

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

Monday, February 26, 2001

7:00 P.M. Regular Session

Minutes

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC 27701

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

County Attorney Chuck Kitchen asked to add an item to discuss the sales tax distribution method.

Chairman Black said the item would be placed on the agenda as item No. 12.

Minutes

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to approve the December 12, 2000 and the January 2, 2001 Minutes of the Board as corrected and the January 8, 2001 Minutes of the Board as submitted.

The motion carried unanimously.

Area Mental Health

Commissioner Heron brought up the subject about the counties having to provide for mental patients since the state is downsizing its mental health program. The Commissioners must be kept abreast of what is going on with mental health on the state level.

Chairman Black and County Attorney Chuck Kitchen reported on the Raleigh meetings in reference to the state mental health program. Mr. Kitchen attended a Legislative Oversight Committee for Mental Health this afternoon. They voted to send a bill to the legislature regarding mental health reform. The counties have not received information from the state as to what it will fund or what the counties are expected to fund.

Resolution of Support for “Durham Health Partners”

At the February 5, 2001 Worksession, the Board heard a presentation from Chairman Ruth Mary Meyer, Board of Directors, Durham Health Partners, and Janna Horton, Director of Planning. The presentation included a discussion of the organization’s mission, as well as a report on the Durham County Health Needs Assessment. A resolution of support was prepared at the Board’s request.

County Manager's Recommendation: Approve the resolution of support for “Durham Health Partners” and forward a copy to Ruth Mary Meyer, Board Chairman of Durham Health Partners.

Vice-Chair Diane Wright, Durham Health Partners, made remarks about the organization and received the resolution presented by Chairman Black.

Chairman Black read the resolution into the official record.

RESOLUTION

WHEREAS, “Durham Health Partners” represents the culmination and unification of three well-known health organizations in Durham—City of Medicine, USA; Durham Healthy Carolinians; and the Foundation for Better Health of Durham; and

WHEREAS, the mission of “Durham Health Partners” is dedicated to promoting the health status of the Durham community by:

- Drawing together health providers and consumers as proactive partners
- Developing and maintaining a comprehensive long-range health plan based upon data analysis and evaluation
- Generating necessary resources
- Encouraging partnerships that will help support responsive and effective programs
- Advancing the reputation of Durham as a state-of-the-art health care and medical and biomedical research center as well as a healthy place to live; and

WHEREAS, Durham Health partners promotes and encourages the efficient utilization of community resources; and

WHEREAS, this unique community health organization combines the fund-raising role of a foundation, community development support of community health programs, and the organization and coordination of community health planning; and

WHEREAS, through the Lifeline program, "Durham Health Partners" assists low-income uninsured patients at Durham Regional Hospital and Lincoln Community Health Center to receive asthma and diabetes home treatment supplies; and

WHEREAS, "Durham Health Partners" has identified Durham County's 12 most urgent health needs areas and is collaboratively working to address those needs as well as to identify the underlying causes:

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

"DURHAM HEALTH PARTNERS"

a program designed to build a healthier Durham community.

This the 26th day of February, 2001.

/s/ Five Commissioners
Durham County Commissioners

Proclamation Recognizing "National School Breakfast Week"

A proclamation recognizing March 5-9, 2001 as "National School Breakfast Week" was prepared for the Board's approval.

County Manager's Recommendation: Approve the requested proclamation and present to Ms. Tracy Bates.

Chairman Black read the proclamation into the official record.

PROCLAMATION

WHEREAS, students throughout the Durham community will participate in activities aimed at celebrating National School Breakfast Week during the week of March 5-9; and

WHEREAS, this year's observance comes at a time when school universal breakfast pilot programs and studies are being implemented in selected school districts across the country; and

WHEREAS, numerous reports and research confirm the fact that starting the day with a healthy breakfast helps a student's academic performance; and

WHEREAS, this year's theme, "Launch Your Day with School Breakfast," is being used to inform and enlighten students, parents, and community members about the National School Breakfast Program's important role in contributing to healthy, balanced diets for more than 7 million children each day; and

WHEREAS, this year's campaign highlights nine reasons that students should eat a nutritious school breakfast:

1. Enhances cognitive abilities
2. Strengthens brain function for completing complex tasks
3. Improves behavior
4. Decreases illness
5. Boosts energy levels
6. Improves academic performance
7. Reinforces life-long healthy eating habits
8. Introduces new foods
9. Contributes to overall physical activity; and

WHEREAS, Durham County Health Department nutritionists will be working actively with target Durham Public Schools to celebrate National School Breakfast Week through classroom instruction, activities, special events, and contests:

NOW, THEREFORE BE IT RESOLVED that I, MaryAnn E. Black, Chairman of the Durham County Board of Commissioners, do hereby proclaim the week of March 5-9, 2001, as

"NATIONAL SCHOOL BREAKFAST WEEK"

in Durham County. I further ask all citizens to join in recognizing the vital role a wholesome, nutritious breakfast plays in helping all children to have healthy and fulfilling daily lives.

This the 26th day of February, 2001.

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

Tracy Bates, Health Promotion Nutritionist in the Public Health Department, thanked the Commissioners on behalf of the Durham County Health Department, Nutrition Division, for the proclamation. She highlighted several points in the proclamation and talked about related events.

Consent Agenda

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the following consent agenda items:

- * (a) Street Annexation Petition—Hardscrabble Drive (Hardscrabble Plantation) adopt the resolution to approve the addition of Hardscrabble Drive (Hardscrabble Plantation) to the state’s road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation);
- (d) Standard Non-Reimbursable Contracts for the Extension of the County Sanitary Sewer System (authorize the County Manager to execute the utility contracts for the additions of Audubon Park Subdivision and Enthalpy Analytical Lab to the County sanitary sewer system);
- * (e) Property Tax Releases and Refunds for Fiscal Year 00-01 (accept the property tax release and refund report as presented, and authorize the Tax Assessor to adjust the tax records as outlined by the report. These are normal recurring releases and refunds that are presented for the consent agenda);
- (f) Appointment—Durham and Wake Counties Research and Production District (appoint Larry Lawrence as requested by Ms. Elizabeth H. Rooks on behalf of the Research Triangle Park Owners and Tenants Association);
- * (g) Budget Ordinance Amendment No. 01BCC000048—Library—To receive Smart Start Funds and Establish Provisional Part-Time Position (approve for the Library to receive \$30,000 in Smart Start funds and authorize the establishment of a provisional part-time Senior Library Assistant position to implement contract provisions of this grant);
- * (h) Budget Ordinance Amendment No. 01BCC000049—Mental Health—To Receive \$20,000 from the North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services (MH/DD/SAS) (approve for the Durham Center to receive a one-time allocation in the amount of \$20,000 from the North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services (MH/DD/SAS) to provide additional services to persons with developmental disabilities); and
- * (i) Budget Ordinance Amendment No. 01BCC000050—Sheriff—To Recognize Deferred Revenue (approve for the Sheriff to recognize deferred revenue in the amount of \$15,000 for a Drug Free America campaign and building modifications for the new communication dispatch room. There is no impact to County local dollars).

The motion carried unanimously.

*Documents related to these items follow:

Consent agenda 6(a). Street Annexation Petition—Hardscrabble Drive (Hardscrabble Plantation) adopt the resolution to approve the addition of Hardscrabble Drive (Hardscrabble Plantation) to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation).

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR ADDITION OF STATE MAINTAINED
SECONDARY ROAD SYSTEM

North Carolina
County of Durham
Road Description: Hardscrabble Drive

WHEREAS, the attached petition has been filed with the Durham Board of County Commissioners requesting that the above described road, the location of which has been indicated in red on the attached map,* be added to the secondary road system; and

WHEREAS, the Board of County Commissioners is of the opinion that the above described road should be added to the secondary road system, if the road meets minimum standards and criteria established by the Division of Highways of the Department of Transportation for the addition of roads to the system:

NOW, THEREFORE, BE IT RESOLVED by the Durham Board of County Commissioners that the Division of Highways is hereby requested to review the above-described road, and to take over the road for maintenance if it meets established standards and criteria.

CERTIFICATE

The foregoing resolution was duly adopted by the Durham Board of County Commissioners at a meeting on the 26th of February, 2001.

Witness my hand and official seal this the 27th day of February, 2001.

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

*In the office of the Clerk to the Board.

Consent Agenda 6(e). Property Tax Releases and Refunds for Fiscal Year 00-01 (accept the property tax release and refund report as presented, and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details releases and refunds for the month of January 2001.

Releases & Refunds for 2000 Taxes:

Real	\$ 63,718.19
Personal	\$ 2,656.65
Registered Vehicles	\$ 31,043.95
Vehicle Fees	\$ 495.00
Solid Waste Fees	\$ 550.00
Total for 2000 Taxes and Fees	\$ 98,463.79

Prior Years (1997-1999) releases and refunds, for January 2001 are in the amount of \$4,948.21.

Total Current Year and Prior Year Releases and Refunds \$103,412.00

(Recorded in Appendix A in the Permanent Supplement of the February 26, 2001 Minutes of the Board.)

Consent Agenda 6(g). Budget Ordinance Amendment No. 01BCC000048—Library—To receive Smart Start Funds and Establish Provisional Part-Time Position (approve for the Library to receive \$30,000 in Smart Start funds and authorize the establishment of a provisional part-time Senior Library Assistant position to implement contract provisions of this grant).

DURHAM COUNTY, NORTH CAROLINA
 FY 2000-01 Budget Ordinance
 Amendment No. 01BCC000048

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 Library.

GENERAL FUND

	<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
<u>Expenditures</u>				
Culture & Recreation	\$ 7,320,890	\$30,000		\$ 7,350,890
<u>Revenues</u>				
Intergovernmental	\$200,207,292	\$30,000		\$200,237,292

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

This the 26th day of February, 2001.

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

Consent Agenda 6(h). Budget Ordinance Amendment No. 01BCC000049—Mental Health—To Receive \$20,000 from the North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services (MH/DD/SAS) (approve for the Durham Center to receive a one-time allocation in the amount of \$20,000 from the North Carolina Division of Mental Health, Developmental Disabilities and Substance Abuse Services (MH/DD/SAS) to provide additional services to persons with developmental disabilities).

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Budget Ordinance
Amendment No. 01BCC000049

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 Mental Health Department.

GENERAL FUND

	<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
<u>Expenditures</u>				
Human Services	\$240,447,310	\$20,000		\$240,467,310
<u>Revenues</u>				
Intergovernmental	\$200,237,292	\$20,000		\$200,257,292

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

This the 26th day of February, 2001.

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

Consent Agenda 6(i). Budget Ordinance Amendment No. 01BCC000050—Sheriff—To Recognize Deferred Revenue (approve for the Sheriff to recognize deferred revenue in the amount of \$15,000 for a Drug Free America campaign and building modifications for the new communication dispatch room. There is no impact to County local dollars).

Chairman Black said that the funds for this item will not be used for carpet replacement.

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Budget Ordinance
Amendment No. 01BCC000050

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 Sheriff's Department.

GENERAL FUND

	<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
<u>Expenditures</u>				
Public Safety	\$ 30,400,942	\$15,000		\$ 30,415,942
<u>Revenues</u>				
Intergovernmental	\$200,257,292	\$15,000		\$200,272,292

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

This the 26th day of February, 2001.

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

Public Hearing to Consider Adopting an Ordinance which Amends the Zoning Ordinance to Require Bicycle Parking Facilities in new Developments

Durham lacks safe and sufficient bicycle parking, yet data shows that bicycle parking is one of the most important investments for encouraging and improving bicycle travel in urban and suburban areas. The current-built environment rewards driving over walking, cycling, or using transit. Making bicycle parking at least as convenient as motorized vehicle parking would assist local programs for better alternative transportation, traffic demand management, and public health. Support for bicycling has been recommended in several plans adopted by the Board during the last decade.

Bicycle parking is one facility improvement that can be made most effectively at the local level of government when it is combined with new development requirements. The Joint City-County Planning Commission and the Zoning Committee have unanimously endorsed the proposed additions to Section 9 of the Zoning Ordinance ["Standards for Parking, Loading, Sidewalk, and Trash Handling Facilities"] to include requirements for bicycle parking facilities. The Planning Department recommended that the Board adopt the proposed additions to Section 9 of the Ordinance.

Resource Person(s): Norman R. Standerfer, Planning Director
Beth Timson, Senior Planner

County Manager's Recommendation: The Manager's recommendation was that the Board hold the public hearing and approve amending the zoning ordinance to require bicycle parking facilities in new developments.

Ms. Timson presented the Commissioners an overview of the agenda item. She asked the Commissioners to adopt the changes in the ordinance to require bicycle-parking facilities in new developments.

The Commissioners had no questions about the bicycle ordinance.

Chairman Black opened the public hearing that was properly advertised.

As no one asked to speak, Chairman Black declared the public hearing closed and referred the item back to the Commissioners for their consideration.

Commissioner Reckhow moved, seconded by Commissioner Cousin, to approve the adoption of the zoning ordinance to require bicycle-parking facilities in new developments.

The motion carried unanimously.

The ordinance follows:

TC 112-00

**AN ORDINANCE AMENDING SECTION 9 OF THE DURHAM ZONING ORDINANCE
TO INCLUDE REQUIREMENTS FOR BICYCLE PARKING FACILITIES AND
STANDARDS FOR THOSE FACILITIES**

WHEREAS, the Durham Zoning Ordinance contains requirements for the inclusion of parking spaces for motorized vehicles with new developments, and

WHEREAS, these parking spaces for motorized vehicles have standards for size, number, and location based upon the nature of the new development, and

WHEREAS, bicycles are vehicles under North Carolina law but have not been included in these parking facility requirements, and

WHEREAS, plans adopted by the Durham Board of County Commissioners to guide Durham's growth have included recommendations to encourage bicycle transportation in Durham, and

WHEREAS, the Durham Board of County Commissioners want to encourage transportation alternatives to motorized vehicles and to support public health initiatives for bicycling and walking,

NOW, THEREFORE, BE IT ORDAINED THAT:

Section 1. The sections underlined be adopted into Section 9 and the sections crossed out be removed from Section 9, as follows:

9.1 Purpose

The purpose of this section is to establish standards for motorized vehicle parking, for bicycle parking, for loading areas, for sidewalks, and for trash facilities. These standards are established in order to provide for the safe movement of motorized vehicles, bicycles, and pedestrians and to reduce hazards to public safety.

9.2 General Requirements

1. Off-street parking facilities for motorized vehicles and bicycles shall be provided for patrons, occupants and employees of all nonresidential uses located outside of the CBD. Commercial vehicles associated with the use shall only be parked in areas designated on an approved site plan and shall be shielded from view from any public streets and any adjacent residential property. Uses within the CBD that provide parking for motorized vehicles shall also provide it for bicycles.
2. Off-street parking for motorized vehicles and bicycles shall be provided for all dwelling units. Residential off-street parking shall consist of either a driveway, parking lot, garage or any combination of these items. Bicycle parking may be located in any of these areas or in other locations that are easily accessible and do not impede pedestrian or motorized vehicle movement into or around the site.

Other domestic and recreational vehicles such as boats, camper trailers, and utility trailers shall be stored off the street and may not be located in required front and side yard spaces. Multifamily developments may designate a specific area on a site plan for boat and trailer parking for residents of the development.

Vehicles parked in residential areas may not exceed 30 feet in overall length, 8 feet in width or 12 feet in height. Trailers may not exceed 35 feet in length or 12 feet in height. Parking of school buses associated with Durham Public Schools shall be allowed. Parking of heavy equipment or "tractor trailers" shall not be allowed.

This requirement shall not prohibit commercial vehicles from making deliveries in a residential district.

3. Nonresidential parking spaces shall not be used for the storage of merchandise, vehicle storage, vehicles for sale, or vehicle repair.
4. Any area designated for required off-street parking shall not be changed to another use until other parking facilities in conformance with zoning requirements are established elsewhere.
5. Requirements for the number of parking spaces for motorized vehicles and bicycles for each use are listed elsewhere in this section. The requirements may result in the calculation of a fractional parking space. If the fraction is less than 1/2, the fraction may be deleted. If the fraction is 1/2 or greater, the fraction shall count as 1 parking space.

Off-street parking for separate uses may be provided collectively if all other regulations are observed. A parking space designated for one use shall not be designated as fulfilling the requirements for another use unless approved by the Development Review Board (DRB).

Up to 30% of the off-street parking spaces may be sized and designated for compact vehicles. A larger percentage of compact vehicles may be allowed by the DRB. All off-street handicapped parking spaces shall be designated by a sign or other means specified by State requirements.

During the site plan approval process, the Design Review Board may allow a new or a pre-existing development to convert up to 5% of its motorized vehicle spaces to non-required additional bicycle parking, as long as the spaces are conveniently located near a building entrance. Converted parking spaces must yield at least 6 bicycle parking spaces per motorized vehicle space. A development requesting such a conversion must demonstrate a need for additional bicycle parking.

6. Shopping Centers which provide 400 or more parking spaces shall designate at least 5% of the required spaces as "Park and Ride" spaces. However, no more than 100 spaces shall be required. A sign or signs shall be used to designate that the spaces are reserved for park and ride use during non-holiday weekdays between 6 a.m. and 6 p.m. Park and ride spaces, for the purpose of this section, shall be defined as spaces to be occupied by vehicles left by individuals who transferred to other modes of transportation for the remainder of their trip to an off site location. For example, a driver who transferred from a car to a bus or carpool for the remainder of the trip to work or school. Bus shelters may be required in the vicinity of the Park and Ride area if the DRB determines that DATA, the Triangle Transit Authority, or another publicly sponsored transit provider would benefit from the improvements.
7. A building with at least 10,000 square feet of space devoted to office uses shall provide carpool parking spaces. At least 1% of parking spaces shall be designated as reserved for carpool parking. The designated spaces shall be among the spaces located closest to the building entrance [other than the handicapped parking spaces.]. This requirement shall only apply if carpooling standards and administrative requirements are defined by an ordinance adopted by the Governing Body.
- ~~8. Buildings or projects which provide 400 or more parking spaces shall provide parking facilities for bicycles equal to 1% of the number of required parking spaces.~~

9.3 Design Standards

9.3.1 Design Standards for Motorized Vehicles

Each required off-street parking space shall open directly onto an aisle or driveway which is designed to provide safe and efficient vehicular access to each parking space. Parking shall not be allowed to impede traffic movement on alleys or streets or to impede pedestrian or bicycle activities.

1. Dimensions: A required off-street parking space shall be at least 8 feet, 6 inches in width and 18 feet in length exclusive of any access drives, aisles, or columns. However, for nonresidential uses, parking spaces of a reduced size may be permanently designated, by signs, for compact vehicles. A compact vehicle space shall be at least 7 feet, 6 inches in width and at least 14 feet in length, exclusive of access drives, aisles, or columns. Parallel parking spaces shall be increased by 5 feet in length. Nonresidential parking spaces and multi-family parking spaces shall be striped on pavement or designated with some other form of permanent marking.

All spaces shall have a vertical clearance of 6 feet, 6 inches. Aisles shall not be less than 24 feet wide for 90 degree parking, 18 feet wide for 60 degree parking, 16 feet wide for 45 degree parking and 12 feet wide for parallel parking. The angle shall be measured between the centerline of the parking space and the centerline of the aisle. No parking shall be allowed in the aisles.

Parking spaces using geometric standards other than those specified elsewhere in this ordinance may be approved subject to a determination by the Durham Transportation Department that the plans for the facility are sealed by a registered engineer with recognized expertise in parking facility design and a determination that the proposed facility will satisfy offstreet parking requirements as adequately as would a facility using standard ordinance dimensions.

2. Plan: Parking design for nonresidential and multi-family uses shall be approved as part of site plan review. Parking spaces required to meet the standards of this section shall be located on the same lot as the building or use served unless the DRB determines that location of the parking on-site would result in an unnecessary hardship and that the intent of this section would be better served by locating the required parking on another site within 1,000 feet of the use.
3. Screening and Landscaping: Landscaping and buffer widths in conformance with standards found in [Section 10](#) of this ordinance shall apply.
4. Credit for Public Spaces: Some or all of the required off-street parking spaces may be waived by the DRB if publicly owned off-street parking is located within a 1,000 foot walking distance from the main entrance of the proposed use and the DRB also determines that adequate parking spaces are available within the publicly owned parking area to accommodate the anticipated use.
5. Lighting: Parking lot lighting shall be shielded so that it does not cast direct light beyond the property line. Parking lots shall be lighted during night business hours.
6. Surfacing: All required off-street parking spaces, except for those associated with single family detached dwellings, shall be covered with an all weather surface designed to support anticipated loads. Loose material surfaces shall be contained with a permanent edging. The surface shall be maintained so that traffic may move safely in and out of the parking area.

9.3.2 Design Standards for Bicycle Parking

1. Bicycle parking must be visible and convenient for cyclists and must provide sufficient security from theft and damage. Designating space for bicycle parking within buildings is a

preferred option when feasible. Requirements for parking in other areas can be met by (1) a bicycle storage room, bicycle lockers, or bicycle racks inside a building; (2) bicycle racks or lockers in a parking structure, underneath an awning or marquee, or near a main building; or (3) bicycle racks on the public right-of-way with approval from the City or State and where such racks do not conflict with pedestrian use. When required motorized vehicle spaces are provided in a structure, an equal percentage of the required bicycle spaces are to be located inside that structure, unless other accessible, covered bicycle parking is located elsewhere on the site.

2. Where bicycle parking facilities are not clearly visible to approaching cyclists, signs shall be posted to direct cyclists to the facilities.
3. Dimensions: facilities shall provide at least a twenty-four inch clearance from the centerline of each adjacent bicycle and at least eighteen inches from walls or other obstructions. An aisle or other space shall be provided for bicycles to enter and leave the facility; this aisle shall have a width of at least five feet to the front or the rear of a standard six-foot bicycle parked in the facility. Each bicycle parking space shall be sufficient to accommodate a bicycle at least six feet in length and two feet wide. Overhead clearance shall be at least seven feet.
4. Bicycle parking spaces are to be clearly marked as such and shall be separated from motorized vehicle parking by some form of physical barrier designed to protect a bicycle from being hit by a motorized vehicle.
5. Each bicycle parking space shall be provided with some form of stable frame permanently anchored to a foundation to which a bicycle frame and both wheels may be conveniently secured using either a chain and padlock or a U-lock. The frame shall support a bicycle in a stable position without damage to frame, wheels, or components. The rack known as an "inverted U-rack" is the preferred type.
6. Outdoor bicycle parking facilities shall be surfaced in the same manner as the motorized vehicle parking area and shall be equally level.
7. Lighting and other security design features shall be provided in bicycle parking facilities equivalent to that provided in the facilities for motorized vehicles.
8. Bicycle parking shall be located no further from the building's main entrance than the closest motorized vehicle parking space, excluding parking for persons with disabilities. Uses with several major entrances shall locate a portion of the required bicycle parking at each entrance.

9.4 Required Parking Spaces

Off-street parking spaces shall be provided for all uses listed below in the amounts specified below. An exception shall be the CBD District where no off-street parking is required. The DRB may reduce the required number of spaces by up to 20% if for reasons of topography, mixes of uses, ride sharing programs, availability of transit, or other conditions specific to the site, the reduction in the required number of parking spaces satisfies the intent of this section. Buildings with multiple uses shall calculate parking based on the square footage of each use in the building.

9.4.1 Minimum Required Motorized Vehicle Parking

Use	Minimum Number of Required Off-Street Parking Spaces
Art galleries	1 space for each 300 sq. ft. of gross floor area
Auditoriums, assembly halls, theaters	1 space for each 4 seats or 1 space for each 40 sq. ft. of floor area available for the accommodation of movable seats in the assembly room
Auto repair shops	2 spaces for each service bay
Banks and other financial institutions	1 space for each 200 sq. ft. of gross floor area used by general public; 1 space for each 600 sq. ft. not used by general public
Bed and breakfast inns	1 space per rental unit; 1 space per 4 employees
Boarding houses	1 space for each rental unit
Car wash, automatic or self-service	5 spaces per bay automatic; 2 for self-service
Churches	See "Places of worship"
Clubs and lodges	1 space for 200 sq.ft. of gross floor area used by the general public or membership, 1 space for every 600 sq.ft. not used by the general public or membership
Colleges and universities	as determined by Development Review Board
Commercial dormitory	1 space for each rental unit
Convalescent centers	1 space per 4 beds plus 1 space for each 2 staff members
Convenience stores	1 space for each 200 sq.ft. of gross floor area. Areas where vehicles park to receive gasoline shall be considered parking spaces.
Contractor's offices	1 space for each 1,000 sq. ft. of gross floor area
Contractor's yards, building	1 space for each 10,000 sq. ft. of yard materials, storage
Correctional facilities	sufficient spaces to supply 1 space for each employee per shift and 1 space for every 5 occupants. The requirement may be modified with the use permit.
Day care facility	1 space for each employee on a major shift, plus 2 drop off spaces for patrons
Diet house	4 spaces for each doctor or practitioner and 1 space for each 2 seats assigned for food service
Dormitories, fraternity, and sorority houses	1 space for each 5 beds
Dwellings:	
Single family	1 space for each dwelling unit
Two-family, Three-family and multi-family	2 spaces for each dwelling unit. The Development Review Board (DRB) may require up to 1 space for every 5 units for visitor parking.
Efficiency units	1 per unit

Retirement communities, elderly housing	1 space for every 2 multi-family units plus 1 space for each 4 staff members whose work is associated with the units or with the occupants of the units. 1 space for each single family unit
Fairgrounds	1 space for each 600 sq. ft. of gross floor area
Funeral homes	1 space for each 4 seats in chapel
Golf courses	Based on review by the DRB considering site size, topography and supporting facilities
Government buildings	Based on review by the DRB considering site size, topography and supporting facilities
Hospitals	1 space for every 2 beds; 1 space for each doctor and nurse; and 1 space for every 4 additional employees
Hotels	1 space per rental unit
Junk yards	1 space plus 1 space for each 10,000 sq. ft. of yard
Laboratories, research	1 space per 1,000 sq. ft. of floor and area facilities
Manufacturing, processing, assembly, distributions, bottling works, machine shop, metal, wood-working, plumbing, electrical, printing shop, roofing shop	1 space for each 1,000 sq. ft. of floor area
Medical, dental and similar offices	4 spaces for each doctor or nurse and 1 space for each employee
Meeting rooms, exhibit halls	1 space for each 4 seats or 1 space for each 40 sq. ft. of floor area available for the accommodation of movable seats or exhibits
Mobile home park	1 space per rental unit
Motels	1 space per rental unit
Museums	1 space for each 300 sq. ft. of gross floor area
Night clubs	1 space for each 4 seats
Offices	1 space for each 250 sq. ft. of gross floor area
Nursing homes	See: "Convalescent center"
Places of worship	1 space for every 5 seats
Radio, TV recording studio	1 space for each 300 sq ft of gross floor area
Restaurants, cafeterias, dining rooms including drive- up windows	1 space for every 4 seats
Recreation, indoor	Based on review by the Development Review Board considering site size, topography and type of use
Recreation, outdoor	Based on review by the Development Review Board
Retail spaces or other unspecified	See: "Service establishments"
School: kindergarten, elementary	1 space for each classroom and 1 space per 300 sq. ft. of administrative office space

Schools: high school, college, vocational,	6 spaces for each classroom and 1 space per 300 sq. ft. of administrative office space
business	
Stables, commercial	1 space for each 2 stalls
Service establishments and retail:	
A. Dealing infrequently with public such as furniture repair, secretarial services.	1 space for each 600 sq. ft. of gross floor area
B. Dealing frequently with public such as barber shops, beauty shops, laundromats, video stores, drug stores, groceries, etc.	1 space for each 200 sq. ft. of gross floor area
Transportation terminals:	
A. Freight	1 space per 1,000 sq. ft. of gross floor space
B. Passenger	1 space per 200 sq. ft. of gross floor space
Veterinary establishments	4 spaces for each doctor and 1 for each employee
Warehouses	1 space for each 5,000 sq. ft. of gross floor area
Wholesale establishments	1 space for each 900 sq. ft. of gross floor area

9.4.2 Minimum Required Bicycle Parking Spaces

Multi-family residential uses shall provide bicycle parking at the rate of 1 bicycle parking space for each 20 motorized vehicle spaces but no more than 50 total bicycle parking spaces are required for any single development. Non-residential uses with an off-street parking requirement for motorized vehicles of at least 15 spaces and not more than 40 spaces shall provide a minimum of 2 bicycle parking spaces. Non-residential uses with an off-street parking requirement greater than 40 spaces shall provide bicycle parking spaces equal to 5% of the total number of spaces required up to 100 spaces.

9.4.3 Unlisted Uses

Uses not listed shall be reviewed by the Development Review Board for a determination of required spaces.

9.5 Parking Area Landscaping Requirements

Parking areas are required to meet ordinance requirements for landscaping within the parking area and around the perimeter of the parking area. Landscaping requirements are found in [Section 10](#) of this ordinance.

9.6 Loading Areas

Note: See [Section 9.2 \(3\)](#)

9.6.1 Location

No loading spaces shall be located within 30 feet of street intersections nor in any required yard space.

9.6.2 Surfacing

All open off-street loading areas shall be surfaced with an all weather material such as concrete, asphalt, or at least 4 inches of properly compacted crushed stone, designed to carry the heaviest vehicle loads that can commonly be expected. Consideration should be given to the weight of fire and sanitation equipment as well as delivery vehicles. Loading areas surfaced with loose materials such as crushed stone shall provide permanent edging around the area.

9.6.3 Repair and Service

No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any District.

9.6.4 Utilization

Space allocated to any off-street loading space, accessory drives, or aisles, shall not be used to satisfy the space requirements for any off-street parking or trash handling facilities.

9.6.5 Ingress and Egress

Each required off-street loading space shall be provided with a means of unobstructed ingress and egress to an alley or onto a public street wide enough to accommodate expected vehicles. Where such ingress and egress is made into a public street, it shall be through driveways or openings which meet required standards. Permanent wheel stops or curbing shall be provided to prevent any vehicle using the loading area from encroachment either on the required front yards, side yards, or adjacent property.

9.6.6 Off-Street Loading Requirements

Loading spaces shall be required for uses which normally handle large quantities of goods, including but not limited to industrial plants, wholesale establishments, warehouses, freight terminals, hospitals and retail establishments. Off-street loading spaces may be either inside or outside the building and on the same or adjoining premises. The loading spaces shall be of sufficient size and number to allow normal loading and unloading operations appropriate to the property to be served. In no case shall the loading space hinder the movement of traffic or pedestrians. The loading spaces shall be indicated on site plans submitted for approval. The DRB may require one or more additional loading areas if the magnitude of the use would anticipate the need for more loading or standing space. Loading berths shall be 10 feet by 25 feet with 14 feet of vertical clearance. The size may be modified by the DRB where site or use conditions warrant changes to this standard.

9.6.7 Landscaping Requirements

Loading areas shall be screened from public streets and adjacent residential property in accordance with the screening requirements of [Section 10](#).

9.7 Off-Street Utility, Dumpster, Recycling, and Trash Handling Facilities

9.7.1 Location

All utilities (including heating and air conditioning units), dumpsters, and trash handling facilities shall be located on the same lot as the use served unless shared facilities are approved by DRB.

All utility, dumpster, and trash handling facilities including the occupant's recycling facilities shall be completely screened from public view, and from the view of any development on any adjoining property. A wall, solid wood fence, evergreen hedge, earth berm, or any combination thereof shall be provided to obscure these facilities. However, when the service side of the particular facility faces any property line, a wall or solid wood fence with gates or doors must be provided. If shrubs are used as the screening material, they shall be a minimum of 5 feet in height, spaced no farther than 4 feet apart. If a wall, solid wood fence, or berm is used as the screening material, its minimum height shall be 6 inches above the proposed facility.

Public recycling drop off sites shall be encouraged and are permitted as an accessory use in all nonresidential zones. The drop off site shall be kept free of litter, residue and debris by the party responsible for the maintenance and management of the drop off facility. Recycling drop off sites shall be located at least 50 feet away from residentially zoned property. One freestanding or wall sign is allowed up to 25 square feet in area upon issuance of a sign permit. The drop off site containers must be durable, waterproof, covered and well maintained. The name and phone number of the party responsible for maintenance shall be posted on the container. Containers on the site shall have uniform colors. The DRB may impose additional conditions if necessary to protect adjacent properties.

9.7.2 Access

All required dumpster, recycling, and trash handling facilities shall be designed with appropriate means of access to a street or alley in a manner which will least interfere with traffic movement, and which will most facilitate the service of the facilities.

9.7.3 Utilization

Space allocated to any off-street dumpster and trash handling facilities shall not be used to satisfy the space requirements for off-street parking and/or loading facilities, nor shall any parking or loading spaces be used to satisfy the space requirements for any dumpster or trash handling facility.

9.8 Sidewalk Requirements

9.8.1 Sidewalks and Trails

Sidewalk, walkway, on-road improvements, and trail systems sufficient to serve both existing and projected pedestrian and bicyclists needs shall be reflected in all site and subdivision plans. Such systems may include either conventional sidewalks along street rights-of-way, wide outside travel lanes or bike lanes on roadways, or walkways and trails in alternative locations as appropriate. Design, location, dimensions, dedications, easements, and reservations, shall conform to applicable City and/or County Urban Growth Area policies and plans for sidewalks, bicycle routes, and trails.

1. Location: Unless an alternate walkway is approved, conventional sidewalks within the Urban Growth Area shall be located as follows:
 - a. On both sides of major and minor thoroughfares (as defined by the adopted

- Thoroughfare Plan) except on freeways;
- b. On one side of collector streets and nonresidential streets with existing or projected traffic of 2,000 or more vehicles per day;
 - c. On one side of residential streets of all types that are not cul-de-sacs.
 - d. On one or both sides of local streets in non-residential areas where review indicates that sidewalks are, or will be, needed to accommodate pedestrian traffic.
2. If a conflict exists between these standards and the provisions of the Subdivision Ordinance, than the stricter requirements shall apply.

When the approving body determines that the construction of a conventional sidewalk or alternative walkway is unfeasible due to special circumstances, including but not limited to: impending road widening, significant street trees, severe roadside conditions, or limited pedestrian volumes; the approving body may require either: (1) payment in lieu of sidewalk construction; or (2) a combination of sidewalk and/or alternative walkways and/or payment in lieu funds.

In general, sidewalks shall be 5 feet in width and shall be constructed of concrete. Alternate dimensions and materials may be approved by the City Engineering Department

3. Either wide outside travel lanes or bicycle lanes, as determined by the City Public Works Department or the North Carolina Department of Transportation, shall be a part of any road improvements made on roadways which are indicated as bicycle routes on either the City's Durham Urban Trails and Greenways Master Plan or the Metropolitan Planning Organization's Regional Bicycle Plan.

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.

This 26th day of February, 2001.

(Recorded in Ordinance Book _____, page(s) _____.)

Durham Smart Growth Audit Presentation

In 2000, the City and County contracted with Duncan Associates to perform a smart growth audit. The consultant conducted an extensive review of Durham planning and capital improvement documents. In addition, the consultant conducted a series of meetings with key Durham officials and citizens to glean their insights about smart growth. In November 2000, Duncan Associates produced the first draft of the Durham Smart Growth Audit. The Joint City-County Planning Committee reviewed the draft report. The consultant made minor modifications to the final report.

The Smart Growth Audit contains numerous recommendations to manage better Durham's future growth and development. The recommendations are broad and far-reaching and include specific actions related to land use planning, capital facilities planning, urban form, and development design.

After the consultants make presentations to the City Council and Board of County Commissioners, the Planning Department will distribute copies of the audit to the five advisory boards and commissions that participated in the March 2000 Smart Growth Summit.

Resource Person(s): Norm Standerfer, Planning

County Manager's Recommendation: The Manager recommended that the Board receive a report from Duncan Associates about the Durham Smart Growth Audit.

Mr. Standerfer presented the County Commissioners an overview of the activities that occurred last year relative to smart growth on the state, regional, and local level. Last spring, the City Council and Board of County Commissioners authorized a smart growth audit. The consultant was selected and the effort was ongoing during the summer and fall. A preliminary Smart Growth Audit was presented to the City-County Planning Committee in late October or early November. Since then, the report has been completed.

Erick D. Kelly, Chief Investigator representing Duncan Associates, provided a presentation on the Smart Growth Audit for the County and City. The Commissioners were asked to accept the report or refer it back to the City-County Planning Committee so staff can deal with the 140+ recommendations.

Vice-Chairman Reckhow and Commissioners Bowser, Heron, and Cousin asked questions of Mr. Kelly and made comments. Most comments centered on impact fees and connecting neighborhoods for pedestrian, bike, and auto use to reduce traffic on state roads.

Chairman Black advised that this item go back to the Joint City/County Planning Committee.

Commissioner Reckhow suggested that the Board direct the County Manager to work with the City Manager regarding smart growth and the Plan Coordination Committee. Planning Director Standerfer commented that the recommendations would be evaluated at the April meeting. Sixty-five percent of the recommendations are issues which probably will be addressed when the funding issue is determined. Many of these recommendations are not new.

The Joint City/County Planning Committee should work with the Planning staff on incorporating these suggestions into the Planning Department's upcoming workplan.

Commissioner Reckhow moved, seconded by Commissioner Heron, to receive the report from Duncan Associates and direct

the County Manager to work with the Planning staff in moving forward with the audit recommendations.

The motion carried unanimously.

Declaration of Surplus Property—3.03 Acres at Brogden Middle School

On January 25, 2001, the Board of Education of Durham Public Schools declared 3.03 acres at Brogden Middle School, 1001 Leon Street, as surplus property in order to facilitate the widening of Interstate Highway 85 by the North Carolina Department of Transportation. The land is wooded, unused, and serves no current or future use for the school.

N.C.G.S. 115C-518 prescribes that the Board of Education must first offer the property to the Board of County Commissioners at a fair market price or at a price negotiated between the two boards. If the Board of County Commissioners chooses not to obtain the property, then the Board of Education may dispose of the property in accordance with provisions of Chapter 160A of the General Statutes.

Resource Person(s): Mr. Hugh Osteen, Executive Director of Facilities Services for Durham Public Schools

County Manager's Recommendation: The Manager recommended that the Board reject the offer to acquire the property, which will permit the Board of Education to proceed with the disposal thereof.

Mr. Osteen presented the agenda item to the Board of County Commissioners.

The County Commissioners asked questions and made remarks about the agenda item to which Mr. Osteen responded.

Commissioner Reckhow moved, seconded by Commissioner Cousin, to reject the offer to purchase the property.

The motion carried unanimously.

Review of First-Semester Dropout Report for Durham Public Schools

The Superintendent of Durham Public Schools provided a report to the Board of County Commissioners on February 9, 2001, which included information regarding the first-semester dropout rate for the 2000-2001 School Year. The report indicates that Durham Public Schools realized a 19 percent reduction (51 fewer students) from the previous academic year.

Resource Person(s): Andrea Dennis, School Board Liaison

County Manager's Recommendation: The Manager recommended that the Board review the report and direct staff if any additional action is necessary.

The Commissioners had a general discussion about the First-Semester Dropout Report.

Chairman Black commented that the decrease in dropout numbers is to be commended, but the school board should continue to strive to keep its students in school. The Youth Coordinating Board must become involved in dropout intervention; it must be more active in its efforts. She suggested that students and parents meet to receive counseling regarding remaining in school.

Commissioner Heron suggested that the school board provide an accounting as to why 50 percent of long-term suspended students do not elect to attend the Lakeview alternative school.

Commissioner Bowser indicated he is of the opinion that Durham Technical Community College should be considered a place for higher education—that high school students should be encouraged to stay in school and not consider Durham Technical Community College an alternative to finishing their high school education.

Commissioner Reckhow spoke about students dropping out of school and what action should be taken to help and encourage students to stay in school. The Youth Coordinating Board should be in a leadership role with programs to help students see the need to continue in school.

Chairman Black said this discussion should be held at the Youth Coordinating Board level to find solutions to decrease school dropout by students when they reach 16 years old. A group of students should be asked to meet with community leaders to discuss why students drop out of school.

Commissioner Cousin spoke about the issues of closing the gap. The resources should be targeted to watch the students on the edge of dropping out of school.

No official action or vote was taken on this agenda item.

Presentation by TJCOG on “The Regional Solid Waste Future Search: One Year Later”

The Director of General Services requested the opportunity for a representative from Triangle J Council of Governments to present a report on “The Regional Solid Waste Future Search: One Year Later.”

In February 2000, local government staff from Chatham County, Durham County, Johnston County, Orange County, Wake County, City of Durham, City of Raleigh, Town of Cary, and Town of Chapel Hill spent three days reviewing the past, examining the present, and

exploring the future related to the region's solid waste management. In addition to local government staff, elected officials, related solid waste professionals, and citizens participated.

The motivation for TJCOG to host this regional solid waste event came from the fact that at current projected recycling rates, our six-county region will still be land filling a huge amount of trash over the next 25 years. Judy Kincaid, Solid Waste Planning Director for Triangle J Council of Governments, provided the Board with a power point presentation and respond to questions.

Resource Person(s): Mike Turner, Director of General Services
Judy Kincaid, Triangle J Council of Governments

County Manager's Recommendation: The Manager's recommendation is that the Board allow the representative from Triangle J Council of Governments to make the presentation and respond to any questions by the Board.

The Commissioners asked questions and made remarks about solid waste to which Ms. Kincaid responded.

Ms. Kincaid urged the Commissioners to set more ambitious solid waste goals and to continue cooperation with the Triangle Region Solid Waste Planners Committee. Also, she urged the Commissioners to keep the solid waste budget high enough to continue supporting regional programs.

Commissioner Bowser said we need a regional landfill.

Vice-Chairman Reckhow and Commissioner Heron spoke to the need to find a way to recycle leftover construction materials, especially wood, which would otherwise be placed in our landfill.

Various suggestions were made for use of leftover material.

Commissioner Reckhow moved, seconded by Commissioner Bowser, to accept the report and direct the staff to investigate the feasibility of (1) franchising private haulers outside the City limits; and (2) look at recycling programs associated with construction debris.

The motion carried unanimously.

Appointment of 2001 Board of Equalization and Review

North Carolina General Statute 105-322 requires the Board of Commissioners to adopt a resolution to appoint the Board of Equalization and Review. This must be done by the first Monday in March. The Board of Commissioners must also consider a compensation rate.

The 2000 Board of E & R compensation rate was \$50.00 per session. A session consists of one 3-hour block of time. Due to the revaluation, the Board would be meeting more often and possibly longer than a three-hour session.

The Commissioners must appoint a Chairman and a Vice-Chairman for the 2001 Board of Equalization and Review.

Resource Person(s): W. Steven Crysel, Tax Administrator

County Manager's Recommendation: The Manager's recommendation was that the Board adopt the resolution to appoint the 2001 Board of Equalization and Review.

The Commissioners advised that they were not ready to appoint the E & R Board members at this meeting.

Chairman Black said that in the resolution, Section 5, "Appointment of Members," Subsections a and b, the month must be changed to March.

The Commissioners asked questions and made remarks about the agenda item to which Mr. Crysel responded.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the resolution and to appoint the Board of Equalization and Review at the first Regular Session in March 2001.

The motion carried unanimously.

The resolution follows:

RESOLUTION TO APPOINT SPECIAL BOARD OF EQUALIZATION AND REVIEW

WHEREAS, the Board of County Commissioners is authorized by North Carolina General Statutes Section 105-322 to appoint a special Board of Equalization and Review to examine and review the listings and valuations assigned to property located in Durham County, hear property owners' appeals concerning property listings and valuations, and make adjustments and necessary changes to insure that valuations meet standards established by State law; and

WHEREAS, the Board of County Commissioners is authorized by North Carolina General Statutes Section 105-312 to delegate its authority to compromise, settle or adjust the County's claim for taxes arising from discovered property to a special Board of Equalization and Review; and

WHEREAS, the Board of County Commissioners has determined that it is reasonable and desirable to appoint a special Board of Equalization and Review to exercise those powers and perform those duties allowed by law;

NOW THEREFORE, BE IT RESOLVED that the Board of County Commissioners for the County of Durham does hereby establish a special Board of Equalization and Review as follows:

1. EFFECTIVE DATE AND DURATION

This resolution shall be effective upon its adoption by the Board of County Commissioners and shall continue in effect until revised or rescinded by the Board of County Commissioners. This resolution supersedes any previous resolutions adopted by the Board of County Commissioners regarding the establishment of a special Board of Equalization and Review in Durham County.

2. MEMBERSHIP

- a. The Board shall consist of five members, each having one vote.
- b. Three members shall constitute a quorum.

3. QUALIFICATIONS

Each member of the special Board of Equalization and Review shall:

- a. Be a real property owner in Durham County;
- b. Be a registered voter in Durham County;

- c. Be in current payment of all Durham City and County property taxes; and
- d. Be familiar with the power and duties of the Board of Equalization and Review as set forth in North Carolina General Statutes Section 105-322(g).

4. TERM OF OFFICE

The term of office for each member of the special Board of Equalization and Review shall be one year.

5. APPOINTMENT OF MEMBERS

- a. Each Commissioner shall have the opportunity to nominate one member of the Board of Equalization and Review.
- b. Appointment of members and designation of the chairperson of the special Board of Equalization and Review shall be made by the Board of County Commissioners from the slate of nominees presented by the Clerk to the Board at the second scheduled meeting of the Board of County Commissioners in February.
- c. A Commissioner shall serve as a member of the special Board of Equalization and Review by either submitting his/her own name in lieu of some other qualified individual, or by failing to submit the name and address of a qualified nominee to the Clerk to the Board prior to the second scheduled meeting in February.

6. VACANCIES

- a. Vacancies shall be filled by the Board of County Commissioners, with individuals qualified as described in Paragraph 3, above. An individual appointed to fill a vacancy shall serve until the end of the un-expired term.
- b. Any member appointed by the Board of County Commissioners may be removed from the special Board of Equalization and Review by the Board of County Commissioners

with or without cause. A vacancy caused by such removal shall be filled as set forth above.

- c. Any Commissioner serving as member of the special Board of Equalization and Review may vacate his/her seat by requesting that the Board of County Commissioners appoint a replacement. Such Commissioner shall continue to service on the special Board of Equalization and Review until such time as a qualified individual can be appointed by the Board of County Commissioners to fill the vacancy caused by Commissioner's resignation, as set forth above.

7. COMPENSATION

The members of the special Board of Equalization and Review shall be compensated at a rate determined by the Board of County Commissioners.

8. POWERS AND DUTIES

The special Board of Equalization and Review shall have those powers and duties set forth in North Carolina General Statutes, Section 105-312, 105-330 and 105-322, and such other powers, duties and responsibilities as are contained in Chapter 105, Subchapter II, of the North Carolina General Statutes, known as the "Machinery Act".

9. CLERK TO THE BOARD AND MINUTES OF THE BOARD

The Tax Administrator shall serve as Clerk to the Board of Equalization and Review, be present at all meetings, maintain accurate minutes of the actions of the Board, and give to the Board such information as he/she may have or can obtain with respect to the listing and valuation of taxable property in Durham County.

10. STAFF ASSISTANCE

The special Board of Equalization and Review may call upon members of the Planning Department and Tax Administration for technical assistance in carrying out its duties and powers. The special Board of Equalization and Review may call upon the County Attorney's Office for advice and assistance interpreting and putting into effect Chapter 105, Subchapter II of the North Carolina General Statutes as it relates to the Board's responsibilities and duties.

11. NOTIFICATION TO DEPARTMENT OF REVENUE

A copy of this resolution shall be forwarded to the North Carolina Department of Revenue within fifteen (15) days after its adoption.

By motion properly made and seconded, adopted this the 26th day of February, 2001.

/s/ MaryAnn E. Black
CHAIRMAN
BOARD OF COUNTY COMMISSIONERS

(SEAL)

/s/ Garry E. Umstead
CMC
CLERK TO THE BOARD

Sales Tax Distribution Method

A resolution was adopted by the Board of County Commissioners on April 24, 1995, which set the respective sales tax distributions for the City and County of Durham. Pursuant to the resolution, a notice must be sent to the City of Durham by March 1, 2001 to effect a change for FY 2002 (if the County has proposed changes to the formula or distribution method).

County Manager's Recommendation: Authorize a notice to be sent to the City of Durham that the County of Durham desires to alter either the formula or the method of distribution of the sales tax.

Chairman Black called on County Manager Mike Ruffin for comments.

County Manager Mike Ruffin commented that state law says if the Board desires to consider a change in the distribution of sales tax, it must make that decision during April. However, the resolution adopted by the Commissioners and the City Council requires that the Board notify the City on or before March 1, 2001 in one of two events—if the Board desires to change the method of distribution or the formula by which it currently operates.

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

Chairman Black suggested that the Commissioners put this item on the March agenda for discussion. We can take the action that the Board needs to take tonight.

County Manager Ruffin said there is no payment due to the County. Everything is up-to-date. The process is working fine.

Commissioner Heron moved, seconded by Commissioner Bowser, to send a letter to the City to discuss the formula, the method of distribution, the implementation of an adequate public facility ordinance, and other related issues.

The motion carried unanimously.

Consent Agenda Items Removed for Discussion

Consent Agenda 6(c). Adoption of the Durham County Stormwater Ordinance (adopt the proposed ordinance which incorporates comments from the Division of Water Quality).

Commissioner Reckhow requested more clarification on Sec.14-153—Design and Performance Standards, Subsection 2. The added words were “of more than 10 percent.”

Assistant County Attorney Curtis Massey and County Engineer Glen Whistler responded to the question.

Commissioner Heron also asked questions about the Stormwater Ordinance to which staff responded.

Commissioner Reckhow moved, seconded by Commissioner Heron, to approve the item.

The motion carried unanimously.

The ordinance follows:

ORDINANCE ESTABLISHING A STORMWATER MANAGEMENT PROGRAM

WHEREAS, the North Carolina Legislature has, through N.C.G.S. §§ 143-214.1ff, vested the North Carolina Environmental Management Commission with the authority to establish stormwater runoff rules and programs; and,

WHEREAS, the North Carolina Environmental Management Commission has, through the adoption of 15A N.C.A.C. 2B.0235, directed Durham County's participation in the Neuse River Nutrient Sensitive Waters Stormwater Management Strategy which is further detailed in subchapter 2B of Title 15A of the North Carolina Administrative Code; and,

WHEREAS, this program is intended to protect and enhance the quality of surface waters by reducing the amount of new and existing stormwater runoff, by identifying and eliminating illegal discharges to the basin, and by protecting riparian areas; and,

WHEREAS, these goals are endorsed by the Board of County Commissioners and are consistent with their goals to promote ecologically responsible growth in Durham County and high quality water resources; and,

WHEREAS, the North Carolina Legislature has, through N.C.G.S. §§ 143-214.7, 153A-102, 153A-121, 153A-123 and 153-274ff, vested the Board of County Commissioners with the authority to enact this article.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOETH ORDAIN:

1) That the Durham County Code of Ordinances is hereby amended by adding an article, to be numbered Article V of Chapter 14, which article reads as follows:

Article V STORMWATER MANAGEMENT

Sec. 14-150 Purposes

(a) To establish and implement a program which will protect and enhance the quality of surface waters by controlling the amount of new and existing stormwater runoff.

(b) To improve the water quality of the surface waters by identifying and eliminating illegal discharges to the basin through stormwater collection systems.

(c) To maintain and protect the riparian areas.

Sec. 14-151 Definitions

Act means Part 1 of Article 21, of Chapter 143 of the North Carolina General Statutes as they concern stormwater management and the implementing rules for same in the North Carolina Administrative Code.

Built-upon area means that portion of a development that is covered by impervious, or partially impervious, cover, including buildings, pavement, gravel areas, recreational facilities, etc.

Developer means:

- (1) The person who has, or holds himself out as having, financial or operational control over the land-disturbing activity; and/or,
- (2) The landowner or person in possession or control of the land when he directly or indirectly allowed the land-disturbing activity, has benefitted from it, or has failed to comply with any provision of this article or the Act; and/or,
- (3) The person listed on the Stormwater Permit as having financial or operational control for a development; and/or,
- (4) The person owning property containing permitted stormwater control measures.

Development means any land disturbing activity which adds to, or changes, the amount of impervious, or partially impervious cover on a land area, or which otherwise decreases the infiltration of precipitation into the soil. This includes, but is not limited to: tree removal, grubbing, stump removal, removal of topsoil, coarse or fine grading, erection of structures and construction of roads.

Discharge means the addition of any man-induced waste effluent, either directly or indirectly, to state surface waters.

Inspect means inspection, observation, monitoring, testing, sampling, surveying, and otherwise measuring compliance with the provisions of this ordinance, the Act, and implementing rules.

Neuse River Basin means land which drains to the Neuse River, as determined by the Durham Planning Department and as shown on a map which is maintained by the Durham Planning Department.

One-Year 24-Hour Storm means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, once a year, and of a duration which will produce the maximum peak runoff flow from the watershed of interest under average antecedent wetness conditions. Acceptable methodologies for computing these flow rates include:

- (1) The Rational Method, which may be used for drainage areas of 200 acres or less,
- (2) The Peak Discharge Method as described in the USDA Soil Conservation Service's Technical Release Number 55, which may be used for drainage areas of 2,000 acres or less, and
- (3) The Putnam Method, which may be used for drainage areas greater than 2, 000 acres.

Stormwater means the flow of water which results from precipitation and which occurs immediately following rainfall or snowmelt.

Stormwater collection system means any conduit, pipe, channel, curb, or gutter for the primary purpose of transporting (not treating) runoff. A stormwater collection system does not include vegetated swales, swales stabilized with armoring or alternative methods where natural topography prevents the use of vegetated swales (subject to case-by-case review), curb outlet systems, or pipes used to carry drainage underneath built-upon surfaces that are associated with development controlled by the provisions of 15A N.C.A.C. 2H.1003(c)(1).

Sec. 14-152 Enforcement and administration

- (a) The Stormwater Administrator, or his designee, is hereby authorized to enforce and administer the provisions of this ordinance, and associated ordinances of the County of Durham concerning stormwater management unless a contrary intention is expressed in such other ordinances.
- (b) The Stormwater Administrator shall be responsible for complying with the mandates of Subchapter 2B of Title 15A of the North Carolina Administrative Code and Article 21 of Chapter 143 of the North Carolina General Statutes as they detail standards for local stormwater programs, including annual reporting requirements.
- (c) Whenever conflicts exist between federal, state or local laws, ordinances or rules, the more restrictive provision shall apply.
- (d) All fees for permits and plans shall be established by the Board of County Commissioners.

Sec. 14-153 Design and performance standards

(a) Durham County has been included in the Neuse River Nutrient Sensitive Waters Management Strategy. Accordingly, developments within this article's jurisdiction are subject to specific requirements established in the Act and it's implementing rules.

- (1) Developments within the Neuse River Basin shall plan for, and implement, stormwater management controls which will limit the nitrogen load of runoff to 3.6 pounds/acre/year. Developers who have obtained an offset by participation in the North

Carolina Wetland Restoration Fund established by the North Carolina Department of Environment and Natural Resources, shall plan for and implement management controls which will limit the nitrogen load of runoff from the site to 6 pounds/acre/year for residential development and 10 pounds/acre/year for commercial or industrial development. Nitrogen export calculations shall be made using a formula approved by the Stormwater Administrator.

(2) All developments shall plan for and implement stormwater management controls which will ensure that there is no net increase in peak flow leaving the site from the pre-development conditions for the one-year 24-hour storm, of more than 10%. If the development results in an increase of greater than 10%, the developer will be responsible for installing measures which will result in no net increase. The same methodology must be used for calculating both the pre- and post-development flow rates.

(3) Plans for all developments shall protect and maintain existing riparian areas in accordance with 15A N.C.A.C. 2B.0233 which is hereby incorporated by reference, as well as the requirements of the Durham City-County Zoning Ordinance. Consistent with the requirements of 15A N.C.A.C. 2B.0233, no developments will be approved which are proposed within the first 50 feet adjacent to a waterbody that is shown on the most recent version of either the U.S.G.S. 7 ½ minute quadrangle topographic map or the U.S.D.A. Soil Survey of Durham, North Carolina unless the developer can demonstrate to the Stormwater Administrator's satisfaction that the State Division of Water Quality has approved the development.

Sec. 14-154 Proposed development review

(a) All proposed developments within the jurisdiction of Durham County shall be subject to this ordinance and shall be reviewed by the Stormwater Administrator, or his designee, for conformance with this ordinance, Subchapter 2B of Title 15A of the North Carolina Administrative Code and Article 21 of Chapter 143 of the North Carolina General Statutes where the development:

(1) disturbs greater than one acre of land in order to establish, expand, or modify a single family or duplex residential development or a recreational facility; or,

(2) disturbs greater than one-half acre of land in order to establish, expand, or modify a multifamily residential development or a commercial, industrial, or institutional facility; or,

(3) includes a stormwater collection system.

(b) Proposed developments consisting solely of agriculture, mining, or forestry activities shall not be subject to review.

Sec. 14-155 Permit requirements

(a) No person shall undertake any development subject to this ordinance without first obtaining a permit therefor from the Stormwater Administrator, or their designee. Permits must be maintained for the life of the development and shall be renewed every ten years from the date the initial permit was issued.

(b) A stormwater permit may be obtained upon submitting the fee, zoning compliance checkoff issued by the Durham City-County Planning Department, if required, statement of financial responsibility and ownership, development plan, and the stormwater control plan. A proposed development affecting riparian buffer areas, as detailed in 15A N.C.A.C. 2B.0233, shall also be accompanied by proof that it has been approved by the Division of Water Quality of the North Carolina Department of the Environment and Natural Resources.

(c) The applicant shall submit three copies of the permit application, including the control plan, to the Stormwater Administrator, or their designee, at least 30 days prior to commencement of the proposed development. The Stormwater Administrator, or their designee, shall review permit applications for developments and, within 30 calendar days of receipt thereof, shall notify the person submitting the application that it has been approved, approved with modifications, or disapproved. If the permit application is disapproved the reasons for this action will be stated with particularity in writing.

(d) No permit shall be issued until such time as the Stormwater Administrator, or their designee is assured that the proposed development will be carried out in accordance with this ordinance and the approved stormwater control plan.

(e) Improvement security. The Stormwater Administrator, or their designee, shall require security to assure performance of the continuing conditions of the permit. The applicant shall be required to file an improvement security in the form of a performance bond approved by the County Attorney. The amount shall be deemed sufficient by the Stormwater Administrator, or their designee, to cover all costs of constructing and maintaining, for a period of ten years, the stormwater control measures required by the permit for conformity with the standards specified in this article. This bond must be renewed every ten years, contemporaneous with the renewal of the permit. At the time of renewal the amount of the bond shall be revised to reflect any increase in the costs of construction or maintenance and shall be in the amount specified by the Stormwater Administrator, or their designee. Forfeiture of the improvement security shall not release the person conducting the land disturbing activity of their obligation to install and maintain necessary stormwater control measures, to stabilize the site, or any other obligation of this article, the Act, or any rule or order promulgated in furtherance thereof.

Sec. 14-156 Plan submission procedures

(a) A stormwater measures control plan shall be prepared for all land-disturbing activities subject to this ordinance, as defined in Section 14-154.

(b) The Stormwater Administrator's office will review each complete plan submitted to it and within 30 days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations or disapproved. Failure to approve or disapprove a stormwater control plan within 30 days of receipt shall be deemed approval. Disapproval of a plan shall specifically state in writing the reasons for disapproval. The Stormwater Administrator, or their designee, shall approve, approve with modifications, or disapprove a revised plan within 15 days of receipt, or it is deemed to be approved.

(c) Plans for which no permit has been issued shall expire one year from the approval date.

(d) One copy of the approved plan shall be kept on file at the job site.

(e) After approving the plan, if the Stormwater Administrator, or their designee, upon inspection of the job site, determines that the measures will not be effective, the Stormwater Administrator, or their designee, may require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue only under conditions outlined by the Stormwater Administrator, or their designee.

(f) The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this article. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the Stormwater Administrator, or their designee, on request.

(g) Stormwater control plans shall be prepared by, and bear the seal and signature of, a registered professional engineer, registered landscape architect, or registered architect.

Sec. 14-157 Maintenance and obstruction of stormwater collection systems

(a) During the development of a site, the developer shall install and maintain all temporary and permanent stormwater control measures as required by the approved plan or any provision of this ordinance, the Act or any order adopted pursuant to this ordinance or the Act. After site development, the developer shall install and/or maintain all necessary permanent stormwater control measures specified in the approved plan, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency. Conveyance of the property shall not terminate the original developer's obligations under this ordinance until such time as a replacement permit is approved by the Stormwater Administrator. The original developer shall include in the deed conveying the property notice of the existence of the stormwater control measures and the purchaser's obligations to maintain and inspect them and to obtain a permit and otherwise comply with the terms of this article.

(b) The developer shall have the stormwater control measures inspected, by a registered professional engineer, a registered land sureyor, or a registered landscape architect, upon

completion of their construction, and shall have additional inspections conducted to certify their maintenance and continued function per a schedule established by the Stormwater Administrator, or their designee, but at least annually. The developer shall transmit to the Stormwater Administrator a copy of all inspection reports within three working days of their being conducted

(c) It is unlawful for any person to place any obstruction in any stormwater collection system so as to obstruct or impede the free flow of surface water, unless same has been authorized by the Stormwater Administrator, or their designee.

(d) If the Stormwater Administrator, or their designee, finds any stormwater collection system constructed, arranged, clogged, or in such disrepair as to impede, obstruct, or hinder the free flow of surface water in a manner which conflicts with acceptable engineering practices, or if a planned and permitted stormwater control measure has not been installed per an approved plan, he shall give written notice to the developer of the property. This notice shall specify the problem and action necessary to remedy it, as well as the timeframe for taking such corrective action and the potential for additional action under sections 14-160 and 14-162 of this article.

Sec. 14-158 Illegal Discharges

(a) It is unlawful for any person to empty or deposit in any stormwater collection system, directly or indirectly, any substance, liquid or solid, which by reason of its nature:

(1) is, or may become, a public health hazard endangering human or animal health; or,

(2) is a nuisance, including substances which are unsightly or malodorous, or may become so; or,

(3) interferes, or may interfere, with the free and rapid flow of surface water; or,

(4) is flammable or explosive; or,

(5) is toxic to plant or animal life; or,

(6) is corrosive, or has properties which may damage or render unsightly the stormwater collection system; or,

(7) affects adversely the State of North Carolina classification of the stream into which the stormwater collection system discharges.

(b) Any developer, or other person, who makes, directly, or indirectly, an illegal discharge into a stormwater collection system shall be subject to both civil and criminal penalties as provided in section 14-160 of this ordinance.

(c) The developer is responsible for taking immediate action to report and remove an illegal discharge occurring on its property, regardless of the source of same. Upon receiving any report of an illegal discharge the Stormwater Administrator shall issue notice to the developer. This notice shall specify the problem and action necessary to remedy it, as well as the timeframe for taking such corrective action and the potential for additional action under sections 14-160 and 14-162 of this article.

Sec. 14-159 Inspections and investigations

(a) Agents, officials or other qualified persons authorized by the Stormwater Administrator may periodically inspect public and private property in order to ensure compliance with the Act, this ordinance or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required have been implemented and are effective in achieving the goals of this ordinance.

(b) No person shall willfully resist, delay or obstruct an authorized representative, employee or agent of Durham County while that person is lawfully inspecting, or attempting to inspect, a development or installed stormwater collection system under this ordinance.

Sec. 14-160 Penalties

(a) *Civil penalties.*

(1) Any person who violates any of the provisions of this ordinance, or rules or orders adopted or issued pursuant to this ordinance or who initiates or continues a development for which a stormwater control plan and/or permit is required except in accordance with the terms, conditions and provisions of an approved plan and/or permit shall be subject to a civil penalty. The maximum civil penalty for a violation is \$5,000.00 per day.

(2) No penalty shall be assessed until the person alleged to be in violation has been notified of the violation as provided in subsection 14-157 of this ordinance. If after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date the violation was detected. However, no time period for compliance need be given for failure to submit a stormwater control plan for approval, for failure to obtain a stormwater permit, for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties, or for an illegal discharge. Each day of continuing violation shall constitute a separate violation.

(3) The County Engineer, upon consideration of the recommendation of the Stormwater Administrator, shall assess the civil penalty authorized by this section. The County Engineer shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. In determining the amount of the penalty the following factors shall be considered: the degree and extent of harm

caused by the violation, the cost, if any, of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully, and the prior record of the violator in complying or failing to comply with the Act, promulgated rules and this ordinance. The notice of assessment shall be served by certified mail, return receipt requested, or personal service by the Sheriff, County Engineer, Stormwater Administrator, or their designee, and shall direct the violator to either pay the assessment or contest the assessment, within 15 days after receipt of the notice of assessment, by requesting a hearing before the Board of County Commissioners.

(4) If payment is not received within 30 days after the assessment is due, the matter will be referred to the County Attorney's office for initiation of a civil action to recover the amount of the civil penalty. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative review of the assessment.

(b) *Criminal penalties.* Violation of this Article is punishable as a misdemeanor as provided in Section 1-6 of this Code of Ordinances, above.

Sec. 14-161 Appeals

(a) *Plan and permit denials.* The disapproval or modification of any proposed stormwater control plan or the refusal to issue a stormwater permit by the Stormwater Administrator, or their designee, shall entitle the person submitting the plan, or applying for the permit, to a hearing before the County Engineer if such person submits written demand to the County Engineer for a hearing within 15 days after receipt of written notice of disapproval or modifications. This appeal shall specify the factual and/or legal grounds underlying their demand and only such specified grounds may be argued at the hearing. Such hearing will be held within 21 days after the date of the appeal or request for a hearing, or at such later time as the parties mutually agree.

(b) *Civil penalties.* Any person so assessed shall have a right of appeal to the Board of County Commissioners upon serving written notice of appeal on the clerk to board within 15 days after the assessed person receives notice of the assessment. This appeal shall specify the factual and/or legal grounds underlying their demand and only such specified grounds may be argued at the hearing. The Board of County Commissioners shall hold a quasi-judicial hearing and may affirm, increase, reduce or remit the penalty initially assessed by the County Engineer. Appeals from the final decision of the Board of County Commissioners shall be to the appropriate division of the general court of justice.

Sec. 14-162 Injunctive relief

(a) Whenever there is reasonable cause to believe that any person is violating or threatening to violate this ordinance or any rule or order adopted or issued pursuant to the Act, this ordinance, or any term, condition or provision of an approved stormwater control plan, the

County Attorney may, either before or after the institution of any other action or proceeding authorized by this article, institute a civil action in the name of the local government for injunctive relief as provided in Section 1-6 of this Code of Ordinances, above, to restrain the violation or threatened violation, or to obtain mandatory relief, in superior court.

(b) The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of this ordinance, or the Act.

2) The provisions of this ordinance shall take effect on March 9, 2001.

Approved by the Durham County Board of County Commissioners, this the 26th day of February, 2001.

(Recorded in Ordinance Book _____, page(s) _____.)

Consent Agenda 6(b). Cancellation of the March 5, 2001 Worksession (cancel the March 5, 2001 Worksession due to the absence of two Board members).

Commissioner Reckhow wanted to clarify, on public record, that this agenda item indicates that she would be attending the NACo Legislative Conference in Washington, DC. She was mindful of the budget constraints and the fact that the County Manager had asked the Board not to travel out of state. She was going ahead with her plans because the County would not be charged for travel or housing. The cost to the County would be minimal.

Chairman Black said that last summer, she was asked to go to Mexico and declined the offer. She was asked to go again with the understanding that the trip would be funded in various ways. The trip was being funded through foundations, corporations, and by Chairman Black. The County would not be funding the trip. She was very mindful that the County Manager asked the Commissioners not to travel. She wished to abide by that rule as well.

Chairman Black said that a reason for her going on the trip is to come back to the community and implement some policies as well as making the community aware of the trip, why we took it, and what the policies are. A plan is in place and she would discuss it with the Commissioners at a later date.

Committees that the Commissioners Support

Commissioner Reckhow said the Clerk's Office brought to her attention that the Board should reconsider some of its policies relating to committees that it supports. The County has provided lunch for the Crime Committee every other month. Next month we are asking the attendees to reimburse the County for their lunch. The Crime Committee members will discuss what to do about lunch. A decision will be made to dispense with lunch, bring your own lunch, or reimburse the County for lunch.

Chairman Black said she wrote a letter to Howard Clement, Cochair of the Violence Prevention Committee, to let him know that Durham County will no longer provide lunch or staff support.

Chairman Black said she has talked to the County Manager about the Commissioners' meals. When several consecutive meetings are held on Mondays, food must be provided for the Commissioners because there is little time before the regular session. We will get healthy meals and will be very mindful of the cost. We do not have meals unless we start the meetings at 5:00 p.m. or sooner.

Commissioner Heron said she was glad that Chairman Black was able to go to Mexico. It will mean a lot to the County to understand better the problems that we now face.

Commissioner Heron stated that it is very important that Commissioner Reckhow go to Washington, DC. The Board of County Commissioners needs representation at the legislative meeting since important national legislation is discussed and prepared before it goes to Congress for consideration.

Commissioner Reckhow moved, seconded by Commissioner Heron, to approve consent agenda item No. 6(b).

The motion carried unanimously.

Adjournment

Chairman Black adjourned the meeting at 9:55 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board