

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

Monday, November 22, 2004

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—Pledge of Allegiance

Agenda Adjustments

- Resolution for Frank Johnson Sr., Interim Executive Director, Operation Breakthrough Inc. (Chairman Reckhow)
- Addition to Closed Session – Pursuant to G.S. § 143-318.11(a)(6). (Commissioner Jacobs)
- Operation Breakthrough Award Presentation (Vice-Chairman Bowser)
- Shepard Middle School (Commissioner Cousin)

Minutes

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve as corrected the November 1, 2004 Worksession Minutes.

The motion carried unanimously.

Commissioner Jacobs moved, seconded by Vice-Chairman Bowser, to approve as submitted the November 8, 2004 Regular Session Minutes.

The motion carried unanimously.

Special Presentation to Vice-Chairman Joe W. Bowser and Commissioner Mary D. Jacobs

This was the final regular Board meeting for Vice-Chairman Joe W. Bowser and Commissioner Mary D. Jacobs. Mr. Bowser joined the Board in December 1996; Dr. Jacobs joined the Board in 2002. The outgoing Commissioners were honored with commemorative plaques in recognition of their visionary leadership, long hours, and dedicated service during their respective tenures.

On behalf of all Durham County citizens, Chairman Reckhow presented the plaques to Vice-Chairman Bowser and Commissioner Jacobs in grateful appreciation of their tireless efforts.

Commissioner Jacobs made the following remarks:

“Serving on this board has been quite a unique experience. As I have in all my previous endeavors, I have taken my role as a county commissioner very seriously. I looked and listened more than I talked, so I was able to make some keen observations. I did my homework, asked analytical questions, gathered the facts, and made decisions that were not based on emotion or subjectivity – but what I deemed to be best for Durham County Government and the County of Durham at large.

It has never been my practice to yield to pressure from individuals of special interest groups. I attempted to serve with integrity and objectivity and did not compromise my dignity, standards, and principles for anything.

I voted my conscious, independently of my colleagues, regardless of the perception by others or the consequences. My record will show that I did not have a pattern of voting along gender or racial lines.

- At the organizational meeting in December 2002 – I refused to be the deciding vote for the election of the chair of this board.
- I was one of the 3 females and the 2 African Americans voting not to fund Holloway Learning Center.
- I was one of 3 females that voted to approve the cite plan for Creekside School.
- I was one of 3 African Americans that voted to make a change in county government administration.
- I cast the lone vote against the impact fee.

My campaign slogan was Putting People First and I strived to do that. I fought to keep the longevity and pay-for-performance for county employees, for funding Public and Community College Education and other nonprofits involved in youth development such as John Avery Boys Club and the Operation Breakthrough Child Development Center.

It matters not to me who takes the credit. To me, the important thing is that something was done to benefit people, especially children – who are our future.

In retrospect, I cannot think of any single decision that I would change. I leave tonight with no regrets. When I go to sleep each night and get up each morning, I can look myself in the mirror and know that my conscious is clear. I can live with myself, 24 hours a day.

I want to thank this fine staff of Durham County Government for all you have done to help me in my role as a commissioner and what you do every day to serve the citizens of Durham County. I especially want to thank the Interim Manager who has in such a short period of time recommended and implemented positive changes that are helping county government operate more professionally, effectively, and efficiently.

I also thank all the citizens who supported me during my tenure of elected office – for both the city council and this board of county commissioners.

And last but by no means least, I wish to thank all the people, who during my campaigns and tenure, spoke out against me and attempted to make it difficult. I graciously accept your criticism and animosity. In doing this, I only have to remember how the irritation inside the shell of an oyster produces a genuine pearl. You have made me just that. Thank you.

As I leave this board, I will continue in a forward motion and make no effort to look backwards. I wish the best of success for the new board in all their endeavors during the next four years.”

Vice-Chairman Bowser’s speech pertained to his dedicated service to Durham County by striving to improve employment and reduce poverty. He thanked the Board and citizens for their support during his tenure as County Commissioner.

Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, representing Durham Committee on the Affairs of Black People, thanked the departing Commissioners for their service to Durham County.

Recognition of Best Workplaces for Commuters Distinction

Chairman Reckhow reported that at a celebration on Tuesday, November 16, 2004, the U.S. Environmental Protection Agency and a coalition of local organizations recognized 24 local employers as the Triangle’s Best Workplaces for Commuters. To qualify for the distinction, employers must offer a primary benefit such as subsidized bus passes, vanpools, or telecommuting options, in addition to other benefits including onsite amenities like cafeterias, ATMs, and bike racks. Employers must promote alternatives to single-occupancy vehicles and offer an emergency ride home option.

Chairman Reckhow congratulated the following 24 local employers, which employ about ten percent of the Triangle's work force, approximately 70,000 workers, mostly located in Research Triangle Park:

ARCADIS, Inc.
BASF Corporation
Capital Area Transit
Cisco Systems
City of Durham
City of Raleigh
Durham County
GlaxoSmithKline
IBM
National Institute of Environmental Health Sciences
Nortel Networks
North Carolina Department of Environment and Natural Resources
North Carolina Department of Transportation
North Carolina State University
Research Triangle Foundation
RTI International
Town of Carrboro
Town of Chapel Hill
Triangle J Council of Governments
Triangle Transit Authority
U.S. Environmental Protection Agency (RTP)
The University of North Carolina at Chapel Hill
Wake County
Wyeth

Chairman Reckhow thanked Heidi Duer, Assistant County Manager for Special Projects, for coordinating Reduction Alternatives to Vehicle Emissions (RAVE) for Durham County Government. She recognized Ms. Duer to comment on the program.

Chairman Reckhow extended congratulations to the local organizations achieving the Best Workplaces for Commuters distinction.

Resolution for Frank Johnson Sr., Interim Executive Director, Operation Breakthrough Inc.

Chairman Reckhow stated that Operation Breakthrough Interim Executive Director Frank Johnson Sr. passed away on November 9, 2004. Mr. Johnson worked relentlessly for Operation Breakthrough Inc., a nonprofit community action agency that has provided a variety of programs and services to Durham residents. She read the following resolution:

RESOLUTION

WHEREAS, Mr. Frank Douglas Johnson Sr. was born in 1933 to the late Mrs. Annie Mae Johnson in Burgaw, North Carolina and became a highly active community servant; and

WHEREAS, he attended C. F. Pope High School in Burgaw, later attended North Carolina Central University, and served in the U.S. Army; and

WHEREAS, Mr. Johnson was married to Mrs. Annie Mae Anderson Johnson, and was the loving father of Frank D. "Doug" Johnson Jr.; and

WHEREAS, Mr. Johnson served 38 years at Operation Breakthrough Inc., a nonprofit community action agency that has provided a variety of programs and services since 1964 to residents of Durham whose income is at or below the federal poverty level; and

WHEREAS, Mr. Johnson's dedication to service and his commitment to the Durham community will be greatly missed by all who knew him:

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

MR. FRANK D. JOHNSON SR.

for his sincere dedication to Operation Breakthrough Inc., and the Durham community.

This the 22nd day of November, 2004.

Chairman Reckhow offered condolences to Mrs. Johnson, widow of Mr. Johnson, and invited Mrs. Johnson to speak.

Ms. Patricia Williams, Interim Executive Director, Operation Breakthrough, thanked the Board for recognizing Mr. Johnson for his service with Operation Breakthrough and Durham County.

Chairman Reckhow presented the resolution to Mrs. Johnson.

As associates of Mr. Johnson, Commissioner Heron and Vice-Chairman Bowser commented the late Mr. Johnson on his service and dedication and expressed sorrow for his passing.

Operation Breakthrough Award Presentation

At the November 19 annual meeting of Operation Breakthrough, Ms. Patricia Williams, Director of Finance and Personnel, honored the Durham County Board of Commissioners with the Distinguished Appreciation Award, "In Recognition for Commitment to Enhance the Quality of Life for Operation Breakthrough Inc., Head Start Children, Families, and

Employees". Vice-Chairman Bowser asked that Ms. Williams and Gwendolyn Green, Family Empowerment Action to Self-Sufficiency Program (FEATS) Coordinator and former Assistant to Mr. Frank Johnson, present the award to the Board of County Commissioners.

Ms. Williams and Ms. Green thanked the Board for its continuous support and protection of Durham County's youth.

Chairman Reckhow accepted the award on behalf of the Board.

Shepard Middle School

Dr. James R. Brown, 905 Dupree Street, Durham, NC 27701, and Ms. Delores Eaton, 126 Masondale Avenue, Durham, NC 27707, spoke on behalf of concerned parents of African-American students attending James E. Shepard Magnet Middle School. Dr. Brown and Ms. Eaton informed the public about the alleged misconduct of Shepard's principal and teachers towards its students.

Chairman Reckhow directed the Manager to communicate on behalf of the Board of County Commissioners with the Superintendent, requesting an investigation and follow-up of the following issues raised by the parents:

- unlawful search of students and constant harassment;
- physical assault of students by teachers;
- students retained for 2 or more years without administrative utilization of school's resources;
- school personnel's creation of a hostile environment causing extreme mental stress to students;
- principal's harassment of a teacher; and
- principal prohibits harmonious relationships between teachers and parents.

Commissioner Cousin further directed the Manager to send the report to Durham Public Schools Board Chair and administrators, and forward copies to the Commissioners.

Consent Agenda

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

- *b. Budget Ordinance Amendment No. 05BCC000021—The Durham Center—Acceptance and Allocation of Funds from Multiple Small Grants (approve the appropriation of funds for a total of \$13,991);
- *d. Capital Project Ordinance Amendment No. 05CPA000006—Open Space and Farmland Preservation Project (allocate \$400,000 for project DC083 activities);

- *e. Capital Project Ordinance Amendment No. 05CPA000007—Head Start/YMCA Building Purchase (DC081) (allocate funds for the second installment payment (\$181,250) for the purchase of the former YMCA Childcare Center);
- f. Ambulance Replacement Contract—Bethesda VFD (approve the modified contracts, the \$79,221 bid, and award the contract to Southeastern Emergency Vehicles Inc.);
- h. Purchase of Periodical and Subscription Services (authorize the Manager to enter into a contract with EBSCO Information Services not to exceed \$50,000 with an option to renew the contract for three successive one-year periods); and
- i. Senior Center Project—Right of Way Dedication and Plat (approve and record in the Durham County Register of Deeds Office).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. b. Budget Ordinance Amendment No. 05BCC000021—The Durham Center—Acceptance and Allocation of Funds from Multiple Small Grants (approve the appropriation of funds for a total of \$13,991).

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000021

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2004-05 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	\$259,771,800	\$13,991	\$259,785,791

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$318,675,144	\$13,991	\$318,689,135

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

This the 22nd day of November, 2004.

Consent Agenda Item No. d. Capital Project Ordinance Amendment No. 05CPA000006—
Open Space and Farmland Preservation Project (allocate \$400,000 for project DC083
activities).

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Capital Project Ordinance
Amendment No. 05CPA000006

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the
FY 2004-05 Capital Project Ordinance is hereby amended to reflect budget adjustments for

Open Space & Farmland Preservation Project:

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
Open Space & Farmland Preservation Project	\$300,000	\$400,000	\$700,000

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

This the 22nd day of November, 2004.

Consent Agenda Item No. e. Capital Project Ordinance Amendment No. 05CPA000007—
Head Start/YMCA Building Purchase (DC081) (allocate funds for the second installment
payment (\$181,250) for the purchase of the former YMCA Childcare Center).

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Capital Project Ordinance
Amendment No. 05CPA000007

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the
FY 2004-05 Capital Project Ordinance is hereby amended to reflect budget adjustments for

Head Start/YMCA Building Project

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
Head Start/YMCA Building Project	\$568,500	\$181,250	\$749,750

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

This the 22nd day of November, 2004.

Consent Agenda Item Removed for Discussion

Consent Agenda Item No. a. Property Tax Releases and Refunds for Fiscal Year 2004-05 (accept the report for October 2004 and authorize the Tax Assessor to adjust the tax records as outlined).

Ms. Victoria Peterson, P.O. Box 101, Durham, NC 27702, asked the following questions:

- What is the county procedure for citizens who may disagree with an emergency service bill, since it is considered a tax if those bills are not paid (according to a policy passed in 2000)?
- What is the procedure if the bill is paid in good faith and a citizen wants the monies returned?

Chairman Reckhow directed Interim County Manager Wendell Davis to respond to Ms. Peterson's questions in writing.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve Consent Agenda Item No. a.

The motion carried unanimously.

Releases & Refunds for 2004 Taxes:

Real Estate	\$	8,110.69
Personal	\$	113,167.46
Registered Vehicles	\$	25,795.77
Vehicle Fees	\$	<u>170.00</u>
Total for 2004 Taxes and Fees	\$	147,243.92

Prior years' (1998-2003) releases and refunds for October 2004 are in the amount of \$106,373.79.

The total current year and prior years' releases and refunds amount to \$253,617.71.

Consent Agenda Item No. c. Budget Ordinance Amendment No. 05BCC000022—DSS—Emergency Shelter Placements (appropriate funds in the amount of \$41,259 for children who are delinquent or undisciplined).

Upon request by Commissioner Heron, Cooperative Extension Director Cheryl Lloyd explained how Emergency Shelter Placements would be conducted for delinquent or undisciplined children, in or out of the court system.

Commission Heron moved, seconded by Vice-Chairman Bowser, to approve Consent Agenda Item No. c.

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000022

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2004-05 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	\$259,785,791	\$41,259	\$259,827,050

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$318,689,135	\$41,259	\$318,730,394

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

This the 22nd day of November, 2004.

Consent Agenda Item No g. North Carolina Department of Transportation Community Transportation Grant (approve the resolution authorizing Durham County Cooperative Extension to submit the FY 2005-2006 Community Transportation Program Grant to NCDOT; \$30,000 will be needed for inclusion in the County's FY '05-06 budget to meet local match requirements).

Commissioner Heron commented on the escalating costs of transportation for elderly and disabled citizens and for transitional Work First and general public employment transportation needs for Durham County.

Johnny Ford, Transportation Access Coordinator, addressed Commissioner Heron's concerns.

Chairman Reckhow suggested that Commissioner Heron communicate with appropriate staff to receive an overview of the current situation. If additional attention is needed, concerns would be placed on a future agenda for the Board's review.

Vice-Chairman Bowser justified the expense of transporting elderly and disabled citizens.

Commissioner Cousin stated that to his understanding, the increase in transportation costs complied with the Living Wage Ordinance.

Per Manager Davis' request, Mr. Ford clarified how the costs would be shared.

Chairman Reckhow reiterated the suggestion of compiling a breakdown of transportation costs to present at a meeting between Commissioner Heron and staff.

Commissioner Heron concurred with Chairman Reckhow.

Manager Davis informed the Board that a memo packet would be prepared.

Commissioner Jacobs moved, seconded by Vice-Chairman Bowser, to approve Consent Agenda Item No. g.

The motion carried unanimously.

COMMUNITY TRANSPORTATION PROGRAM 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);

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 relates 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.

Public Hearing—Closing 328.16 Linear Feet of an Unnamed Street, North of Goodwin Road and West of Laurel Drive (SC03-21)

Bonnie Estes, Assistant Planning Director, stated that the Board was requested to hold a public hearing to close permanently 328.16 linear feet of an unnamed street, north of Goodwin Road and west of Laurel Drive.

Chairman Reckhow opened the public hearing that was properly advertised. As no one requested to speak, she closed the public hearing and referred the matter back before the Board.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to approve closing of 328.16 linear feet of an unnamed street, north of Goodwin Road and west of Laurel Drive.

The motion carried unanimously.

ORDER PERMANENTLY CLOSING
328.16 LINEAR FEET (6,578 SQUARE FEET) OF AN
UNNAMED STREET, NORTH OF GOODWIN ROAD
AND WEST OF LAUREL DRIVE

WHEREAS, the Durham Board of County Commissioners adopted a Resolution on November 8, 2004, declaring its intent to close the street or alley or portion thereof that is generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein;

WHEREAS, the Resolution provided for the holding of a public hearing on the question of whether said street should be permanently closed; and

WHEREAS, notice of the closing of said street was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street to be closed; and

WHEREAS, a Notice of the closing and public hearing was prominently posted in at least two places along the street to be closed; and

WHEREAS, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came for hearing before the Durham Board of County Commissioners at its regular meeting on November 22, 2004, 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, alley, or portion thereof as it more fully described in Attachment A, finds:

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 would thereby be deprived of reasonable means of ingress or egress to his or her property.

IT IS THEREFORE, ORDERED:

1. That the street described in Attachment A is permanently closed under the authority of GS 160A-299(c).
2. That utility easements that may be referenced in Attachment A or shown on the plat referenced in Attachment A shall be retained by the County, and that easements owned by private utility companies that are shown on such plat be retained by the private utilities indicated.
3. That a certified copy of this Order and the plat referred to in Attachment A shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
4. That property owners adjacent to the closed street shall take right, title, and interest as is provided in GS 160A-299 (c), as may be further illustrated on the plat referenced in Attachment A.
5. That this Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

Attachment A
Legal Description SCO3-21

BEGINNING AT A POINT AT THE INTERSECTION OF THE NORTHERN RIGHT-OF-WAY LINE OF GOODWIN ROAD (A 60' PUBLIC RIGHT-OF-WAY), AND THE EASTERN RIGHT-OF-WAY OF AN UNNAMED ROAD (A 20' PUBLIC RIGHT-OF-WAY), SAID POINT ALSO BEING THE SOUTHWEST CORNER OF BENNIE M. BULLOCK (DURHAM REGISTRY BOOK 348, PAGE 121), THENCE RUNNING ALONG THE NORTHERN RIGHT-OF-WAY LINE OF GOODWIN ROAD N53°46'13"W A DISTANCE OF 25.28 FEET TO A POINT, THENCE LEAVING THE RIGHT-OF-WAY LINE OF GOODWIN ROAD, AND RUNNING N01°28'19"W A DISTANCE OF 189.03 FEET TO A POINT, THENCE RUNNING N00°39'13"W A DISTANCE OF 131.40 FEET TO A POINT, THENCE RUNNING N89°20'47"E A DISTANCE OF 20.00 FEET TO A POINT, THENCE RUNNING S00°39'13"E A DISTANCE OF 131.12 FEET TO A POINT, THENCE RUNNING S01°28'19"E A DISTANCE OF 204.49 FEET TO THE POINT AND PLACE OF BEGINNING, CONTAINING AN AREA OF 0.151 ACRES, MORE OR LESS, AS SHOWN ON THE PLAT ENTITLED "FINAL PLAT OF STREET CLOSING FOR UNNAMED ROAD" PREPARED BY TRIANGLE SURVEYORS INC., DATED

SEPTEMBER 16, 2004, UNDER THE SUPERVISION OF RONALD D. CARPENTER, P .L.S. L-2458.

As recorded in the Durham County Register of Deeds Office at Plat Book _____, Page _____.

Update for Community Development Block Grant Scattered Site Housing Program

Interim County Manager Wendell Davis introduced this item. He reported that the County of Durham received \$400,000 in Scattered Site Housing Funds from the State Department of Commerce in 2002 for rehabilitation on private citizen's homes in the unincorporated areas of Durham. The Department of Commerce anticipated rehabilitation of 10-12 homes. The LEAH Group was awarded a contract to complete administration of the CDBG Scattered Site Housing Program after Benchmark Consulting defaulted on the original contract award. To date, the LEAH Group has approved 13 homes for rehabilitation and each of the dwellings will be completed by December 31, 2004. The CDBG Scattered Site Housing Program has provided assistance and helped improve the quality of life for local families.

Mr. Brian Crawford, President, LEAH Group, provided the Board with an overview and slide show presentation of the County's Scattered Site Housing Program and the progress made to date.

Chairman Reckhow commended Mr. Crawford and the LEAH Group on the housing program. To continue support of the program, she asked Manager Davis about the timeframe to apply for additional funding.

Manager Davis responded that the application has been submitted and an award letter would be mailed in February. In addition to the LEAH Group, he recognized Yolanda Moore-Gaddy, Business Dev. Manager, and Catherine Davis, Grants Compliance Officer, for the success of the program.

Commissioner Heron inquired about flood-damaged houses on Felicia Street being included in the program.

Ms. Moore-Gaddy informed Commissioner Heron that homeowners on Felicia Street were notified of the program. Outreach would continue if funding were received next year.

Chairman Reckhow recognized signed speaker Ms. Victoria Peterson, P.O. Box 101, Durham, NC 27702.

Staff responded to Ms. Peterson's questions.

In conjunction with the Board's decision to donate surplus vacant lots to nonprofits, Chairman Reckhow asked County Attorney Chuck Kitchen to research donating county lots with uninhabitable housing and present findings at a future worksession.

Commissioner Heron asked County Attorney Kitchen about the time limit to dispose of foreclosed county housing.

County Attorney Kitchen explained that an uninhabitable house depreciates the property, resulting in an expense to renovate or demolish the house. With foreclosed houses, City and County taxes are owed and the houses cannot be used for County purposes until taxes are paid. Assessments exist on many of the properties, and in addition to unpaid taxes, debts total more than the property is worth. However, no waiting period is required to dispose of the property.

Chairman Reckhow called signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, forward for comments.

Commissioner Heron addressed Dr. Allison's remarks.

Chairman Reckhow thanked Mr. Crawford for the presentation and program success.

Manager Davis recommended that a date be set for the second week in December to tour several newly renovated structures with the LEAH Group.

Interlocal Resolution with Orange County Concerning Planning

Bonnie Estes, Assistant Planning Director, introduced this item. The Durham Board of County Commissioners and the Durham City Council indicated an interest in establishing a Joint Review Area to provide review and comment on rezoning requests, special use permits, subdivisions, site plans, and annexations in the I-85/US 70 area near the Durham-Orange County boundary. The resolution and map would establish such an agreement and have been recommended for approval by the Joint City-County Planning Committee (JCCPC).

Commissioner Heron inquired about the City of Hillsborough's role, as it could provide annexations in the area.

Ms. Estes responded that Hillsborough would serve as a pathway for communication, possibly preventing the duplication or conflict of services.

Chairman Reckhow explained that since the I-85/US 70 area near the Durham-Orange County boundary is not serviceable by water and sewer jurisdictions in Orange County, Orange County approached Durham County, the logical service provider, about the I-85/US 70 corridor.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to adopt the Resolution.

The motion carried unanimously.

A RESOLUTION ESTABLISHING THE INTENT OF DURHAM COUNTY, DURHAM CITY, AND ORANGE COUNTY TO COOPERATE WITH REGARD TO PLANNING ISSUES IN CERTAIN DEFINED AREAS

WHEREAS, the governing bodies of Durham County, NC; the City of Durham, NC; and Orange County, NC desire to foster good relations; and

WHEREAS, all three governing bodies and their staffs wish to engage in a process of mutual dialogue to obtain a better understanding of the needs and goals of each community; and

WHEREAS, all three governing bodies seek to have appropriately planned development for their respective areas;

WHEREAS, all three governing bodies currently carry out established public review processes on planning activities that provide an opportunity for public review and comment from citizens as well as from other jurisdictions; and

WHEREAS, all three governing bodies acknowledge the urbanization potential of properties near the Orange/Durham County line in the vicinity of I-85/US70 and consequently the need to coordinate land use and transportation, development, and service delivery issues that arise in this general vicinity; and

WHEREAS, cooperation amongst neighboring jurisdictions will foster and maintain a system of sound land use planning and regulation which can be relied upon by the public and private owners of land as a basis for investment decisions, the protection of the environment, and a climate conducive to the healthy economic and social growth and development of the three jurisdictions;

NOW, THEREFORE BE IT RESOLVED that

- 1) The administrative staffs of each jurisdiction shall coordinate with each other on a timely basis within the current framework and schedule of the local development review process, in order to provide an opportunity for review and comment on rezoning requests, special use permits, subdivisions, site plans, and annexations proposed for land within the Joint Review Area near the Orange/Durham County Line, as shown in Attachment A.
- 2) A. The administrative staffs of each jurisdiction shall pursue cooperative efforts to:
 1. Coordinate future land use plans and develop comparable zoning districts with design standards to implement the general intent of the land use plans;
 2. Provide an opportunity for review and comment on a timely basis and within the established project schedules for land within the Joint Review Area;
 3. Create a conceptual utility master plan for the Orange County portion of the Joint Review Area; and

4. Provide enhanced annexation notification procedures when the city annexes into Orange County.
- 2) B. The objectives of this cooperation are to:
1. Seek compatible uses of land and natural resources;
 2. Achieve a smooth transition between areas of development within each jurisdiction;
 3. Provide an appropriate entryway into each jurisdiction from the other; and
 4. Encourage orderly development and the efficient delivery of urban services, which will maintain and enhance property values in each jurisdiction.
- 3) This resolution shall be effective upon its adoption by all of the above jurisdictions;
- 4) Any signatory jurisdiction may rescind their agreement with this resolution by subsequent resolution of its governing Board.

Resolution Seeking Support From the North Carolina General Assembly for Establishing Adequate and Reliable Funding of Public Schools in the Triangle and Throughout the State

Chairman Reckhow briefed the Board on this item. Triangle J Council of Governments has sponsored several meetings of the Triangle County Board Chairs; these meetings have included discussions on education with a focus on budgetary decisions of the NC General Assembly regarding funding of schools. At the last meeting (November 8, 2004), chairs of the Durham, Orange, and Wake Board of Commissioners, along with school board representatives, NC Association of County Commissioners (NCACC) representatives, Triangle J Council of Government staff, and county staff, finished crafting a resolution highlighting the difficulties area governments have in supporting public school funding while the state:

- 1) Creates unfunded mandates such as elementary class size reductions;
- 2) Decreases funding for teacher assistant allotments, school transportation operating funds, instructional technology support, and capital needs resources; and
- 3) Continues stagnant funding for staffing allotments, non-instructional support positions, textbook allocations, instructional supplies, and limited funds for children with special needs.

This resolution requests that the state provide adequate and reliable public school funding, decreasing the reliance on local funding and the growing inequities in educational opportunities across the state related to local funding ability. The purpose of the resolution is to encourage the State to provide adequate and reliable funding for our regional school district, as well as to other districts statewide.

A document highlighting the impact of the State's decision was prepared by Durham Public Schools detailing the effects of some of the aforementioned issues.

Chairman Reckhow reviewed the following joint resolution from Durham, Orange, and Wake Counties and their corresponding public school boards supporting adequate and reliable public school funding from the state:

A RESOLUTION SEEKING SUPPORT FROM THE NORTH CAROLINA GENERAL ASSEMBLY FOR ESTABLISHING ADEQUATE AND RELIABLE FUNDING OF PUBLIC SCHOOLS IN THE TRIANGLE AND THROUGHOUT THE STATE

WHEREAS, Durham, Orange and Wake Counties, along with their respective school districts, Durham Public Schools, Orange County Schools, Chapel Hill-Carrboro City Schools, and Wake County Public School System, firmly believe that every child within the Triangle should have equal access to a sound quality public education in a safe learning environment; and,

WHEREAS, the responsibility of providing these educational opportunities is shared between the State of North Carolina, our counties, and our local school districts under the guidance of North Carolina's constitution; and,

WHEREAS, while overall state educational funding has increased largely to meet student population growth, class-size reduction in elementary grades and personnel salary and benefit increases, state budgeting of public schools as a percentage of the state general fund has however trended downward, resulting in reduced resources for schools without similar reductions in mandated program responsibilities; and,

WHEREAS, elementary class-size reductions result in an unfunded mandate that does not allow for adequate capital planning and imposes a burden on counties to fund additional school facilities; and,

WHEREAS, parallel budget cuts affecting public schools have resulted in required state discretionary reductions, declining teacher assistant allotments, decreased school transportation operating funds, inadequate instructional technology support, withheld capital needs resources; and,

WHEREAS, stagnant funding for public schools has resulted in too few teacher allotments, inadequate staffing allotments, lagging non-instructional support positions, insufficient textbook allocations, deficient instructional supplies, limited funds for children with special needs, etc.; and,

WHEREAS, these funding deficiencies create a greater reliance on local funding, thereby exacerbating inequities in educational opportunities across the state; and,

WHEREAS, in light of this trend the Triangle's county governments and school districts seek support from the North Carolina General Assembly to reverse this course and establish adequate and reliable funding of public schools;

NOW, THEREFORE, BE IT RESOLVED that Durham, Orange and Wake Counties, along with the Durham Public Schools, Orange County Schools, Chapel Hill-Carrboro City Schools, and Wake County Public School System, call upon the North Carolina General Assembly to reverse the ongoing trend of insufficient operational and capital funding for public schools.

BE IT FURTHER RESOLVED that the General Assembly establish adequate and reliable funding of public schools in North Carolina that matches needs, resources and mandates.

BE IT FINALLY RESOLVED that this resolution be executed by the respective counties and public school systems in the Triangle and that this document be presented to our legislative delegations, along with appropriate state officials who have responsibilities for public schools – including Governor Easley, the Chair of the State Board of Education, and the State Superintendent of Public Instruction.

Chairman Reckhow recognized Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, for comments on this item.

Hank Hurd, Associate Superintendent, Durham Public Schools, was asked by Chairman Reckhow to supply an explanation to Manager Davis for the current public schools' percentage discrepancy in the "Percent of the General Fund Public Schools Appropriations" chart in Attachment A.

In response to Manager Davis' question, Chairman Reckhow asserted adding the resolution to the Legislative agenda.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to approve the joint resolution that is also being considered by the Orange and Wake County Boards of Commissioners.

The motion carried unanimously.

The Commissioners briefly discussed low public school funding from 1991-95.

Chairman Reckhow invited the public to attend a press conference concerning the resolution on November 30 at 11:00 a.m. at Triangle J Council of Governments.

Report from the Human Resources Audit Assessment Task Team and Recommendations from the Manager

Interim County Manager Wendell M. Davis was given specific directives by the Board of County Commissioners upon his appointment. One of the directives was:

- Completion of the Human Resources and Benefits Audit. Inherent in this item is determining the status of the project team work that was assigned by former County Manager Mike Ruffin. Determine to whom the project was assigned.

In order to determine the best approach for proceeding, Manager Davis assembled a team of Certified Internal Auditors (CIA) from around the State to: a) evaluate the audit process; b) determine what was must be done to complete the HR Audit; and c) determine how to improve the County's Audit process to avoid similar problems in the future. Due to time constraints, the HR Audit Assessment Task Team's work product did not represent a peer review or an independent review of the County's Internal Auditor function.

Following the review of the Task Team Assessment, Manager Davis concluded that finalizing the subject audit would not be cost beneficial to the County. The County Attorney has opined that the Board was within its authority to set premium rates for benefits and that the County cannot refund money that was legally collected. Furthermore, given the findings of the Audit Assessment Task Team, the Manager also recommended that a new structure be developed over the next several months for the County's Internal Audit function.

On page 10 of the Assessment, Chairman Reckhow corrected the following statement: "As we understand it, the County Auditor was removed from his duties and placed within the Finance Department due to the outcome of the HR audit." She clarified that the reassignment was the result of biased emails sent by the County Auditor.

Chairman Reckhow recognized Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, for comments.

County Attorney Chuck Kitchen and Chairman Reckhow responded to Dr. Allison's comments pertaining to employee benefit rates.

Commissioner Jacobs asked Chairman Reckhow several questions for clarification about the Manager's memorandum.

Manager Davis explained that proceeding with the benefits audit would entail retrieving 15,000 to 20,000 enrollment forms since 1996, which would not benefit the County.

Commissioner Jacobs directed additional questions to Manager Davis.

Chairman Reckhow concurred with Commissioner Jacobs about the mishandling of the audit due to an early release of the HR report draft.

Commissioner Heron read the following excerpt from the Task Team Assessment and defined it as the "flaw" of the audit:

Durham County's Internal Audit Policy Statement provides for the auditee to receive an initial draft of the audit report; the opportunity be given to the auditee to discuss the draft in an exit conference to clarify and assure the accuracy of

audit issues; the auditee to prepare a written response to the audit; and a final report to be developed by the auditor which has been modified for accuracy and incorporates the written responses received from the auditee.

Based on a review of documentation, the policy was followed by the County Auditor in issuing the HR report draft. As a result of public record law, however, the media requested and received a copy of the initial draft before the findings could be discussed with management in an exit conference and written responses to the audit received. Although attempted by the County Auditor, there had been no discussions of the audit findings with the auditee during the course of fieldwork or at the conclusion of the audit.

Given the lack of discussion, management had no prior knowledge of the information to be included in the audit report, and there was no process for assuring the accuracy of the findings, the reasonableness of recommendations, or the identification and resolution of differences of opinion prior to the draft being released to the media.

Vice-Chairman Bowser asked several questions of County Attorney Kitchen about the legalities of setting employee benefit rates that exceed the actual costs and of releasing the working draft audit. He included questions to Manager Davis about the assessment.

For the record, Manager Davis clarified a previous statement pertaining to the miscommunication of the scope of the audit.

Chairman Reckhow asked the Manager to explain why the audit scope and objectives were unclear to the Task Team.

Manager Davis opined that miscommunication existed amongst the auditor, auditee, and the county manager.

Commissioner Cousin addressed questions to County Attorney Kitchen. He also commented on a portion of the assessment relevant to "The outcome of follow-through as reported by the County Manager in the June 7 report to the BOCC discussed the invalidity of general conclusions and misinterpretations of tax code in the audit report, but omitted several finds and recommendations that were in the audit report and the tax attorney's letter." Although in concurrence with the other Commissioners about the flawed audit process, Commissioner Cousin added that flaws continued with then county manager dismissing 11 of the 12 findings in the audit report while implementing the recommendations.

Commissioner Heron discussed Interim Manager Davis' qualifications for performing a departmental audit.

Manager Davis assured Commissioner Heron that despite his experiences and degrees, he is not qualified to perform audits.

In agreement with Commissioner Heron, Chairman Reckhow stated that the draft report released to the media was not final, as the audit was not discussed in an exit interview to ensure accuracy.

Commissioner Jacobs moved, seconded by Commissioner Heron, to consider the Audit complete.

The motion carried unanimously.

Chairman Reckhow directed Manager Davis to send "Thank You" letters to members of the Task Team and their supervisors or CEOs.

Closed Session

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to adjourn to closed session to instruct the staff concerning the position to be taken on the terms of possible acquisition of Preserve at Erwin Trace, PIN # 0801-03-12-7186, 247 S. Mangum Street owned by U-Haul Real Estate Company, and 306 S. Roxboro Street owned by Scarborough and Hargett Funeral Home, and to consider the competence, performance, or fitness of a public officer or employee pursuant to G.S. § 143-318.11(a)(5) & (6).

The motion carried unanimously.

Reconvene to Open Session

Chairman Reckhow announced that direction was given to staff in the Closed Session; no action was taken.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 11:40 p.m.

Respectfully submitted,

Vonda C. Sessoms
Deputy Clerk to the Board