

March 23, 1998

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

Monday, March 23, 1998

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman MaryAnn E. Black and Commissioners William V. Bell, Joe W. Bowser, Becky M. Heron, and Ellen W. Reckhow

Absent: None

Presider: Chairman Black

Opening of Regular Session

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

Agenda Adjustments

Chairman Black added to the agenda a resolution to pay tribute to former County Commissioner Josephine Dobbs Clement who passed away recently.

Chairman Black also added a briefing from County Manager David F. Thompson relative to the tornado that touched down in northern Durham County on Friday, March 20, 1998.

Chairman Black advised that a meeting be scheduled to continue discussing the conveyance or lease of Durham Regional Hospital.

Chairman Black commented that Area Mental Health Board and Environmental Affairs Board appointments would not be made tonight. Appointments would be made at a future meeting.

Minutes

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the February 23, 1997 Worksession Minutes of the Board as submitted.

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The motion carried unanimously.

Chairman Black informed the Commissioners that her letter to Ms. Kathryn Meyers, Chairman, Durham Public Schools Board of Education, would be added to the agenda.

Resolution—Josephine Dobbs Clement

Chairman Black said former County Commissioner and Durham Public Schools Board of Education Chairman Josephine Dobbs Clement passed away. A memorial service would be held in Atlanta, Georgia and another in Durham, North Carolina on Sunday, March 27, 1998. An education fund would be established to receive monetary gifts in memory of Ms. Clement.

Chairman Black read the following resolution into the record:

RESOLUTION

WHEREAS, Josephine Dobbs Clement came to Durham in 1946 and spent more than 50 years positively impacting the community by providing committed, visionary, innovative, and insightful leadership in politics, government, and education as an appointed and elected official; and

WHEREAS, Josephine Dobbs Clement became the first black woman member of the Durham City School Board in 1973, and served as Chair from 1978 until 1983; and

WHEREAS, she took the oath of office as a Durham County Commissioner on August 27, 1984 filling an unexpired term, and was duly elected in November of that same year serving with distinction for three terms until November 1990; and

WHEREAS, although she appeared to be soft-spoken, she was tough-minded and firm in her advocacy for issues in which she believed such as education, opportunities for young people, minority business development, and civil rights; and

WHEREAS, while serving as a County Commissioner, she earned a reputation as a “peacemaker” providing a calming influence during difficult discussions; and

WHEREAS, her interest and desire to work as a champion of civil rights and as an advocate of the poor came from her father, the late John Wesley Dobbs, who was a well-known civil rights leader in Georgia; and

WHEREAS, Josephine Dobbs Clement received a bachelor of science degree from Spelman College in Atlanta, and a master’s degree from Columbia University in New

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York, and taught at Georgia State College, Morris Brown College, and North Carolina Central University; and

WHEREAS, her numerous civic and community affiliations included memberships in Delta Sigma Theta Sorority, the North Carolina Black Women's Political Caucus, Women-In-Action, Links, Durham City-County Charter Commission, N. C. Museum of Life and Science, Mechanics and Farmers Bank Board of Trustees, Z. Smith Reynolds Foundation Board of Trustees, N. C. Association of County Commissioners, and White Rock Baptist Church; and

WHEREAS, for her tireless efforts on the behalf of others she received many honors and awards including an honorary doctor of laws degree from Shaw University, outstanding board member for 1983 by the N. C. School Boards Association, YWCA's Women of Achievement Silver Medallion Winner in 1987, and was presented, along with her beloved husband, William, the Chamber of Commerce's highest honor, the Civic Honor Award for community service:

NOW, THEREFORE BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby resolve to pay tribute to

JOSEPHINE DOBBS CLEMENT

an outstanding leader who gave her talents unselfishly to help others, and who dared to make a difference in the lives of all Durham citizens. We call upon all citizens to celebrate her life.

This the 23rd day of March 23, 1998.

/s/ Five Commissioners

Durham County Commissioners

Chairman Black called on the Commissioners to make remarks of sympathy in memory of Ms. Clement.

Tornado Briefing

County Manager David F. Thompson gave the Commissioners a briefing on the tornado that hit the Bahama area in northern Durham County on Friday, March 20, 1998. The administration had learned a great deal from Hurricane Fran. The responses were very decisive and very much a joint effect of City and County forces, even though the damage was in the county. Staff made important decisions without direction from the City or County Managers.

The damage assessment as of March 23, 1998 at 12:00 noon was:

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- 13 homes damaged
- 2 homes destroyed
- home damages estimated at \$287,000
- 5 businesses damaged (estimated at \$141,000)
- total damage estimated at \$427,000
- damage assessment done immediately to get Federal and State aid

The General Services Department assisted with the clean up the day following the tornado. A request has already been made to the North Carolina Division of Emergency Management for fast assistance to help the home owners. The County will receive a reply tomorrow afternoon.

The initial response was to 5706 Bahama Road. Immediately, the command post was set up in front of the residence. Damage assessment crews were sent out after the “all clear” was given to make sure everyone was accounted for. The emergency management at the American Red Cross asked to assist with the damage assessment and also with any unmet needs of citizens affected by the storm. Today the Cooperative Extension Service has been working to identify needs and assist with debris removal in the fields. Tonight at 7:00 p.m., a debriefing will be held at Bahama Fire Department No. 1. Staff will be working to determine unmet needs of the families.

Mr. Thompson commended staff and all emergency agencies that responded to the crisis.

Chairman Black thanked the Manager for reacting quickly and informing the Commissioners about the damage.

The Commissioners made remarks about the incident and staff responded.

No official action was taken on this agenda item.

Presentation of New Identity Package for Durham County Government

Several months ago, Deborah Craig-Ray, Public Information/Governmental Affairs Director, contacted designers at Webb Patterson Communications Inc. to create a new graphic representation of Durham County Government. The goal of the process was to develop a more contemporary identity package to reflect Durham County’s transition from its agricultural roots to its current position as a leader in technology, medicine, and research. Ms. Craig-Ray is leading the effort to standardize the use of the new design on all Durham County Government stationery, cards, signs, etc.

County Manager’s Recommendation: Receive the new design and instruct staff.

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Ms. Craig-Ray presented this agenda item to the Board. She explained the color elements and symbolism of the design.

Colors Used:

- Red: Action—represents the educational, cultural, and artistic climate of Durham County; also represents the human services aspect of the mission statement.
- Blue: Serenity—represents safety and security
- Purple: Royalty—represents the seat of government
- Green: Health, Growth—represents the dynamic business and industrial environment of Durham County; also represents medicine, technology, research
- Gold: Prosperity, Vitality—represents more than financial status, rather the total quality of life that Durham County has to offer

Symbolism:

- Star: Stands for excellence. Five-pointed star represents the major provisions of the mission statement; the five County Commissioners elected by Durham County residents; the five major attributes for which Durham County will stand as we move into the next millennium—medicine, technology, research, arts, and education.
- Stripes: Represent forward, upward movement.

The administration would like to form a committee of departments to capture all the possible applications for the new look. A transitional calendar will be developed from the current one to the new look. The Purchasing Department will assist with the Request for Proposal. All applications will be standardized.

The Commissioners asked to see the various logo designs.

Chairman Black asked staff to send copies of all the designs to the Commissioners so they may select one.

Vice-Chairman Reckhow wanted cost estimates to compare the cost to print letterhead with five colors compared to the letterhead now in use.

The County seal will be used on official documents.

Consent Agenda

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

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- (a) Board and commission appointment—Region J Emergency Medical Services Council (appoint John M. Tezai to fill the hospital administrator position);
- * (b) Property tax release and refund report (adopt the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report); and
- * (c) Advertising of tax liens (authorize the Tax Administrator to provide public notice and advertise the 1997 delinquent tax liens during the week of April 12, 1998).

The motion carried unanimously.

*The documents related to these items follow:

Consent Agenda 5(b). Property tax release and refund report (adopt the property tax release and refund report as presented and authorize the Tax Administrator 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 reports detail releases and refunds for the month of February 1998.

For current FY 97-98, releases and refunds amounted to \$8,595.27 in taxes for real property, \$6,904,87 in taxes for personal property, \$44,115.66 in taxes for registered motor vehicles, \$745.00 in City vehicle fees, and \$0 in solid waste fees.

For FY 98-99, personal property taxes in the amount of \$737.47 are to be released.

For prior years, releases and refunds amounted to \$20,011.33 in taxes and fees.

(Recorded in Appendix A in the Permanent Supplement of the February 23, 1998 Minutes of the Board.)

Consent Agenda 5(c). Advertising of tax liens (authorize the Tax Administrator to provide public notice and advertise the 1997 delinquent tax liens during the week of April 12, 1998).

The total levy and outstanding receivables for the 1997 Real Estate, as of March 2, 1998 follows:

LEVY	FUND	OUTSTANDING
\$89,901,510.95	County General	\$3,573,095.32
12,485,908.46	Capital Finance	492,112.46
405,538.31	Bethesda Fire	4,722.71

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360,806.46	Lebanon Fire	19,273.17
510,472.94	Parkwood Fire	5,214.90
348,245.43	Redwood Fire	15,021.41
5,887.44	New Hope Fire	212.54
12,116.13	Eno Fire	433.54
171,835.14	Bahama Fire	10,360.70
320,355.04	RTP Special	80.68
5,511.15	County School*	264.79
800.66	City School*	330.61
48,246,504.45	Durham City	2,225,666.72
622,828.34	Town of Chapel Hill	14,022.31
<u>2,612.92</u>	Butner Safety	<u>0.00</u>
(100%)\$153,400,933.82		(4.1465%)\$6,360,811.86

*Discoveries/Rebilling for prior tax years.

Amendments to Work First Plan

The amendments were approved by the Work First Planning Committee on March 17 and by the Social Services Board for inclusion in Durham County's FY 1998-2000 plan. These amendments were recommended for approval by the Durham County Board of Commissioners.

Daniel C. Hudgins, Director of Social Services, presented the proposed Durham County Work First Plan amendments to the Commissioners.

The amendments follow:

PROPOSED DURHAM COUNTY WORK FIRST PLAN AMENDMENTS

Preamble: In keeping with the spirit of the Durham County Work First Plan and mission of Durham County Department of Social Services (DSS), these amendments are presented as guiding principles for implementation and development of programs to move Work First participants from welfare poverty to economic self-sufficiency.

Establishing partnerships for service delivery: DSS will take responsibility for establishing partnerships with public agencies, the faith community, the business community, community organizations, and interested individuals to reach goals of providing Work First participants with jobs and support services. Jobs and support services shall include access to child care, health care, education, job training, and transportation.

Tailoring support services for exceptional needs: Many welfare recipients encounter severe barriers in moving from welfare to work, such as domestic violence, substance abuse, and job readiness. DSS will assist individuals in these areas by providing support

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that is responsive and helpful. This tailored support will ensure Work First participants are prepared to access work opportunities while remaining safe, free from substance abuse, and prepared to retain jobs that lead to economic self-sufficiency.

Supporting a living wage: DSS pledges to work with County Commissioners, the business community, and other public agencies to ensure the Work First Plan is promoting efforts to build a living wage in Durham County.

Developing a contingency plan for families facing hardships: DSS will develop a contingency plan to assist needy families that exceed their two-year time limit for receiving state assistance. Additionally, DSS will make recommendations to County Commissioners for addressing hardships experienced by legal immigrants and individuals who may have chronic problems that prevent regular work.

Evaluating Work First in Durham: DSS will administer and report results from a study of Work First in Durham. The study will seek to evaluate how Work First is affecting family economic self-sufficiency and child well-being.

PROPOSED WORK FIRST AMENDMENT ON DOMESTIC VIOLENCE

Preamble: This amendment recognizes the omission of specific language addressing domestic violence in the Durham County Work First Plan submitted January 15, 1998. Domestic violence and sexual abuse are barriers recognized under the federal TANF related legislation titled Family Violence Option (FVO). It is expected that North Carolina will adopt the FVO as part of the state Work First Plan. It is the intent of DSS and the Durham County Work First Plan to comply with the FVO by providing notification, supportive services, and waivers of program requirements to victims of domestic violence.

Notification: DSS will identify victims and potential victims of domestic violence through universal notification to Work First participants and all applicants for aid. Notification shall be done so as to avoid further risk while protecting confidentiality and allowing self-identification.

Supportive Services: Whenever an applicant or recipient self-identifies, or is otherwise identified, as a past or present victim of domestic violence or person at risk of future domestic violence, DSS shall refer that individual to an employee trained in domestic violence issues. The employee will provide information on how to contact services. Services shall include but are not limited to: shelters for battered individuals, medical services, domestic abuse hot lines, emergency aid for individuals fleeing domestic violence, legal counseling and advocacy, initiation of criminal proceedings, mental health care, counseling, support groups, and financial assistance for victims of crime.

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Waivers of program requirements: Whenever an applicant or recipient is identified as a past or present victim of domestic violence or a person at risk of further domestic violence, DSS will notify that individual of procedures for determining whether there is good cause for waiver of any potentially applicable program requirements or penalty provisions. Program requirements and provisions shall include, but are not limited to: time limits on receipt of assistance, work requirements, paternity and child support cooperation requirements, residency requirements, family cap provisions, limitations on TANF assistance for non-citizens, limitations on emergency assistance, and any other program requirements that will make it difficult to escape violence or further penalize past or present victims of domestic violence or those at risk of further domestic violence.

Barbara Earls, Director, Project Jubilee, NC Council of Churches, discussed the establishment of a Faith Community Coordinator position to coordinate faith community support for Work First families.

The Commissioners asked several questions and made comments about the amendments to which Mr. Hudgins and Ms. Earls responded.

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, that the Commissioners adopt the amendments to the Work First Plan as presented.

The motion carried unanimously.

Public Hearing--City Auto Salvage (Rezoning Case P97-68)

City Auto Salvage presented to the Board of County Commissioners a request to rezone 14.04± acres at 1301 South Miami Boulevard (US 70) on the northeast side of US 70 between Mineral Springs Road and Pleasant Drive (Tax Map 657, Block 1, Lots 1 and 2) Request: R-20 (Residential 20 District) and GC (General Commercial District) to I-2(D) (Light Industrial District with Development Plan). The Community Growth Map in the Durham 2020 Comprehensive Plan, adopted in 1995, shows the requested site as "Suburban Neighborhood" (which includes low intensity industrial uses). The Future Land Use Map in the Durham 2005 Comprehensive Plan (1985) shows the site as suitable for residential use at greater than 6 units per acre. Staff recommended approval because 1) the history of 50 years usage of that site; 2) the fire that destroyed/damaged one of their major buildings; and 3) the desires of the present owners to improve the appearance of the property through buffering, landscaping, and building improvements. No expansion of the use is proposed. The Zoning Committee of the Durham Planning Commission conducted a public hearing on November 11, 1997, and voted 7-0 to recommend approval.

Due to time constraints at the March 5, 1998 special meeting, this item was continued to this meeting.

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Harold E. Smith, Senior Planner, Durham City-County Planning Department, was present to answer any questions of staff regarding the request. He made the presentation to the Commissioners.

The Commissioners asked several questions about the rezoning request.

Mr. Smith responded to the questions and comments.

Chairman Black opened the public hearing that was properly advertised.

Jim Hedrick, University Tower, Suite 1200, 3100 Tower Boulevard, made general comments about the application. Mr. Hedrick is counsel for the petitioners. He urged the Commissioners to approve the rezoning request.

Ron Horvath, representing R. L. Horvath Associates Inc., answered questions for the Commissioners relative to the easement on the development plan.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the rezoning request for City Auto Salvage.

The motion carried unanimously.

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

Case M97-8: Major Special Use Permit For City Auto Salvage

City Auto Salvage requested the granting of a Major Special Use Permit to allow for a salvage operation and yard, including the construction/repair to an existing one-story, 13,000-square-foot metal building. The site is located at 1301 South Miami Boulevard (US Highway 70 East) on the northeast side of US 70 between Mineral Springs Road and Pleasant Drive. Tax Map 657-1-1 & 2.

The Board was requested to hold the public hearing and evaluate the evidence presented. Planning staff would make a recommendation after the hearing of this case.

After the hearing, one of these two motions was in order:

Motion A: (Approval With or Without Conditions)--Direct the Planning Director to prepare a decision granting with conditions the use permit in Case M97-8. (The Commissioners should identify any conditions they wish to incorporate into their approval. Staff will prepare the decision for the Board's next meeting for action).

Motion B: (Disapproval)--Direct the Planning Director to prepare a decision denying the use permit in Case M97-8. (The Commissioners should identify the findings they are unable to

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make so these can be incorporated into the decision. Staff will prepare the decision for the Board's next meeting for action).

Due to time constraints at the March 5, 1998 special meeting, this item was continued to this meeting.

County Manager's Recommendation: Hold the public hearing and evaluate the evidence presented.

Chairman Black requested that anyone wishing speak should go to the Clerk to the Board to be sworn in.

Chairman Black asked if there were any Commissioner conflicts on this agenda item.

Commissioner Bowser said he has known Joe Guarglia for a while and has used this facility for years as a customer.

County Attorney Kitchen ruled that is not a conflict.

Chairman Black asked the Commissioners if they had prior exposure to any of the evidence.

There had been no prior exposure.

Chairman Black said, "In this hearing, we will first hear from the Planning staff and other County witnesses, then from the applicant and their witnesses, and then from opponents to the request. Parties may cross-examine witnesses after the witness testifies when questions are called for. If you want 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. We 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. Before you begin your testimony, please clearly identify yourself for the record. If you have material for the Commissioners, you may give the material to the Clerk and he will distribute it to the Commissioners."

Chairman Black asked staff to present the case.

Harold Smith, Senior Planner, presented the case.

The testimony from staff included the following report:

MAJOR SPECIAL USE PERMIT

1. Case Number: M97-8

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2. Applicant: Joseph R. Guarglia
3. Owner: Joseph R. Guarglia
4. Location: 14.04± acres at 1301 South Miami Boulevard (US Highway 70 East); northeast side of US 70 between Mineral Springs and Pleasant Drive. Tax Map 657-1-1 & 2.
5. Zone: I-2(D) (Rezoning request from R-20 and GC to I-2[D] is the preceding item at this meeting)
6. Type of request: A Major Special Use Permit for a salvage operation and yard, including the construction/repair to an existing one-story, 13,000-square-foot metal building.
7. Proposed Use: The existing City Auto Salvage businesses' office/parts building and auto salvage yard.
8. Present Use: City Auto Salvage has existed on the site since approximately 1947.
9. Surrounding Zones: North R-20 and GC
East R-20
South R-20 and GC
West R-20
10. Surrounding Uses: North Commercial, Single-Family Residential, & Undeveloped
East Undeveloped Land and Single-Family Residential
South Single-Family Residential and Commercial
West Undeveloped Land and Single-Family Residential

Governing Ordinance Sections:	Pages
4E.4.	4E.4-1 thru 4E.4-7
7.35	7-20-thru 7-21
9	9-1 thru 9-11
10	10-1 thru 10-15
13.2	13-4 thru 13-6

Access: Access to the property as shown on the site plan is from US Highway 70 East.

Staff Discussion

Before granting a Major Special Use Permit, the governing body shall find that applicable provisions of Section 7.35 have been complied with, and that satisfactory provision has been made for the Use Permit findings of Section 13.2.3, and that the use as proposed or as proposed with conditions is in conformance with the considerations of Section 13.2.4.

Mr. Smith requested the staff report and the applicant's site plan be entered into evidence.

The Commissioners asked several questions about the Major Special Use Permit to which Mr. Smith and Paul Norby, Director of the City-County Planning Department, responded.

Chairman Black called on the applicant to make a presentation.

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Jack Markham, attorney for the applicant, gave the Commissioners an overview of the Major Special Use Permit project request.

Ron Horvath, of R. L. Horvath Associates Inc., presented evidence about the buffers being proposed and details of the fence to encompass the salvage yard inside the buffers.

J. Jarvis Martin, representing Martin and Company real estate appraisers, provided evidence as to harmony with the neighborhood and impact on values of nearby property.

Mr. Horvath, Mr. Markham, and Mr. Guarglia presented evidence to the Commissioners about the use and the impact on the health and safety of the public.

Chairman Black received the exhibits into evidence.

Mr. Guarglia commented that he has operated City Auto Salvage since 1981. The company has never been cited by any governmental agencies for violation of rules and regulations. He had never received a complaint from anyone in the neighborhood about City Auto Salvage. The daily operation will not be changed or expanded.

There were no opponents to this rezoning request.

Chairman Black referred the matter back to the Commissioners.

Mr. Smith told the Commissioners that staff recommends approval with the following conditions:

- a) Prior to the issuance of the building permit, a formal easement be recorded establishing the 80-foot undisturbed vegetative buffer along the eastern and southern property lines; and
- b) If applicant does not acquire property along the northern and western boundaries, as the alternative buffer indicated on the development plan, that the landscape buffer shown on the plan be established.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to direct staff to prepare a decision granting approval with the stated conditions.

The motion carried unanimously.

The public hearing would be continued until April 13, 1998.

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

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(Recorded in Appendix A in the Permanent Supplement of the March 23, 1998 Minutes of the Board.)

Street Closing: Pleasant Hill Drive (SC97-11)--Mt. Sylvan United Methodist Church

Ron Horvath, representing Mt. Sylvan United Methodist Church, presented to the Board of County Commissioners a request to consider permanently closing 14,447± square feet of Pleasant Hill Drive west of Roxboro Road and south of Midland Avenue to allow for the construction of a 12,500±-square-foot sanctuary, a 5,000±-square-foot office building, and parking adjacent to the existing facility. Only that portion of the road directly adjoining the church property is proposed to be closed, not the portion with existing homes along it.

Dick Hails, Planning Manager, Durham City/County Planning Department, was present to answer any questions of staff regarding the request.

County Manager's Recommendation: Hold the hearing and approve the request to permanently close the 14,447±-square-foot portion of Pleasant Hill Drive.

The Development Review Board approved the site plan on October 24, 1997. Recommended changes have been made. The Board of Adjustment approved the use permit request on November 9, 1997. This is the only public approval required on this request in the public hearing setting. Staff recommended approval.

Chairman Black opened the public hearing that was properly advertised.

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

Commissioner Bell moved, seconded by Commissioner Heron, to approve the Pleasant Hill Drive street closing.

The motion carried unanimously.

The resolution to close Pleasant Hill Drive follows:

COUNTY OF DURHAM
ORDER PERMANENTLY CLOSING
14,447+ SQUARE FEET OF PLEASANT HILL DRIVE,
WEST OF ROXBORO ROAD AND SOUTH OF MIDLAND AVENUE

WHEREAS, the Durham Board of County Commissioners adopted a resolution on March 9, 1998, declaring its intent to close the street or alley or portion thereof that is

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generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein; and

WHEREAS, the resolution provided for the holding of a public hearing on the question of whether said street or alley or portion thereof should be permanently closed; and

WHEREAS, pursuant to Section 51 of the Durham Charter, notice of the closing of said street or alley or portion thereof was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street, alley, or portion thereof to be closed; and

WHEREAS, a notice of the closing and public hearing was prominently posted in at least two places along the street or alley or portion thereof to be closed; and

WHEREAS, pursuant to Section 51 of the Durham Charter, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came on for hearing before the Board of County Commissioners of the County of Durham at its regular meeting of March 23, 1998, and all persons who desired to be heard were heard at that time:

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

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

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IT IS THEREFORE ORDERED:

1. That the street or alley or portion thereof described in Attachment A is permanently closed subject to the County's retention of any utility improvements and/or easements described therein.
2. That a certified copy of this Order shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
3. That property owners adjacent to the closed street, alley, or portion thereof shall take right, title, and interest as is provided in G.S. 160A-299(c).
4. That this Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

Approved By The
Board of County Commissioners
March 23, 1998
/s/ Garry E. Umstead
Clerk to the Board

ATTACHMENT A
Legal Description

BEGINNING at a point, said point being the northeast corner of the Mt. Sylvan United Methodist Church property (lot 2) and the southwest corner of the Alma G. Smith property, both with the western right-of-way line of Pleasant Hill Drive and the "Point of Beginning." From the point of beginning S 89°16'00"E, 60.43' to the eastern right-of-way of Pleasant Hill Drive; thence along the eastern right-of-way line S 04°25'52' E, 240.23'; thence N 89°16'00" W, 60.33'; thence along the western right-of-way of Pleasant Hill Drive N 04°27'13" W, 240.24' to the point of beginning. The above area containing 14,447± square feet.

Holding the 1998-99 Consolidated Action Plan Draft Public Hearing

Federal HOME grant funds are received annually and used primarily for affordable housing activities in Durham. The proposed allocation of Durham HOME funds for FY 1998-99 is \$882,000. As a result of the formation of the Durham City-County HOME Consortium by the Board of County Commissioners and the City Council, all HOME Program activities are included as a part of the Durham Consolidated Plan and are submitted annually to the Department of Housing and Urban Development (HUD) for approval in the required Action Plan.

The Citizens Participation Plan for use with the Consolidated Plan requires that two public hearings be held at times and locations convenient to local beneficiaries of the program prior to the submission of the Consolidated Action Plan to HUD. The purpose of the first public hearing is to receive citizen comments pertaining to HOME program needs in

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Durham. A “needs” public hearing was held by the Board of County Commissioners at its January 26 meeting and by the City Council at its February 2 meeting. No citizens spoke at the Board of County Commissioners’ “needs” public hearing. The purpose of this second public hearing is to receive citizen comments on the Consolidated Action Plan Draft (following a 30-day public review period, February 18-March 20, 1998). Planning staff has simultaneously requested that the City Council hold its Consolidated Action Plan Draft public hearing on April 6, 1998.

Paul Norby, Director of the City-County Planning Department, has reviewed the request and recommended that the County’s 1998-99 Consolidated Action Plan Draft public hearing be held tonight. Michael Pullum, Senior Planner, attended the meeting to answer questions.

County Manager’s Recommendation: Hold the 1998-99 Consolidated Action Plan Draft public hearing on March 23, 1998 to receive citizen comments on the Plan and to refer them to staff.

The Commissioners asked several questions to which Mr. Pullum responded.

Chairman Black stated for the record that her husband, James C. Black, receives Section 8 money.

Chairman Black opened the public hearing that was properly advertised.

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

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to receive the comments and refer them to the staff.

The motion carried unanimously.

Case M97-5: Major Special Use Permit for Waste Industries, Phase II

Waste Industries Inc. requested the granting of a Major Special Use Permit to allow for a 7,705-square-foot solid waste transfer station, a 9,350-square-foot recycling center, and a 275-square-foot office. The site is located on Stone Road, west of Angier Avenue and east of the East-West Freeway (NC 147). Tax Map 641-2-51.

The Board of County Commissioners, at its March 5, 1998 meeting, directed the Planning Director to prepare a decision denying the use permit in Case M97-5.

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Clay Shepherd, Durham City/County Planning Department, was present to present this item.

County Manager's Recommendation: Review the order affirming the Board's action of denying the requested use permit in Case M97-5.

Vice-Chairman Reckhow moved, seconded by Commissioner Bell, to approve the order.

The motion carried unanimously.

The order follows:

ORDER DENYING A MAJOR SPECIAL USE PERMIT FOR WASTE INDUSTRIES,
PHASE II CASE M97-5

The Board of County Commissioners of the County of Durham, having conducted a hearing on Case M97-5 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 not been met, and that the Major Special Use Permit should not be granted.

THE BOARD OF COUNTY COMMISSIONERS HEREBY FINDS the following:

1. The proposed use is not in conformance with adopted long range plans for the development of this area, particularly with regard to the development of mixed uses supportive of regional rail transit.
2. There are health and safety issues associated with the railroad crossing at Wrenn Road as it relates to anticipated traffic for this site. The additional traffic associated with the proposed use will adversely affect the health or safety of the public.
3. There are problems regarding traffic impacts at the Angier Avenue and Wrenn intersection. These problems are related to truck traffic crossing, or preparing to cross, the railroad intersection. Also, there are problems regarding the timing intervals for train traffic, both present and future.
4. There will be a substantial increase in rail traffic and more frequent Wrenn Road railroad crossing blockages when the planned regional commuter rail system begins operation.
5. Traffic origin/destination questions were discussed; whereupon, additional concerns were raised about the impact of trucks on both the condition of and congestion on parts of Angier Avenue.
6. Because of the timing intervals for train traffic, truck stacking is currently a problem. If the proposed use is allowed, truck stacking will become more of a problem in the future.

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7. The subject area is in a regional transit study corridor as shown in the adopted Durham 2020 Comprehensive Plan. The Triangle Transit Authority is presently studying the feasibility of a rail transit station near Glover Road and Angier Avenue. The proposed use would not be compatible with that rail transit station.
8. Use of this site for the requested use would not be conducive to the development of the area around a possible rail transit station in a way that is supportive of transit and the adopted plan.
9. The traffic impact study presented by the Petitioner did not take into consideration that there will be a substantial increase in rail traffic when the regional rail system begins operation.
10. The traffic impact study presented by the Petitioner was flawed. The traffic impact study failed to take into consideration that trains block the crossing adjacent to the proposed use up to 30 to 40 minutes.
11. The traffic impact study presented by the Petitioner did not consider the current light rail plan and how that plan and the proposed use would negatively impact traffic in this area, particularly traffic at the railroad crossing at Wrenn Road.
12. The proposed use would not comply with the Durham 2020 Comprehensive Plan adopted by the County.

Based upon the foregoing findings of fact, the Board of County Commissioners makes the following:

CONCLUSIONS OF LAW

1. That the proposed use fails to comply with Durham County Zoning Ordinance Section 13.2.3.2 and is not in conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Section of the Ordinance.
2. That the proposed use fails to comply with Durham County Zoning Ordinance Section 13.2.3.3 and will adversely affect the health or safety of the public.
3. That the Board of County Commissioners was unable to find that satisfactory consideration has been given to the following:

13.2.4.1, Circulation: Number and location of access points to the property and the proposed structures, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

13.2.4.9, Compatibility: The level of general compatibility with adjacent properties and the appropriateness of the relationship to other properties.

WHEREFORE, based upon the foregoing findings of fact and conclusions of law, the Board of County Commissioners hereby FIND that the requirements for the granting of a Major Special Use Permit in this case have not been met, pursuant to the applicable provisions of the Durham City/County Zoning Ordinance, and ORDERS that the Major Special Use Permit should not be granted.

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The result in the foregoing case was rendered by the Durham County Board of Commissioners on the 5th day of March and the written decision confirming said vote was approved by the Board on the 23rd day of March, 1998.

This the 8th day of April, 1998.

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

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

Major Special Use Permit For BellSouth Mobility DCS--Kemp Road Site

BellSouth Mobility DCS requested the granting of a Major Special Use Permit to allow for the construction and operation of a 250-foot lattice telecommunications structure and associated equipment compound. The site is located on the south side of NC 98 and east of Kemp Road. (Tax Map 968-01-001)

The Commissioners, at their March 5, 1998 meeting, directed the Planning Director to prepare a decision granting with conditions the use permit in Case M97-10.

Steve Medlin, Senior Planner, presented the order and answered questions.

County Manager's Recommendation: Approve the order granting the Major Special Use Permit with conditions.

Commissioner Heron moved, seconded by Commissioner Bowser, that the Board approve the order.

The motion carried unanimously.

The order follows:

**ORDER GRANTING, UPON CERTAIN CONDITIONS, A MAJOR SPECIAL USE
PERMIT FOR BELL SOUTH MOBILITY DCS—KEMP ROAD SITE
CASE M97-10**

The Durham County Board of Commissioners, having conducted a hearing on Case M97-10 (March 5 and 23, 1998) and having considered all evidence presented at such hearing, hereby determines that the Ordinance requirements for granting of a Major Special Use Permit in this case have been met, and that the Use Permit should be granted upon certain conditions.

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THE BOARD OF COMMISSIONERS HEREBY FINDS that the use meets the requirements of 7.39 and 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; and
3. Will not adversely affect the health or safety of the public.

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

THE BOARD OF COMMISSIONERS 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 plan 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.
2. A recombination plat be filed prior to the issuance of any permits.
3. That the Special Use Permit for the tower shall expire unless documentation, including but not limited to an FCC license, is submitted each January to the Development Review Board (DRB) demonstrating that the tower is being utilized.
4. Should the tower not be used or maintained for a period of six months or more it shall be removed by the owner within 90 days.
5. Proper legal provisions be made for the protection and maintenance of the 100-foot forested area for the life of the tower.
6. Prior to issuance of a building permit, the applicant shall be required to submit documentation from the FAA that the lighting is the minimum lighting required by the FAA.
7. Prior to the issuance of any permits or the beginning of any site work that appropriate tree protection measures must be installed and inspected by the Durham City-County Planning Department.
8. No occupied structures are to be permitted within a radius equivalent to 75 percent of the towers height or 187.5 feet from the tower's base.

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.

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This determination and Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

Approved By The
Board of County Commissioners
March 23, 1998
/s/ Garry E. Umstead
Clerk to the Board

NORTH CAROLINA
DURHAM COUNTY

I, Susan B. Page, Notary Public of the aforesaid County and State, certify that Garry Umstead, Clerk to the Board of County Commissioners, who duly certified and acknowledged that the foregoing constitutes a true and accurate copy of the Order adopted by the Board of County Commissioners at its meeting held March 23, 1998, as the same is taken from and compared with the recordation of said order as Ordinance Number _____, on file in the Office of the County Clerk.

Witness my hand and notarial seal, this 27th day of March, 1998.

/s/ Susan B. Page
Notary Public

My Commission Expires: 12-20-2000

Major Site Plan Approval for the Foxridge Apartments

National Housing Corporation requested approval of a Major Site Plan for Foxridge Apartments to allow for the construction of a 92-unit apartment complex with amenity areas on 11.91 acres, zoned RM-8 (Multifamily Residential). The site is located on the north side of Page Road, west of Page Road Extension and south of US Highway 70. (Tax Map 649-2-4)

Steve Medlin, Senior Planner, presented the case.

County Manager's Recommendation: Recommend approval of the site plan.

The Development Review Board had reviewed the site plan; it recommended approval subject to fairly minor corrections which have been made. Staff recommended approval.

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

The motion carried unanimously.

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(Tax Map number: 649-2-4; recorded in Ordinance Book _____, page _____.)

Purchase of Computers for Library Government Information Access System: Public Internet Access Project

The Board was requested to authorize the Library to purchase 20 personal computers from CompuCom for the Library Government Information Access System: Public Internet Access Project for a total amount not to exceed \$37,660. The computers requested will be located at all Durham County Library System locations.

On Monday, October 13, 1997, the Commissioners approved the Library Government Information Access System: Public Internet Access Project as part of the consent agenda for PAYG projects, with an approved budget for the entire project of \$350,000. The Durham County Library will be receiving a grant from the North Carolina State Library in the amount of \$50,000 towards the cost of the public Internet workstations needed for this project. The deadline for submission of final records to the state under this grant is April 15, 1998.

The Library has worked with appropriate IS staff to develop a configuration and recommendation for this purchase. The recommendation is to purchase from CompuCom--the vendor with the state contract for IBM personal computers; the term contract number is 250-15. The computer purchase will include the following components: central processing unit, keyboard, mouse, monitor, and CD-ROM player, as well as extended three-year on-site maintenance. For cost and availability reasons, modems and printers will be purchased from another vendor.

When this purchase was brought before the Commissioners on Monday, March 9, 1998 for approval, questions were raised and Library staff were asked to respond to Commissioner concerns. A memorandum was sent from Perry Dixon, Director of Durham County Information Services Department, to County Manager David F. Thompson answering Commissioner questions on this purchase. Also included in his memorandum is a comparison with quotes from three other vendors for the same configuration.

County Manager's Recommendation: Authorize the Library to purchase 20 personal computers for the Public Internet Access Project from CompuCom for an amount not to exceed \$37,660.

(Ms. Gaddis added her own tribute to Ms. Josephine Clement.)

Ms. Gaddis made a lengthy presentation to the Commissioners. Mr. Dixon assisted.

The Commissioners asked several questions about the proposal. Commissioner Bell had the same objections about this request that he had the last time it was brought before the Board. He felt the County was paying too much for the computer equipment (based on

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the specifications) and was disappointed with the same recommendation. After the last meeting, Commissioner Bell received a telephone call from someone who indicated the price is too high. The caller said he called the County Offices and could get no answer as to whom he should contact relative to this item. Commissioner Bell asked the person to submit a bid to him. The caller did send the bid; the price was \$380 cheaper per system with the same specifications. Commissioner Bell continued to object to the bid.

Mr. Dixon responded to Commissioner Bell's remarks and comments.

Commissioner Bell said what concerned him was the fact the caller to the County Offices could get no one to respond to him.

Ms. Gaddis said staff cannot meet the April 15, 1998 deadline to be eligible for the federal grant. To receive the grant, we must show paid invoices to the federal agency. If we don't accept the state contract price, we will have to go out for bid which delays the process by three or four weeks.

Commissioner Bowser urged the Commissioners to purchase the computers for the Library.

County Manager David F. Thompson recommended the County go out for informal bids, same configuration, (does not have to be an IBM or Compaq compatible) and select the vendor with the lowest bid. Test the computer before the April 6, 1998 Worksession to determine if it is compatible.

Mr. Julius T. Bartell, 2013 Patterson Road, discussed computer prices and commented that the needed computer equipment could be purchased at Staples, The Office Super Store, much cheaper than from other vendors.

Vice-Chairman Reckhow suggested the Manager's idea be carried forward with the following motion:

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, that the Commissioners direct staff to "proceed with an informal bid process and do the test of the computer, to see if it will work, during that process, and if for some reason that does not work out that we authorize the Library to purchase the 20 computers as specified in this agenda action form."

The motion carried unanimously.

Development Review Fee Adjustments

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Development review fees for the County and City were revised last July. Several minor adjustments are proposed at this time. The first is an increase in Re-review Fees for all types of development review cases to provide an increased incentive to receive complete and accurate review applications. This will speed up the processing of those applications and make the best use of staff review time. The request is the result of several recent educational sessions held by staff with the development community, where the need for good quality applications was discussed in detail. The second change is to increase the fee for "Site Plan, Residential Other" (e.g. multifamily residential projects) to be more consistent with the other fees, most of which had significant increases last July. Planning staff recommended the adoption of the resolution to implement these fee increases effective 30 days after adoption.

Dick Hails, Planning Manager of the City-County Planning Department, was present at the meeting to answer any questions of staff.

County Manager's Recommendation: Adopt the resolution entitled, "Resolution Establishing Fees For Zoning and Development Reviews and Consideration."

Mr. Hails made the presentation to the Commissioners.

The Commissioners asked several questions to which Mr. Hails responded.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to adopt the resolution.

The motion carried unanimously.

The resolution follows:

RESOLUTION ESTABLISHING FEES FOR ZONING AND DEVELOPMENT
REVIEWS AND CONSIDERATION

BE IT RESOLVED by the Durham County Board of Commissioners that:

Section 1. The following fees are hereby established:

A. Re-Review Fees

Re-review fees are charged for extra staff reviews of plans caused by applications not meeting development requirements as commented on during the initial review of the application; the re-review fee for all development review applications shall be one-half of the original fee, up to a maximum of \$500 (five hundred dollars) per case.

B. Site Plan, Residential Other

\$800 (eight hundred dollars) plus \$10 (ten dollars) per lot per case.

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Section 2. This resolution shall be in full force and effect 30 days from the date of its adoption.

Section 3. That any resolution in conflict with the provisions of this resolution is to the extent of such conflict repealed.

Board Appointments

Garry E. Umstead, Clerk to the Board, distributed ballots to make appointments to the following boards:

- Area Mental Health Board
- Environmental Affairs Board

Chairman Black said appointments will not be made to the Area Mental Health Board or the Environmental Affairs Board at this time. A letter had been written (followed by a telephone call by Chairman Black) to the Area Mental Health Board member with the poor attendance requesting her resignation. No response had been received from either contact.

County Attorney Chuck Kitchen said the Commissioners should set a hearing on possible removal of the member from the Area Mental Health Board. A decision should not be made until after the hearing.

Chairman Black stated that the applicant recommended by the City-County Planning Committee could not serve on the Environmental Affairs Board due to job related travel. The Clerk to the Board stated the applications have been returned to the City-County Planning Committee for another recommendation. The appointment will be made at a subsequent meeting.

Approval to Contract With TCS America for Year 2000 Program Services

The Board was requested to authorize the County Manager to enter into a contract with Tata Consultancy Services of America (TCS) in an amount not to exceed \$355,000 to purchase programming services to convert 453 Data General (DG) computer programs and 349 data files to the IBM AS/400 computer and to make them Year 2000 date compliant. As the funding for this project has been a part of the PAYG, the Board is also asked to approve the appropriation of this funding. The PAYG schedule presented to the Board in October 1997 included funding for this project at a \$1.2M level from 1997 through 1999. It is now anticipated that the entire Year 2000 Compliance project will approximate \$600k, or a \$600k reduction in the originally anticipated costs.

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This project is part of the Information Services Technology Plan that includes elimination of the DG computer platform. The Year 2000/Data General Project Description describes this project and its relationship to the IS Year 2000 Technology Plan.

The Information Services Department has established an ambitious schedule to make all non-package programs date compliant on our DG, IBM AS/400, IBM ES/9000, and client/server computer platforms. All programming must be completed and all legacy systems ready for testing and implementation by early 1999 to allow time for testing and implementing package systems. We plan to correct the AS/400, ES/9000 and client/server programs internally. However, the DG computer has the largest inventory of programs which must be made date compliant. Working with functional users, we determined that most of the 1950 DG programs are either obsolete or are going to be supported by the state, leaving 453 which must be made compliant.

Considering the impact these applications have upon County services to citizens, the selection of the appropriate company to undertake this task was critical. Demonstrated technical expertise and ability to perform in the required time were most important in evaluating a potential service provider. Therefore, a comprehensive qualifications process was employed. The contract has been under review by the County Attorney with anticipated completion by March 23, 1998.

Perry Dixon, Director of Information Services, recommended approval of contracting with TCS. Sandra Phillips, Director of Purchasing, has reviewed the process employed in vendor selection and recommended that the Board proceed with this contract. Mr. Dixon and George Garland, Project Manager, attended the meeting to answer any questions.

County Manager's Recommendation:

1. Appropriate the \$355,000 funding from PAYG. The Budget Director has reviewed the request for funding and has verified that sufficient unappropriated CIP funds are available.
2. Authorize the County Manager to enter into a contract with TCS America in an amount not to exceed \$355,000 for the conversion of programs from the Data General to AS400 computer.

Mr. Dixon made a brief presentation on the proposal.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the appropriation of \$355,000 from PAYG and authorize the County Manager to enter into a contract with TCS America in an amount not to exceed \$355,000 for the conversion of programs from the Data General to AS400 computer.

The motion carried unanimously.

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School Budget Advisory Committee

Chairman Black made comments about her letter dated February 25, 1998 to Kathryn Meyers, Chairman, Durham Public Schools Board of Education. In the letter, Chairman Black expressed Commissioner interest in the Board of Education's budget request being reviewed by a cross section of interested citizens prior to it being submitted to the County Manager's office. This may not necessitate that an ongoing committee be created, but rather that a focus group type of meeting be convened by school administration to receive input from our community. This type of forum would be more conducive to thoughtful insight as compared to formal public hearings.

Chairman Black said the Board of Education is recommending that the Commissioners and school board members combine a focus group with the planned small group meetings with Commissioners. Each Commissioner might want to include two or three interested citizens in the small group meetings throughout the process. Any feedback might serve to better inform us of potential issues that must be addressed during the weeks ahead. This effort, in addition to the public hearing required by law, can serve to broaden understanding and support for the budget.

No official action was taken on this agenda item.

Board of County Commissioners School Tour

Chairman Black said the Board of Education has invited the County Commissioners to tour five schools on Tuesday, April 28, 1998.

The purpose of the day-long tour is to highlight the programs that are at the heart of our efforts to improve student achievement across the district.

Hospital Meeting

Chairman Black said a meeting should be scheduled to discuss the Commissioner reaction to the letter they will receive from the Durham County Hospital Corporation Board of Trustees.

Chairman Black requested the meeting be held on Monday, April 6, 1998 at 9:00 a.m. with the regularly scheduled worksession.

The Commissioners agreed with the April 6, 1998 date.

Adjournment

Chairman Black adjourned the meeting at 9:40 p.m.

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Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board

GEU:VCS