ 700,000
Trust Fund	\$ 570,000
Total	\$ 1,270,000

I. Paving Unpaved Roads Programmed Paving Goal: 8.15 Miles

A. Rural Paving Priority

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
11	1610	4.8	Range Road (to complete funding) From Person Line to Granville Co. Line	\$ 492,000
12	1624	0.8	Amed Tilley Road From SR 1622 to SR 1004	\$ 160,000
14	1100A	0.7	Grandale Drive From End of Pavement to Chatham Co. Line	\$ 140,000
15	1611	1.85	Dunwoody Road From SR 1607 to SR 1603	\$ 140,000
			<i>Partial Funding of \$370,000 total cost</i>	
Total Miles 8.15			Subtotal ----	\$ 932,000

Note: Priority #13 - SR 1979 (Kit Creek Road) abandoned from State System May 2004.

*In the event that any roads in priority have to be placed on the "Hold List" due to unavailable right of way or environmental review, or if additional funding becomes available, funds will be applied to the roads listed in priority order in the paving alternate list.

II. General Secondary Road Improvements

A. Paved Road Improvements

Various Routes Subtotal \$ 50,000

B. Unpaved Road Spot Improvements

Various Routes Subtotal \$ 25,000

III. Trust Fund Safety Improvements (GS 136-182)

Various Routes Subtotal \$ 80,000

IV. Funds reserved for surveying, right of way acquisition, acquisition, road additions, contingencies, overdrafts, and paving entrances to certified fire departments, rescue squads, etc.

Subtotal \$183,000

GRAND TOTAL \$ 1,270,000

Public Hearing to Review Requests from Affordable Housing Providers for the Payment of School Impact Fees for Fiscal Year 2004-2005

Heidi Duer, Impact Fee Administrator, gave a brief overview of this agenda item. She stated that nonprofit organizations constructing affordable housing in Fiscal Year 2004-2005 seeking an impact fee voucher must submit an application for nonpayment of impact fees "at the time of submission of the County's annual budget, nondepartmental funding requests" (as required by the Resolution Establishing a Payment Policy for School Impact Fees on Affordable Housing). Applications were due to Ms. Duer by February 27, 2004. Pursuant to G.S. 158-7.1, as stated in the policy, a public hearing must be held by the Board of

Commissioners on all requests for payment. These requests are for new residential construction planned to occur between July 1, 2004 and June 30, 2005. The total amount requested in impact fee affordable housing vouchers is \$280,740.

The following nonprofit organizations submitted requests:

- Rebuild Durham, Inc. in the amount of \$2,000 (one single-family home)
- Carolina Regional CDC in the amount of \$2,000 (one single-family home)
- AIDS Community Residence Association, Inc. in the amount of \$2,000 (one single-family home)
- The Community Builders, Inc. in the amount of \$106,260 (92 multi-family dwelling units)
- Development Ventures Inc. in the amount of \$26,000 (13 single-family homes)
- Durham Community Land Trustees, Inc. in the amount of \$20,930 (6 multi-family and 7 single-family homes)
- Habitat for Humanity of Durham in the amount of \$66,000 (33 single-family homes)
- New Directions for Downtown Inc. in the amount of \$11,550 (10 multi-family dwelling units)
- Self-Help in the amount of \$28,000 (14 single-family homes)
- UDI Community Development Corporation in the amount of \$16,000 (8 single-family homes)

Ms. Duer recommended granting vouchers to nine of the nonprofits; however, the property owner and builder for The Community Builders Inc. is TCB Calvert Place LLC, a for-profit organization, which does not meet policy requirements.

Chairman Reckhow asked Ms. Duer to explain how staff determined the for-profit status of The Community Builders Inc.

Ms. Duer conveyed that she and County Attorney Kitchen concurred on this determination. Although The Community Builders Inc. is tax-exempt (501[c][3]), Mr. Tom Davis, contact for the project, informed her that the property owner and builder is listed under the LLC, for-profit corporation (TCB Calvert Place LLC), which receives tax credits on the owner-occupied project.

County Attorney Kitchen added that the actual entity that is contracting and applying for the permit is a for-profit organization.

Chairman Reckhow opened the public hearing to review the requests for payments of School Impact Fees for Affordable Housing projects in Fiscal Year 2004-2005. The public hearing was properly advertised.

Mr. Tom Davis, 95 Berkeley Street, Boston, MA 02116, representing The Community Builders, explained the importance of considering the two applications separately because the LLC structure is different between the two entities. One application is for a 75-unit multi-family rental, tax credit development; however, the equity investor is not receiving any

cash flow. The IRS has identified a category of nonprofit-sponsored tax credit developments, which applies to this project. The financial realities of the transaction are consistent with a nonprofit arrangement, but it involves the use of an LLC (TCB Calvert Place LLC) with multiple members, two of which are nonprofits that control day-to-day activities. One member is a for-profit entity, which is getting the tax benefit, but is a passive participant, similar to a lender. Determination as a nonprofit for this request is a judgment call. The second application for a 17-unit development is through TCB Homebuilders LLC (501(c)(3)). The revised 1997 IRS Treasury Regulation 301.7701 rule allows an LLC entity with a single owner to elect classification as an entity separate from its owner; therefore, TCB Homebuilders LLC absorbs the status of its single member. Both applications are a part of the HOPE VI effort. Granting the impact fee exemptions would be an action of support for the revitalization effort of Northeast Central Durham.

Chairman Reckhow requested County Attorney Kitchen to advise the Commissioners concerning this request.

County Attorney Kitchen asked several questions of Mr. Davis for clarity. He subsequently advised that the 75-unit, multi-family rental development does not qualify as a nonprofit. Mr. Davis has presented the 17-unit project to be constructed by a nonprofit; therefore, it would qualify.

Chairman Reckhow referenced a letter from the IRS stating that The Community Builders Inc. is exempt. She recommended that the Board defer action on this particular application and that Mr. Davis provide additional information at an upcoming meeting.

Chairman Reckhow closed the public hearing.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to approve the request of all nonprofit organizations for nonpayment of impact fees with the exception of The Communities Builders Inc. Authorize Ms. Duer, Impact Fee Administrator, to grant payment vouchers.

The motion carried unanimously.

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

Mr. Steve Medlin, Assistant Planning Director, stated that 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. The Environmental Affairs Board and staff recommended approval, as well.

Chairman Reckhow announced that this amendment must be considered by the State Environmental Management Commission as a Watershed Ordinance Amendment. The item will then return to the Board for a major special use permit. She opened the public hearing that was properly advertised and called the signed speakers forward.

The following speakers expressed ardent support of the Zoning Ordinance Text Amendment concerning package plants in watershed critical areas:

Ms. Liz Pullman, 1114 Scott King Road, Durham, NC 27713, Research Technician at NC State University Animal Waste Management Center since its creation in 1995

Mr. Mark Ashness, 30020 Village Park Drive, Chapel Hill, NC 27514, Registered Professional Engineer

Mr. Jeff N. Hunter, 17 Woodgate Court, Durham, NC 27713, representing Colvard Farms, a residential development in southern Durham County and northern Chatham County

Mr. Randall Jarrell, 705 Sanford Road, Pittsboro, NC 27312, representing Wastewater Management Co.

Chairman Reckhow closed the public hearing. She informed the public of the substantial amount of work devoted to this wastewater treatment ordinance amendment, combined with an innovative land-development amendment, Conservation by Design, which is how Colvard Farms was developed. This amendment allows for protection of the community's rural character by permitting clustering of homes and preservation of wider expanses of open space, with an emphasis on preserving environmentally-sensitive land areas. Public health and safety protection has been added by requiring that the licensed operator inspect the plant daily (with the exception of weekends and holidays); monthly reports sent to the State will be copied to the County Public Health Director; non-discharge facilities meet NC reuse standards; permanent, sufficient stand-by power be installed to ensure normal operation in the event of a power failure; a performance bond be issued for at least 50% of the system's replacement cost; and catastrophic property insurance be obtained to cover 100% of the facility replacement cost. In addition, the approving authority must find that the wastewater system provides improved treatment over an individual on-site, ground absorption system. Adoption of this amendment will add extra controls on an existing facility.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to approve Zoning Ordinance Text Amendment—
Package Plants in Watershed Critical Areas (TC 04-02).

Commissioner Heron remarked that she will vote in favor of the amendment for the following reasons:

- the lack of care provided to county septic tanks which creates health problems
- solids and liquids will be separated
- major special use permit must be approved by the governing body
- governing body will be informed whether the ordinance requirements are met and inspections are performed

Commissioner Cousin stated, for the record, that while he applauds the restrictions and safeguards in the amendment, that he would vote against the motion in principle.

The motion carried with the following vote:

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

The ordinance amendment follows:

AN ORDINANCE AMENDING THE DURHAM ZONING ORDINANCE TO AMEND
WASTEWATER TREATMENT AND FACILITIES IN WATERSHED OVERLAY
DISTRICTS

WHEREAS, the Durham County Board of Commissioners wishes to amend the Durham Zoning Ordinance; and

WHEREAS, the Durham County Board of Commissioners wishes to facilitate the design of environmentally sensitive developments respectful of rural character consistent with the principles of Conservation Subdivisions:

THEREFORE, be it ordained:

SECTION 1

That Section 5.5.9 [Wastewater Treatment and Facilities] be revised to read as follows:

5.5.9 Wastewater Treatment and Facilities

1. Wastewater Treatment

- a. Publicly owned wastewater treatment facilities and, replacement and expansions of such facilities, shall be allowed in F/J-B and E-B Districts.
- b. Private wastewater treatment facilities may be permitted in the F/J-A overlay through the issuance of a Major Special Use Permit, provided that:
 - (i) The system will serve a development that is designed as a "Conservation Subdivision", meeting the following criteria:
 - (a) The *gross* density is no greater than one unit per two acres; and
 - (b) At least 40% of the site is preserved as open space, with the 100-year floodplain, stream buffers, steep slopes, wetlands, and Durham Inventory sites included in the open space. The open space requirement may be reduced by the approving authority upon a finding that the provision of this extent of open space would constitute an unusual hardship or is not necessary to protect environmentally sensitive areas and encourage clustering of houses. The open space shall be ensured to be permanently protected through the provision of conservation easements and/or restrictive covenants

- (ii) The facilities are licensed or permitted by the State of North Carolina and the system operator is licensed by the State of North Carolina. The licensed operator inspects the plant daily with the exception of weekends and holidays to determine that the plant is operating adequately;
- (iii) The monthly reports that are sent to the State of North Carolina shall be copied to the Durham Environmental Health Director;
- (iv) The facilities are non-discharge, meet North Carolina reuse standards including but not limited to separating liquids and solids, and have permanent standby power sufficient to ensure normal operation in the event of a power failure;
- (iv) The developer of the system (if a private system) provides a performance bond in an amount at least 50% of the cost of replacement of the private system or \$100,000, whichever is greater, in the event that the operator of the system ceases to provide service or maintenance;
- (v) The developer (or his successor) shall provide and maintain catastrophic property insurance to cover 100% of the replacement cost of the facility; and,
- (vi) The approving authority makes a finding that the wastewater system proposed by the developer provides improved treatment over what would be provided through use of an individual on-site ground absorption system.

To assist the approving authority in making the required findings, the applicant shall provide the approving authority with certifications from the State regarding the treatment of the proposed facility relative to on-site systems. If such certification is not available or cannot be provided in a timely fashion, the applicant shall pay for a third-party expert technical review of the proposed system to ensure that it will meet this requirement.

- c. In all other Watershed Districts, the following wastewater treatment facilities shall be prohibited.
 - (i) New public or private wastewater treatment facilities; and
 - (ii) Community wastewater treatment facilities of any kind.However, individual on-site ground absorption systems shall be permitted, subject to the approval of the Durham County Health Department.
- d. In all Watershed Districts, a spray irrigation wastewater treatment system to serve a single-family house shall be permitted, provided that:
 - (i) The owner enters into a written agreement with the Durham County Health Department which:
 - (a) Provides for Health Department access to the property for the purpose of monitoring the system during its construction and operation; and
 - (b) Provides that the owner and certified operator shall provide to the Health Department copies of any and all applications, plans, permits, reports and any other documents concerning but not limited to the permitting, system, design, construction, operation, monitoring, or repair of the system.

- (ii) The owner shall not act as the certified operator for a spray irrigation system to be installed on his or her property.
- 2. Sewer Services
 - a. Inside the UGA, public and private sewer lines, force mains, and pump stations shall be permitted within all Watershed Districts. However, public and private pump stations shall be equipped with the following safety features:
 - (i) Battery-backed alarm systems activated by pump failure or power outage, connected by an automatic dialer to a 24-hour maintenance service approved by the City Engineer.
 - (ii) Provision for connection of a portable generator. The City or County Engineer, as appropriate, shall consider on a case-by-case basis and may require the pump station to be equipped with on-site, stand-by power.
 - b. Outside of the UGA, no new public or private sewer lines or outfalls shall be permitted within the Watershed Districts, except as follows:
 - (i) Subject to City Council and Board of County Commissioners approval, sewer lines and any necessary force mains and pump stations may be extended to an existing use or structure for which a health hazard has been documented by the Durham County Health Department or the State of North Carolina. In considering such extensions, all reasonable alternatives shall be considered prior to a decision to extend the sewer services. Service connections, installed in accordance with the North Carolina Plumbing Code, shall be permitted only in accordance with Durham City Code, Sections 23-80 through 23-83.
 - (ii) Subject to the issuance of a Major Special Use Permit, within the F/J-A or -B district, sewer lines and any necessary force mains and pump stations may be extended to serve a development designed as a "Conservation Subdivision," as described in Section 5.5.9.1(b)(i), above.

SECTION 3

That the Zoning Ordinance may be renumbered where necessary to accommodate these changes.

SECTION 4

That this ordinance becomes effective upon adoption.

(Zoning Ordinance Amendment recorded in Ordinance Book _____, page _____.)

Public Hearings Regarding Street Closings

Chairman Reckhow opened the public hearings that had been properly advertised concerning the permanent closings of Flanders Street, Hillview Drive, Northwest Drive, Opal Street, Rondelay Drive, and Wenham Court.

As no one requested to speak, she closed the public hearings and referred the matter back to the Board.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to approve the closings of Flanders Street, Hillview Drive, Northwest Drive, Opal Street, Rondelay Drive, and Wenham Court.

The motion carried unanimously.

The Orders and Legal Descriptions follow:

**ORDER PERMANENTLY CLOSING
FLANDERS STREET (SC03-13)**

WHEREAS, the Durham Board of County Commissioners adopted a Resolution on June 14, 2004, declaring its intent to close the street or alley or portion thereof that is generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein;

WHEREAS, the Resolution provided for the holding of a public hearing on the question of whether said street should be permanently closed; and

WHEREAS, notice of the closing of said street was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street to be closed; and

WHEREAS, a Notice of the closing and public hearing was prominently posted in at least two places along the street to be closed; and

WHEREAS, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came for hearing before the Durham Board of County Commissioners at its regular meeting on June 28, 2004, and all persons who desired to be heard were heard at that time.

NOW, THEREFORE, the Board of County Commissioners of the County of Durham having carefully considered the question of permanently closing the street or alley or portion thereof as it more fully described in Attachment A, finds:

1. That closing of the street or alley described in Attachment A is not contrary to the public interest, and
2. No individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to his or her property.

IT IS THEREFORE, ORDERED:

1. That the street described in Attachment A is permanently closed under the authority of GS 160A-299(c).
2. That utility easements that may be referenced in Attachment A or shown on the plat referenced in Attachment A shall be retained by the County, and that easements

owned by private utility companies that are shown on such plat be retained by the private utilities indicated.

3. That a certified copy of this Order and the plat referred to in Attachment A shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
4. That property owners adjacent to the closed street shall take right, title, and interest as is provided in GS 160A-299 (c), as may be further illustrated on the plat referenced in Attachment A.
5. That this Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

Legal Description
SC03-13
FLANDERS STREET

Commencing in the intersection of the western right-of-way line of Conover Street and the southern right-of-way line of Flanders Street said point being the point and place of beginning, thence leaving said point of beginning and running along the southern right-of-way line of Flanders Street North 78°35'00" West 39.48 feet to a point in a curve, thence following said curve to the left having a radius of 313.40 feet and an arc length of 140.30 feet with a delta of 25°39'00" to a point, thence continuing along said right-of-way line South 75°46'00" West 600.00 feet to a point in the intersection of the southern right-of-way line of Flanders Street and the eastern right-of-way line of Rondelay Drive, thence leaving said southern right-of-way line and running along said eastern right-of-way line North 14°14'00" West 60.00 feet to a point in the intersection of the eastern right-of-way line of Rondelay Drive and the northern right-of-way line of Flanders Street, thence leaving said eastern right-of-way line and running along said northern right-of-way line North 75°46'00" East 600.00 feet to a point in a curve, thence following said curve to the right having a radius of 373.40 feet and an arc length of 167.15 feet having a delta of 25°39'00" to a point, thence continuing along said right-of-way line South 78°35'00" East 39.48 feet to a point in said right-of-way line, thence leaving said right-of-way line South 11°25'00" West 60.00 feet to a point in the intersection of the southern right-of-way line of Flanders Street and the western right-of-way line of Conover Road and being the point and place of beginning containing 47,592 square feet as recorded in a plat titled "Revision of a Portion of Shaw Hills Estates" and recorded in Plat Book 72, Page 2.

As recorded in the Durham County Register of Deeds Office at Plat Book _____, Page _____.

ORDER PERMANENTLY CLOSING
A PORTION OF HILLVIEW DRIVE (SC03-14)

WHEREAS, the Durham Board of County Commissioners adopted a Resolution on June 14, 2004, declaring its intent to close the street or alley or portion thereof that is generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein;

WHEREAS, the Resolution provided for the holding of a public hearing on the question of whether said street should be permanently closed; and

WHEREAS, notice of the closing of said street was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street to be closed; and

WHEREAS, a Notice of the closing and public hearing was prominently posted in at least two places along the street to be closed; and

WHEREAS, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came for hearing before the Durham Board of County Commissioners at its regular meeting on June 28, 2004, and all persons who desired to be heard were heard at that time.

NOW, THEREFORE, the Board of County Commissioners of the County of Durham having carefully considered the question of permanently closing the street or alley or portion thereof as it more fully described in Attachment A, finds:

1. That closing of the street or alley described in Attachment A is not contrary to the public interest, and
2. No individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to his or her property.

IT IS THEREFORE, ORDERED:

1. That the street described in Attachment A is permanently closed under the authority of GS 160A-299(c).
2. That utility easements that may be referenced in Attachment A or shown on the plat referenced in Attachment A shall be retained by the County, and that easements owned by private utility companies that are shown on such plat be retained by the private utilities indicated.
3. That a certified copy of this Order and the plat referred to in Attachment A shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
4. That property owners adjacent to the closed street shall take right, title, and interest as is provided in GS 160A-299 (c), as may be further illustrated on the plat referenced in Attachment A.
5. That this Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

Legal Description
SC03-14
A PORTION OF HILLVIEW DRIVE

Commencing at a point in the terminus of northern right-of-way line of Hillview Drive, said point also being the southwestern corner of Lot 30, Block "P", Revision of a Portion of

Shaw Hills Estates as recorded in Plat Book 72, Page 5 and being the point and place of beginning, thence leaving said point of beginning and running along the northern right-of-way line of Hillview Drive North 75°46'00"East 1334.66 feet to a point in said right-of-way line, thence leaving said right-of-way line South 14°14'00"East 60.05 feet to a point in the intersection of the southern right-of-way line of Hillview Drive and the western right-of-way line of Rondelay Drive, thence leaving said intersection and running along said southern right-of-way line South 75°46'00"West 855.25 feet to a point in the intersection of the southern right-of-way line of Hillview Drive and the eastern right-of-way line of Northwest Drive, thence leaving said intersection and running along said southern right-of-way line South 75°46'00" West 63.57 feet to a point in the intersection of the southern right-of-way line of Hillview Drive and the western right-of-way line of Northwest Drive, thence leaving said intersection and running along said southern right-of-way line South 75°46'00" West 303.98 feet to the terminus of said southern right-of-way line, thence leaving said southern right-of-way line and running along the western right-of-way line of Hillview Drive North 79°33'30"West 127.16 feet to a point, thence continuing along said right-of-way line North 13°53'50"East 7.84 feet to a point in the terminus of the northern right-of-way line of Hillview Drive and being the point and place of beginning containing 77,200 square feet as recorded in a plat titled "Revision of a Portion of Shaw Hills Estates" and recorded in Plat Book 72, Page 5.

As recorded in the Durham County Register of Deeds Office at Plat Book _____, Page _____.

**ORDER PERMANENTLY CLOSING
NORTHWEST DRIVE (SC03-15)**

WHEREAS, the Durham Board of County Commissioners adopted a Resolution on June 14, 2004, declaring its intent to close the street or alley or portion thereof that is generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein;

WHEREAS, the Resolution provided for the holding of a public hearing on the question of whether said street should be permanently closed; and

WHEREAS, notice of the closing of said street was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street to be closed; and

WHEREAS, a Notice of the closing and public hearing was prominently posted in at least two places along the street to be closed; and

WHEREAS, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came for hearing before the Durham Board of County Commissioners at its regular meeting on June 28, 2004, and all persons who desired to be heard were heard at that time.

NOW, THEREFORE, the Board of County Commissioners of the County of Durham having carefully considered the question of permanently closing the street or alley or portion thereof as it more fully described in Attachment A, finds:

1. That closing of the street or alley described in Attachment A is not contrary to the public interest, and
2. No individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to his or her property.

IT IS THEREFORE, ORDERED:

1. That the street described in Attachment A is permanently closed under the authority of GS 160A-299(c).
2. That utility easements that may be referenced in Attachment A or shown on the plat referenced in Attachment A shall be retained by the County, and that easements owned by private utility companies that are shown on such plat be retained by the private utilities indicated.
3. That a certified copy of this Order and the plat referred to in Attachment A shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
4. That property owners adjacent to the closed street shall take right, title, and interest as is provided in GS 160A-299 (c), as may be further illustrated on the plat referenced in Attachment A.
5. That this Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

Legal Description
SC03-15
NORTHWEST DRIVE

Commencing at the intersection of the eastern right-of-way line of Northwest Drive and the southern right-of-way line of Hillview Drive, said point being the point and place of beginning, thence leaving said point of beginning and running along the eastern right-of-way line of Northwest Drive South 33°31'30" East 1337.66 feet to a point in the intersection of the eastern right-of-way line of Northwest Drive and the northern right-of-way line of Opal Street, thence leaving said intersection and running along said eastern right-of-way line South 33°31'30" East 60.00 feet to a point in the intersection of the eastern right-of-way line of Northwest Drive and the southern right-of-way line of Opal Street, thence leaving said intersection and running along said eastern right-of-way line South 33°31'30" East 475.99 feet to a point in a curve, thence following said curve to the left having a radius of 50.00 feet and an arc length of 48.99 feet to a point in the cul-de-sac, said point also being a point of reverse curvature, thence leaving said point and following said curve to the right having a radius of 52.90 feet and an arc length of 212.97 feet to a point in the western right-of-way line of Northwest Drive, thence leaving said point and running along said western right-of-way line North 33°31'30" West 1985.16 feet to a point in the intersection of the western right-of-way line of Northwest Drive and the southern right-of-way line of Hillview Drive, thence leaving said point and running along said southern right-of-way line of Northwest

Drive 75°46'00" East 63.57 feet to a point in the intersection of the southern right-of-way line of Hillview Drive and the eastern right-of-way line of Northwest Drive and being the point and place of beginning containing 124,217 square feet as recorded in a plat titled "Revision of a Portion of Shaw Hills Estates" and recorded in Plat Book 72, Pages 4 and 5.

As recorded in the Durham County Register of Deeds Office at Plat Book _____,
Page _____.

**ORDER PERMANENTLY CLOSING
OPAL STREET (SC03-16)**

WHEREAS, the Durham Board of County Commissioners adopted a Resolution on June 14, 2004, declaring its intent to close the street or alley or portion thereof that is generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein;

WHEREAS, the Resolution provided for the holding of a public hearing on the question of whether said street should be permanently closed; and

WHEREAS, notice of the closing of said street was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street to be closed; and

WHEREAS, a Notice of the closing and public hearing was prominently posted in at least two places along the street to be closed; and

WHEREAS, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came for hearing before the Durham Board of County Commissioners at its regular meeting on June 28, 2004, and all persons who desired to be heard were heard at that time.

NOW, THEREFORE, the Board of County Commissioners of the County of Durham having carefully considered the question of permanently closing the street or alley or portion thereof as it more fully described in Attachment A, finds:

1. That closing of the street or alley described in Attachment A is not contrary to the public interest, and
2. No individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to his or her property.

IT IS THEREFORE, ORDERED:

1. That the street described in Attachment A is permanently closed under the authority of GS 160A-299(c).
2. That utility easements that may be referenced in Attachment A or shown on the plat referenced in Attachment A shall be retained by the County, and that

- easements owned by private utility companies that are shown on such plat be retained by the private utilities indicated.
3. That a certified copy of this Order and the plat referred to in Attachment A shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
 4. That property owners adjacent to the closed street shall take right, title, and interest as is provided in GS 160A-299 (c), as may be further illustrated on the plat referenced in Attachment A.
 5. That this Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

Legal Description
SC03-16
OPAL STREET

Commencing at the intersection of the northern right-of-way line of Opal Street and the eastern right-of-way line of Northwest Drive, said point being the point and place of beginning, thence leaving said point of beginning and running along the northern right-of-way line of Opal Street North 56°28'30" East 437.91 feet to a point in the intersection of the northern right-of-way line of Opal Street and the western right of way line of Rondelay Drive, thence leaving said intersection and running along the western right-of-way line of Rondelay Drive South 01°03'24" East 71.12 feet to a point in the intersection of the western right-of-way line of Rondelay Drive and the southern right-of-way line of Opal Street, thence leaving said point and running along the southern right-of-way line of Opal Street South 56°28'30" West 399.73 feet to a point in the intersection of the southern right-of-way line of Opal Street and the eastern right-of-way line of Northwest Drive, thence leaving said point and running along the eastern right-of-way line of Northwest Drive North 33°31'30" West 60.00 feet to a point in the intersection of the eastern right-of-way line of Northwest Drive and the northern right-of-way line of Opal Street and being the point and place of beginning containing 24,957 square feet as recorded in a plat titled "Revision of a Portion of Shaw Hills Estates" and recorded in Plat Book 72, Page 4.

As recorded in the Durham County Register of Deeds Office at Plat Book _____, Page _____.

ORDER PERMANENTLY CLOSING
RONDELAY DRIVE (SC03-17)

WHEREAS, the Durham Board of County Commissioners adopted a Resolution on June 14, 2004, declaring its intent to close the street or alley or portion thereof that is generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein;

WHEREAS, the Resolution provided for the holding of a public hearing on the question of whether said street should be permanently closed; and

WHEREAS, notice of the closing of said street was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street to be closed; and

WHEREAS, a Notice of the closing and public hearing was prominently posted in at least two places along the street to be closed; and

WHEREAS, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came for hearing before the Durham Board of County Commissioners at its regular meeting on June 28, 2004, and all persons who desired to be heard were heard at that time.

NOW, THEREFORE, the Board of County Commissioners of the County of Durham having carefully considered the question of permanently closing the street or alley or portion thereof as it more fully described in Attachment A, finds:

1. That closing of the street or alley described in Attachment A is not contrary to the public interest, and
2. No individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to his or her property.

IT IS THEREFORE, ORDERED:

1. That the street described in Attachment A is permanently closed under the authority of GS 160A-299(c).
2. That utility easements that may be referenced in Attachment A or shown on the plat referenced in Attachment A shall be retained by the County, and that easements owned by private utility companies that are shown on such plat be retained by the private utilities indicated.
3. That a certified copy of this Order and the plat referred to in Attachment A shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
4. That property owners adjacent to the closed street shall take right, title, and interest as is provided in GS 160A-299 (c), as may be further illustrated on the plat referenced in Attachment A.
5. That this Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

Legal Description
SC03-17
RONDELAY DRIVE

Commencing at the intersection of the eastern right-of-way line on Rondelay Drive and the southern right-of-way line of Hillview Drive, said point being the point and place of beginning, thence leaving said point of beginning and running along the eastern right-of-way line of Rondelay Drive South 14°14'00" East 400.00 feet to a point in the intersection of the eastern right-of-way line of Rondelay Drive and the northern right-of-way line of Flanders Street, thence leaving said intersection and running along said eastern right-of-way line

South 14°14'00" East 60.00 feet to a point in the intersection of the eastern right-of-way line of Rondelay Drive and the southern right-of-way line of Flanders Street, thence leaving said intersection and running along said eastern right-of-way line South 14°14'00" East 762.92 feet to a point in said eastern right-of-way line, thence leaving said point and running along said eastern right-of-way line South 33°31'30" East 417.30 feet to a point in a curve, thence following said curve to the left having a radius of 211.53 feet and an arc length of 124.00 feet having a delta of 33°35'10" to a point, thence leaving said curve and running along said eastern right-of-way line South 67°06'40" East 102.01 feet to a point in the intersection of the eastern right-of-way line of Rondelay Drive and the western right-of-way line of Conover Road, thence leaving said intersection South 23°28'30" West 60.10 feet to a point in the western right-of-way line of Rondelay Drive, thence leaving said point and running along said western right-of-way line North 67°06'40" West 101.48 feet to a point in a curve, thence following said curve to the right having a radius of 271.53 feet and an arc length of 159.17 feet having a delta of 33°35'10" to a point, thence leaving said curve and continuing along said western right-of-way line North 33°31'30" West 476.18 feet to a point in the intersection of the western right-of-way line of Rondelay Drive and the southern right-of-way line of Opal Street, thence leaving said intersection and running along said western right-of-way line North 01°03'24" West 71.12 feet to a point in the intersection of the western right-of-way line of Rondelay Drive and the northern right-of-way line of Opal Street, thence leaving said intersection and running along the western right-of-way line of Rondelay Drive North 14°14'00" West 1117.83 feet to a point in the intersection of the western right-of-way line of Rondelay Drive and the southern right-of-way line of Hillview Drive, thence leaving said intersection and running along said southern right-of-way line North 75°38'50" East 60.00 feet to a point in the intersection of the southern right-of-way line of Hillview Drive and the eastern right-of-way line of Rondelay Drive and being the point and place of beginning containing 114,635 square feet as recorded in a plat titled "Revision of a Portion Of Shaw Hills Estates" and recorded in Plat Book 72, Pages 4 and 5.

As recorded in the Durham County Register of Deeds Office at Plat Book _____, Page _____.

ORDER PERMANENTLY CLOSING
WENHAM COURT (SC03-18)

WHEREAS, the Durham Board of County Commissioners adopted a Resolution on June 14, 2004, declaring its intent to close the street or alley or portion thereof that is generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein;

WHEREAS, the Resolution provided for the holding of a public hearing on the question of whether said street should be permanently closed; and

WHEREAS, notice of the closing of said street was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street to be closed; and

WHEREAS, a Notice of the closing and public hearing was prominently posted in at least two places along the street to be closed; and

WHEREAS, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came for hearing before the Durham Board of County Commissioners at its regular meeting on June 28, 2004, and all persons who desired to be heard were heard at that time.

NOW, THEREFORE, the Board of County Commissioners of the County of Durham having carefully considered the question of permanently closing the street or alley or portion thereof as it more fully described in Attachment A, finds:

1. That closing of the street or alley described in Attachment A is not contrary to the public interest, and
2. No individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to his or her property.

IT IS THEREFORE, ORDERED:

1. That the street described in Attachment A is permanently closed under the authority of GS 160A-299(c).
2. That utility easements that may be referenced in Attachment A or shown on the plat referenced in Attachment A shall be retained by the County, and that easements owned by private utility companies that are shown on such plat be retained by the private utilities indicated.
3. That a certified copy of this Order and the plat referred to in Attachment A shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
4. That property owners adjacent to the closed street shall take right, title, and interest as is provided in GS 160A-299 (c), as may be further illustrated on the plat referenced in Attachment A.
5. That this Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

Legal Description
SC03-18
WENHAM COURT

Commencing at a point in the intersection of the western right-of-way line of Conover Road and the southern right-of-way line of Wenham Court and being the point and place of beginning, thence from the above described point of beginning and leaving said intersection and running along the southern right-of-way line of Wenham Court North 78°35'00"West 110.00 feet to a point in a cul-de-sac, thence following a curve to the right having a radius of 50.00 feet and an arc length of 249.82 feet to a point in the northern right-of-way line of Wenham Court, thence along said right-of-way line South 78°35'00"East 110.00 feet to a point in the intersection of the northern right-of-way line of Wenham Court and the western

right-of-way line of Conover Road, thence leaving said intersection and running along said western right-of-way line South 11°25'00" West 60.0 feet to the intersection of the western right-of-way line of Conover Road and the southern right-of-way line of Wenham Court and being the point and place of beginning containing 14,079 square feet as recorded in a plat titled "Revision of a Portion of Shaw Hills Estates" and recorded in Plat Book 72, Page 4.

As recorded in the Durham County Register of Deeds Office at Plat Book _____, Page _____.

Preliminary Plat—Ravenstone (Case D03-567)

Mr. Steve Medlin, Assistant Planning Director, stated that RL Horvath Associates Inc., on behalf of Sherron Road Ventures, LLC, submitted a preliminary plat for 306 single-family lots on a 130.15-acre site, zoned R-10(D) and F/J-B. The proposed project will be located on the southeastern side of Sherron Road, off Hillview Drive, and south of NC 98. (PINs 0860-01-07-6904, etc; County Atlas Page 71, Blocks A-1, A-2, B-1, B-2.

The Planning Staff recommended approval.

In answer to a question by Chairman Reckhow, Mr. Horvath stated that no lots extend into the floodplain; however, an experimental stormwater treatment facility is proposed in the floodplain areas. The fill is part of the dam being configured, with latest construction numbers indicating a negative fill is taking place.

Commissioner Heron asked about the encroachment of sewer lines in the stream buffers.

Mr. Medlin responded that the Engineering Department evaluated the location of the sewer lines, determining that the locations are the most appropriate.

To address the concern of Commissioner Heron, Mr. Horvath stated that the sewer line was installed under the previous portion of the project (the shopping center, Phase I) without any stream disturbance. This portion of the project is road infrastructure and lot construction. A couple of sewer lines are crossing to tie on to the main but will not be a detriment to the buffer or streams.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve Preliminary Plat—Ravenstone (Case D03-567).

The motion carried unanimously.

(Tax Map number: _____; recorded in Ordinance Book _____, page _____.)

Board and Commission Appointments

Chairman Reckhow conveyed that she received a call from E'Vonne Coleman, ABC Board Chairman, who respectfully requested that the Commissioners defer action on the appointment. The ABC Board wishes to recruit a member with expertise in marketing and retail sales.

Commissioner Jacobs moved, seconded by Commissioner Heron, to readvertise for the position on the ABC Board.

The motion carried unanimously.

Chairman Reckhow directed the Clerk to communicate with Ms. Coleman to determine appropriate wording for the advertisement.

Chairman Reckhow referred to a letter the Board received a few months ago from Dr. Phail Wynn at Durham Technical Community College requesting the reappointment of Jesse Anglin. Mr. Anglin has served the maximum number of terms stated in the policy; but a waiver provision exists in the policy.

Chairman Reckhow mentioned that she signed a letter to David Price in support of an application submitted by Mental Health and the Criminal Justice Resource Center for a major four-year grant from the Federal Government for a youth re-entry program.

The Commissioners voted to make the following appointments:

Animal Control Review Board

Vickie White

Community Child Protection Team/Child Fatality Prevention Team

Sandra Deloatch Reddish

Rebecca Gaye Weaver

Durham Appearance Commission

Mary N. Odom

Warren Samberg

Durham Board of Adjustment

Ralph F. Whitfield III

Durham County Library Board of Trustees

Marian C. Andrews

Kenneth Berger

Durham Technical Community College

Jesse B. Anglin Jr.

Juvenile Crime Prevention Council

Donald Hughes (under 18)
Peggy A. Kernodle (faith community)
R. Patrick Radack (business community)
Paul Savery (substance abuse)
Karen K. Thompson (non-profit agency)

Nursing Home Community Advisory Committee

Debra B. Allen
Jeffrey Bartels

Open Space and Trails Commission

Dr. Will Wilson (lives in Lebanon Township)

Closed Session

The Board of Commissioners was requested to adjourn to closed session to consider the competence, performance, or fitness of a public officer or employee pursuant to G.S. § 143-318.11(a)(6).

The Commissioners concurred to delay the Closed Session until the August Worksession due to the lateness of the hour.

Adjournment

Chairman Reckhow adjourned the meeting at 11:00 p.m.

Respectfully submitted,

Vonda C. Sessoms
Deputy Clerk to the Board