

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

Monday, January 8, 2001

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

Chairman Black called the Regular Session to order with the Pledge of Allegiance.

Agenda Adjustments

Chairman Black asked that agenda item No. 9, "C.A.I. Group, Ltd. Applicant (Rezoning Case P99-56)," be removed from the agenda. This item would be placed on the January 22, 2001 agenda.

Chairman Black said the order of agenda item No. 11, "Adequate Public Facilities Recommendations," would be switched with item No. 10, "Establishment of a County Policy Concerning Amendment to Adopted Landuse Plans."

County Attorney Chuck Kitchen asked Chairman Black to add the "Preliminary Resolution for Bond Refunding" to the agenda.

Per County Attorney Chuck Kitchen, agenda item No. 12, "Reservoir Buffer Text Amendment," would be a public hearing.

Commissioner Bowser requested that Daniel C. Hudgins, Social Services Director, be permitted to make brief comments about Emergency Energy Funds in Durham County.

Commissioner Heron requested time on the agenda to correct two statements that were made at the BOCC Worksession with the ABC Board.

Introduction—Budget Management Services Director

County Manager Michael R. Ruffin introduced the newly-appointed Budget Management Services Director Pamela Meyer. Mr. Ruffin talked about her past experience and knowledge she brings to Durham County. He welcomed her to Durham.

Ms. Meyer made comments about how she is looking forward to working in Durham and meeting Durham County staff.

Minutes

Commissioner Bowser moved, seconded by Commissioner Heron, to approve the November 27, 2000 Regular Session minutes as corrected.

The motion carried unanimously.

Proclamation for “The Year of Durham Regional Hospital”

A proclamation has been prepared declaring 2001 “The Year of Durham Regional Hospital” in recognition of the 25th Anniversary of Durham Regional Hospital. A yearlong celebration is planned with a kick-off event set for noon on January 10, 2001. An officials from Durham Regional Hospital was in attendance to make remarks.

County Manager's Recommendation: Approve the proclamation declaring 2001 “The Year of Durham Regional Hospital” and present a copy to Durham Regional Hospital officials.

Chairman Black read the proclamation into the official record as follows:

PROCLAMATION

WHEREAS, in 1968, the Durham County Board of Commissioners appointed a Durham County Hospital Study Committee to recommend a site for the placement of a new proposed acute general hospital for Durham County; and

WHEREAS, the Durham County Board of Commissioners developed a funding plan to erect and equip the new county hospital and related health facilities and placed it before the citizens of Durham County; and

WHEREAS, the citizens of Durham County voted approval of \$20 million in County Hospital Bonds in the general election held on November 5, 1968; and

WHEREAS, on October 5, 1976 Durham Regional Hospital, a 475-bed acute hospital, first opened its doors to patients, serving as a full service community hospital; and

WHEREAS, the new hospital resulted from the merger between the Watts Hospital and the Lincoln Community Hospital; and

WHEREAS, Watts Hospital was the city's oldest hospital, having opened its doors in February 1895; and

WHEREAS, Lincoln Hospital opened its doors in August 1901 to provide medical services to members of the African-American community; and

WHEREAS, the tradition of excellence in healthcare that was practiced at the two separate institutions continues today in the quality of service that is provided by respected and dedicated doctors, nurses, technicians, administrators, and staff at Durham Regional Hospital; and

WHEREAS, in addition to delivering unparalleled healthcare, employees at all levels demonstrate dedicated, committed community service by mentoring and tutoring in local schools, volunteering in many settings, and providing generous contributions to various nonprofit organizations which help countless citizens in this community:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim all of 2001 as:

THE YEAR OF DURHAM REGIONAL HOSPITAL

in Durham County, in celebration of 25 years since it first opened its doors to patients. During this year we urge all citizens to reflect on Durham Regional Hospital's significant achievements, and to celebrate the important role that this healthcare institution has played in providing quality patient care in this community for a quarter century.

This the 8th day of January, 2001.

/s/ Five Commissioners
Durham County Commissioners

Steve N. Owen, Senior Administrative Director of Durham Regional Hospital, on behalf of the hospital and the Hospital Corporation Board of Trustees, thanked the Commissioners for their support of this proclamation. He made comments about the history of Durham Regional Hospital and the yearlong celebration beginning on Wednesday of this week.

Proclamation—Korean War Veterans Month

A proclamation was prepared to honor the veterans of the Korean War on its 50th anniversary and to proclaim January 2001 as “Korean War Veterans Month.”

County Manager's Recommendation: Present the proclamation to Mr. Wilbur P. Davis of American Legion Post 508 in appreciation of the service and sacrifice of those who served in the Korean War.

Commissioner Heron read the proclamation into the official record as follows:

PROCLAMATION

WHEREAS, on June 25, 1950, North Korean forces invaded the southern portion of Korea known as the Republic of Korea; and

WHEREAS, in defense of South Korea the United States joined the resistance under the banner of the United Nations; and

WHEREAS, over 117,000 men and women from North Carolina served in the armed forces during the Korean War; and

WHEREAS, twenty three young citizens from Durham County lost their lives due to hostile forces on the Asian continent for the cause of world freedom; and

WHEREAS, American Legion Post 508 has honored the men and women of all wars, it is appropriate to honor the veterans of “the forgotten war.”

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim January 2001 as

“KOREAN WAR VETERANS MONTH”

in Durham County on this the 50th Anniversary of the Korean War.

This the 8th day of January, 2001.

/s/ Five Commissioners
Durham County Commissioners

Mr. Davis thanked the Commissioners for the proclamation. He made brief comments.

Resolution for Mr. James “Mella Yella” Perry

Commissioner Joe Bowser requested that a resolution honoring Mr. James “Mella Yella” Perry be prepared. Mr. Perry placed fourth in the 2000 World Sumo Wrestling Championships which were held in Brazil last month. Mr. Perry teaches at Lakeview School in Durham.

County Manager's Recommendation: Approve the resolution and present to Mr. Perry, along with sincere congratulations for his outstanding achievement.

Commissioner Bowser read the resolution into the official record as follows:

RESOLUTION

WHEREAS, James "Mella Yella" Perry is the 2000 North American Heavyweight Sumo Wrestling Champion; and

WHEREAS, at 6'2" and 440 pounds, Mr. Perry recently distinguished himself by placing 4th in the world on December 3, 2000 at the World Sumo Wrestling Championship in Sao Paulo, Brazil; and

WHEREAS, in a very short time of transitioning from power lifting to wrestling, Mr. Perry has gained considerable respect in the sport of Sumo wrestling; and

WHEREAS, Mr. Perry is a 1985 graduate of North Carolina Central University, where he served as defensive tackle and as captain of the football team for four years; and

WHEREAS, he has earned several world titles in power lifting and represented the United States at the 1993 World Strongest Man competition; and

WHEREAS, Mr. Perry is a member of the faculty of Lakeview School, teaching various subjects to middle and high school students, and also serves as a youth mentor; and

WHEREAS, his goal is to win the world title in power lifting and the World Sumo Wrestling title in the same year; and

WHEREAS, Mr. Perry is viewed as a sports pioneer with many people suggesting that he is to Sumo wrestling what Tiger Woods is to golf:

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

JAMES "MELLA YELLA" PERRY

for winning 4th place at the World Sumo Wrestling Championship. We call upon citizens of Durham County to join us in honoring Mr. Perry for this extraordinary accomplishment, and in encouraging him in his future athletic endeavors.

This the 8th day of January, 2001.

/s/ Five Commissioners
Durham County Commissioners

Mr. Perry thanked the Commissioners for the resolution. He made brief remarks about his accomplishments.

Consent Agenda

- * (a) Sanitary Sewer Easement—Evergreens Apartments—Mt. Moriah Rd. (the recommendation is that the Board pursue the upset bid process since this easement represents a property interest);
- * (d) Budget Ordinance Amendment No. 01BCC000034—The Durham Center—Durham Partnership for Children Grant (approve Budget Ordinance Amendment No. 01BCC000034 for The Durham Center to receive a Partnership for Children Grant to expand the Car Safety Seat Program);
- * (e) Budget Ordinance Amendment No. 01BCC000035—FY 2000-01 Encumbrances (approve Budget Ordinance Amendment No. 01BCC000035);
- (f) Board and Commission Appointment—Nursing Home Community Advisory Committee (appoint Ms. Sandra Battle to the Nursing Home Community Advisory Committee as its 14th member);
- (g) Board and Commission Appointment—Nursing Home Community Advisory Committee (appoint Ms. Beverly Mangum to the Nursing Home Community Advisory Committee as a chief administrator representative);
- (h) Set Public Hearing on M/WBE Ordinance Amendments (set the public hearing on the amended ordinance as required by statute); and
- (j) Final Offer to Purchase County Property—1314 Marvin Alley (approve the offer of \$3,255.67 submitted for 1314 Marvin Alley by Mr. Artis Plummer Sr. and prepare a non-warranty deed for the Chairman's signature. This action is consistent with

the Board's policy of recovering the investment value and thus putting the property back onto the tax rolls to compliment the County's tax base).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda 7(a). Sanitary Sewer Easement—Evergreens Apartments—Mt. Moriah Rd. (the recommendation is that the Board pursue the upset bid process since this easement represents a property interest).

The resolution follows:

RESOLUTION

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

0.0613+/-acre sanitary sewer easement across County tract
identified as TM #476-01-009A as shown on preliminary plan

WHEREAS, Mr. Richard Siegel has made an offer to the County to purchase the above easement for \$200.00 and has made a bid deposit in the amount of \$200.00 which is no less than 100 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 January 8, 2001.

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

Consent Agenda 7(d). Budget Ordinance Amendment No. 01BCC000034—The Durham Center—Durham Partnership for Children Grant (approve Budget Ordinance Amendment No. 01BCC000034 for The Durham Center to receive a Partnership for Children Grant to expand the Car Safety Seat Program) follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Budget Ordinance
Amendment No. 01BCC000034

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2000-01 Budget Ordinance is hereby amended to reflect budget adjustments for the Durham Center (Mental Health).

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$235,638,562	\$19,248		\$235,657,810
<u>Revenues</u>				
Intergovernmental	\$198,809,497	\$19,248		\$198,828,745

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

This the 8th day of January, 2001.

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

Consent Agenda 7(e). Budget Ordinance Amendment No. 01BCC000035—FY 2000-01 Encumbrances (approve Budget Ordinance Amendment No. 01BCC000035) follows:

DURHAM COUNTY, NORTH CAROLINA
 2000-2001 Budget Ordinance
 Amendment Number 01BCC000035

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the 2000-2001 budget ordinance is hereby amended to reflect budget adjustments for encumbrances.

<u>GENERAL FUND</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Revenues</u>				
Other Financing Sources	\$ 13,054,445	\$4,795,911		\$ 17,850,356
<u>Expenditures</u>				
General Government	\$ 19,025,062	\$ 750,702		\$ 19,775,764
Public Safety	\$ 30,398,942	\$ 549,484		\$ 30,948,426
Environmental Protection	\$ 1,906,636	\$ 18,324		\$ 1,924,960
Economic & Physical Devel.	\$ 4,765,442	\$ 8,623		\$ 4,774,065
Human Services	\$235,657,810	\$3,400,777		\$239,058,587
Cultural and Recreation	\$ 7,320,890	\$ 68,001		\$ 7,388,891
<u>REVALUATION FUND</u>				
<u>Revenues</u>				
Fund Balance Appropriated	\$ 442,335	\$ 75,766		\$ 518,101
<u>Expenses</u>				
Revaluation Fund	\$ 442,335	\$ 75,766		\$ 518,101
<u>SEWER UTILITIES</u>				
<u>Revenues</u>				
Fund Balance Appropriated	\$ 6,120,674	\$2,099,918		\$ 8,220,592
<u>Expenses</u>				
Project Management	\$ 6,120,674	\$2,099,918		\$ 8,220,592
<u>EQUIPMENT LEASING FUND</u>				
<u>Revenues</u>				
Fund Balance Appropriated	\$ 1,993,640	\$ 106,239		\$ 2,099,879
<u>Expenses</u>				
Equipment Leasing Fund	\$ 1,993,640	\$ 106,239		\$ 2,099,879

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

This the 8th day of January, 2001.

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

Consent Agenda Items Removed for Discussion

Consent Agenda 7(b). Budget Ordinance Amendment No. 01BCC000032—Youth Coordinating Board—Z. Smith Reynolds Foundation Community Planning Grant (approve Budget Ordinance Amendment No. 01BCC000032 in the amount of \$20,000 for the Youth Coordinating Board to complete its community wide planning process) follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Budget Ordinance
Amendment No. 01BCC000032

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2000-01 Budget Ordinance is hereby amended to reflect budget adjustments for the Youth Coordinating Board.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$235,611,232	\$20,000		\$235,631,232
<u>Revenues</u>				
Intergovernmental	\$198,782,167	\$20,000		\$198,802,167

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

This the 8th day of January, 2001.

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

Commissioner Heron asked that the Youth Coordinating Board provide a report on what services are being provided and to whom to determine how to coordinate these services and do away with duplication.

She congratulated the Youth Coordinating Board for receiving the grant.

Commissioner Heron moved, seconded by Commissioner Bowser, that the Board approve the budget ordinance amendment.

The motion carried unanimously.

Consent Agenda 7(c). Budget Ordinance Amendment No. 01BCC000033—The Durham Center (approve Budget Ordinance Amendment No. 01BCC000033 to reflect an addition of \$7,330 State funds) follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Budget Ordinance
Amendment No. 01BCC000033

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2000-01 Budget Ordinance is hereby amended to reflect budget adjustments for the Durham Center (Mental Health).

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$235,631,232	\$7,330		\$235,638,562
<u>Revenues</u>				
Intergovernmental	\$198,802,167	\$7,330		\$198,809,497

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

This the 8th day of January, 2001.

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

Commissioner Heron asked how the funds were being allocated.

Johnny Quick, Finance Director, The Durham Center, responded to the question.

Commissioner Heron moved, seconded by Commissioner Cousin, to approve the budget ordinance amendment.

The motion carried unanimously.

Consent Agenda 7(i). Resolution for 2002-2008 Transportation Improvement Program (approve the resolution) follows:

RESOLUTION SUPPORTING THE TRANSPORTATION PROJECTS
CONTAINED IN THE FY 2002-2008 TRANSPORTATION IMPROVEMENT
PROGRAM (TIP)

- WHEREAS, The Durham Board of County Commissioners recognizes the importance of transportation to the economic and social well-being of the community; and
- WHEREAS, The Durham Board of County Commissioners adopted a priority project list on October 25, 1999 that was subsequently incorporated into a regional priority list for the Durham-Chapel Hill-Carrboro Urban Area; and
- WHEREAS, The NC Board of Transportation uses the Durham-Chapel Hill-Carrboro regional priority list to prepare a Draft Transportation Improvement Program which identifies transportation projects scheduled for State and Federal funding over the next seven years; and
- WHEREAS, The North Carolina Board of Transportation and the MPO solicit input for identifying transportation projects of local and regional importance to be included in the FY 2002-2008 Metropolitan TIP; and
- WHEREAS, On June 14, 1999 the Board of County Commissioners approved the *Resolution Concerning the Durham Northwest and Northeast Loop ("Eno Drive") and to Endorse the Northern Durham Parkway and Innovative Measures to Increase Transportation Options*; and
- WHEREAS, The Board of County Commissioners strongly encourages the provision of bicycle and pedestrian facilities and protection of residential neighborhoods as transportation improvements are designed and implemented.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DURHAM, NORTH CAROLINA THAT:

1. The Board of County Commissioners endorse and support local transportation projects contained in the FY 2002-2008 Draft TIP, with the provisions included in sections 2, 3, 4, and 5 below; and
2. The Board of County Commissioners requests that the State and the MPO implement the Northern Durham Parkway and associated road improvements, as specifically identified in the Board's June 14, 1999 resolution.
3. The Board of County Commissioners, in response to comments received during the public comment period, has identified the widening of Davis Drive from the Durham County line into Research Triangle Park as a transportation need. The Board urges the State and MPO to fund this road project using \$4.0 million in private funds, as long as it does not negatively impact the progress of other road

- projects in Durham County.
4. The Board of County Commissioners requests that funding be allocated to Phase E of the American Tobacco Trail (NC 54 south to Wake County).
 5. The Board of County Commissioners requests that the Martin Luther King Jr. Parkway and NC 55 interchange (U-2405) feasibility study be updated expeditiously and that funding for this important project be identified.

Commissioner Heron stated that the Northern Durham Parkway be allocated no funds until a specific route is determined.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the resolution.

The motion carried unanimously.

Emergency Energy Fund

Daniel C. Hudgins, Social Services Director, talked to the Commissioners about the need for funds for the Emergency Energy Fund. He presented a brief update.

Contributions may be sent to the Durham Emergency Energy Fund, PO Box 810, Durham, NC 27702.

The Commissioners asked questions and made comments about the Emergency Energy Fund to which Mr. Hudgins responded.

Elry & Peggy Holloway, Applicant (Rezoning Case P00-61)

Elry and Peggy Holloway presented to the Board of County Commissioners a request to rezone .66 acres southwest of Fountain Street and north of Ross Road, PIN #0841-11-76-4552; 598-1-7 (Tax Map) Request: R-20 (Residential 20 District) to R-8 (Residential 8 District) (F/J-B). The proposal was in conformance with the adopted small area plan and 2020 Plan. Staff recommended approval. The Zoning Committee of the Durham Planning Commission conducted a public hearing on November 14, 2000 and voted 7-0 to recommend approval.

Case Planner: Cassandre Haynesworth

The public hearing for this request was advertised on December 22 and December 29, 2000 in the Durham Herald-Sun.

Resource Person(s): Sheila Stains-Ramp, Planning Supervisor, and Norman Standerfer, Planning Director

County Manager's Recommendation: The Manager's recommendation was that the Board receive the presentation and approve, if appropriate, based upon Board and public comments.

Dick Hails, Assistant Planning Director, presented an overview of Rezoning Case P00-61.

The Commissioners asked questions and made comments about the rezoning case to which Mr. Hails responded.

Chairman Black opened the public hearing that was properly advertised.

As no one signed to speak at this public hearing, Chairman Black closed the public hearing and referred the item back to the Commissioners.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve Rezoning Case P00-61.

The motion carried unanimously.

(Legal description recorded in Ordinance Book _____, page _____.)

Adequate Public Facilities Recommendations

The Joint City-County Planning Committee created the Adequate Public Facilities Task Force to learn about adequate public facility requirements and their applicability to Durham. The Task Force is composed of JCCPC members as well as representatives from development, environmental, and neighborhood interests. The Task Force reviewed background information about existing plans for facility expansion and other jurisdictions' experience with adequate public facilities requirements. In October, the Task Force received a report from the Planning Director and embraced his recommendations in their recommendation to the two Governing Boards. The Joint City-County Planning Committee made minor modifications in the Task Force recommendations.

Planning staff recommended that the County Board of Commissioners take the following actions:

1. Receive the report and recommendations from the Planning Director, the APF Task Force, and the JCCPC;
2. Consider and adopt the proposed policy and procedures for amending adopted land use plans (a separate agenda item would come to the Board for implementation); and

3. Consider and adopt the “surrogate for adequacy” philosophy described in the report as the basis for considering and implementing an APF study and ordinance.

Resource Person(s): Norman Standerfer, Planning Director

County Manager's Recommendation: The Manager’s recommendation was that the Board: 1) receive the report and recommendations from the Planning Director, the APF Task Force, and the JCCPC; 2) consider and adopt the proposed policy and procedures for amending adopted land use plans (a separate agenda item will come to the Board for implementation); and 3) consider and adopt the “surrogate for adequacy” philosophy described in the report as the basis for considering and implementing an APF study and ordinance.

Mr. Standerfer presented an overview of the agenda item.

The Commissioners asked questions and made comments.

Chairman Black said County Attorney Chuck Kitchen will assist with the process by considering an ordinance for the Commissioners and moving it ahead. By January 31, 2001, he will present a timetable for completion.

A lengthy discussion followed.

No official action was taken on this agenda item.

Establishment of a County Policy Concerning Amendments to Adopted Landuse Plans

The Planning Committee of the Durham Planning Commission and JCCPC members adopted a resolution proposing that rezoning requests conform to adopted plans by combining the rezoning applications with a process for amending land use plans. The process recommended by the JCCPC is for quarterly plan amendments. Staff recommended approval of the plan amendment resolution and a process to amend plans concurrently with companion rezoning applications when a rezoning is in conflict with the plan.

Resource Person(s): Norm Standerfer, Director of City-County Planning
Bonnie Estes, Planning Supervisor

County Manager's Recommendation: The Manager’s recommendation was that the Board receive the staff presentation, discuss the policy implications of this item, and approve, if appropriate, based upon staff recommendation and Board comment.

Chairman Black called on three citizens to speak.

Conrad Newman, 5412 George King Road, expressed his desire that the Durham Planning Commission improve its method of informing citizens of public hearings. Go to the extreme of mailing out notices about the hearings. More money needs to be spent on mailing notices to the citizens.

Chairman Black commented that this Board has been very clear about notification to the residents regarding rezoning requests. This will be discussed at a later time. The Board is on record directing that citizens be notified.

Steve Bocckino, 7340 Abron Drive, said that attachment No. 2 on this agenda item is ideal. We must take much care in amending these plans. The staff recommendation for the City is wrong in saying it should be in the context of a rezoning. The more people notified of a change in a small area plan, the better.

Mike Shiflett, 1111 Oakland Avenue, representing the Interneighborhood Council, spoke about the ordinance. The ordinance doesn't make developers pay for all the growth. It does ask developments and developers to share in that growth. We are behind in funding roads, schools, parks, and recreation. This ordinance will not address past needs. It will address future needs.

The Commissioners asked questions and made comments about the citizens' comments.

Vice-Chairman Reckhow strongly urged the Commissioners to adopt attachment No. 2 which was recommended by the Joint City-County Planning Committee concerning land use plan amendments.

A lengthy discussion followed about this agenda item.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, that the Board adopt the resolution proposing a plan amendment process with attachment Nos. 1 and 2.

The motion carried unanimously.

The resolution follows:

Attachment 1

A JOINT CITY COUNTY PLANNING COMMITTEE RESOLUTION
PROPOSING A PLAN AMENDMENT PROCESS
FOR REZONINGS IN SIGNIFICANT CONFLICT
WITH ADOPTED PLANS

Adopted by the JCCPC on October 4, 2000

WHEREAS, the Durham City Council and Durham County Board of Commissioners adopt long range plans to guide the future development of land within their jurisdictions; and

WHEREAS, adopted plans are composed of a blend of neighborhood concerns, historic features inventories, resource protection measures and governmental goals; and

WHEREAS, zoning regulations are crucial factors in the implementation of a plan; and

WHEREAS, the stability of plans in guiding zoning decisions is desirable; and

WHEREAS, changes in zoning maps should not conflict with the goals and policies of adopted plans; and

WHEREAS, changes in zoning maps may facilitate the realization of plan goals; and

WHEREAS, requests for rezoning of property may not always conform to plans: and

WHEREAS, in certain circumstances changed community conditions or the age of the adopted plan may warrant a change to the plan; and

WHEREAS, under certain conditions, the usefulness of the Durham Zoning Ordinance in implementing the adopted plans and promoting the health, safety and welfare may be enhanced by the ability to amend the plans;

NOW THEREFORE BE IT RESOLVED:

SECTION 1

1. In order to be considered by a Governing Body, a proposed zoning change shall not be in significant conflict with plans that have been adopted by the Governing Body or shall be accompanied by a proposal to amend an adopted plan.
2. The applicant must provide sound justification for the change in zone.
3. If the proposal conflicts with the plan, the applicant shall request an amendment to the plan. Proposed amendments should be based upon analysis which substantiates the change and demonstrates why a change is justified. Justification for a change may relate to changing conditions in the community or adjacent properties, market conditions or changes that would facilitate the implementation of key policies of an adopted plan.
4. The Governing Bodies shall adopt a method to process plan amendments and shall place limits on the frequency with which the plans may be amended.

SECTION 2

Where a conflict exists between plans, the most recently adopted plan or plan amendment with the greatest level of detail shall prevail.

SECTION 3

The attached document titled, "Procedure For Land Use Plan Amendments, 10/5/00" shall be the adopted process for approving amendments to adopted plans.

SECTION 4

This policy shall become effective upon the adoption of this resolution.

Attachment 2

PROCEDURE LAND USE PLAN AMENDMENTS
CONSIDERED QUARTERLY
AS RECOMMENDED BY JCCPC

1. APPLICATION – The Governing Bodies and the Durham Planning Commission will consider amendments to the Land Use Plans every 3 months in accordance with a schedule published annually by the Planning Department. Applications must be filed with the Planning Department no later than 45 days before the scheduled meeting of the Planning Commission and be accompanied by the appropriate fee. It is expected that the applicant or a representative of the applicant will appear at the meetings to explain why the land use plan should be changed.
2. ACTION – The proposed Plan amendment and rezoning request will be presented at a regularly scheduled Quarterly Meeting of the Durham Planning Commission [Both the Zoning Committee and Planning Committee attend the Quarterly meetings]. A decision will normally be taken on the same day as the meeting and then referred to the appropriate Governing Body for a final decision. The JCCPC will be informed of the actions.
3. EFFECTIVE DATE – Plan amendment approval by the Governing Body may be contingent upon conditions specified by the approving body. The effective date may be immediate or may be a date otherwise specified in the approval.
4. STAFF REPORT – The Planning Department rezoning staff will include the proposed amendment in the analysis of the rezoning request. A recommendation may be made with the report or may be delayed until after hearing the public testimony.
5. NOTIFICATION – Prior to the consideration of the amendment by the Planning Commission, the applicant will notify all property owners within the area to be changed and within 600 feet of the boundary of the change, will be informed of the proposed amendment. All neighborhood associations within 1 mile of the proposed amendment will also be notified. The applicant shall provide the Planning staff with a Certificate of Mailing from the Post Office or, if hand delivered, the signature of the property owner receiving the notice. The Planning staff will place an advertisement in

a local newspaper. Similar notification procedures are required prior to the consideration of the amendment by the Governing Body.

6. MEETING TESTIMONY – At the meeting, the applicant will make a presentation and give the reasons for the request. Interested persons will also be allowed to speak. Speakers may be limited to a maximum speaking time, depending on the number of individuals giving testimony. Groups are requested to select a spokesperson for the group. Staff will follow with a brief summary of the staff report and a recommendation.
7. COORDINATION OF PLAN AMENDMENTS – Annually, the Planning staff will conduct a public meeting before each governing body for the purpose of rectifying any differences between the Adopted Land Use Plans of the City and County. There will be public notification of the meeting and public participation will be allowed.

Reservoir Buffer Text Amendment

Reservoir buffer requirements were added to watershed protection regulations in the early 1990s. The intent was to protect the quality of the water in water supply reservoirs by limiting development close to their edges. Land within 250 feet of the reservoir is to remain in natural undisturbed vegetation. It was assumed that all of the land within a reservoir's buffer area would drain to the reservoir.

A local development consultant has brought to the Planning Department's attention a problem with this assumption. A small area of private land exists on the south side of the Little River Reservoir that is within the 250-foot reservoir buffer area; however it drains away from the reservoir. The area actually drains to the Little River at a point downstream of the dam. The land area is approximately 0.9 acres and is in the Treyburn development near Snow Hill Rd. and the dam access road. There is a logical inconsistency in this situation. The small area of land is restricted by the reservoir buffer requirement to protect water quality, but stormwater runoff from the land does not drain toward the Little River Reservoir. Application of the buffer requirement to this land does not make sense. The buffer requirement should be amended to make explicit that the requirement does not apply where the land does not drain toward the reservoir.

The Zoning Committee of the Durham Planning Commission conducted a public hearing and reviewed this proposed text amendment at its December 12, 2000 meeting. The Zoning Committee voted unanimously to recommend approval. The Planning Staff recommended that Durham adopt the amendment to the Durham Zoning Ordinance, Section 5.5.8, Stream Buffers and Reservoir Buffers.

Resource Person(s): Keith Luck, Planning Supervisor

County Manager's Recommendation: The Manager's recommendation was that the Board adopt the amendment to the Durham Zoning Ordinance, Section 5.5.8, Stream Buffers and Reservoir Buffers.

Bonnie Estes, Planning Supervisor, presented the Commissioners an overview of the reservoir buffer text amendment.

The Commissioners asked questions and made comments about the text amendment to which Norman Standerfer, Planning Director, responded.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, for approval with the addition of the word “naturally” drain.

County Attorney said the minutes should reflect that the intent of the Board in inserting the language is so the natural topography of the land cannot be changed from naturally draining into the watershed.

Chairman Black said a notation should be put on the ordinance.

The motion carried unanimously.

Chairman Black opened the public hearing that was properly advertised.

As no one signed to speak at this public hearing, Chairman Black closed the public hearing and referred the item back to the Commissioners.

The consensus of the Board was to re-vote on the agenda item.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, for approval with the addition of the word “naturally.”

The motion carried unanimously.

The resolution follows:

TC 109-00
An Ordinance to Amend the Durham Zoning Ordinance
Section 5.5.8, Stream Buffers and Reservoir Buffers

Be It Ordained by the Durham County Board of Commissioners that:

Section 1. The Durham Zoning Ordinance, Section 5.5.8, Stream Buffers and Reservoir Buffers is hereby amended by deleting the present wording of subsection 3. Reservoir Buffers and replacing it with the following:

“3. Reservoir Buffer

A two hundred and fifty (250) foot reservoir buffer shall be maintained from the normal pool of all water supply reservoirs, except that the buffer around any reservoir shall not apply to land that does not naturally drain to that reservoir. Reservoir buffers shall remain in natural undisturbed vegetation, except for intrusions allowed below.

At the request of a property owner, the governing body may reduce the reservoir buffer requirements on a case-by-case basis, whenever it determines that:

- a. The reservoir buffer would result in exceptional hardship, depriving the property owner of all reasonable use of the property.
- b. The proposed intrusion into the reservoir buffer is the minimum amount necessary to relieve that exceptional hardship.

In making its determination, the governing body shall consider topography, water quality protection, erosion potential, surrounding uses and the size of the parcel. A site plan shall be required and reasonable conditions may be attached to any modification of the reservoir buffer.”

Section 2. All ordinances in conflict herewith are hereby repealed.

Section 3. This ordinance shall be in full force and effect from and after adoption.

Presentation of Durham County 2000-2001 Travel Reduction Plan

The Board of County Commissioners was requested to provide feedback and approve the Durham County 2000-2001 Travel Reduction Plan for submittal to Triangle Transit Authority. Article V of Chapter 24 of the Durham County Code of Ordinances establishes the Commute Trip Reduction Program and requires all major employers within Durham County—on an annual basis—to prepare and submit a travel reduction plan to the Lead Agency (i.e., Triangle Transit Authority). As stated in Sec. 24-118 of the ordinance, the travel reduction plan must contain the following criteria:

1. The plan shall designate a Transportation Coordinator.
2. The plan shall describe a mechanism for routine distribution of information to employees on alternate modes of transportation.
3. The plan shall accurately and completely describe current and planned travel reduction measures.
4. The plan shall state the travel reduction goals adopted by the Major Employer, including both Alternate Mode and Non-Peak Commute Trips and Average Commute Trip VMT Reduction.

The Durham County 2000-2001 Travel Reduction Plan fully addresses each of the required criteria.

Resource Person(s): Wendell Davis, Deputy County Manager
Marcia Margotta, Senior Research/Policy Analyst

County Manager's Recommendation: The Manager's recommendation was that the Board receive the staff presentation of the Transportation Demand Management Plan and modify the draft plan where appropriate. Staff submitted the plan to the Triangle Transit Authority on December 31, 2000 under the condition that changes on the plan may be forthcoming from the Board of Commissioners after the January 8, 2001 deliberations.

Mr. Davis shared with the Commissioners and County Manager some history about our Transportation Demand Management planning efforts.

Ms. Margotta presented Durham County's plan.

Mr. Davis said the Board could make modifications at this meeting.

The Commissioners asked several questions and made comments about the travel reduction plan to which staff responded.

Vice-Chairman Reckhow and Commissioner Heron said staff needs to look at economic incentives and disincentives for the employees.

Vice-Chairman Reckhow said the employees driving a long distance should be identified to determine whether they can carpool or vanpool. Triangle Transit Authority can help staff with this matching.

County Attorney Chuck Kitchen said the issue with telecommuting is that when an employee's home becomes the workplace, the County becomes liable for injuries.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the Transportation Demand Management Plan contingent upon the following changes:

- Clarify "Transit/Carpool Cash Incentive"
- Review Table 1.1 to make average vehicle miles traveled more accurate

The motion carried unanimously.

Preliminary Resolution for Bond Refunding

The Board of Commissioners was requested to adopt a resolution authorizing the submittal of an application to the Local Government Commission to refund fixed and variable rate general obligation bonds issued in 1992 and 1994 through the issuance of new fixed rate general obligation bonds. The resolution would further appoint County

Officials to work with the Local Government Commission and designate Robinson Bradshaw and Marsh and Marsh as co-bond counsel.

The refunding analysis done by Davenport & Company LLC was attached and indicated a potential savings of between \$111,896.00 and \$152,478.00 may be accomplished through the refunding. Additionally, if the refunding does not take place, a new liquidity provider will need to be employed at additional cost to replace the current provider for the variable rate bonds. The current liquidity provider has resigned effective in March 2001. Also attached was a sheet showing considerations in determining whether to use variable or fixed rate financings.

Resource Person(s): Susan Fox-Kirk, Interim Finance Director; S. C. Kitchen, County Attorney

County Manager's Recommendation: Due to the favorable market conditions, adopt the resolution enabling the County staff to proceed with the initial steps in refunding the bonds.

County Attorney Chuck Kitchen and Ms. Fox-Kirk presented the bond refunding proposal to the Commissioners.

Attorney Kitchen said the Board needs to adopt a preliminary resolution tonight to move forward with the proposal and to appoint Davenport & Company LLC as financial advisor for this issue.

A public hearing on this bond proposal would be held at a future meeting.

Commissioner Cousin moved, seconded by Commissioner Heron, to approve the preliminary resolution enabling the County staff to proceed with the initial steps in refunding the bonds.

The motion carried unanimously.

The preliminary resolution follows:

RESOLUTION RELATING TO THE AUTHORIZATION
OF REFUNDING BONDS OF THE COUNTY OF
DURHAM, NORTH CAROLINA

WHEREAS, the Board of Commissioners for the County of Durham, North Carolina (the "County"), is considering authorizing the issuance of Refunding Bonds of the County for

the purpose of providing funds, with any other available funds, for refunding (a) all or a portion of the Public Improvement Bonds, Series 1992 of the County, dated February 1, 1992, to be outstanding after February 1, 2001 in the principal amount of \$46,305,000, (b) all or a portion of the Water and Sewer Bonds, Series 1992 of the County, dated February 1, 1992, to be outstanding after February 1, 2001 in the principal amount of \$8,670,000, (c) all or a portion of the General Obligation Public Improvement Bonds, Series 1994 of the County, dated October 1, 1994, outstanding in the principal amount of \$20,215,000 and (d) all of the Public Improvement Bonds, Series 1993 of the County, dated May 4, 1993 and maturing on May 1, 2005 to 2013, inclusive, in the principal amount of \$21,700,000, including paying expenses related thereto; and

WHEREAS, is necessary to take certain related action at this time;

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Board of Commissioners for the County, as follows:

Section 1. The County Manager, the Interim Finance Director and the County Attorney of the County are each hereby designated as a representative of the County to file an application for approval of such Refunding Bonds with the Local Government Commission of North Carolina and are authorized to take such other actions as may be advisable in connection with authorizing the issuance of such Refunding Bonds; and all actions heretofore taken by any of such officers or any other officer of the County relating to such matter on behalf of the County are hereby approved, ratified and confirmed.

Section 2. The law firms of Robinson, Bradshaw & Hinson, P.A., Charlotte, North Carolina, and Marsh and Marsh, Attorneys at Law, Durham, North Carolina, are hereby confirmed as co-bond counsel of the County in connection with the authorization and issuance of such Refunding Bonds and Davenport & Company LLC is hereby confirmed as financial advisor of the County in connection with the authorization and issuance of such Refunding Bonds.

Section 3. This resolution shall take effect immediately upon its passage. Upon motion duly made and seconded, the foregoing resolution was passed by the following vote:

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

Noes: None

Corrections to Statements Made at the BOCC/ABC Board Worksession

Commissioner Heron had said the ABC warehouse was closed on Friday and Saturday during the week of the Thanksgiving Holiday. The stores were open.

The Explorer vehicle has not been sold. The vehicle is being used to distribute supplies and inventory to the warehouses.

Board and Commission Appointments

Garry E. Umstead, Clerk to the Board, distributed ballots to make appointments to the following boards and commissions (asterisks indicate appointees):

Criminal Justice Partnership Act Advisory Board

One at-large position (one-year term).

*Levi A. Dawson—Black, Cousin, Heron, and Reckhow
Michael J. Gould—no votes
Jesse J. Hunt—no votes

Durham Planning Commission

Two unexpired at-large positions (must be a city resident). Terms expire June 2002 and June 2003.

Daniel R. Barutio—no votes

George A. Brine--Reckhow

Furney Edward Brown, Jr., ED.D.—no votes

Irvie Osborne Bullock—no votes

*George H. Conklin—Bowser, Cousin, and Heron

Thomas C. Davidson—no votes

Gerald Andrews Emison—Black and Reckhow

*Deborah George Giles—Black, Bowser, Cousin, and Heron

Anne M. Guyton—no votes

Brenda Howerton—no votes

Paula P. Murphy—no votes

Hugh Patrick—no votes

Burton S. Rauch—no votes

James Schepp—no votes

Robert Shoaf—no votes

Suzanne J. Wasiolek—no votes

Carlyle C. White—no votes

Janine Zanecki—no votes

Open Space and Trails Commission

Two expired terms to represent Lebanon and Mangum Townships. Terms expire December 31, 2003. Must live in the township.

*Thomas Hardy (Lebanon)—Black, Bowser, Heron, and Reckhow

John A. Steer (Lebanon)—no votes

Transportation Advisory Board

Two expired terms. (Terms expire October 2003.)

*Irvie Osborne Bullock—Black, Bowser, Cousin, Heron, and Reckhow

Volunteer Farmland Protection Board

Two positions; one at-large member actively engaged in farming and one position to represent Lebanon Township (must live in the township).

*Neil T. Frank (lives in Mangum Township)—Black, Bowser, Cousin, Heron, and Reckhow

Women's Commission

Two terms that expire June 2001.

*Veronica Hicks—Black, Bowser, Cousin, Heron, and Reckhow

Commissioner Liaison Positions on Boards and Commissions

Commissioner Bowser moved, seconded by Commissioner Cousin, to approve this year's assignments for Commissioner liaison positions on boards and commissions with the exception of the Volunteer Farmland Protection Board.

The motion carried unanimously.

The assignments follow:

Commissioner Black

1. Area Mental Health Board
2. Hospital Corporation Board of Trustees
3. Durham City/County Committee
4. Durham City/County Planning Committee (Alternate)
5. Carolina Theatre
6. Chamber of Commerce

Commissioner Bowser

1. Community Child Protection Team/Child Fatality Prevention Team
2. Library Board
3. Social Services Board
4. Special Airport District Board
5. Durham-Chapel Hill-Orange Work Group
6. Durham-Wake Work Group
7. Lincoln Community Health Center
8. Operation Breakthrough Board
9. Triangle Transit Authority Tax Board
10. Downtown Durham Inc. (until 6/30/01)

Commissioner Cousin

1. North Carolina Museum of Life and Science
2. Durham Public Schools (Liaison)
3. Durham City/County Committee (Alternate)
4. Criminal Justice Partnership Act Advisory Board
5. Durham Arts Council Board of Directors
6. Durham City/County Planning Committee

7. Triangle Transit Authority Tax Board
8. Volunteer Farmland Protection Board

Commissioner Heron

1. Durham Central Park
2. Durham-Chapel Hill-Orange Work Group
3. Durham City/County Committee
4. Durham City/County Planning Committee
5. Durham County Sheriff's Department (Liaison)
6. Durham-Wake Work Group (Alternate)
7. Little River Park Advisory Committee
8. Special Airport District Board
9. Triangle J Council of Governments Smart Growth Committee
10. Transportation Advisory Committee
11. Upper Neuse River Basin Association
12. Animal Control Advisory Committee
13. Juvenile Crime Prevention Council
14. Memorial Stadium Authority
15. Triangle J Council of Governments (Alternate)

Commissioner Reckhow

1. Durham-Chapel Hill-Orange Work Group
2. Durham City/County Committee
3. Durham City/County Planning Committee
4. Durham-Wake Work Group
5. Transportation Advisory Committee
6. Triangle J Council of Governments
7. Triangle J Council of Governments Smart Growth Committee
8. Triangle Transit Authority
9. Durham Open Space and Trails Commission
10. Public Health Board

Adjournment

Chairman Black adjourned the meeting at 9:35 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board