

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

Monday, November 24, 2003

**MINUTES**

7:00 P.M. Regular Session

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

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

Absent: None

Presider: Chairman Reckhow

**Opening of Regular Session**

Chairman Reckhow called the November 24, 2003 Regular Session to order. She asked that all persons in attendance stand for the recitation of the Pledge of Allegiance.

Chairman Reckhow announced the passing of Danny Ray Maynard, a County employee, who died in an automobile accident. He was a part-time employee who had served since 1998 as an Assistant to the Sheriff working in the Training Division.

Chairman Reckhow asked that everyone observe a moment of silence in remembrance of Mr. Maynard and his service to Durham County.

**Agenda Adjustments**

Chairman Reckhow added two announcements regarding a letter from the Town of Kitty Hawk and a communication from Currituck County. She also added Durham Convention and Visitors Bureau and Career and Technical Education Task Force appointments, information on the Before- and After-School Care Task Force, and a Closed Session (placed at the end of the agenda).

**Letter of Appreciation from the Town of Kitty Hawk, North Carolina**

Chairman Reckhow announced that Durham County received a letter of thanks from Kitty Hawk for answering its call for assistance following the landfall of Hurricane Isabel on September 18, 2003. Bill Harris, Mayor, Kitty Hawk, asked that Chairman Reckhow extend a thank you to those employees who worked so diligently for long hours and under stressful conditions.

### **Currituck County to File Amicus Brief**

Chairman Reckhow announced that County Manager Mike Ruffin received an email from Dan Scanlon, County Manager, Currituck County. The Currituck County Board of Commissioners agreed to file an Amicus Brief in support of Durham County's efforts regarding its Impact Fee Ordinance.

Chairman Reckhow directed that a letter of gratitude be written to Currituck County for its support.

Chairman Reckhow stated that the Association of County Commissioners would also be supporting Durham County's efforts.

### **Minutes**

Commissioner Heron moved, seconded by Commissioner Jacobs, to approve the minutes as submitted of the Board of County Commissioners' November 3, 2003 Worksession and the November 10, 2003 Regular Session.

The motion carried unanimously.

### **Presentation by Lincoln Hospital School of Nursing Alumni**

In recognition of the 100<sup>th</sup> Anniversary of Lincoln Hospital School of Nursing, the Board of County Commissioners voted to provide financial assistance for a permanent memorial recognizing the institution. In gratitude, Ms. Gloria King and other representatives of the Lincoln Nursing Alumni Association presented the Board of County Commissioners with a commemorative print of the observance. The theme of the August celebration was, "Celebrating the Legacy...Retaining the Spirit".

**COUNTY MANAGER'S RECOMMENDATION:** Receive the presentation from Lincoln Hospital School of Nursing representatives.

Ms. Gloria King, on behalf of Lincoln Hospital School of Nursing Alumni, provided the County Commissioners with a token of appreciation in the form of a print of the Angier B. Duke Nurses Dormitory. The Commissioners were supportive of the Nursing Alumni during its Centennial Celebration August 15 – 17, 2003, and provided financial support for the monument, as well.

Chairman Reckhow declared that the beautiful print would be displayed proudly and that the County Commissioners look forward to completion of the memorial.

Commissioner Heron represented the Commissioners at a recent breakfast held by the Alumni. She praised the nurses for their numerous, continual efforts and is pleased that the Board provided financial support.

Commissioner Jacobs commented that she attended the August Alumni celebration, a truly magnificent event.

Commissioner Bowser congratulated the Alumni for keeping the name, "Lincoln Hospital School of Nursing," alive. The nursing graduates have contributed and continue to contribute to the good health of the community.

### **November Anchor Award Winner—Deborah Craig-Ray**

Chairman Ellen Reckhow led the presentation by recognizing Deborah Craig-Ray, Public Information/Governmental Affairs Director, who was selected as the November Anchor Award winner. Over the past four months, Ms. Craig-Ray successfully managed several critical projects on behalf of the County, including:

- 2003 Bond Referendum Communications: Developed Durham County's \$124 million Bond Communications Plan by providing informational materials for all registered voters, television shows, and a comprehensive 2003 Bond web page. She served as advisor to the Bond Marketing Committee, which culminated in the successful bond approval on November 4.
- Durham Neighborhood College: Managed implementation and execution of the first 10-week session of classes to help participants understand the operations of City and County Governments.
- Junior Leadership Durham Government Day: Coordinated a daylong program for 20 local high school students who spent the day shadowing Department Heads and conducting a mock county commission meeting where the issue of four-year terms was debated.

**COUNTY MANAGER'S RECOMMENDATION:** Present the November Anchor Award to Deborah Craig-Ray, along with congratulations of the entire organization.

Chairman Reckhow presented a \$200 check and the Anchor Award to Ms. Craig-Ray, praising her for her excellent accomplishments.

Ms. Craig-Ray expressed gratitude for the prestigious recognition and for the opportunity to work diligently for the Durham community. She also thanked her husband and sons for their patience, as she has spent additional time at work during the past few months.

### **Consent Agenda**

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

- \* (a) Property Tax Releases and Refunds for Fiscal Year 2003-04 (accept the October property tax release and refund report as presented and authorize the Tax

Assessor to adjust the tax records as outlined by the report);

- \* (b) Budget Ordinance Amendment No. 04BCC000026— Finance—Governor’s Crime Commission Pass-Through Grant Award (approve the budget ordinance amendment accepting the pass-through grant revenue in the current budget for \$80,178);
- \* (c) Budget Ordinance Amendment No. 04BCC000027— Social Services—To Recognize Funding from the City of Durham (approve the budget ordinance amendment recognizing \$34,267 for salary and benefits for 11 months for a full-time case manager [\$28,000 to be provided by Community Development Block Grant Funds and \$6,267 from Medicaid At-Risk Reimbursement] [no new County dollars are involved]);
- \* (d) Budget Ordinance Amendment No. 04BCC000028— Mental Health (approve the budget ordinance amendment and appropriate funds in the amount of \$130,611 for Children’s Residential Group Home, PATH/Homeless Adult Allocation, and Work First/Child Protective Services Substance Abuse Initiative);
- \* (e) ~~Interlocal Reconciliations (approve the transfer of funds, including the appropriation of \$148,417 from the general fund contingency account, for payment of the Interlocal Reconciliations);~~

**Deferred until the January 5, 2004 Worksession.**

- (f) Request to Terminate Lease Agreement—The Durham Center (approve the termination of the lease for the property at 508 Gordon Street, Durham, NC 27701, effective on or about December 1, 2003, so long as Freedom House Inc. has entered into a lease with Mr. Niemeyer);
- (g) Extension of the Listing Period for Business Personal Property (give the Tax Assessor authority to grant extensions for business personal property owners who request in writing until March 15, 2004);
- \* (i) Farmland Preservation: Adoption Map Which Identifies Voluntary Agricultural Districts (VAD) and Agricultural Priority Areas (APA) (approve the Voluntary Agricultural Districts [VAD] and resolution designating the Agricultural Priority Areas [APA]); and

(k) Cancellation of the December 22, 2003 Board of County Commissioners' Regular Session (cancel the Regular Session due to the Christmas Holiday).

The motion carried unanimously.

\*Documents related to these items follow:

Consent Agenda Item No. a. Property Tax Releases and Refunds for Fiscal Year 2003-04 (accept the October 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 October 2003.

Releases & Refunds for 2003 Taxes:

Real	\$ 12,336.28
Personal	\$ 322,872.35
Registered Vehicles	\$ 31,558.23
Vehicle Fees	\$ 370.00
Solid Waste	<u>\$ 260.00</u>
Total for 2003 Taxes and Fees	\$ 367,396.86

Prior years' (1994-2002) releases and refunds for October 2003 are in the amount of \$288,204.95.

The total current year and prior years' releases and refunds amount to \$655,601.81.

(Recorded in Appendix A in the Permanent Supplement of the November 24, 2003 Regular Session Minutes of the Board.)

Prior to the meeting, Commissioner Heron asked Tax Administrator Kenneth Joyner whether the total current year and prior years' releases and refunds (\$655,601.81) are a cumulative total for the fiscal year.

Mr. Joyner responded to Commissioner Heron's question by stating that the amount is for the month of October. He explained that if an adjustment is made in a bill, the system releases the full bill and a new bill is generated as a tracking mechanism. The new bills replace a portion of the release and refund amount. In the future and on a quarterly basis, he will update the Commissioners concerning the net release and refund amounts.

Consent Agenda Item No. b. Budget Ordinance Amendment No. 04BCC000026—Finance—Governor's Crime Commission Pass-Through Grant Award (approve the budget ordinance amendment accepting the pass-through grant revenue in the current budget for \$80,178).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2003-04 Budget Ordinance  
Amendment No. 04BCC000026

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

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$297,841,776	\$80,178	\$297,921,954

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$357,202,037	\$80,178	\$357,282,215

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

This the 24<sup>th</sup> day of November, 2003.

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

Consent Agenda Item No. c. Budget Ordinance Amendment No. 04BCC000027—Social Services—To Recognize Funding from the City of Durham (approve the budget ordinance amendment recognizing \$34,267 for salary and benefits for 11 months for a full-time case manager [\$28,000 to be provided by Community Development Block Grant Funds and \$6,267 from Medicaid At-Risk Reimbursement] [no new County dollars are involved]).

DURHAM COUNTY, NORTH CAROLINA  
FY 2003-04 Budget Ordinance  
Amendment No. 04BCC000027

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

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$297,921,954	\$34,267	\$297,956,221

Expenditures:

Activity			
<u>GENERAL FUND</u>			
Human Services	\$357,282,215	\$34,267	\$357,316,482

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

This the 24th day of November, 2003.

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

Consent Agenda Item No. d. Budget Ordinance Amendment No. 04BCC000028—Mental Health (approve the budget ordinance amendment and appropriate funds in the amount of \$130,611 for Children’s Residential Group Home, PATH/Homeless Adult Allocation, and Work First/Child Protective Services Substance Abuse Initiative).

DURHAM COUNTY, NORTH CAROLINA  
FY 2003-04 Budget Ordinance  
Amendment No. 04BCC000028

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

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$297,956,221	\$130,611	\$298,086,832

Expenditures:

Activity			
<u>GENERAL FUND</u>			
Human Services	\$357,316,482	\$130,611	\$357,447,093

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

This the 24<sup>th</sup> day of November, 2003.

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

Consent Agenda Item No. i. Farmland Preservation: Adoption Map Which Identifies Voluntary Agricultural Districts (VAD) and Agricultural Priority Areas (APA) (approve the Voluntary Agricultural Districts [VAD] and resolution designating the Agricultural Priority Areas [APA]).

**RESOLUTION TO APPROVE THE FARMLAND PRESERVATION MAP WHICH  
IDENTIFIES VOLUNTARY AGRICULTURAL DISTRICTS (VAD) AND  
ARGRICULTURAL PRIORITY AREAS (APA)**

WHEREAS, the revised Farmland Protection Ordinance adopted by the Board of County Commissioners in August of this year specifies that Voluntary Agricultural Districts (VAD) be established by the BOCC. The Ordinance also specifies that members of the Farmland Protection Board be appointed according to these Districts. Landowners participating in the Program are then members of the District within which they reside. The purposes of the VAD are to encourage the economic and financial health of farming areas, protect farm activities and to increase the identity and pride in the agricultural community.

WHEREAS, the designation of Agricultural Priority Areas (APA) in Durham County is intended to identify existing lands where Durham County desires to encourage permanent agricultural use. Designation of APA boundaries is the first step in directing the expenditure of funds for farmland protection and conservation easement acquisitions. The proposed APA boundary lines take into consideration the Urban Growth Boundary and the draft update of the Durham County Comprehensive Plan.

WHEREAS, the Board of County Commissioners is being requested to adopt the Voluntary Agricultural Districts (VAD) and approve the Agricultural Priority Areas (APA). The proposed map was reviewed by staff from the Planning Department, the Open Space Division of County Engineering and from Board members of the Farmland Protection Board.

NOW, THEREFORE, BE IT ORDERED that the Farmland Preservation Map Which Identifies Voluntary Agricultural Districts (VAD) and Agricultural Priority Areas (APA) are adopted.

Adopted by the Board of County Commissioners during regular session on this 24th day of November, 2003.

/s/ Ellen W. Reckhow  
Chairman, County Commissioners

Attest: /s/ Garry E. Umstead  
Clerk to the Board

**Consent Agenda Items Removed for Discussion**

Consent Agenda Item No. h. NCDOT Community Transportation Grant Approval Request (approve the application and authorize Cooperative Extension to submit the FY 2004-2005 Community Transportation Program Grant to the North Carolina Department of Transportation).



Commissioner Heron inquired about the location, schedule, and how the transportation services are publicized.

Johnny Ford, Transportation Access Coordinator, responded that services are provided in the northern and southern parts of the county, depending on the demand, and are advertised through the human service agencies, by word of mouth, and by referrals. The agency is planning to hold community forums beginning in 2004.

Commissioner Heron suggested that Mr. Ford make a concerted effort to inform the elderly and disabled citizens in northern Durham County of the transportation services. She directed Mr. Ford to present a report to the Commissioners at a future meeting about marketing strategies.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve the application and authorize Cooperative Extension to submit the FY 2004-2005 Community Transportation Program Grant to the North Carolina Department of Transportation.

The motion carried unanimously.

The resolution follows:

**RESOLUTION**

**Applicant Seeking Permission to Apply for CTP Funding,  
Enter Into Agreement with the North Carolina Department of Transportation  
and to Provide the Necessary Assurances**

Whereas, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

Whereas, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

Whereas, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services consistent with the policy requirements for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and

Whereas, Durham County Government hereby assures and certifies that it will comply with the federal and state Statutes, regulations, executive orders, Section 5333 (b)

Warranty, and all administrative requirements which relate to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U.S.C.:

NOW, THEREFORE, BE IT RESOLVED that Chairman Ellen W. Reckhow of the Durham County Board of Commissioners is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

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Consent Agenda Item No. j. Durham City/County Interlocal Cooperation Agreement for Planning (approve the Interlocal Cooperation Agreement for Planning and authorize the Manager to execute the Agreement).

Commissioner Bowser removed this item to express his concern relative to the stipulation in the agreement that three of the County's seven appointees must reside within the Durham City limits.

Chairman Reckhow explained the rationale for structuring the Planning Commission. Only 18 percent of Durham County's population live outside the City limits. From a percentage standpoint, the appointment of three County-only residents represents proportionately more than that segment of the overall county population (about 21 percent of the appointees). The composition of the commission is extremely fair for the County. Approximately 90 percent of the cases presented to the Planning Commission are physically within the City limits. Subsequent to the merger of the Planning Commission in 1989, the County has appointed three City residents to the commission.

County Attorney Chuck Kitchen read the general statute concerning the planning agency. It places no requirements on the composition of the commission.

Commissioner Jacobs mentioned the fact that City residents are involved in, and are a part of, the county.

Commissioner Heron echoed the concerns of Commissioner Bowser.

Discussion ensued regarding whether action should be deferred and whether the interlocal should be changed as it relates to County appointees.

Chairman Reckhow advised that the City Council desires that a majority of Planning Commission members reside within the City since most of the issues involve the City. She expressed her opinion that, having been reviewed many times, the interlocal agreement is reasonable. Now, as in the past, the Commissioners have three City residents appointed to the commission. The interlocal imposes no change. She reminded the Board of the difficulty in filling the County slots. She encouraged the Commissioners to proceed by approving the interlocal as written.

The Commissioners decided to vote on the interlocal and seek an amendment on membership at the next Joint City-County Planning Committee meeting.

Commissioner Heron stressed the importance of separate subcommittees of the Planning Commission (Zoning and Planning) because of the upcoming work involved in the UDO and the comprehensive plan.

Chairman Reckhow informed Commissioner Heron that she had spoken with the Chairman of the Planning Commission about this issue; the interlocal agreement includes a provision that allows for subcommittees.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve the Interlocal Cooperation Agreement for Planning and authorize the County Manager to execute the Agreement.

The motion carried unanimously.

The interlocal cooperation agreement follows:

STATE OF NORTH CAROLINA, COUNTY OF DURHAM  
INTERLOCAL COOPERATION AGREEMENT

This is an Interlocal Cooperation Agreement between the CITY OF DURHAM, a North Carolina municipal corporation, and the COUNTY OF DURHAM, a political subdivision of the State of North Carolina. This agreement is made pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes. The date of this agreement is November 24, 2003. The agreement replaces, and carries forward, most of the substantive provisions of the initial City-County Interlocal Planning Agreement of June 20, 1988, as amended October 19, 1990, and December, 1992.

The City and County agree as follows:

SECTION I. POLICY

- A. The Governing Bodies hereby find and declare that interlocal cooperation for comprehensive planning and plan implementation is a necessity: Such planning allows for more orderly and coordinated growth, provides a mechanism for consistent analysis of planning issues across political boundaries and therefore gives a more sound basis for policy decisions which affect both political entities. The Governing Bodies recognize that comprehensive planning and its implementation are vital to the public interest. Therefore, it is found that such activities as planning investigations and surveys, formulation of development goals and objectives, and development or means to carry out plans in a cooperative,

coordinated and efficient manner are necessary in order that the two governments may more competently perform their duties, and in order that the citizens of the respective jurisdictions may have a better understanding of planning issues and be better able to participate in decision-making.

- B. The purpose of this Agreement is to establish a joint planning endeavor and to provide for the organization and administration necessary to effectuate that endeavor.

## SECTION II. DEFINITIONS

The words defined in this section shall have the following meanings when used in this Interlocal Cooperation Agreement, unless otherwise defined or explained hereafter:

- A. "Annual Budget" means the listing of anticipated annual expenditures of the Planning Agency, submitted to and approved by the Governing Bodies pursuant to Sections V D. and H. of this agreement.
- B. "Board" shall mean the Board of County Commissioners of Durham County.
- C. "BOA" shall mean the Board of Adjustment.
- D. "City" means the City of Durham,
- E. "Comprehensive Plan" is a generalized plan for an area which recognizes the relationship between various social, economic and physical factors as they affect that area and establishes policies and programs which may have positive social, economic and physical effects. A Comprehensive Plan may also be a collection of more detailed plans which, taken as a whole, recognize geographic or functional interrelationships and may have positive social, economic and physical effects for an area.
- F. "Council" shall mean the Durham City Council.
- G. "County" shall mean County of Durham.
- H. "Durham City/County Planning Jurisdiction" means the combined geographic area in which the City and County exercise planning and zoning authority.
- I. "Governing Bodies" means the Council and the Board.
- J. "Joint City-County Planning Committee" ("JCCPC") is the advisory committee established pursuant to Section V of this Agreement.

- K. "Plan" means policies, strategies and programs designed to improve an existing physical condition or to positively affect future physical development.
- L. "Plan Implementation" means those measures used to carry out plans, including ordinances, regulations, technical assistance, public improvements or financing, incentives and other actions.
- M. "Planning" means the process and procedures undertaken to produce a plan, including collection and analysis of alternatives; selection, refinement and adoption of plan; implementation; and evaluation.
- N. "Planning Agency" means the administrative organization responsible for carrying out planning and implementation activities as specified in Section V of this Agreement.
- O. "Planning Commission" means the Durham Planning Commission as herein established pursuant to Section III of this Agreement.
- P. "Unit or Units of Local Government" means a county, city, consolidated city-county or other local political subdivision, or agency of local government.
- Q. "Work Program" means a listing of the anticipated planning projects and other significant work activities to be carried out on an annual basis by the Planning Agency.

### SECTION III. PLANNING COMMISSION

#### A. Establishment of Durham Planning Commission

There is hereby established a joint commission to be known as the Durham Planning Commission. The Planning Commission is designated as the planning advisory body to the City and the County, and shall have the powers and duties described in this Agreement.

#### B. Appointments by Governing Bodies

- 1. Number; Composition. The Planning Commission shall consist of fourteen (14) members; of whom seven (7) shall be appointed by the Board and seven (7) shall be appointed by the Council. Seven (7) persons who reside within Durham City limits at the time of their appointment shall be appointed for three (3) year staggered terms by the Council, and seven (7) persons, at least three (3) of whom shall reside within the Durham City limits at the time of

their appointment and at least three (3) of whom shall reside outside of the Durham City limits at the time of their appointment, shall be appointed for three (3) year staggered terms by the Board.

2. Subsequent Appointments. Appointments made to fill Commission vacancies shall be made by the governing body that made the initial appointment, and shall be for three (3) year terms except for appointments to replace members who have become disqualified, or have been removed, which shall be for the remainder of the replaced member's term. New appointments should be made by the governing bodies at least 90 days prior to the expiration of a term to ensure that the newly appointed member is afforded ample opportunity to observe Planning Commission meetings prior to assuming office.
3. District Representation. The Council and the Board shall use district representation plans adopted by each body for appointments to the Commission. As the Council and Board deem necessary, these plans may be revised to reflect population changes and to maintain geographic and population balance. A map indicating the current district representation plan shall be kept in each respective Clerk's office, and shall be utilized in advertising Commission vacancies. When a vacancy cannot be filled by a resident of a district after the position has been advertised twice, the governing body making the appointment may appoint a representative from outside the district. Districts that are not represented on the Commission shall be given first priority when the governing bodies fill vacancies.
4. Property Taxes. County and City taxes must not reflect any delinquencies before an application is submitted. Members must remain non-delinquent in their local property taxes during their term, with the appropriate policy of the City Council or the Board of County Commissioners applied to their respective appointees regarding payment of taxes that become delinquent during the term of appointment. The Clerk of the appointing jurisdiction shall notify the jurisdiction of any noncompliance with this provision.
5. Vacancies/Removal Prior to Expiration of Term. Upon resignation, permanent disqualification or removal of any member of the Planning Commission, the governing body which appointed that member shall appoint a successor to fill the unexpired term. The governing bodies may only remove members for cause, which shall be defined as failure to meet the obligations set forth in Requirements for Membership, below. If a member is removed by

the appointing governing body, the effective date of the action must be explicitly noted by the appointing governing body.

6. Optional Replacement of Members who Move within County. The governing bodies may replace Commission members who move during their tenure if they no longer are within the representation district they previously resided in, or do not meet the in-city or out-of-city appointment requirements they met when appointed. Notification of changes in residency shall be made as part of the Commission's annual report to the governing bodies, and shall be presented along with a breakdown of residency information about all current Commission members.
- C. Requirements for Membership on the Durham Planning Commission; Compensation
1. Term. The term of office of a member of the Planning Commission, except for persons appointed to fill unexpired terms, shall be three (3) years and shall expire on June 30 of the final year of service. If a successor has not been appointed by the respective governing body, however, a member's term shall continue until such appointment is made. No person shall serve consecutively more than two full terms. An individual appointed to a two-year term shall be deemed to have served a full term.
  2. Residency Requirements. Members of the Planning Commission shall be residents of the County. Prior to any change in residency, members shall notify the Clerk to the Commission of the prospective change and the date of the move. A member who ceases to be a resident of the Durham City/County Planning Jurisdiction shall become disqualified immediately upon the change in residency, and the governing body that made the appointment shall be notified. Changes of residency within the County may result in replacement by the governing body that made the appointment (see Appointments by Governing Bodies, #4). Such changes in residency shall be reported to the governing bodies in the Commission's yearly report.
  3. Observance of Adopted Ethics Policy. Commission members shall follow the County Ethics Policy, as adopted in the Commission's Rule of Procedure as such policy may be amended from time to time and annually shall complete the disclosure form provided by the County.
  4. Attendance. Members shall attend at least seventy-five (75) percent of the total number of regular meetings of the Planning

Commission during any twelve (12) month period, except for excused absence due to illness or other extraordinary circumstances. The Planning Commission shall establish, within its bylaws, conditions which constitute an excused absence, and the case-by-case application of those bylaw provisions shall be the duty of the Chairperson of the Planning Commission. The Chairperson shall immediately report to the appropriate governing body the failure of any member appointed by said governing body to meet said attendance standard, and the appropriate governing body may then remove said member from the Planning Commission.

5. Compensation. Members shall receive such compensation and reimbursement for expenses as the governing bodies may prescribe

D. Duties of the Durham Planning Commission

The Planning Commission shall elect its own officers in a manner prescribed in its bylaws. Further, the Planning Commission shall comply with the following:

1. The officers of the Planning Commission shall be a Chairperson and Vice Chairperson, one of whom shall be a City appointee and one of whom shall be a County appointee. The positions shall alternate between a City appointee and a County appointee at least every two years.
2. The Planning Commission may establish citizen committees or subcommittees to advise the Planning Commission; however, any such committees or subcommittees shall not receive staff support, unless explicitly provided for by the Joint City/County Planning Committee.
3. The Planning Commission shall adopt rules of procedure for the transaction of its business. Such rules shall be consistent with applicable City and County laws, ordinances and regulations and shall be filed with the city and county clerks. Such rules shall include, but not be limited to, the adoption of the County Ethics Policy as part of the Commission's procedures, and any other relevant provisions concerning conflicts of interest. Any change to the adopted rules or procedure shall be submitted to both governing bodies for review and comment.
4. The Planning Commission shall hold regular monthly meetings, and may hold special meetings. The regular meeting may be canceled by the Chairperson, acting in concert with the Planning



Director, if a determination is made that there is no business to conduct. All meetings shall be open to the public but the Planning Commission may hold appropriate closed sessions when allowed or required by law.

5. The Planning Commission may invite and receive suggestions from the public concerning any and all matters within the scope of its duties.
6. The Planning Commission shall keep minutes, which shall record all actions taken by it. Such minutes shall be public records, when required by law.
7. The Planning Commission shall adopt policies and procedures encouraging broad public input on all plans and programs for which the Planning Commission has review responsibility.

E. Operation of the Planning Commission; Voting

1. Quorum. A quorum for the Planning Commission shall consist of eight (8) members present.
2. Duty to Vote: A member of the Planning Commission must vote unless excused by the Chairperson or Commission from voting for conflict of interest or cause as provided below. An individual who wishes to be excused from voting shall publicly inform the Chairperson. The Chairperson may excuse the individual in the case of a conflict of interest. For other cause, a vote of the Commission is required to excuse a member from voting. If a member leaves a meeting without being excused, or physically present but does not vote when required, such member shall be counted as voting "yes" on any vote taken during such unexcused absence or failure to vote.
3. Votes Required for Action; Actions of the Planning Commission shall require a simple majority vote of those present and voting, a quorum being present. Any tie vote shall be considered as a recommendation of denial.
4. Annual Report. The Planning Commission shall submit an annual report to the governing bodies summarizing actions taken in the past year and recommendations as to ordinance changes, processing of zoning applications, consideration of land use plans, and other areas in which the Planning Commission has input. The report shall include a breakdown of Commission membership by district and by residency inside and outside the City and shall show

any seats for which new members could be sought due to changes in residency, in accordance with the provisions above.

F. Functions of the Planning Commission

1. For the purpose of fulfilling its role as contemplated by this agreement, the Planning Commission is hereby designated as a planning agency pursuant to G.S. 153A-321 and G.S. 160A-361. The Commission may also take on any other planning related functions as delegated, in writing, by the governing bodies.
2. Pursuant to Article 19 Chapter 160A and Article 18 Chapter 153A of the North Carolina General Statutes, the Planning Commission shall have the following duties:
  - a. Propose and review policies and procedures for encouraging broad public input on all comprehensive, area, sub-area, neighborhood and functional plans.
  - b. Review and make recommendations on the annual Work Program of the Planning Department.
  - c. Review committee reports
  - d. Review and make recommendations on plans, including land use, transportation, and capital improvements plans, planning policy and planning implementation actions. Such review and recommendations shall be transmitted to the appropriate Governing Bodies for consideration during their deliberation.
  - e. The Planning Commission shall coordinate with the City, County and the Planning Agency in order to accommodate Work Program or Annual Budget changes which may result from the application for or receipt of funds by the City or County from the Federal Government and its agencies, the State Government and its agencies, any local government and its agencies, or any private or civic sources.
  - f. The Planning Commission shall coordinate with the City, County and the Planning Agency in accommodating Work Program or Annual Budget changes which may result from contracts between the City or County and the State and Federal governments (or their agencies) under which financial assistance for planning and implementation is made available to the City or County.

- g. The Planning Commission shall coordinate with the City, County and the Planning Agency in accommodating any Work Program or Annual Budget changes which may result from the City or County contracting with any other city, county, or regional council or planning agency under which the City or County agrees to furnish technical planning assistance to the other entity.
- h. The Planning Commission may advise and cooperate with units of local government, State government or Federal government on any matter within the Planning Commission's powers and duties.
- i. The Planning Commission shall review and make recommendations to the appropriate governing body concerning rezoning and proposed Zoning and Subdivision Ordinance changes.
- j. Members of the Planning Commission may serve, if requested by either governing body, as ex officio members on other appointive boards, commissions or committees.
- k. The Planning Commission shall execute its role concerning administrative matters as prescribed hereinafter by SECTION IV, ADMINISTRATION.
- l. The Planning Commission shall carry out such duties as may from time to time be given or directed by either governing body, so long as no conflict exists between the City and County concerning work priorities or use of resources. In such a case where a conflict exists, the Joint City-County Planning Committee shall work out a resolution to the conflict sufficient for the Governing Bodies to agree upon.

#### SECTION IV. BOARD OF ADJUSTMENT

##### A. Establishment of the Board of Adjustment (BOA)

There is hereby established a joint BOA which shall exercise all the powers and duties authorized under G.S. 160A-381, G.S. 160A-388, G.S. 153A-340, and G.S. 153A-345, all applicable special enabling legislation including, but not limited to Section 93 of the Durham City Charter, and the City and County zoning ordinances.

B. Structure of BOA; Appointments by Governing Bodies

1. Composition. The BOA shall consist of seven (7) members and three (3) alternates. The Council shall appoint four (4) members and one (1) alternate. All must reside within the City limits at the time of appointment. The Board shall appoint three (3) members and two (2) alternates of whom at least three (3) must reside outside the City limits at the time of appointment.
2. Vacancies and Removal. Upon resignation, permanent disqualification or removal of any member of the BOA, an alternate appointed by the governing body that made the original appointment shall fill the subsequent vacancy in that position for the remainder of the previous member's term.
3. Diverse Representation. In making appointments, the Council and the Board shall make a good faith effort to assure urban and rural representation on the BOA. Alternates shall be given first consideration for nomination to regular positions on the BOA.

C. BOA Membership

1. General/Term. The term of office of members of the BOA shall be three years, except where a member is replacing a member whose term has not ended, and shall expire on June 30 of the final year of membership. Members shall receive such compensation and reimbursement of expenses as the Governing Bodies may prescribe.
2. Membership Requirements. Members of the BOA shall be residents of the County and shall be subject to the following conditions:
  - a. Residency. A member or alternate who ceases to be a resident of the Durham City/County Planning Jurisdiction shall be immediately disqualified from membership upon the change of residency and shall resign from the BOA upon such change.
  - b. Property Taxes. County and City taxes must not reflect any delinquencies before an application is submitted. Members must remain non-delinquent in their local property taxes during their term, with the appropriate policy of the City Council or the Board of County Commissioners applied to their respective appointees regarding payment of taxes that become delinquent during the term of appointment. The

Clerk of the appointing jurisdiction shall notify the jurisdiction of any noncompliance with this provision.

- c. Attendance. Members have an obligation to attend at least seventy-five (75) percent of the total number of regular meetings of the BOA as further prescribed in the BOA's Rules of Procedures, and may be removed by the appointing governing body for failure to meet this standard.

D. Function of the BOA

1. The officers of the BOA shall be a Chairperson and Vice Chairperson. They shall be elected by the BOA in accordance with its Rules of Procedure and shall have such duties as prescribed in the Rules of Procedure.
2. The BOA shall adopt Rules of Procedure concerning the conduct of the business of the BOA and other necessary matters. Votes required to approve matters before the BOA shall be as authorized by statute, ordinance and such Rules.
3. The BOA shall follow the Ethics Policy of the County, as such may be amended from time to time. Annually, members shall complete the disclosure form provided by the County.
4. The BOA shall furnish an annual report to the City Council and to the Board in which the previous year's work shall be summarized and any recommendations for changes in zoning ordinance or policy shall be made.

E. Legal Representation and Liability

The City Attorney's Office and County Attorney's Office shall provide legal support and representation for the BOA on issues arising from actions taken within and on behalf of their respective jurisdictions and for issues that arise before the BOA involving the respective jurisdictions. The City shall be liable for judgments rendered against the City and for actions within the City and the County shall be liable for judgments against the County and for actions outside the City. When both the City and the County are named in any action against the BOA or neither jurisdiction is named but the BOA itself is named, the jurisdiction on whose behalf the contested action was taken shall be responsible for defense and payment, if any, of the claim, and, where necessary, shall cooperate in allowing dismissal of the other jurisdiction. In any action, the offices of the City and County Attorney shall only be responsible for representing their respective jurisdictions, and the BOA actions involving their jurisdictions.

## SECTION V. ADMINISTRATION

- A. Establishment of Durham Planning Agency. There is hereby established the Durham Planning Agency, which shall consist of the Director and such subordinate employees as may be funded in the Annual Budget. The Planning Agency is designated as the administrative body for performing the professional planning functions and providing information, reports, and recommendations to the Planning Commission, City and County Managers and Governing Bodies.
- B. Responsibility of Agency/Selection of Director/Responsibilities. The Planning Agency shall provide such management, regulatory, administrative, and support services as are required or provided for under the approved Work Program and Annual Budget.
  1. Director. The administrative head of the Planning Agency shall be the Planning Director. The process for the appointment, evaluation and termination of the Planning Director shall be as follows:
    - a. Appointment of the Planning Director. The Planning Director shall be appointed by the City Manager and the County Manager, acting in concert.
    - b. Evaluation and Supervision of Director. The City and County Managers shall meet at least annually with the Director to evaluate the performance of the Director.
    - c. Termination of Director. The Planning Director may be terminated by the City Manager and County Manager, acting in concert.
  2. Duties of Director. Pursuant to and consistent with the provisions of the annual Work Program and Annual Budget, the Planning Director shall perform the following duties:
    - a. Appoint, reappoint, assign and reassign all subordinate employees of the Agency and prescribe their duties:
    - b. Coordinate the activities of the Agency in its functions with other local, State and Federal agencies;
    - c. Represent the Planning Agency, Planning Commission, City or County Manager, or Governing Bodies, before any agency or local government, the State, any other State or the United States with respect to:

- i. Functions, analysis or recommendations of the Planning Agency;
  - ii. Adopted policies of the Planning Commission or Governing Bodies;
  - iii. Other matters as may be directed to the Planning Director from time to time by the Planning Commission, the City or County Managers, or the Governing Bodies.
- d. Prepare and submit to the Planning Commission and City and County Managers the Agency's Work Program and Annual Budget. The Planning Director will prepare revisions to the Work Program or Annual Budget, as needed for subsequent action by the Planning Commission, City and/or County Manger(s), or the Council or Board, as may be required.
- e. Perform professional planning duties as administrative head of the Planning Agency, including but not limited to the following:
  - i. Meet with City and County officials and discuss planning issues, including the development of capital improvement and infrastructure plans, and the development of policy options in response to those issues;
  - ii. Meet and discuss with City and County departments and other public agencies or private groups planning programs in process, under consideration, or established as community objectives.
  - iii. Meet and consult with individuals and groups affected by planning issues, programs, and activities, in order to encourage citizen participation in the planning process;
  - iv. Advise the City and County Managers concerning planning issues and activities of City or County government, which have planning implications;

- v. Provide management, leadership, and oversight for all planning and implementation activities of the Planning Agency;
  - vi. Facilitate the understanding of planning issues and processes by the Planning Commission, City and County governmental agencies and general public.
  - vii. Perform such other duties as may be prescribed by the Governing Bodies or City or County Managers, or which may be required to carry out the terms of this Agreement
- f. Regularly advise the Planning Commission, City and County Managers and Governing Bodies concerning the activities and program progress of the Durham Planning Agency.
  - g. Annually complete the disclosure form provided by the County to ensure compliance with the County Ethics Policy.

C. Applicable Policies and Procedures for Employees

1. Joint Employees. The Planning Department staff shall be considered joint City/County employees.
2. Policies. In order to facilitate administration of the department, the personnel procedures of the City shall be followed by the Planning Agency regarding the selection, advancement, discipline, and dismissal of employees, with the exception of special provisions specified in this Agreements regarding selection and retention of the Planning Director; compensation and expenses; and affirmative action and equal employment opportunity.
3. Workers' Compensation. Costs and expenses associated with workers' compensation shall be apportioned as follows:
  - a. Unless otherwise specified in the annual budget of the Department, the City shall be responsible for administering the workers' compensation program, for the handling of legal claims associated with such program, and for all expenses related thereto, except as may be specifically excepted below;



- b. Notwithstanding the above, the administration, legal defense, and other expenses of workers' compensation claims for any employee funded solely by the County to do County work shall be the responsibility of the County;
  - c. Salary continuation or other expenses associated with workers' compensation that are generally included as part of the Planning Department's budget shall be apportioned between the City and the County in the same manner as all other expenses that are part of the Department's budget, with the exception of expenses associated with employees who are funded solely by the County or by the City. In the case of such employees, the jurisdiction paying the employee's salary shall be responsible for any expenses.
- D. The budget and financial procedures of the City shall be followed by the Planning Agency.
- E. Property. The City shall own, and may sell or otherwise dispose of any, or all real and personal property used by the Planning Agency. If such property is sold, the sale proceeds shall be divided between the City and County in proportion to the share of the City and/or County in the original acquisition cost. For example, the disposition proceeds of property purchased and funded by one government shall revert to that government and the proceeds from the sale of any jointly purchased property shall revert to the City and County in the same proportion as each contributed to the initial purchase on the property. If the proportion of acquisition costs cannot be determined, the disposition shall be in the same ratio as the respective governing bodies assume for the expenses of the Department at the time of sale.
- F. Work Program. The annual Work Program shall be prepared and approved as follows:
  - 1. The annual Work Program shall be prepared by the Planning Director.
  - 2. The Planning Director shall present the annual Work Program to the City and County Managers and to the Planning Commission.
  - 3. After recommendations have been made by the Planning Commission and the City and County Managers have approved the Work Program, the Planning Director shall present the Work Program approved by the City and County Managers, together with the Planning Commission recommendation, to the Joint City-County Planning Committee. The recommendations of the Joint

City-County Planning Committee shall then be forwarded to the Governing Bodies for their action

- G. The annual budget process shall be coordinated with and related to the development of the Work Program. The Planning Director shall prepare and submit the proposed annual budget to the City and County Managers at the time they are reviewing the proposed annual Work Program. Once the City and County Managers have agreed on their Work Program recommendation to the Governing Bodies, the proposed annual budget shall, if necessary, be revised to be consistent with and reflective of the City and County Managers' recommended Work Program. The proposed Annual Budget shall be prepared in a manner and detail consistent with City departmental budget requests

The Planning Director, after obtaining concurrence from the City and County Managers, shall submit the recommended Annual Budget, together with the recommended annual Work Program, to the Joint City-County Planning Committee for their review and consideration along with the recommendations of the Planning Commission concerning the Work Program. The ultimate authority for approval of the budget shall rest with the Governing Bodies. In the event of a conflict between the Governing Bodies concerning the budget or any expense incurred under this Agreement, the Joint City-County Planning Committee shall propose to the Governing Bodies a resolution to the conflict.

H. Method of Funding; Reimbursement of Budget Expenses

1. The expenses of the approved Annual Budget and all other unanticipated expenses shall be apportioned between the City and County on an equal basis, with each contributing half of the cost of shared functions of the Department.
2. The City shall initially pay any expenses incurred under this Agreement, subject, however, to reimbursement by the County in the manner prescribed in the next paragraph. Such procedure may be varied, however, for contracts or other obligations for planning services that are not included within the approved annual budget, or that are invoiced on a separate basis.
3. The County shall pay to the City on a monthly basis, in advance, an amount equal to (i) one-twelfth (1/12) of the County's portion of the approved Annual Budget (such amount to be determined as provided in paragraph 1. of this Subsection); plus (ii) the County's portion of any unanticipated expense incurred during the immediately preceding month (such proportion also to be determined as prescribed in paragraph 1. of this Subsection). The

County's payment shall be made by wire not later than 12:00 noon on the first business day of the month.

4. The expenses to be apportioned between the City and County pursuant to paragraph 1 of this Subsection H shall be net expenses. Net expenses shall be determined by subtracting from total expenses (including unanticipated expenses) all fees, charges and other similar revenues received by the City or County from the general public for any service, function or activity which is jointly funded by the City and County under this agreement. If, for any reason, the amount paid by the County to the City pursuant to paragraph 3 of this Subsection for any fiscal year differs from the amount of net expenses for the fiscal year, then the Director of Finance of the City and County shall meet and determine the amount of such difference. In the event of an overpayment, the City shall refund such overpayment to the County. In the event of an underpayment, the County shall pay the amount of such underpayment to the City. This reconciliation shall be completed on or before October 15<sup>th</sup> following each fiscal year.
5. Either the City or the County may fund services over and above those approved in the Annual Budget as part of the shared functions of the Department. When such additional services are requested by either the City or County and are performed for the benefit of the requesting government, then the requesting government shall pay the expenses associated with such service(s).

I. Legal Representation and Liability

The City Attorney's Office and County Attorney's Office, respectively, shall provide legal support and representation for the Planning Department and its employees on issues arising from actions taken within and on behalf of their respective jurisdictions and for issues that arise before the various commissions, agencies, and programs that are staffed and directly supported by the Planning Department. Legal support and compensation for claims against Planning Department employees shall be in accordance with the adopted policies and procedures of the respective jurisdiction regarding defense of employees and payment of claims. For the County, such policy is the Durham County Policy of Uniform Standards for Claims Against Employees, Officers and Officials as amended, and for the City such policy is the Resolution Establishing Uniform Standards Under Which Claims or Civil Judgments Sought or Entered Against City Officers and Employees May be Paid. The City shall be liable for judgments rendered against the City and the County shall be liable for judgments against the County. When both the City and the County are named in any action against the Planning Department and/or an employee or neither jurisdiction is named but the

Planning Department itself is named, the jurisdiction on whose behalf the contested action was taken shall be responsible for defense of the claim, consistent with the policies identified above, and, where necessary, shall cooperate in allowing dismissal of the other jurisdiction. In any action, the offices of the City and County Attorney shall only be responsible for representing their respective jurisdictions, and for Department employees acting on behalf of their jurisdictions, as detailed above, and shall not be responsible for representation of the other jurisdiction.

#### SECTION VI. JOINT CITY-COUNTY PLANNING COMMITTEE

- A. There is hereby established a Joint City-County Planning Committee ("JCCPC"), comprised of three members from each governing body, and as ex officio members, the Planning Director, the City and County Managers, and the Chairperson of the Planning Commission. Any other member of the governing body may serve in the absence of a regular member from that body. Ex officio members may also designate an alternate to represent them in their absence from regular meetings. Voting members of the JCCPC shall be the governing body members, and any alternate substituting for such member, and the Chair of the Planning Commission, and the alternate substituting for the chair.

The function of this committee is to expedite consideration by the two Governing Bodies of planning issues which affect both governments. The committee is advisory to the two Governing Bodies and has no ultimate decision-making power, but is created to help develop consensus between the City and County concerning planning issues for which coordinated decisions must be made.

- B. The duties of the Committee are as follows:
1. Advise the City and County Managers and Planning Director on the proposed Annual Budget and Work Program, and provide appropriate input to the governing bodies concerning those matters.
  2. Review proposed planning policies, programs and regulatory requirements that affect both governments; advise the City and County Managers and Planning Director, and provide appropriate input to the governing bodies concerning those matters.
  3. Discuss and propose resolution to any disputes arising between the City and County involving the budget, the planning program, or the policy content of the planning program.

4. Discuss and make recommendations on any other matters concerning City-County Planning as may be deemed appropriate by the Governing Bodies.
- C. The seven voting members shall each January, elect a Chairperson and a Vice Chairperson, alternating the Chairmanship each year between the City and County. The Planning Director shall confer with the Chairperson concerning the agenda of each meeting.

#### SECTION VII. GENERAL TERMS OF AGREEMENT

- A. This Agreement may be amended from time to time upon mutual consent of the Governing Bodies expressed in writing. The Governing Bodies shall review this Agreement at least once every two (2) years.
- B. It is the intent of the City and County under this agreement for the City to exercise no planning or zoning authority within an Extraterritorial Area (ETA).
- C. Either the City or County may terminate this Agreement for any reason as follows:
1. Termination: This Agreement can only be terminated as of the beginning of any fiscal year, except as provided under paragraph 2, below. Notice to terminate must be given in writing to the other party on or before January 1 immediately preceding the proposed July 1 termination date.
  2. This Agreement may also be terminated by either party upon thirty (30) days prior written notice to the other party in the event the City and County are unable to agree upon an Annual Budget or Annual Work Program.
  3. Return to ETA Jurisdiction: If this agreement is terminated, the Extraterritorial Area Jurisdiction of the City established by Resolution adopted by the Durham County Commissioners on June 5, 1972 and by Ordinance adopted by the Durham City Council on July 3, 1972, shall be restored to the City by the County in accordance with applicable General Law.

IN WITNESS WHEREOF, the parties have authorized this Agreement to be executed and attested by their undersigned officers, to be effective from and after the date written above.

CITY OF DURHAM  
By: /s/ Marcia Conner  
CITY MANAGER

ATTEST:

/s/ Ann Gray  
City Clerk

COUNTY OF DURHAM

By: /s/ Ellen W. Reckhow  
Chairman, Durham County  
Board of Commissioners

ATTEST:

/s/ Garry E. Umstead  
County Clerk

This instrument has been pre-audited in the manner required by the local government budget and fiscal control act.

/s/ George Quick  
Durham County Finance Director

/s/ Ken Pennoyer  
City Finance Officer

**Public Hearing—Transportation Improvement Program (TIP) for FY 2006-2012**

The Transportation Improvement Program (TIP) determines how state and federal transportation funds will be spent throughout Durham County and the State of North Carolina in upcoming years. The bi-annual TIP preparation begins with a process of setting of priorities by local jurisdictions. Each jurisdiction gives a priority recommendation for transportation projects that have not been funded or are partially funded. A public hearing is scheduled, followed by a three-week comment period. Following the public hearing, the TIP priorities, if appropriate, should be adopted by the Board.

Attachments:

- A. 2003 County of Durham Resolution and Priority List for 2006-2012 TIP
- B. TIP Two-year Cycle Process
- C. 2001 Durham County Priority List
- D. 2001 City of Durham Priority List
- E. 2001 Regional Priority List for 2004-2010 TIP
- F. Durham County Element of the 2004-2010 TIP
- G. Funding status of Durham County Projects in the 2004-2010 TIP Priority List
- H. 2006-2012 TIP Development Schedule  
Map #1 TIP Project Map

RESOURCE PERSON(S): Felix Nwoko, Transportation Planning Manager, City Transportation Division

COUNTY MANAGER'S RECOMMENDATION: Conduct the public hearing and, if appropriate, adopt the FY 2006-2012 TIP Priorities List.

Mark Ahrendson, City Transportation Manager, reiterated that the Board received a presentation at its November 10, 2003 Regular Session on the 2004-2010 TIP, as well as an overview of the projects included on the Draft Project Priority List for FY 2006-2012 TIP. Subsequent to the November 10 meeting, the Durham Planning Commission reviewed the draft priority list, recommending approval by the Commissioners. The purpose of this hearing is to receive comments on the draft and, subject to further consideration by the Board, adopt a priority list for consideration by the Transportation Advisory Committee.

Chairman Reckhow opened the public hearing that was properly advertised.

Mr. Thad Howard, 8 Coach Terrace, Durham, NC 27713 represented the Durham Bicycle and Pedestrian Advisory Committee. He thanked staff for their support of bicycle/pedestrian components in the draft priority list. Mr. Howard proposed, on behalf of the committee, the following additions and amendments:

- Priority Item No. 3. Add a bicycle/pedestrian component to Wake County;
- Priority Item No. 7. Bike component substituted from what was the old Eno Drive (which had a bike component);
- Add Barbee Chapel Road, (State Road 1110) between Farrington Road and NC 54, as a southern connection to Chapel Hill for bicyclists;
- Priority Item No. 12. Consider as a higher priority;
- Language for a commitment on an annual basis by the MPO for a bike/pedestrian component from 3 to 6 percent guaranteed funding.

Commissioner Heron introduced an email from a citizen concerned about the construction on Cornwallis Road interfering with bikeways.

Mr. Ahrendson responded that he has spoken with the citizen and Division Engineer Jon Nance about this situation. Two projects to be undertaken within the coming year to correct the problem are: (1) an enhancement project to provide bicycle improvements along Cornwallis Road from NC 55 to Miami Boulevard; and (2) a North Carolina "Moving Ahead" project to provide shoulders and resurfacing along Cornwallis Road from Fayetteville Road to Miami Boulevard. (The two projects overlap.)

Commissioner Heron emphasized that bikeways should be safe.

As no one else signed to speak on the TIP, Chairman Reckhow closed the public hearing.

Chairman Reckhow asked Mr. Ahrendson to address Mr. Howard's comments.

Mr. Ahrendson replied that most of Mr. Howard's comments (bullets one through three) were incorporated in the list recently adopted by the City Council.

Commissioner Bowser inquired as to whether Mr. Ahrendson had relayed his concerns to NCDOT regarding traffic congestion on Hillandale Road.

Mr. Ahrendson responded that he had spoken with the Division Engineer. No reasonable alternative is available short of closing the I-85 project for three or four years while making improvements to Hillandale Road. Ideally, the Hillandale Road improvement (widening to a four-lane divided facility) should have been accomplished first to accommodate detoured traffic. To date, the planning and design of the Hillandale Road improvements has not been undertaken. Traffic will be diverted for periods of 30 to sixty days as I-85 exit ramps are closed. Not all ramps will be closed simultaneously.

Commissioner Bowser conveyed his dissatisfaction with the traffic congestion on Guess/Hillandale Roads, Duke Street/I-85 interchange, and Avondale/Roxboro/I-85 interchange; closure of I-85 and I-40 entrance and exit ramps during construction; traffic signals prohibiting traffic from turning right while left turn signals are functioning; and slow progress on Duke Street/I-85 and Avondale/Roxboro/I-85 interchanges. Commissioner Bowser expressed his opinion that these problems are a result of poor planning.

Commissioner Cousin wanted to know if any improvements are planned at the intersection of Fearington and Ephesus Church Roads.

Mr. Ahrendson was aware of no proposed public improvements. Improvements may be incorporated in the site plans for the school or in other approved developments as committed elements.

Chairman Reckhow asked Mr. Ahrendson to review the development plans and inform the Board as to the projected improvements.

Commissioner Heron pressed Mr. Ahrendson to explore the acceleration of the South Miami Boulevard project at Bethesda School, especially given that this project is not costly.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to adopt the Draft TIP Project Priority List FY 2006-2012 for the County of Durham as amended and approve the Resolution Endorsing Durham County Project Priority List for the FY 2006-2012 Transportation Improvement Program (TIP).

The motion carried unanimously.

The resolution follows:



RESOLUTION ENDORSING DURHAM COUNTY PROJECT PRIORITY LIST  
FOR THE FY 2006-2012  
TRANSPORTATION IMPROVEMENT PROGRAM (TIP)

WHEREAS, The Board of County Commissioners recognizes the importance of transportation to the economic and social well-being of the community; and

WHEREAS, A Transportation Improvement Program (TIP) which identifies transportation projects scheduled for State and Federal funding over the next seven years is prepared annually by the N.C. Board of Transportation and the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization; and

WHEREAS, The North Carolina Board of Transportation and the Transportation Advisory Committee solicit input for identifying transportation projects of local and regional importance to be included in the TIP; and

WHEREAS, The identification of locally important transportation projects includes projects in the current TIP and additional priority projects to be considered for inclusion in the development of the 2006-2012 TIP; and

WHEREAS, The Board of County Commissioners strongly encourages extensive and meaningful public participation in the design and construction of all programmed transportation projects to ensure consistency with goals and objectives of the local community; 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 DURHAM, NORTH CAROLINA THAT:

The Board of County Commissioners endorses the attached project priority list of transportation projects to be considered for inclusion in the FY 2006-2012 Transportation Improvement Program.

/s/ Ellen Reckhow  
Chair BOCC

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DRAFT TIP  
Project Priority List  
FY 2006-2012  
County of Durham – adopted by BOCC on 11/24/2003

<i>Priority</i>	<i>Project Description</i>
1.	East End Connector. (A) US 70 (Southern Railway to NC 98 including railway structure). (B) US 70 (Miami Boulevard to Southern Railway) (C) Freeway connector between NC 147 and US 70.
2.	NC 54 (I-40 east to NC 55). Widen existing 2-lane facility to multiple lanes with a divided median with consideration for a bus rapid transit. Include bicycle and pedestrian features.
3.	NC 54 (Page Road south to Wake County line). Widen 2-lane roadway to multiple lanes. Include bicycle and pedestrian features.
4.	Old Durham/Chapel Hill Road bicycle and pedestrian improvements (Garrett Road to Pope Road). Study to emphasize bicycle and pedestrian connectivity between residential area, Githens Middle School, and the existing greenway and trail systems.
5.	US 70 (Lynn Road to Wake County line). Convert existing 4-lane facility to 6-lane freeway consistent with the recommendations of the 2025 Long-range Transportation Plan (LRTP) and the Highway Trust Fund (HTF) legislation.
6.	I-85 (US 70 to Red Mill Road). Widen from existing 4-lane freeway to 6-lane freeway.
7.	Northern Durham Parkway. (A) I-85 to Old Oxford Road/Snow Hill Road, 4-lane divided; (C) US 70 to I-85, 4-lane divided; and (B) Old Oxford Road/Snow Hill Road to Roxboro Road, construct 2-lane on a 4-lane right-of-way consistent with the recommendations of the 2025 Long-Range Transportation Plan (LRTP) and the Highway Trust Fund (HTF) legislation. Include bicycle and pedestrian features.
8.	I-40 High Occupancy Vehicle (HOV) Lanes (US 15-501 to I-540). Construct HOV lanes consistent with the 2025 LRTP and the Regional HOV study recommendation.
9.	Erwin Road [SR 1306]. Bicycle improvements from Cameron Boulevard to Orange County line.
10.	Carpenter Fletcher Road. Bicycle improvements (Woodcroft Parkway to Alston Avenue).
11.	Durham Freeway [NC 147] Extension (I-40 to I-540). Construct new multi-lane freeway facility.
12.	Bicycle and pedestrian connectivity to the Regional Rail. Bicycle and pedestrian connectivity (within 1 mile radius) to future Phase I rail stations in Durham County (9 <sup>th</sup> Street, Downtown, Alston Avenue, North RTP and Metro Center stations)

13. Roxboro Road [US 501] (Duke Street to Goodwin Road). Widen existing facility to a 6-lane divided, including Latta Road/Infinity Road intersection improvements with bicycle and pedestrian features.
14. US 15-501 regional rail (Duke University to Chapel Hill) consistent with the 2025 LRTP and the US 15-50 Major Investment Study (MIS).
15. American Tobacco Trail. Phase IV Complete project southern section.
16. Alexander Drive (Cornwallis Road to NC 55). Widen from existing 2-lane to a 4-lane divided facility with bike and pedestrian features.
17. Hillandale Road (Carver Street to Horton Road). Widen from existing 2-lane to a 4-lane divided facility with bike and pedestrian features.
18. Garrett Road (NC 751 to Chapel Hill Boulevard). Widen from existing 2-lane to a 3-lane with bike and pedestrian features.
19. Latta Road (Guess Road to Roxboro Road). Widen from existing 2-lane to a 3-lane with bike and pedestrian features.
20. Construct bicycle lanes on Barbee Chapel Road (SR 1110) between Farrington Road and NC 54.

**Quasi-Judicial Public Hearing: Major Special Use Permit—Bahama Volunteer Fire and Rescue (Case M03-03)**

The Board was requested to hold a quasi-judicial public hearing to consider a Major Special Use Permit for a government facility on a parcel located within the RD, R-20, and R-15 Zoning Districts.

Direct the Planning Director to prepare an order for adoption in one of the following ways: 1) approval; 2) approval with conditions; 3) denial; or, 4) continue the hearing to a specified later meeting.

The Timmons Group, on behalf of the Bahama Fire and Rescue Company, proposes a new volunteer fire station and headquarters on a parcel with access on the south side of Bahama Road and east of Staggsville Road (PIN 0838-04-70-6049, Parcel ID# 191071). The proposed station will comprise 14,843 square feet (21'4" high) with four bays for storage of six fire and emergency vehicles.

The Planning Department recommended approval based on the technical requirements.

**RESOURCE PERSON(S):** Frank M. Duke, AICP, Planning Director

**COUNTY MANAGER'S RECOMMENDATION:** The Manager recommended that the Board conduct a quasi-judicial public hearing and, if appropriate, based on the testimony, make required findings and approve.

### Introduction and Swearing In

Chairman Ellen Reckhow stated that the quasi-judicial hearing was judicial in nature and would be conducted in accordance with special due process safeguards. The hearing addressed the request for a major special use permit for a fire department on Bahama Road (Case M03-03).

Chairman Reckhow directed all persons who had signed to testify in this case to go to the Clerk's station to be sworn in or to give affirmation. Those persons who had not signed earlier on the special sheet and wished to speak were directed to sign and participate in the swearing-in. After being sworn in, persons were to return to their seats.

The Clerk to the Board administered the oath to everyone who wished to speak.

### Board Conflicts

Before opening the hearing, Chairman Reckhow gave the Board members a chance to reveal possible conflicts and to withdraw from the proceeding if necessary. Chairman Reckhow asked the Commissioners if they could rule fairly and impartially. (Conflicts are not limited to financial ones.)

None of the Commissioners revealed conflicts.

### Prior Exposure to Evidence

Chairman Reckhow asked that any Board members who have any information or special knowledge about the case that may not come out at the hearing, to describe that information for the record so that interested parties would know and could respond.

No Board member reported having special knowledge or prior exposure to evidence.

### Explanation of Proceeding

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

### Testimony from Staff

Chairman Reckhow opened the public hearing on Case M03-03 and asked for the testimony from the Planning staff.

Mr. Mike Stock, a new Planning staff member, presented the following report:

“Staff requests that the staff report and all attachments and exhibits be entered as a part of the permanent record.

In the matter of Case M03-03, the Timmons Group, on behalf of the Bahama Volunteer Fire and Rescue, is requesting a Major Special Use permit, as required under the RD, R-20 and R-15 zoning district regulations of the Durham Zoning Ordinance, to construct a 14,843-square-foot, 21’4” high, new fire station and headquarters. This facility will be located on a 21 acre parcel with access on the south side of Bahama Road east of Stagville Road. The facility will consist of four bays for the storage of six fire and emergency vehicles. The parcel is also within the M/LR-A watershed district, therefore, in order to meet the 6% impervious surface limits, over 94% of the parcel will be maintained as permanent open space. Proposed parking has been determined to be sufficient by the Development Review Board, which recommended site plan approval, subject to corrections and verifications that have since been made, on October 17, 2003.

As a reminder, the Board must make findings of fact under Section 13.2.3 of the Durham Zoning Ordinance that the proposed use is:

1. In harmony with the area and not substantially injurious to the value of properties in the general vicinity;
2. Will not adversely affect the health or safety of the public.

The Board shall also give consideration to items 1-10 under section 13.2.4 as indicated in the staff report. Additionally, the Board may impose conditions on the permit request that the Board deems necessary to ensure that this project is compatible and in harmony with the surrounding neighborhood.

Staff will provide a recommendation to the Board at the conclusion of testimony for this case.”

Chairman Reckhow asked if any Board members or proponents had questions for staff.

Commissioner Heron asked Mr. Stock to point at the proposed site on the large map.

Chairman Reckhow recognized the staff report as Exhibit 1 and then called on the proponents to speak.

Mr. James Covington, 8642 W. Market Street, Greensboro, NC 27409, Timmons Group, represented the Bahama Fire and Rescue Company as the site development engineer. His presentation was in response to the following findings of fact as required by the major special use permit application. The proposed development is:

- *Is in harmony with the area and will not substantially injure the value of properties in the general vicinity.*

- Fire and Rescue Headquarters will protect the welfare and safety of the surrounding community. A safer community will improve the value of the properties in the subject area.
- Fire and Rescue Headquarters will not have any constant or long term periods of noise. Sirens will be heard for short periods of time during emergency situations.
- No glare or odors will be emitted from this site to any adjacent properties. Lighting has been design to cast light on the facility, not the adjacent properties.
- All required planting and screenings have been provided in accordance with the Ordinance. The heavy landscaped areas will provide screening for the adjacent properties. North is a 15 ft landscaped buffer; south is a 30 ft landscaped buffer; east is a 15 ft landscaped buffer; and west is a 15 ft landscaped buffer with a 6 ft high wooden fence.
- *Is in conformance with all special requirements applicable to the use, and is in accordance with the current existing zonings.*
  - Fire and Rescue Headquarters parking lot has 39 proposed parking spaces which includes two handicap parking spaces. The number of spaces proposed exceeds the ordinance requirement of 38 parking spaces.
  - All required planting and screenings have been provided in accordance with the Ordinance. The heavy landscaped areas will provide screening for the adjacent properties. North is a 15 ft. landscaped buffer; south is a 30 ft. landscaped buffer; east is a 15 ft. landscaped buffer; and west is a 15 ft. landscaped buffer with a 6 ft. high wooden fence.
  - Sanitary sewer service for this site will be a conventional sewer septic system with repair area. An on-site well will provide water service for this site.
  - Bahama Fire and Rescue Headquarters property is locate within a critical watershed area; therefore, 94% or greater of the land is required to remain undisturbed. The proposed site plan maintains 94.24% as undisturbed; thereby, meeting the watershed requirement.
- *Will not adversely affect the health or safety of the public.*
  - Bahama Fire and Rescue Headquarters will improve the health and safety of the surrounding community by providing a rapid emergency response time to residents and their properties; thereby, improving the quality of life.
  - Bahama Fire and Rescue Headquarters has two entrances/exits on Bahama Road (NCSR#1462) to help traffic control. Also, the access drives were designed with 24 ft. widths for better accessing by fire and rescue vehicles.
  - On a daily operating basis, the Bahama Road Fire & Rescue Headquarters will not have an impact to traffic count on Bahama Road. There are only five employees per shift and no service vehicles are required to service the site.

- The general area around the Bahama Fire and Rescue Headquarters is a community of single family housing. The new Headquarters will serve the community during times of emergency and make it a safe place to live, as well as, serve as a protection to the surrounding properties.

Commissioner Heron inquired about the detention pond and the reduced buffer surrounding the residential area. She wanted to make sure the pond would be maintained and that area residents had been contacted.

Mr. Covington responded that the sediment trap (detention pond) would be used only during construction. When construction is complete and there is a proper stand of grass, the basin will be filled. A six-foot high wooden fence will be provided with landscaping on both sides.

Mr. Anthony Lusk, 8642 W. Market Street, Greensboro, NC 27409, Timmons Group, stated that he was present to assist Mr. Covington with technical questions.

Chief Len Needham, Bahama Fire Department, explained the difficulty in finding this ideal location for the fire station. He asked the County Commissioners to approve this major special use permit so the fire department can continue to serve the residents of the community.

Mr. Stock presented Planning staff's recommendation on the special use permit. He stated that, based upon the technical requirements of the Durham Zoning Ordinance, staff "recommends approval subject to the following condition: the project shall be completed in accordance with the approved site plan, including any additional corrections and verifications. If the Board wishes to grant approval, the Board may approve the order tonight if no additional conditions are placed upon the permit."

Commissioner Heron inquired about the 30-foot buffer adjoining the residential area that was reduced to 15-feet.

Mr. Stock responded that the Zoning Ordinance allows a request for up to a 50 percent reduction in the basic buffer. The closest residents are approximately 150 feet away from the buffer line. He assured Commissioner Heron that area residents within 300 feet of the site were notified as per the notification requirements. No resident has contacted Planning staff in regards to this matter.

Chairman Reckhow commented that a 150-foot buffer is considerable.

Commissioner Heron emphasized to Planning staff the importance of contacting area residents.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve the Order Granting, Upon Certain

Conditions, a Major Special Use Permit for Bahama Volunteer Fire and Rescue Headquarters (Case M03-03).

The motion carried unanimously.

The order follows:

ORDER GRANTING, UPON CERTAIN CONDITIONS,  
A MAJOR SPECIAL USE PERMIT FOR  
BAHAMA VOLUNTEER FIRE AND RESCUE HEADQUARTERS  
CASE M03-03

The Board of County Commissioners (BOCC) of the County of Durham, having conducted a hearing on Case M03-03 and having considered all evidence presented at such hearing, hereby determines that the Ordinance requirements for the granting of a Major Special Use Permit in this case have been met, and that the Use Permit should be granted upon certain conditions.

THE BOCC HEREBY FINDS that the use meets the requirements of 13.2.3 of the Durham Zoning Ordinance, and that it is

1. In harmony with the area and not substantially injurious to the value of properties in the general vicinity
2. In conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Section of this Ordinance;
3. Will not adversely affect the health or safety of the public.

THE BOCC ALSO FINDS that satisfactory consideration has been given to the considerations listed in 13.2.4 of the Ordinance.

THE BOCC FURTHER DETERMINES THAT IT IS NECESSARY TO CONDITION THE GRANTING OF THE USE PERMIT UPON THE FOLLOWING:

1. That the applicant develop the approved use in conformity with a site plan, and any amendments to such site plan, that must be submitted to and approved by the County within 12 months of the date of this decision, and that such site plan and amendments, if any, become a part of this use permit.

THIS SPECIAL USE PERMIT SHALL BECOME NULL AND VOID UPON DETERMINATION BY THE APPROPRIATE OFFICIALS DESIGNATED BY ORDINANCE THAT THE ABOVE CONDITIONS HAVE NOT BEEN COMPLIED WITH.

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



**Major Site Plan—Bahama Volunteer Fire and Rescue Headquarters (D03-412)**

The Timmons Group, on behalf of the Bahama Volunteer Fire and Rescue & EMS Company Inc., submitted a site plan for a 14,843-square-foot fire and rescue station on 21.01 acres, zoned RD, R-15, R-20 and M/LR-A. The applicant requested a reduction in the required buffer from 30 feet to 15 feet along the western boundary of the site. The property is located on the south side of Bahama Road and east of Staggsville Road. PIN 0838-04-70-6049. Parcel ID 191071. Durham County Street Atlas Page 17, Blocks C-2 and D-2.

The Planning staff recommended approval.

RESOURCE PERSON(S): Frank M. Duke, AICP, Planning Director

COUNTY MANAGER'S RECOMMENDATION: The Manager's recommendation was that the Board approve the site plan.

Mr. Dick Hails, AICP, Durham City-County Planning, simply highlighted the item major site plan since it was detailed in the previous agenda item.

Discussion followed regarding Commissioner Heron's concern about the maintenance of the sediment trap.

Mr. Covington stated the sediment trap would collect the sediment from runoff resulting from construction.

Chairman Reckhow commented that the sediment trap is a relatively higher level of control associated with construction than the silt fence. The sediment trap will help protect Lake Mickie from the dangers of sedimentation as it relates to construction.

Mr. Covington added that the state requires that the trap be maintained. Maintenance steps indicated on the construction plans require that the contractor regularly remove sediment for proper functioning of the trap. A construction sequence is also on the plans which indicates that erosion control measures must be in place prior to land disturbing activity.

Commissioner Heron reiterated the importance of maintaining the sediment trap.

Commissioner Cousin moved, seconded by Commissioner Heron, to approve the Major Site Plan—Bahama Volunteer Fire and Rescue Headquarters (D03-412).

The motion carried unanimously.

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

### **Scattered Site Housing Program**

On December 9, 2002, the County received a Community Development Block Grant (CDBG) for \$400,000 to be used for a Scattered Site Housing Program in Durham County. On January 28, 2002, the Board awarded a consulting contract to Benchmark, LLC for administering the CDBG Scattered Site Housing Program through December 30, 2003. The total amount for those services was an amount not to exceed \$49,937.00. The primary objective of the CDBG Scattered Site Housing Program is to improve housing conditions of very low-income households with incomes at or below 50 percent of area median income. Eligible counties receive these funds every three years on a noncompetitive basis. The funds can be used only in the unincorporated areas of Durham County.

Although Benchmark had performed much of the planning services required under the contract, staff has been informed recently that Benchmark has ceased doing business and another company purchased much of its assets. In light of these events, the County Attorney's Office advises that the Board declare Benchmark in default and terminate the contract pursuant to Section 5 of the contract. To date, the County has paid Benchmark \$19,418.89 for services rendered; however, \$30,518.00 remain under the contract which will not be paid to Benchmark, due to its substantial failure to perform and subsequent default.

To preserve the remainder of the CDBG funds received from the state for the program, the County is in need of a new consulting firm to administer the Scattered Site Housing Program. The County will need to follow the procurement process to replace the administrator. The maximum amount of the new contract shall not exceed \$30,518.00 and shall be paid from the CDBG grant funds received by the County in December 2002.

**RESOURCE PERSON(S):** Wendell M. Davis, Deputy County Manager

**COUNTY MANAGER'S RECOMMENDATION:** The Manager's recommendation was that the Board declare Benchmark LLC in default of its contract with Durham County and authorize staff to begin the procurement process for selecting a new consulting firm to administer the CDBG Scattered Site Housing Program.

Mr. Davis apprised the Board of the situation whereby Benchmark LLC, the firm awarded the consulting contract for the purpose of administering the CDBG Scattered Site Housing Program, has gone out of business. Mr. Davis requested that the County seek another consultant to administer this program.

Commissioner Heron inquired about the work accomplished by Benchmark.

Mr. Davis replied that Benchmark satisfied each of the necessary requirements within the scope of work to make the County eligible to participate in the program. It also began

seeking eligible candidates for the program. Out of the \$49,937 allocated for the purpose of program administration, \$30,518 remains.

Commissioner Heron wished to know whether the overall income in neighborhoods could be considered versus individual income. She also questioned whether the funds might be used for environmental purposes.

Mr. Davis responded that the guidelines are specific to individual applicants who meet 50 percent of the median income. Water runoff control is not an eligible expenditure.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to declare Benchmark LLC in default of its contract with Durham County. Terminate the contract and authorize staff to begin the procurement process for selecting a new consulting firm to administer the CDBG Scattered Site Housing Program.

The motion carried unanimously.

#### **Appointment to the Convention and Visitors Bureau**

Commissioner Jacobs moved, seconded by Commissioner Cousin, to appoint Commissioner Heron to the Durham Convention and Visitors Bureau effective December 2003 through December 2005.

The motion carried with the following vote:

Ayes: Cousin, Heron, Jacobs, Reckhow  
Noes: None  
Absent: Vice-Chairman Bowser was not in the Commissioners' Chambers during the vote.

#### **Commissioner Appointments to the Career and Technical Education Task Force**

Commissioner Cousin moved, seconded by Commissioner Jacobs, to appoint Vice-Chairman Bowser and Commissioner Heron to the Career and Technical Education Task Force (to study career and vocational training needs in Durham County and investigate the feasibility of creating a vocational school that prepares high school students to favorably compete for new and existing jobs in Durham County).

The motion carried with the following vote:

Ayes: Cousin, Heron, Jacobs, Reckhow  
Noes: None  
Absent: Vice-Chairman Bowser was not in the  
Commissioners' Chambers during the vote.

**Before- and After-School Care Task Force to Consider the Funding Shortfall for After-School Care Assistance**

Chairman Reckhow announced that a new task force was established to consider ways to maintain access to before- and after-school care by using the full range of subsidy funding more efficiently and effectively, establishing cooperative relationships with providers, and seeking broader community support. Although many donations were received to assist with the funding shortfall, an additional \$700,000 is needed to fund the program for the remainder of this fiscal year.

Task force membership will include:

1. School Superintendent's designee - prefer Linda Chappel
2. City Manager's designee - prefer a representative of Parks and Recreation
3. Two co-chairs of DurhamCAN Education Task Force
4. A parent whose children attend a school-operated before and after childcare program
5. A parent whose children attend a private before and after school childcare program -
6. Manager of DACCA - Karenne Berry
7. Executive Director of Child Care Services Association - Sue Russell
8. DSS Director - Dan Hudgins
9. Representative of John Avery Boys and Girls Club - Floyd Laisure
10. Chair of United Way Youth Issues Team - Jack Boyd
11. Representative of Duke - Michael Palmer
12. Representative of NCCU - Angelique Witherspoon

Chairman Reckhow stated that the Board of Commissioners looks forward to obtaining a report from this task force on ways to use our subsidy dollars more effectively and involve the community in providing after-school care.

**Closed Session**

Commissioner Cousin moved, seconded by Commissioner Jacobs, to adjourn to closed session pursuant to G.S. § 143-318.11(a)(6) to consider the performance of a public officer.

The motion carried unanimously.

**Reconvene to Open Session**

Chairman Reckhow announced that no action was taken in the Closed Session.

**Adjournment**

Chairman Reckhow adjourned the meeting at 9:30 p.m.

Respectfully submitted,

Garry E. Umstead, CMC  
Clerk to the Board