

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

Monday, November 25, 2002

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 MaryAnn E. Black, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe W. Bowser, Philip R. Cousin Jr., and Becky M. Heron

Absent: None

Presider: Chairman Black

**Opening of Regular Session—Pledge of Allegiance**

Chairman Black called the meeting to order with the Pledge of Allegiance.

**Agenda Adjustments**

Vice-Chairman Reckhow added two items to be placed at the end of the agenda:

- Information about the Public Health Department's management of asthma in the Durham Public Schools
- Cable rate increase

Commissioner Heron added an item regarding traffic and the long-range transportation plan.

**Minutes**

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the September 23, 2002 Special Session Minutes with a one-word correction and the October 22, 2002 Joint BOCC and Durham County Hospital Corporation Board of Trustees Meeting Minutes as submitted.

The motion carried unanimously.

**Recognition of Outgoing Board Chairman MaryAnn E. Black**

A reception honoring outgoing Durham County Commissioner Chairman MaryAnn E. Black was held earlier this evening. Vice-Chairman Ellen W. Reckhow will read a resolution honoring the 12-year tenure of Commissioner Black and present a token of appreciation from fellow members of the Board of County Commissioners.

County Manager's Recommendation: Extend sincere appreciation to MaryAnn E. Black for her 12 years of outstanding, compassionate, and visionary leadership while serving as a Durham County Commissioner and Chairman.

Vice-Chairman Ellen W. Reckhow stated that the Board was recognizing its outgoing Chairman, MaryAnn E. Black, who was leaving the Board, having not sought re-election.

Vice-Chairman Reckhow read a formal resolution honoring the work of MaryAnn E. Black during her tenure on the Board.

The Resolution follows:

RESOLUTION

WHEREAS, Chairman MaryAnn E. Black began her illustrious service to the public by winning the hearts and minds of the Durham community when she won her first election to public office in 1990; and

WHEREAS, MaryAnn, as she is so fondly known by fellow commissioners, quickly distinguished herself as a leader by receiving the coveted nomination and selection to Chair of the Board of County Commissioners in 1996; and

WHEREAS, she has continued in this role for six years, further distinguishing herself as a thoughtful, ethical Chair, most often being referred to as the "peacemaker" and known for her effective skills in bringing consensus among the group; and

WHEREAS, during her extended service to the citizenry of this community she became a strong advocate for the Durham schools, libraries, and human service programs; and

WHEREAS, her past and present boards, committee memberships, and other affiliations include the arts, partnerships for children, violence and substance abuse prevention, affordable housing, health and welfare advocacy, programs for the needy, affordable healthcare, and many others; and

WHEREAS, her many awards and honors include: both State and National Social Worker of the year in 1994, The National Founders Day Service Award for Work in Human Relations, The 1996 Citizen of the Year Award from Holy Cross Church Men's Society, The Dorothy B. Graham Child Care Leadership Award by the Durham Day Care

Council, and The Local and Regional Merit & Service to Mankind Awards from the Sertoma Club; and

WHEREAS, her dedication, loyalty, and commitment to good governance serve as a living legacy of her tenure in Durham County; and

WHEREAS, we also offer the heartiest of congratulations on her new career choice which will again place her in the spotlight, providing an important link between the health system and the diverse communities it serves; and

WHEREAS, her compassionate, caring style and uncanny ability to get things done will be sorely missed for her insightful leadership, and she will always be remembered as the consummate ambassador of goodwill to all:

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

MARYANN E. BLACK

for her dedicated service to Durham County Government and for her many contributions toward improving the quality of life in the Durham community. We wish her much success as she directs her focus to her new appointment as Director of Community Affairs for the Duke University Health System.

This the 25<sup>th</sup> day of November 2002

/s/ Five Commissioners  
Durham County Commissioners

Vice Chairman Reckhow said it had been 12 wonderful years working for the citizens of Durham County. The Board would miss her very much.

Chairman Black responded to the resolution with a prepared statement of appreciation and thanks.

The Commissioners and County Manager Ruffin individually commented on their fortunate association with Chairman Black during her tenure.

The Vice-Chairman recognized Dr. Lavonia I. Allison, 1315 McLaurin Avenue, who thanked Chairman Black for her service to the Durham County community.

The Commissioners presented Chairman MaryAnn E. Black with a gift of an engraved Chairman's gavel.

**November Anchor Award Winner—Ronnie Butler**

Ronnie Butler, Building Maintenance Supervisor at the Department of General Services, is this month's winner of the prestigious "Anchor Award." In his nomination letter, General Services Director Michael Turner noted Mr. Butler's exceptional volunteer service with the County's 2002 United Way Campaign, Juvenile Diabetes Foundation Walk-A-Thon, and logistical support to officials from Durham, England and the Tuesday, November 5<sup>th</sup> General Election. Because of his compassionate spirit and diligence, Durham County Government exceeded its 2002 United Way Goal of \$81,500 by more than \$3,000.00

Resource Person(s): Michael Turner, Director of General Services.

County Manager's Recommendation: Present the November Anchor Award to Ronnie Butler, along with the sincere congratulations of the entire organization.

Mr. Michael Turner, Director of General Services, introduced Mr. Ronnie Butler to the County Commissioners. . Mr. Turner told the Commissioners about the volunteer service Mr. Butler has performed to make him an exemplary employee. Mr. Turner stated that Mr. Butler is deserving of the November Anchor Award.

Mr. Butler made remarks of thanks and appreciation for the honor of being the November Anchor Award winner. He thanked everyone who made it possible for him to be chosen for the recognition.

**911 Telecommunicator of the Year—R. Nathan Huey**

Mr. R. Nathan Huey has been awarded the N. C. National Emergency Number Association's "2002-2003 Annie McIntyre 911 Telecommunicator of the Year Award." Mr. Huey is an assistant shift supervisor in Durham's 911 Emergency Communications Center.

The award notes that he received the prestigious recognition for his "duty, ingenuity, and ability to adapt to change," in reference to the key role he played in keeping the 911 center open earlier this year when flooding forced its temporary evacuation.

According to Emergency Communications Director Chuck Johnson, "it is impossible to determine how many lives were saved that night due to the quick thinking of Mr. Huey and other squad members who were working." Mr. Huey set up a temporary paging system with volunteer fire departments to make sure they were dispatched when needed and stayed on after a late-night shift to help oncoming workers adjust to the work environment.

County Manager's Recommendation: Receive remarks and extend congratulations to Mr. Huey for achieving this outstanding statewide accolade.

Commissioner Heron, County Fire Marshal Jeff Batten, and Emergency Communications Director Chuck Johnson presented the statewide accolade to Mr. Nathan Huey. The presenters extended congratulations to Mr. Huey and thanked him for his hard work in the Emergency Communications Center.

### **Appointment of Tax Administrator**

North Carolina General Statute §§ 105-294 and 105-349 provide for the appointment of a tax administrator. Ten candidates were interviewed for the position, and a tentative offer has been extended to, and accepted by, one of these applicants. The formal appointment by the Board of County Commissioners will consummate the process.

Resource Person(s): MaryAnn E. Black, Chairman; Chuck Kitchen, County Attorney

County Manager's Recommendation: Appoint the selected applicant for a two-year term expiring in July of 2005, pursuant to the terms and conditions that were communicated in correspondence dated November 14, 2002.

Chairman Black told the County Commissioners that the Board was appointing Mr. Kenneth L. Joyner, as Tax Administrator, beginning January 6, 2003 with a salary of \$75,000. She remarked that she was of the opinion that the Board had selected the best person to come to Durham County that it had interviewed.

Commissioner Cousin moved, seconded by Commissioner Heron, to appoint Mr. Kenneth L. Joyner Jr. as the Durham County Tax Administrator for a two-year term effective January 6, 2003 at a salary of \$75,000.

The motion carried unanimously.

### **Consent Agenda**

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

- (a) Durham Convention and Visitors Bureau (DCVB) Appointment (approve appointment of Thomas M. Niemann);
- \* (c) Adopt Resolution to Provide Electronic Listing of Business Personal Property (adopt the resolution to provide Electronic Filing of Business Personal Property);
- (d) Left blank intentionally;
- \* (e) Budget Ordinance Amendment Number 03BCC000023—The Durham Center—Recognize “Latino Access to Coordinated Healthcare” Grant in

- the Amount of \$43,542 (approve this amendment and appropriate funds in the amount of \$43,542); and
- \*(f) Order Authorizing Issuance of Revenue Bonds (approve the Bond Order so that the sale of the bonds may proceed as scheduled).

The motion carried unanimously.

\*Documents related to these items follow:

Consent Agenda Item 8(c). Adopt Resolution to Provide Electronic Listing of Business Personal Property (adopt the resolution to provide Electronic Filing of Business Personal Property)

The resolution follows:

#### RESOLUTION TO AUTHORIZE THE USE OF ELECTRONIC LISTING PROGRAM

WHEREAS, the General Assembly has ratified Senate Bill 356 (Session Law 2001-279) amending G.S. 105-304 to authorize Counties to permit electronic listing of business personal property; and

WHEREAS, Session Law 2001-279 permits the Board of County Commissioners to extend the deadline for filing electronic listings of business personal property under G.S. 105-304 to June 1; and

WHEREAS, Session Law 2001-279 authorizes electronic signature of business personal property listings which are submitted electronically:

NOW THEREFORE, BE IT RESOLVED THAT:

Section 1. Durham County Board of Commissioners hereby authorizes business personal property listings to be submitted and signed electronically, and extends the deadline for receiving electronic business personal property listings to, and until, March 15 of any year.

Section 2. The following procedures will apply to electronic tax filings. Electronic listings must be submitted online and facsimiles will not be accepted as electronic listings. In order to file electronically, the taxpayer must use the electronic listing application, the Account Identification Number (Account ID), and the four digit Personal Identification Number (PIN) to file business personal property listings after January 31 of any year. The taxpayer must file an online request for extension of time during the month of January and must provide both the Account ID and the PIN which appears on the listing form. Electronic filings must be received by the Durham County Tax Administration no later than March 15 of that year in order to avoid late list penalties.

The Account ID and the PIN provided to electronically-submitted listings forms will constitute the taxpayers electronic signature.

Section 3. This resolution shall be recorded in the minutes of the Durham County Board of Commissioners and notice of the procedures and extension of time for electronic filing of business personal property listings shall be published as required by G.S. 105-296(c).

Section 4. This resolution is effective for all tax years after its adoption.

By motion properly made and seconded, adopted this the 25<sup>th</sup> day of November 2002.

/s/ MaryAnn E. Black  
Chairman, Board of County Commissioners

(SEAL)

/s/ Garry E. Umstead, CMC  
Clerk to the Board

Consent Agenda Item 8(e). Budget Ordinance Amendment Number 03BCC000023—The Durham Center—Recognize “Latino Access to Coordinated Healthcare” Grant in the Amount of \$43,542 (approve this amendment and appropriate funds in the amount of \$43,542).

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000023

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2002-03 Budget Ordinance is hereby amended to reflect budget adjustments for The Durham Center.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	316,454,497	43,542		316,498,039
<u>Revenues</u>				
Intergovernmental Revenues	260,195,865	43,542		260,239,407

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

This the 25<sup>th</sup> day of November, 2002.

(Budget Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

In reference to Consent Agenda item 8(e), Commissioner Heron wants a list of all the contract and provisional positions and when they will expire.

Consent Agenda Item 8(f). Order Authorizing Issuance of Revenue Bonds (approve the Bond Order so that the sale of the bonds may proceed as scheduled).

ORDER AUTHORIZING THE ISSUANCE AND SALE BY THE  
COUNTY OF DURHAM, NORTH CAROLINA OF NOT TO EXCEED  
\$29,500,000 ENTERPRISE SYSTEM REVENUE BONDS, SERIES  
2002 AND AUTHORIZING THE EXECUTION AND DELIVERY OF  
CERTAIN DOCUMENTS IN CONNECTION THEREWITH

BE IT ORDERED by the Board of Commissioners for the County of Durham, North Carolina (the "County"), as follows:

Section 1. The Board of Commissioners for the County (the "Board") does hereby find and determine as follows:

- (a) Pursuant to a resolution passed by the Board on September 23, 2002, the Finance Director of the County has filed an application with the North Carolina Local Government Commission (the "Commission") requesting its approval of the issuance of not to exceed \$29,500,000 revenue bonds of the County for the purpose of providing funds, with any other available funds, to (i) pay the cost of acquiring, constructing, and equipping certain improvements to the County's wastewater system (as more specifically described in such resolution, the "Project"), (ii) provide for a debt service reserve for such bonds or a substitute therefor and, if necessary, municipal bond insurance for such bonds and (iii) pay expenses incidental to the issuance of such bonds.
- (b) The County has also requested the Commission to sell such bonds at private sale without advertisement.
- (c) The Commission has approved the application of the County for the issuance of such bonds in an aggregate principal amount not to exceed \$29,500,000 for the purposes described above in accordance with Section 159-86 of the General Statutes of North Carolina.
- (d) The County desires to issue not to exceed \$29,500,000 Enterprise System Revenue Bonds, Series 2002 (the "Bonds") for the purposes described above.
- (e) The County proposes to sell the Bonds to Jackson Securities LLC and Morgan Keegan & Company, Inc. (collectively, the "Underwriters") pursuant to the provisions of a Bond Purchase Agreement (hereinafter mentioned), at such



prices as are determined by the Commission, subject to the approval of the County.

(f) There have been presented to the Board at this meeting drafts of the following documents relating to the issuance and sale of the Bonds:

(1) Trust Agreement, to be dated as of December 1, 2002 (the "Trust Agreement"), between the County and First-Citizens Bank & Trust Company, as trustee (the "Trustee"), authorizing and securing the Bonds;

(2) First Supplemental Trust Agreement, to be dated as of December 1, 2002 (the "Supplemental Agreement"), between the County and the Trustee, supplementing the Trust Agreement;

(3) Bond Purchase Agreement, to be dated as of the date of delivery thereof (the "Purchase Agreement"), among the Underwriters, the Commission and the County;

(4) Preliminary Official Statement, to be dated as of the date of delivery thereof (the "Preliminary Official Statement"), relating to the offering and sale of the Bonds, together with the Financial Feasibility Report to be included as Appendix B thereto (the "Feasibility Report"); and

(5) Letter of Representations, to be dated the date of delivery thereof (the "Letter of Representations"), between the County and The Depository Trust Company, with respect to the issuance of the Bonds in book-entry only form.

(g) The issuance and sale of the Bonds in the manner provided in this order is in the best interest of the County.

Section 2. Capitalized words and terms used in this order and not defined herein shall have the same meanings given such words and terms in the Trust Agreement and the Supplemental Agreement.

Section 3. The actions of the Finance Director in applying to the Commission for the approval of the issuance of the Bonds in a principal amount not to exceed \$29,500,000 for the purposes described in Section 1(a) hereof are hereby ratified, confirmed, and approved.

Section 4. Pursuant to the provisions of The State and Local Government Revenue Bond Act, as amended (the "Act"), including particularly Section 159-88, the Board hereby authorizes the issuance of the Bonds in an aggregate principal amount not to exceed \$29,500,000 for the purposes described in Section 1(a) hereof. The Bonds shall mature at such times and in such amounts as shall be set forth in the Supplemental Agreement, subject to the provisions of this order.

The Bonds shall be issued as fully registered bonds in denominations of \$5,000 or any whole multiple thereof and shall be subject to provisions of the book-entry only system for registration of the Bonds as set forth in the Supplemental Agreement. Interest on the Bonds shall be payable on June 1 and December 1 of each year, beginning June 1, 2003, until the payment in full of the principal thereof. The principal of the Bonds shall be payable on June 1 of each year as described in the Supplemental Agreement with a final maturity of the Bonds not to exceed December 31, 2028.

Section 5. The Bonds shall be subject to redemption prior to maturity at the times, upon the terms and conditions, and at the prices as shall be set forth in the Supplemental Agreement.

Section 6. The proceeds of the Bonds (including accrued interest) shall be applied as provided in Section 204 of the Supplemental Agreement.

Section 7. The Bonds, together with any Parity Indebtedness hereafter issued and outstanding pursuant to the provisions of the Trust Agreement, shall be secured on a parity basis by a pledge, charge and lien upon the Net Receipts and the money and Investment Obligations held in the accounts and subaccounts of the Bond Fund and otherwise in the manner and to the extent provided in the Trust Agreement and the Supplemental Agreement.

Section 8. The proposal of the Underwriters set forth in the Purchase Agreement offering to purchase the Bonds at the aggregate purchase price and bearing interest at the rates determined by the Commission and approved by the County as hereinafter provided, such purchase price not to be less than 98% of the aggregate principal amount of the Bonds plus accrued interest from the date of the Bonds to the date of delivery of the Bonds, and such interest rates not to exceed a true interest cost of 5.85% per annum and an effective interest cost of 5.95% per annum, is hereby approved. The Commission is hereby directed to sell and award the Bonds to the Underwriters on behalf of the County, subject to the approval of the County, in accordance with the terms and provisions set forth in the Purchase Agreement. The Chairman of the Board, the County Manager or the Finance Director is hereby designated to approve on behalf of the County the sale of the Bonds to the Underwriters at such interest rates, for such purchase price and upon such other terms and conditions as the Chairman of the Board, the County Manager or the Finance Director shall determine, subject to the provisions of this order. The Chairman of the Board, the County Manager or the Finance Director of the County is hereby authorized and directed in the name and on behalf of the County to execute and deliver the Purchase Agreement in substantially the form presented, together with such changes, additions and deletions as the Chairman of the Board, the County Manager or the Finance Director, with the advice of counsel, may deem necessary or appropriate, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 9. The forms, terms and provisions of the Trust Agreement and the Supplemental Agreement are hereby approved, and the Chairman of the Board or the

County Manager and the Clerk to the Board or any Deputy Clerk to the Board are hereby authorized to execute and deliver the Trust Agreement and the Supplemental Agreement in substantially the forms presented, together with such changes, additions and deletions as the Chairman of the Board or the County Manager and the Clerk to the Board or any Deputy Clerk to the Board, with the advice of counsel, may deem necessary or appropriate, including, without limitation, changes, additions and deletions necessary to incorporate the final terms of the Bonds as set forth in the Purchase Agreement and to incorporate certain terms and provisions required by any rating agency, bond insurer or provider of debt service reserve insurance, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 10. The Preliminary Official Statement relating to the offering for sale of the Bonds is hereby approved. The County hereby authorizes the use and distribution of the Preliminary Official Statement in substantially the form presented, together with such changes, additions and deletions as the Chairman of the Board, the County Manager or the Finance Director, with advice of counsel, may deem necessary or appropriate. The County authorizes and consents to the preparation and distribution of a final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes as are necessary to reflect the final terms of the Bonds. The Chairman of the Board, the County Manager or the Finance Director is hereby authorized and directed to execute and deliver the final Official Statement, in substantially the form of the Preliminary Official Statement, together with such changes, additions and deletions as the Chairman of the Board, the County Manager or the Finance Director, with the advice of counsel, may deem necessary or appropriate, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 11. The form and content of the Feasibility Report is hereby approved. The County hereby finds the assumptions made in the Feasibility Report, including the assumed increases in wastewater rates, to be reasonable; provided, however, that the County shall not be obligated to put into effect the rate increases set forth in the Feasibility Report. Potential rate increases shall be considered by the Board from time to time in connection with the County's overall budgetary process, and rate increases will be adopted from time to time as necessary to comply with the provisions of the Trust Agreement and current policies of the County.

Section 12. The form, terms and provisions of the Letter of Representations are hereby approved, and the County Manager or the Finance Director is hereby authorized to execute and deliver the Letter of Representations in substantially the form presented, such execution and delivery to be conclusive evidence of the approval and authorization in all respects of the form and content thereof.

Section 13. The Chairman of the Board, the County Manager, the Finance Director, the Clerk to the Board and the County Attorney, or any of them or their deputies, are authorized and directed (without limitation except as may be expressly set forth in this order) to take such other actions and to execute and deliver such certificates, agreements,

instruments, opinions or other documents as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by this order, the Trust Agreement, the Supplemental Agreement or the Purchase Agreement, including, without limitation, such documents as may be necessary or appropriate in connection with the procurement of a municipal bond insurance policy or a debt service reserve insurance policy relating to the Bonds.

The officers of the County and the agents and employees of the County are hereby authorized and directed to do all acts and things required of them by the provisions of this order, the Bonds, the Trust Agreement, the Supplemental Agreement, the Purchase Agreement or the Letter of Representations for the full, punctual and complete performance of the terms, covenants, provisions and agreements of the same.

Section 14. The issuance and sale of the Bonds is hereby approved subject to the terms and conditions set forth in this order.

Section 15. This order shall take effect immediately upon its passage.

Upon motion of Commissioner Becky M. Heron, seconded by Commissioner Philip R. Cousin Jr., the foregoing order was adopted by the following vote:

Ayes: Commissioners Chairman MaryAnn E. Black, and Commissioners Joe W. Bowser, Philip R. Cousin Jr., Becky M. Heron, and Ellen W. Reckhow.

Noes: None.

\* \* \* \* \*

I, Garry E. Umstead, Clerk to the Board of Commissioners for the County of Durham, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a regular meeting held on November 25, 2002 as relates in any way to the adoption of the order described therein and that said proceedings are recorded in Minute Book No. \_\_\_\_ of the minutes of said Board, beginning at page \_\_\_\_ and ending at page \_\_\_\_.

I HEREBY FURTHER CERTIFY that a schedule of regular meetings of said Board, stating that regular meetings of said Board are held in the County Commissioners' Meeting Room in the Durham County Government Administrative Complex at 200 East Main Street, in Durham, North Carolina, on the second and fourth Mondays of each month at 7:00 P.M., has been on file in my office as of a date not less than seven days before the date of said meeting in accordance with G.S. § 143-318.12.

WITNESS my hand and the corporate seal of said County, this 25<sup>th</sup> day of November, 2002.

/s/ Garry E. Umstead  
Clerk to the Board of Commissioners

**Consent Agenda Items Removed for Discussion**

Consent Agenda Item 8(b). Resolution in Support of the AMBER Alert Warning System for Missing Children (approve the resolution, forward a copy to the North Carolina Association of County Commissioners, and include it in the Board of County Commissioners 2003 Legislative Agenda).

Commissioner Heron removed Consent Agenda item 8(b) to let the citizens know that the Commissioners are approving the resolution in Support of the AMBER Alert Warning System for Missing Children. The resolution would be sent to the General Assembly. The bill is in the Senate Judiciary 1 Committee. The Commissioners urged support for this much-needed bill.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve Consent Agenda item 8(b).

The motion carried unanimously.

The resolution follows:

RESOLUTION

WHEREAS, communities are urged to implement an emergency alert plan such as the America's Missing: Broadcast Emergency Response (AMBER) Plan to hasten the recovery of abducted children; and

WHEREAS, the AMBER Plan seeks to warn communities of a child abduction and to assist in the search for, and safe return of, the child; and

WHEREAS, the AMBER Plan was created in 1996 in memory of 9-year-old Amber Hagerman who was kidnapped and murdered in Arlington, Texas; and

WHEREAS, in response to community concern, the Association of Radio Managers, with the assistance of area law enforcement in Arlington, Texas, created the AMBER Plan; and

WHEREAS, the AMBER Plan, a partnership between law enforcement agencies and media officials, assists law enforcement, parents, and local communities to respond immediately to the most serious child abduction cases; and

WHEREAS, the Department of Justice statistics show that 74% of kidnapped children who are later found murdered are killed within the first three hours of their abduction; and

WHEREAS, since the first few hours during which a child is missing are critical, the AMBER Plan helps the community respond quickly; and

WHEREAS, the AMBER alert has already been adopted in at least 15 states, and since 1997, more that 16 children have been recovered through its use:

NOW, THEREFORE, BE IT RESOLVED THAT we, the members of the Durham County Commissioners, do hereby respectfully request that the General Assembly enact legislation to implement the AMBER Plan across North Carolina to assist in the search and safe return of abducted children; and

BE IT FURTHER RESOLVED that a copy be forwarded to the North Carolina Association of County Commissioners to encourage support from all counties, and that this resolution be included in Durham County's 2003 Legislative Agenda.

This the 25<sup>th</sup> day of November, 2002.

In reference to Consent Agenda item 8(e) Commissioner Heron wants a list of all the contract and provisional positions and when they will expire.

**Public Hearing—Proposed Zoning Amendment Related to Modifications for Home Occupations**

This is a citizen-initiated proposal to modify the Zoning Ordinance's Home Occupation standards for Rural District (RD)—zoned properties that are 10 acres or larger. According to the proposal, properties meeting these characteristics could seek a Minor Special Use Permit that would allow the home occupation to exist in an accessory building or dwelling, and employ up to three off-site employees.

The Zoning Committee unanimously recommended approval of the proposal after conducting a public hearing on October 8, 2002.

The Planning Department recommended adoption of this proposed text amendment by the Board of County Commissioners.

Resource Person(s): Bonnie Estes, AICP, Durham City-County Planning

County Manager's Recommendation: The County Manager recommended that the Board hold the public hearing on the proposed text amendment and adopt it, if appropriate, after receiving public comment.

Mr. Frank Duke, City/County Planning Director, presented the agenda item to the Board of County Commissioners.

The Joint City County Planning Committee had recommended consideration of the proposal by the Zoning Committee of the Planning Commission, and the Zoning

Committee recommended in favor of the proposal by a vote of 7 to 0. Planning staff recommended adoption of the proposed text amendment.

Chairman Black opened the public hearing that was properly advertised. The following person signed to speak at the public hearing:

Mr. Will Anderson, Post Office Box 51579, Durham, NC 27707, made comments. Attorney Anderson appeared before the County Commissioners on behalf of his client Mr. Darnell Thompson, a contractor in the community. Mr. Thompson has asked that the Board consider a change in the home occupations section of the Zoning Ordinance to allow expanding home occupation in the rural district zones for tracts of land ten acres or more.

As no one else signed to speak at the public hearing, Chairman Black closed the public hearing and referred the matter back to the Commissioners for consideration.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the proposed text amendment.

The motion carried unanimously.

The Zoning Ordinance Text Amendment follows:

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE  
TO ALLOW NEW STANDARDS FOR CERTAIN HOME OCCUPATIONS

WHEREAS, the Durham County Commissioners wish to amend the Zoning Ordinance;  
and

WHEREAS, the Zoning Ordinance establishes standards for home occupations; and

WHEREAS, home occupations may reduce commuter traffic and provide additional employment opportunities; and

WHEREAS, under certain conditions, large residential lots may offer the opportunity to provide larger scale home occupations than are found elsewhere without negatively affecting nearby residences:

NOW, THEREFORE, BE IT ORDAINED THAT:

New language underlined.

SECTION 1

That Section 7.20 [Supplementary Regulations for Home Occupations] be rewritten as follows:

## HOME OCCUPATIONS

When allowed, home occupations shall be subject to the following additional regulations:

A. On residential properties, except those properties covered by the standards of Item B of this Subsection.

1. Only family members residing on the premises and one nonresident employee shall engage in the home occupation.
2. The home occupation shall be clearly incidental to the primary use as a residence. The total square footage devoted to the home occupation, shall not exceed 25% of the floor area of the livable portion of the dwelling or 400 square feet, whichever is less. Internal alterations or construction modifications not customary in dwellings shall be prohibited. Exterior modifications to the dwelling to accommodate the home occupation shall be prohibited.
3. No accessory buildings or outside storage shall be used in connection with the home occupation.
4. No display of goods, products, or services shall be visible off site.
5. Home occupation signs shall be in conformance with Section 12 [Signs allowed without a Permit]. At time of adoption of this amendment (9/02) sign size is limited to one wall sign not exceeding 3 square feet.
6. Traffic and parking associated with the use shall not be detrimental to the neighborhood or create congestion on the street where the home occupation is located.
7. Handmade items, foodstuffs, and crafts made on the premises may be offered for sale.
8. Professional services such as offices of an accountant, architect, beautician, engineer, lawyer, or medical practitioner shall be permitted provided other requirements of home occupations are met.
9. No goods, products, or commodities bought or secured for the express purpose of resale shall be sold at retail or wholesale on the premises. Catalog and electronic business orders may be received for goods, products or commodities bought or secured for the express purpose of resale at retail and wholesale when the products are received and shipped from the premises to fulfill catalog or electronic business orders.



10. No machinery that causes noises or interference with radio or television reception shall be permitted.
11. No hazardous materials as defined in Section 2, may be manufactured, stored, processed, or disposed of on the premises.
12. No equipment or process shall be used in connection with the home occupation that creates noise, vibration, glare, fumes, odors, or electrical interference that is detectable off-site.
13. Vehicles used primarily as passenger vehicles shall be permitted in connection with the home occupation. Only one commercially licensed vehicle shall be allowed. This vehicle may not exceed 1-ton capacity.
14. Any home occupation use permits that were granted prior to the adoption of this ordinance shall remain valid.

B. On properties zoned Rural District (RD) containing at least 10 contiguous acres receiving a Minor Special Use Permit from the Board of Adjustment, all of the provisions of Item A of this Subsection shall apply except as modified as follows:

1. Only family members residing on the premises and three nonresident employees shall engage in the home occupation.
2. The home occupation shall be clearly incidental to the primary use as a residence. The total square footage devoted to the home occupation, shall not exceed 25% of the floor area of the livable portion of the dwelling or 1,250 square feet, whichever is less. Internal alterations or construction modifications not customary in dwellings shall be prohibited.
3. An accessory building or an accessory dwelling may be used for all or a portion of the floor area of the home occupation but the combined total square footage devoted to the home occupation whether located in the dwelling, an accessory building, an accessory dwelling, or a combination thereof, may not exceed the limits described in Item B.2 of this subsection. The accessory building may not be located closer to the front property line than the closest side of the primary dwelling to the front property line; nor closer to the side property line than the closest side of the dwelling to the side property line or 100 feet, whichever is a lesser distance, and not closer than 75 feet to the rear property line.
4. The Board of Adjustment may deny the minor use permit when the home occupation would be detrimental to adjacent properties or may add any conditions or safeguards to the permit it feels necessary in order to protect the health and welfare of citizens.
5. Any home occupations utilizing the provisions of Section B shall cease operations if the parcel size is reduced to less than 10 acres.

## SECTION 2

That the Zoning Ordinance be renumbered if necessary to accommodate this change.

## SECTION 3

That this ordinance becomes effective upon adoption.

(Zoning Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page\_\_\_\_\_.)

### **Public Hearing on Proposed Zoning Text Amendment Making Technical Changes To Section 15 of the Zoning Ordinance**

This proposal makes technical changes to Section 15 of the Zoning Ordinance. The changes are necessary due to the multiple amendments made to this Section during the past few months. The proposal calls for the re-adoption of the expedited procedure for the initial zoning of newly-annexed property because of its inadvertent deletion during the approval of the multiple amendments to Section 15. This proposal also incorporates the previously-adopted standards for expedited reviews and clarifies the time frame for Planning Commission actions.

The Zoning Committee unanimously recommended approval of the proposal after conducting a public hearing on October 8, 2002.

The Planning Department recommended adoption of this proposed text amendment by the Board of County Commissioners.

Resource Person(s): Bonnie Estes, AICP, Durham City-County Planning

County Manager's Recommendation: The County Manager recommended that the Board adopt this proposed text amendment.

Mr. Frank Duke, City/County Planning Director, presented the agenda item to the Board of County Commissioners.

The additional language was added at 15.2.3 Paragraph 3 to read as follows: "In no event may the Board of County Commissioners hearing occur less than 30 days after the Commission has received the request for the expedited hearing."

Chairman Black opened the public hearing that was properly advertised.

As no one signed to speak at the public hearing, Chairman Black closed the public hearing and referred the matter to the Commissioners for resolution.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the proposed text amendment to Section 15 of the Zoning Ordinance.

The motion carried unanimously.

The Zoning Ordinance Text Amendment follows:

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE  
TO MAKE TECHNICAL CORRECTIONS CLARIFYING THE WORDING OF  
SECTION 15 CONCERNING PLANNING COMMISSION PROCEDURES AND  
GOVERNING BODY PROCEDURES, REINSTALLING PROVISIONS FOR INITIAL  
REZONINGS, AND ADDING CRITERIA FOR EXPEDITIED HEARINGS

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

WHEREAS, Section 15 of the Zoning Ordinance establishes procedures for making amendments to the ordinance; and

WHEREAS, multiple amendments to this Section over the past several months have led to the need to clarify the language and reinstall certain provisions within this Section of the Ordinance:

NOW, THEREFORE, BE IT ORDAINED BY THE DURHAM COUNTY BOARD OF COMMISSIONERS THAT THE DURHAM ZONING ORDINANCE SHALL BE AMENDED AS FOLLOWS:

SECTION 1

That Section 15.2.3 be rewritten as follows:

15.2.3 Action by the Planning Commission

1. General Procedures: The Planning Department shall forward completed map amendment and text amendment requests and any related materials to the Durham Planning Commission [Commission] or a committee of the Commission for a public hearing and recommendation. The public hearing notification shall be in conformance with Section 15.2.2. The Commission shall make its recommendation within 90 days of its initial public hearing, except where the time periods for a recommendation are altered, as in the case of expedited hearings and changed applications. When a recommendation is not made within the time periods established in this subsection, the Governing Body may process the request without a Commission recommendation. *The following applies to City jurisdiction only*: The initial zoning of property in Durham County that has been annexed to the City, where the proposed zoning is the same as it was in Durham County, shall not require a Commission hearing or recommendation.

2. Changed Application: If the applicant makes significant changes to the application for an amendment after the Commission has made its recommendation, the Planning Director may refer the modified request back to the Commission for an additional public hearing. In such case, the Commission shall make a recommendation to the Governing Body within 90 days of the public hearing on the changed application, or within 6 months of the initial public hearing on the first application, whichever occurs first. If a recommendation is not made within this time frame, the Governing Body may process the request without a recommendation from the Commission. Additional modifications that would extend the Commission's consideration beyond 6 months shall be the basis for an Administrative Withdrawal in accordance with Section 15.3.7.
3. Expedited hearings: If the Governing Body has set an expedited hearing concerning a request, in accordance with Section 15.2.4, a public hearing before the Commission shall be held at the first available hearing date or prior to the hearing before the Governing Body. If the Commission fails to make a recommendation within that time period, the Governing Body may process the request without a recommendation from the Commission. *The following applies to County jurisdiction only*: In no event may the Board of County Commissioners hearing occur less than 30 days after the Commission has received the request for the expedited hearing.

## SECTION 2

That Section 15.2.4 be rewritten as follows:

### 15.2.4 Action by the Governing Body

1. Before taking action on an amendment request, the Governing Body shall consider any recommendations of the Planning Commission, [Commission] and of staff agencies, and shall conduct a public hearing where interested parties may be heard. The public hearing notification shall be in conformance with [Section 15.2.2](#). In scheduling the public hearing, the Governing Body shall give consideration to allowing adequate time for members to receive copies of the draft minutes of the Commission's deliberations on the proposed amendment prior to the public hearing by the Governing Body.
2. The Governing Body, in situations in which it determines certain standards have been met, may expedite the hearing process on a proposed or prospective text or map amendment. The Governing Body may consider a written request from a potential applicant, or from staff, requesting an expedited hearing process. The request shall identify and support the reasons for such expedited consideration. In order to grant the request, the Governing Body must find that at least one of the criteria below have been met:
  - a. The amendment is a text amendment that addresses issues raised in threatened, actual, or potential litigation against the jurisdiction that make expedited consideration necessary.

- b. Deadlines set by the local, State, or Federal government for receipt of application for needed funding, designation, or other regulations concerning the property make expedited consideration necessary.
- c. The prospective map or text amendment results from an emergency beyond the control of the applicant, such as response to a disaster.
- d. The prospective text or map amendment addresses an urgent matter of public health or safety.
- e. There are special circumstances that will have a substantial negative impact on the development which could not have reasonably been anticipated and which make expedited consideration necessary.

An expedited hearing is not an available option when a land use plan amendment is also required, or when full staff review, including Traffic Impact Analysis, cannot be provided by the agenda deadline for the required Zoning Committee hearing.

Governing Body Action: The Governing Body may: (1) approve the request, (2) deny the request, or (3) send the request back to the Planning Commission or a special committee of the Governing Body for additional consideration. In the case of zoning map amendments, the governing body may approve the request at a classification less intense than requested with the consent of the applicant. A listing of the zoning districts in order of lower to higher intensity is found in [Section 1](#) of the Ordinance. Approval of a request gives the applicant the ability to proceed with any additional required approvals.

SECTION 3:

That the ordinance be renumbered to accommodate this change.

SECTION 4:

That this ordinance become effective upon adoption.

(Zoning Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page\_\_\_\_\_.)

**Public Hearing—Rezoning—Falls Lake Critical Area Boundary (Case P02-52)**

Durham County has recently adopted an ordinance revising the definition of the Falls Lake Critical Area in the vicinity of Ellerbee Creek. This rezoning is the mapping change reflecting that text amendment. The proposed change would remove approximately 274 acres from the F/J-A overlay district and place that area in the Falls/Jordan Protected Area (F/J-B) overlay district. The change will allow slightly-higher density, residential development and some non-residential development (with a change in the underlying zone). The proposed change is consistent with the North Durham Plan and with the requirements of the Durham Zoning Ordinance.

The Planning Department recommended adoption of this proposed overlay district change.

The Zoning Committee of the Durham Planning Commission conducted a public hearing on this item at its regular meeting on October 8, 2002. No citizens spoke at the public hearing, and the Zoning Committee, without question or comment, voted unanimously to recommend approval.

Resource Person(s): Frank M. Duke, AICP, Director, City-County Planning Department; Keith Luck, Planning Supervisor, City-County Planning Department

County Manager's Recommendation: The County Manager recommended that the Board hold a public hearing on the proposed rezoning and approve it, if appropriate, based on the public comment.

Mr. Frank Duke, City/County Planning Director, presented the agenda item to the Board of County Commissioners for its consideration.

Chairman Black opened the public hearing that was properly advertised.

Dr. Lavonia Allison, 1315 McLaurin Avenue, signed to speak on this agenda item.

Dr. Allison's questions were addressed by the City-County Planning Director Frank Duke.

As no one else signed to speak at the public hearing, Chairman Black closed the public hearing and referred the matter back to the Commissioners for consideration.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the proposed rezoning (Case P02-52).

The motion carried unanimously.

**Quasi-Judicial Public Hearing: Major Use Permit—Shimizu-AW North Carolina (Major Use Case M02-08)**

This public hearing was scheduled to consider a Major Use Permit for an increase in impervious surface to 32% in the F/J-A Watershed District. Arcadis G&M, on behalf of Shimizu-AW North Carolina, has submitted an application for a Major Use Permit to allow this increase in the F/J-A Watershed Overlay District. The project is a 78,800 square-foot addition to an existing manufacturing facility with 415 new parking spaces on a ±123-acre site. The site is located on the south side of Teknika Parkway east of Old Oxford Highway, and is to be accessed by existing driveway entrances off Old Oxford Highway and Teknika Parkway. The Board heard testimony on November 11, 2002 and requested additional information on parking and hazardous materials handling.

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

County Manager's Recommendation: The County Manager recommended that the Board receive public comment on this application.

Chairman Black asked Vice-Chairman Reckhow to preside over this Quasi-Judicial Public Hearing—Major Use Permit since she was out of town on November 11, 2002 and was not privy to the information presented.

Vice-Chairman Reckhow requested that anyone wanting to testify at this Quasi-Judicial Public Hearing should go to the Clerk's station to be sworn in, if not sworn in previously on November 11, 2002.

Vice-Chairman Reckhow stated that the hearing on this matter was judicial in nature and would be conducted in accordance with special due process safeguards.

Before opening the hearing, Vice-Chairman Reckhow gave the Board members a chance to reveal possible conflicts and to withdraw from this proceeding if necessary. There were no conflicts.

Vice-Chairman Reckhow asked that any Board member having information or special knowledge about the case, that may not come out at the hearing tonight, to please describe that information for the record so that interested parties would know and could respond.

There was no information or special knowledge to describe.

Vice-Chairman Reckhow, regarding the hearing, stated that the Board would first hear from the Planning Department and other County witnesses, then from the Appellant and their witnesses, and then from opponents to the appeal. Parties may cross-examine witnesses after the witness testifies when questions are called for. If the Board should see written evidence, such as reports, maps, or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his or her testimony. Reports cannot be accepted from persons who are not here to testify. Attorneys who speak should not give factual testimony but may summarize their client's case. Persons should clearly identify themselves for the record before beginning testimony.

Vice-Chairman Reckhow opened the hearing on Case M02-08 that was properly advertised.

Vice-Chairman Reckhow recognized City-County Planning Director Frank Duke to make his presentation. He made introductory remarks about the case to remind the Commissioners what happened on November 11, 2002. At that hearing, the Board of County Commissioners requested staff to work with the applicant to compile additional information specially related to the need of parking and for handling hazardous waste material.

Mr. Duke called on Mr. Dennis Doty, Project Manager, for his presentation. Mr. Duke requested that the evidence include the revised staff report with the additional information requested by the Board of County Commissioners.

Mr. Dennis Doty, Project Manager, made his presentation on the parking and hazardous waste materials as requested by the Commissioners in order to answer questions.

Vice-Chairman Reckhow asked if there were any questions from the proponents and opponents for the Planning staff. There were none.

The proponents were heard from next. Mr. Will Collins, Human Resources Manager, AW North Carolina, and other members of the staff were present to answer questions.

The proponents answered questions for the County Commissioners.

Dr. Lavonia I. Allison, 1315 McLaurin Avenue (the only signed opponent), and County Commissioner Heron asked questions about the hazardous waste materials.

Ms. Erin Hite, 4112 Old Oxford Highway, Durham, NC 27712, Environmental Health and Safety Coordinator for AW North Carolina, spoke about the hazardous waste materials handling and safeguards.

The Commissioners asked several questions about the hazardous waste materials, which were answered by Ms. Hite.

Mr. Randy King, Engineer with Arcadis, 801 Corporate Center Drive, Raleigh, NC, spoke to the impervious surface of pavements and rooftops.

Mr. King responded to several questions from the County Commissioners.

Mr. Dick Ikuma, 4112 Old Oxford Highway, Durham, NC 27712, provided the Commissioners with a history about the production facilities in Treyburn Industrial Park.

Mr. Walter Brice, 4112 Old Oxford Highway Durham, NC 27712, remarked that A W was here to abide by and follow all regulations. Mr. Brice is the Facility Engineer for A W North Carolina.

Dr. Lavonia I. Allison, 1315 McLaurin Avenue, asked Mr. Brice to describe his job responsibility. Mr. Brice advised that the Facility Engineer is responsible for maintaining all of the facilities. Mr. Brice was unable to answer Commissioner Bowser's question about engine leakage from an automobile in a parking lot.

Mr. Ted Conner, Durham Chamber of Commerce, spoke on behalf of A W North Carolina. Mr. Conner urged the County Commissioners to approve the Major Special Use Permit at this meeting.



Dr. Allison, spoke about jobs and the importance of bringing new jobs into Durham County. Jobs help to improve the area economy.

Vice-Chairman Reckhow asked Mr. Duke to make a recommendation from the Planning Department in reference to the Major Special Use Permit.

Mr. Duke said the Planning Department did review the request for the technical compliance with the ordinance. The Planning Department had determined that the request met all technical requirements of the ordinance. The issues for which the Board must make a finding this evening were: 1)that the request for the increase in the impervious surface that is the subject of the Major Special Use Permit is in harmony with the area and not substantially injurious to the value of properties in the general vicinity; and 2)in conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Sections (Section 7) and of the Zoning Ordinance and will not adversely affect the health or safety of the public. Based on the testimony heard this evening, Planning believed that those finds are appropriate and would recommend approval.

The Planning Department did not recommend any conditions at this point. Mr. Duke noted that the application and site plan had been reviewed by the County Engineer's Office. Engineering has determined that it complies with the Durham Ordinances.

The Commissioners asked questions and made remarks to which Mr. Duke responded.

The matter was placed before the Board for discussion and recommendation.

The Commissioners expressed their concern that the number of parking spaces should be kept to only those required, to reduce runoff from impervious surfaces.

Commissioner Heron moved, seconded by Commissioner Cousin, to approve the request to increase the impervious Surface from 25% to 32% in the F/J-A Watershed Overlay District for this project.

The motion carried unanimously.

Vice-Chairman Reckhow did not close the public hearing because the Commissioners would have a board order brought back to their next meeting. In case the order must change, the public hearing would be kept open to accommodate the change.

**Public Hearing—Major Site Plan—Shimizu-A W North Carolina (Site Plan Case D02-532)**

This public hearing was scheduled to consider approval of a site plan for a 78,800 square-foot addition to an existing manufacturing facility with 415 additional parking spaces on a ±123 acre site. Arcadis G&M, on behalf of Shimizu-AW North Carolina, submitted a

site plan for a 78,800 square-foot addition to an existing transmission manufacturing and assembly facility with 415 new parking spaces on a ±123-acre site. The proposed project is located on the south side of Teknika Parkway east of Old Oxford Highway and is to be accessed by existing driveway entrances off Old Oxford Highway and Teknika Parkway. This site is located inside the F/J-A Watershed District, which requires Major Site Plan approval for new, non-residential development. This site plan is consistent with the master plan for Shimizu as presented to the Board with its original site plan approval in March 1999. As required under the Watershed regulations, notice for the Board's consideration of this site plan has been advertised in the Durham Herald-Sun on October 28 and November 4, 2002.

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

County Manager's Recommendation: The County Manager recommended approval of this site plan.

Mr. Dennis Doty, Planning Manager for the project, reviewed the site plan case for the Board of County Commissioners.

Chairman Black asked the Board members if there were any questions about the site plan.

Chairman Black opened the public hearing that was properly advertised.

Persons signed to speak on this item had no information to add to their previous testimony on item #12. Those persons were: Erin Hite, Randy King, Will Collins, Dick Ikuma, Dr. Lavonia I. Allison, and Walter Brice.

The persons signed to speak decided not to speak.

Chairman Black closed the public hearing and referred the matter back to the Commissioners for consideration.

Vice-Chairman Reckhow moved, seconded by  
Commissioner Bowser, to approve the site plan.

The motion carried unanimously.

### **Review of the Draft Recommended 2025 Long-Range Transportation Plan**

The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (MPO) will hold a public hearing on December 4, 2002 to consider the 2025 Long-Range Transportation Plan. This Plan affects transportation spending within Durham County. The Durham County Commissioners serving on the MPO requested a review of the draft plan by the full Commission.

Resource person(s): Felix Nwoko, Transportation Planning Manager

County Manager's Recommendation: The County Manager recommended that the Board review the draft 2025 Long-Range Transportation Plan and, if appropriate, comment on it.

Mr. Mark Ahrendsen, Transportation Director, City of Durham, told Chairman Black that he would review for the Commissioners the draft of the recommended 2025 Long-Range Transportation Plan. Mr. Ahrendsen made a PowerPoint presentation for the Commissioners to provide an overview of the plan. Then he stated he would focus on some particular issues associated with that plan.

Mr. Ahrendsen's presentation included the following:

- Presentation Outline
- Purpose—Why have LRTP
- Purpose—What is 2025 LRTP
- Process—Plan Development
- Process—Public Involvement
- Recommended Plan—Highway
- Recommended Highway Component
- Proposed Highway Trust Fund Projects
- Recommended Plan—Bus Transit
- Recommended Transit Component
- Recommended Plan—Fixed Guideway/High Capacity Transit
- Recommended Fixed Guideway Component
- Recommended Plan—Other Projects
- Recommended Plan—Financial
- Durham Northern Loop Corridor
- Mayor's Meeting of November 19, 2002
- Recommendation from Mayor's Meeting
- Next Steps
- Plan Lapse
- Summary

Vice-Chairman Reckhow asked Mr. Ahrendsen to clarify a concern that Snow Hill Road may be widened to four lanes. Vice-Chairman Reckhow said she responded to the email that only a two-lane road is being proposed now. She asked Mr. Ahrendsen to comment on that issue for the public record.

The recommendation, put together by Mayor Bell last week, and decided on by the group follows: Section C is the portion of the project that would extend North from Old Oxford Road to Roxboro Road. The plan for this portion of the project is for two lanes within a right-of-way sufficient to accommodate four lanes at some point in the future if needed. The plan, as recommended by the group last week, was to include the provision of two

lanes north of Old Oxford Road as part of the recommended long-range plan. These two lanes would utilize the existing two lanes of Old Oxford Road and Snowhill Road north to where Snowhill changes from a north-south direction to an east-west direction. Where it changes direction, Snowhill would extend on a new alignment to a new two-lane facility north of, but parallel to, Snowhill Road terminating at Roxboro Road between Snowhill Road and Orange Factory Road.

This plan is now available for public comment. There is a public hearing scheduled by the TAC (Transportation Advisory Committee) on December 4, 2002. The TAC is scheduled to take action on the recommended plan with due consideration of all the public comments received by that time on December 18, 2002. At that time, the plan would be submitted to the state and federal agencies for further technical review and air quality conformity analysis. That process will take three months. The analysis and associated reports would come back to the TAC in March. Those reports would have to be made available for a comment period. The reports would have to come back to the TAC for final endorsement and sign off by the state and federal agencies. That is to take place by June 2003. The current long-range plan is good until February 28, 2003. After that time, until there is a new conforming long-range transportation plan, we are in a lapse period without an adopted plan. During that time, federal agencies will not be able to approve authorization for new projects after March 1, 2003 until such time as there is a new plan adopted and endorsed by all of the signatory agencies. That is why it is important to keep the process moving forward. That is why we need public comment and to have a plan with which all can live. We must move as quickly as possible to have the plan adopted and maintain the area's eligibility to continue to receive state and federal funds for these important projects.

Chairman Black opened the session for questions and remarks.

Vice-Chairman Reckhow expressed concern that Mr. Ahrendsen sent out a proposed resolution for the Board of County Commissioners tonight. It calls basically on the Board to approve the draft plan within the gold cover. That does not reference the compromise developed last week.

Mr. Ahrendsen responded to the Vice-Chair's question.

Vice-Chairman Reckhow said that basically the Board would be amending page 13 and inserting a similar chart from the PowerPoint presentation as an outgrowth of the Mayor's meeting. She wanted to refer these two resolutions to the TAC because that group will be making the final decision. There may be some points the TAC would want in the public record.

Vice-Chairman Reckhow said that one of the resolutions refers to a discussion at the Mayor's meeting where it was suggested that a portion of land south of West Point on the Eno be donated to the Eno River State Park. It is under control of the City. Our Board may want to urge the City to proceed in that fashion. The portion of land under

discussion was referred to the City's Property and Facilities Management Department that handles the City's surplus property.

Commissioner Heron said the City's Real Estate Office should be contacted and made aware that this is a crucial matter. The Board of County Commissioners needs written comments on the ownership of this property and its disposition.

Mr. Ahrendsen said that he understood there to be three small land parcels immediately west of Roxboro Road and south of the park that are City-owned. There is also a narrow strip that might be publicly dedicated. Ownership of the parcel has not been determined.

County Manager Ruffin said he would call the City tomorrow to seek a determination before the TAC meets.

Chairman Black directed the County Manager to write a letter to the City Council about the four parcels of land.

This agenda item will be back before the County Commissioners on December 12, 2002.

Vice-Chairman Reckhow asked if it would be appropriate for the Board to agree in principal with the plan with the amendments, including the chart on page 13 of the plan related to the trust fund project that Commissioner Heron deleted. Substituted for that would be the Mayor's meeting recommended projects on the bottom of page 6 of the November 22, 2002 memorandum from staff.

The above statement was requested by Vice-Chairman Reckhow to become a motion.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the motion that was made by Vice-Chairman Reckhow.

The motion carried unanimously.

The following persons signed to speak on this agenda item.

John Dagenhart, 1409 Dollar Avenue, Durham, NC 27701, spoke for improvements in northern Durham County.

Ted Conner, 3305 Park Overlook Drive, Durham, NC, spoke to encourage dialog between all interested persons during the process.

Robert Larson, 513 N. Waters Edge Drive, Durham 27703, Grove Park Neighborhood Association, spoke in support of the Northern Durham Parkway.

Anne Peele, Durham Chamber of Commerce, spoke to support smart growth.

Caleb Southern, 604 W. Morgan Street, spoke to support the Northern Durham Parkway.

Larry Holt, 5110 Stardust Drive, Durham, NC 27712, spoke in support of the East End Connector, US-70 improvements, and I-85 improvements.

There being no other persons to speak, Chairman Black closed the public comment session.

**Budget Ordinance Amendment No. 03BCC000024—DSS—Accept Revenue From Duke Medical Center for ‘Just for Us’ and ‘Latch’ Grant Projects in DSS and From The Durham Center for an Outposted Medicaid Worker in DSS**

The Department of Social Services (DSS) requested that the Board of Commissioners approve acceptance of three new revenue contracts for four new Social Worker positions described below with no cost to the County.

The Department of Social Services partners with Duke Medical Center to improve coordination of medical care for Medicaid-eligible families and individuals. DSS provides social workers for the projects that are funded with Medicaid At-Risk Case Management revenues. Duke provides 100% of the non-federal (County) share of the funds, so there are no costs to the County.

1. Just for Us is expanding and needs two additional Social Worker IIs. Just for Us provides healthcare management for the elderly. Each Social Worker II's seven-month salary and benefits costs are \$12,017 (Grade 29, Step A). The County is reimbursed by Medicaid, and Duke Medical Center will pick up the County share. The total cost for both positions is \$24,033, and Duke will contract with DSS for the County share of the positions.
2. The new LATCH grant project is a collaborative project between Duke, Mental Health, Lincoln Community Health Center, El Centro Hispano, and DSS to enroll Latino families in care management for their health care, whether they are in Medicaid, CHIP, or are uninsured. One DSS Social Worker III will be hired to do the health care management, and Duke will contract with DSS to pay 100% of the costs for the worker. A Social Worker III's seven-month salary and benefits costs are \$14,868, and Duke will pay DSS that amount. There is no cost to the County.
3. The third revenue contract is between DSS and The Durham Center to provide an outposted worker to determine client eligibility. The Department of Social Services is requesting an Income Maintenance Case Worker II (IMC II) to take and process applications for family, children, and adult Medicaid. This position will help The Durham Center recover Medicaid reimbursement and will not require departmental funding. There are other contractual arrangements like this between DSS and Duke Medical Center, Lincoln Community Health Center, and the VA Hospital. The salary and benefits for the IMC II are \$36,391. The Durham Center and Medicaid will each pay half of the cost of this position.

All of the above are funded as provisional positions based on availability of the contracts funding for the County share.

Resource Person(s): Dan Hudgins, DSS Director, and Susan Epstein, Chief, Division of Community Health, Department of Community and Family Medicine and School of Nursing, Duke University Medical Center.

County Manager's Recommendation: The County Manager recommended that the Board approve Budget Ordinance Amendment No. 03BCC000024 which would approve the four new Social Worker positions in DSS that do not require any County funding.

Mr. Daniel C. Hudgins, Director of Social Services, highlighted the agenda programs for the Board of County Commissioners.

The Commissioners asked questions and made remarks about the agenda items to which Mr. Hudgins responded.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the four Social Worker positions in DSS that do not require any County funding.

The motion carried unanimously.

### **Report on Malpractice Insurance Renewals**

The malpractice insurance for the County departments and The Durham Center expires on December 1, 2002. The present insurance is with St. Pauls. The company has indicated that it is not continuing to provide malpractice insurance after its current policies expire. The Risk Manager, working with the County's insurance advisor, Marsh and Marsh, has been able to procure the quotes.

During the current year, the premiums for the malpractice coverage, excluding EMS, total approximately \$63,042. The proposed insurance carriers are National Union Fire Insurance Company for Mental Health physicians and Public Health physicians for the jail, and Medical Mutual for the two dentists. National Union is not a Marsh and Marsh-contracted company, and the County will deal directly with the insurance company. It should also be noted that the total cost for the two dentists would be approximately \$2,400 after filling the second position. The dentists' coverage would involve a contract being issued directly to the dentists, with the County paying the bill. An agreement will be required to have the pro rata costs reimbursed to the County should the dentists leave the employment of the Health Department prior to the conclusion of the term of the insurance policy.

At this time, it has not been possible to procure a quote for EMS coverage. Last year's premium was \$35,709 for this coverage. Marsh and Marsh has been able to find one insurance company, Arch Insurance Service, which has indicated that it may be willing to provide an insurance quote, but has not at this point. It has indicated that if it gave a quote, the premium would be in the \$50,000 range, with a deductible of \$5,000-\$10,000. Staff are continuing to work with Marsh and Marsh to obtain additional quotes.

However, it is unlikely that replacement insurance will be in place by December 1, 2002. In that case, EMS would come under the County's resolution on defense of employees, as are the other departments which do not have insurance coverage.

Resource Person(s): S. C. Kitchen, County Attorney; Cathy Whisenhunt, Risk Manager.

County Manager's Recommendation: Approve the purchase of insurance as recommended by the County Attorney, and authorize the procurement of malpractice insurance for the EMS Department if a satisfactory policy can be purchased within budgeted funds.

County Attorney Chuck Kitchen reviewed the agenda item for the Board of County Commissioners.

The Commissioners asked questions and made comments to which Attorney Kitchen responded.

Commissioner Bowser moved, seconded by Commissioner Cousin, to approve the purchase of insurance as recommended by the County Attorney, and to authorize the procurement of malpractice insurance for the EMS Department if a satisfactory policy can be purchased within budgeted funds.

The motion carried unanimously.

### **Public Health Department—Asthma Program**

Vice-Chairman Reckhow commented that the Durham County Health Department has help put together a booklet for the school system addressing asthma. Durham's Public Health Department has been contacted by Public Health agencies nationwide due to this outstanding project. The Public Health Board was presented a program telling it what the school nurses are doing to help the school personnel manage asthma for students in the public schools.

### **Cablevision**

Vice-Chairman Reckhow brought to the attention of the Commissioners the rate increases that are occurring to basic cablevision and the enhanced cable industry. She commented that citizens need protection from the rate increases.

Chairman Black suggested that the County Manager draft a letter to NACo, our national representatives, and the North Carolina Association of County Commissioners to communicate the County's concern over the continued rate increases to basic cablevision and enhanced cable.



### **Lincoln Community Health Center**

Chairman Black gave Commissioner Bowser a letter letting him know that he is eligible to be re-appointed to the Board of Directors for the Lincoln Community Health Center.

### **Long-Range Planning for Traffic**

Commissioner Heron expressed concern about the Mayors' ideas on handling traffic and trash. The Commissioners' concern is about handling traffic. The Mayors are looking for ways to raise additional money for trash and traffic. Apparently the four mayors have been meeting without any County representation present. They are considering fees such as increases in gasoline taxes, increases in the registration fees, and increases in property taxes. These increases would be going into more highways. Commissioner Heron remarked that this really troubled her because the County has many needs for which there is no money. The Mayors should be notified that they are not speaking for her and, she hoped, not for this Board.

Vice-Chairman Reckhow suggested that Commissioner Heron should bring this up at the next Transportation Advisory Committee (TAC) meeting since two of the Mayors would be at the meeting.

Commissioner Heron said she took offense to the fact that they were making all these plans

### **Closed Session**

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to adjourn to Closed Session to consider the performance of a public official pursuant to N.C.G.S. 143-318.11(a)(6).

The motion carried unanimously.

The Commissioners and associated persons adjourned to the Closed Session at 10:06 p.m.

### **Reconvene Into Open Session**

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to increase the County Manager's term life insurance by three times and to increase his salary from \$131,250 to \$136,500.

The motion carried unanimously.

**Adjournment**

There being no further business, the meeting was adjourned at 11:20 p.m. by Chairman Black.

Respectfully submitted,

Garry E. Umstead, CMC  
Clerk to the Board