

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

Monday, June 14, 2004

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 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**

- Commissioner Jacobs asked the County Manager to give a brief justification for the proposed tax increase in his recommended FY 2004-05 budget.
- Commissioner Jacobs added an item pertaining to the audit as it relates to transfers from the Cafeteria Plan to the General Fund and insurance premium overcharges.
- Vice-Chairman Bowser revised the agenda to add: “Public Hearing—Zoning Ordinance Text Amendment—Package Plants in Watershed Critical Areas (TC 04-02)”. (This item had been removed from the agenda several days prior to the meeting.)
- “Tax Revenues—Raleigh-Durham International Airport” was added by Vice-Chairman Bowser.
- Chairman Reckhow added “Communication to Our Legislators on Social Service and Education Cuts”.

**Minutes**

Commissioner Heron moved, seconded by Commissioner Cousin, to approve as submitted the May 24, 2004 BOCC/Durham Public Schools Board Joint Session and the May 24, 2004 Regular Session Minutes of the Board.

The motion carried unanimously.

**Resolution Honoring Mr. Anthony “Tony” Mulvihill**

Mr. Tony Mulvihill, who recently lost his battle with cancer, was a respected community leader and tireless advocate for persons needing substance abuse treatment. This resolution recognizes Mr. Mulvihill’s accomplishments and honors his memory.

Resource Person(s): Ellen Holliman, Interim Area Director, The Durham Center

County Manager’s Recommendation: The Manager recommended that the Board approve the resolution and present it to the family of Mr. Mulvihill.

Chairman Reckhow read the following resolution into the record:

RESOLUTION

WHEREAS, Anthony Dennis Michael “Tony” Mulvihill lost his valiantly fought battle with cancer on April 6, 2004 at Duke University Medical Center; and

WHEREAS, he spent a lifetime as a dedicated and tireless advocate for the treatment of persons suffering from drug and alcohol addictions; and

WHEREAS, for more than 33 years, Mr. Mulvihill served as Executive Director of the Alcohol and Drug Abuse Council of North Carolina and helped many thousands of people in finding treatment for their addictions; and

WHEREAS, Mr. Mulvihill loved the Durham community and worked hard to make it a better place in which to live and raise families; and

WHEREAS, because of his extraordinary efforts, families and individuals affected by substance addiction have realized an improved quality of life; and

WHEREAS, he will long be remembered for his boundless energy, his professional expertise, and for his unique insights into the complex world of substance abuse and addiction:

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

MR. ANTHONY MULVIHILL

a compassionate public servant who unselfishly gave his talents to improve the lives of others. We call upon citizens of Durham County to remember the numerous contributions he made in this community and beyond, and in the lives of those he touched during his extraordinary career.

This the 14th day of June, 2004.

/s/ Five Commissioners  
Durham County Commissioners

Ms. Holliman thanked the Commissioners for honoring the memory of Mr. Mulvihill, a long-standing advocate for the Area Program and for people with substance abuse issues. Mr. Mulvihill spearheaded the work on a report that the Board will receive within the next month. The Durham Center intends to move forward with improved and expanded substance abuse services, which are partially a result of his advocacy and efforts.

Chairman Reckhow remarked that Mr. Mulvihill was a passionate crusader for improved substance abuse treatment.

Mrs. Mulvihill received the resolution and thanked the Commissioners for their attention to her husband's work and his life.

Commissioner Heron stated that she knew Mr. Mulvihill as a professional, as well as a friend. "He was a wonderful individual who will be truly missed."

### **Consent Agenda**

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

- \*a. Budget Amendment No. 04BCC000075 (eliminate the budgeted transfer of \$400,000 from the Cafeteria to the General Fund; appropriate \$400,000 in additional property tax revenues in the General Fund);
- \*c. Order for Impact Fee Hearing (adopt the proposed order denying the appeal of Mr. Brian Ruff);
- \*d. To Set a Public Hearing to Close Flanders Street (SC03-13) (adopt the resolution and set the public hearing for June 28, 2004);
- \*e. To Set a Public Hearing to Close Hillview Drive (SC03-14) (adopt the resolution and set the public hearing for June 28, 2004);
- \*f. To Set a Public Hearing to Close Northwest Drive (SC03-15) (adopt the resolution and set the public hearing for June 28, 2004);
- \*g. To Set a Public Hearing to Close Opal Street (SC03-16) (adopt the resolution and set the public hearing for June 28, 2004);
- \*h. To Set a Public Hearing to Close Rondelay Drive (SC03-17) (adopt the resolution and set the public hearing for June 28, 2004);

- \*i. To Set a Public Hearing to Close Wenham Court (SC03-18) (adopt the resolution and set the public hearing for June 28, 2004);
- \*j. Board Appointments—The Durham Center Area Board (extend the current Area Board members’ terms to four years [July 2004 to July 2008]);
- k. Appointment—Downtown Durham Inc. (appoint Commissioner Jacobs to the Downtown Durham Inc. Board of Directors [term to end November 2004]);
- l. Sheriff’s Office—Purchase of Two Electronic Fingerprinting Systems—Live Scan (approve the exception to the formal bidding process to allow the Sheriff’s Office to “piggyback” on the City of Durham’s bid as allowed under state statute); and
- \*m. Living Wage Policy (adopt to require service contractors to pay a living wage).

The motion carried unanimously.

\*Documents related to these items follow:

Consent Agenda Item No. a. Budget Amendment No. 04BCC000075 (eliminate the budgeted transfer of \$400,000 from the Cafeteria to the General Fund; appropriate \$400,000 in additional property tax revenues in the General Fund).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
 FY 2003-04 Budget Ordinance  
 Amendment No. 04BCC000075

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

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Taxes	\$136,556,074	\$400,000	\$136,956,074
Other Financing Sources	\$ 15,548,041	(\$400,000)	\$ 15,148,041
<u>CAFETERIA PLAN</u>			
Other Financing Sources	\$ 7,867,222	(\$400,000)	\$ 7,467,222

Expenditures:

<u>Activity</u>			
<u>CAFETERIA PLAN</u>			
General Government	\$ 7,867,222	(\$400,000)	\$ 7,467,222

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

This the 14<sup>th</sup> day of June, 2004.

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

Consent Agenda Item No. c. Order for Impact Fee Hearing (adopt the proposed order denying the appeal of Mr. Brian Ruff).

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM  
In Re: Appeal of Brian Ruff

BEFORE THE BOARD OF  
COMMISSIONERS  
ORDER

THIS CAUSE coming on to be heard and being heard at the June 7, 2004 meeting of the Board of Commissioners for the County of Durham on petition of Brian Ruff for relief from paying the School Impact Fee which has been assessed. Mr. Brian Ruff was present and presented evidence to the Board.

AND IT APPEARING that a contractor for Brian Ruff, Tri-City Construction, obtained a building permit for a single-family house to be built at 2206 Elmwood Ave., Durham, NC on July 16, 2003, which permit expired after six months as no construction was started on the house. A second contractor, Vance Crabtree Builders, applied for and was issued a building permit to construct a house at the same location on April 27, 2004. A school impact fee was assessed on the second permit pursuant to the County's Impact Fee Ordinance.

AND IT FURTHER APPEARING that Brian Ruff lacks standing to file for an appeal of the imposition of the school impact fee in that Vance Crabtree Builders is the entity which received the building permit and is obligated to pay the fee. Brian Ruff has further failed to state any grounds which would justify a waiver of the fee.

IT IS THEREFORE ORDERED that the appeal of Brian Ruff pursuant to Section 7-36 of the Durham County Code from the imposition of a school impact fee is hereby denied.

This the 14<sup>th</sup> day of June, 2004.

/s/ Ellen Reckhow  
Chairman of the Board

Consent Agenda Item No. d. To Set a Public Hearing to Close Flanders Street (SC03-13) (adopt the resolution and set the public hearing for June 28, 2004).

RESOLUTION DECLARING THE INTENT OF THE DURHAM COUNTY BOARD OF COMMISSIONERS TO CONSIDER PERMANENTLY CLOSING A PORTION OF FLANDERS STREET (SC03-13) AND CALLING A PUBLIC HEARING THEREON

Whereas, the County Clerk of the County of Durham has received a petition to close 793.21 linear feet within the public right-of-way of Flanders Street.

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

1. The Board of Commissioners proposes to consider permanently closing 793.21 linear feet within the public right-of-way of Flanders Street.
2. A public hearing is hereby called on the question of permanently closing the street named in Paragraph 1 above. Said public hearing shall be on the 28<sup>th</sup> of June, 2004, at 7:00 p.m. in the Commissioner's Chamber, Durham, North Carolina.
3. The City-County Planning Department shall notify all owners of property adjoining the streets named in Paragraph 1 above as their interests may appear on the County Tax Records.
4. Notice of the closings and public hearing shall be prominently posted in at least two places along the streets named in Paragraph 1 above.
5. Any person may be heard at the public hearing on the question of whether or not the proposed closings would be detrimental to the public interest or to the property rights of any individual.
6. If it appears to the satisfaction of the Board of Commissioners after said public hearing that the closing of said streets is not contrary to the public interest, and that no property owner would thereby be deprived of reasonable means of ingress and egress to his property, the County Commissioners may adopt an Order permanently closing the streets named in Paragraph 1 above.

BE IT FURTHER RESOLVED that notice of such hearing shall be published in the Herald Sun once a week for two successive weeks, the first publication to be not less than ten days nor more than twenty-five days before the date fixed for the hearing.

This 14<sup>th</sup> day of June, 2004.

---

Consent Agenda Item No. e. To Set a Public Hearing to Close Hillview Drive (SC03-14) (adopt the resolution and set the public hearing for June 28, 2004).

RESOLUTION DECLARING THE INTENT OF THE DURHAM COUNTY BOARD OF COMMISSIONERS TO CONSIDER PERMANENTLY CLOSING A PORTION OF HILLVIEW DRIVE (SC03-14) AND CALLING A PUBLIC HEARING THEREON

Whereas, the County Clerk of the County of Durham has received a petition to close 538.63 linear feet within the public right-of-way of Hillview Drive.

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

1. The Board of Commissioners proposes to consider permanently closing 538.63 linear feet within the public right-of-way of Hillview Drive.
2. A public hearing is hereby called on the question of permanently closing the street named in Paragraph 1 above. Said public hearing shall be on the 28<sup>th</sup> of June, 2004, at 7:00 p.m. in the Commissioner's Chamber, Durham, North Carolina.
3. City-County Planning Department shall notify all owners of property adjoining the streets named in Paragraph 1 above as their interests may appear on the County Tax Records.
4. Notice of the closings and public hearing shall be prominently posted in at least two places along the streets named in Paragraph 1 above.
5. Any person may be heard at the public hearing on the question of whether or not the proposed closings would be detrimental to the public interest or to the property rights of any individual.
6. If it appears to the satisfaction of the Board of Commissioners after said public hearing that the closing of said streets is not contrary to the public interest, and that no property owner would thereby be deprived of reasonable means of ingress and egress to his property, the County Commissioners may adopt an Order permanently closing the streets named in Paragraph 1 above.

BE IT FURTHER RESOLVED that notice of such hearing shall be published in the Herald Sun once a week for two successive weeks, the first publication to be not less than ten days nor more than twenty-five days before the date fixed for the hearing.

This 14<sup>th</sup> day of June, 2004.

---

Consent Agenda Item No. f. To Set a Public Hearing to Close Northwest Drive (SC03-15) (adopt the resolution and set the public hearing for June 28, 2004).

RESOLUTION DECLARING THE INTENT OF THE DURHAM COUNTY BOARD OF COMMISSIONERS TO CONSIDER PERMANENTLY CLOSING A PORTION OF NORTHWEST DRIVE (SC03-15) AND CALLING A PUBLIC HEARING THEREON

Whereas, the County Clerk of the County of Durham has received a petition to close 1,987.87 linear feet within the public right-of-way of Northwest Drive.

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

1. The Board of Commissioners proposes to consider permanently closing 1,987.87 linear feet within the public right-of-way of Northwest Drive.
2. A public hearing is hereby called on the question of permanently closing the street named in Paragraph 1 above. Said public hearing shall be on the 28<sup>th</sup> of June, 2004, at 7:00 p.m. in the Commissioner's Chamber, Durham, North Carolina.
3. The City-County Planning Department shall notify all owners of property adjoining the streets named in Paragraph 1 above as their interests may appear on the County Tax Records.
4. Notice of the closings and public hearing shall be prominently posted in at least two places along the streets named in Paragraph 1 above.
5. Any person may be heard at the public hearing on the question of whether or not the proposed closings would be detrimental to the public interest or to the property rights of any individual.
6. If it appears to the satisfaction of the Board of Commissioners after said public hearing that the closing of said streets is not contrary to the public interest, and that no property owner would thereby be deprived of reasonable means of ingress and egress to his property, the County Commissioners may adopt an Order permanently closing the streets named in Paragraph 1 above.

BE IT FURTHER RESOLVED that notice of such hearing shall be published in the Herald Sun once a week for two successive weeks, the first publication to be not less than ten days nor more than twenty-five days before the date fixed for the hearing.

This 14<sup>th</sup> day of June, 2004.

---



Consent Agenda Item No. g. To Set a Public Hearing to Close Opal Street (SC03-16) (adopt the resolution and set the public hearing for June 28, 2004).

RESOLUTION DECLARING THE INTENT OF THE DURHAM COUNTY BOARD OF COMMISSIONERS TO CONSIDER PERMANENTLY CLOSING A PORTION OF OPAL STREET (SC03-16) AND CALLING A PUBLIC HEARING THEREON

Whereas, the County Clerk of the County of Durham has received a petition to close 418.61 linear feet within the public right-of-way of Opal Street.

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

1. The Board of Commissioners proposes to consider permanently closing 418.61 linear feet within the public right-of-way of Opal Street.
2. A public hearing is hereby called on the question of permanently closing the street named in Paragraph 1 above. Said public hearing shall be on the 28<sup>th</sup> of June, 2004, at 7:00 p.m. in the Commissioner's Chamber, Durham, North Carolina.
3. The City-County Planning Department shall notify all owners of property adjoining the streets named in Paragraph 1 above as their interests may appear on the County Tax Records.
4. Notice of the closings and public hearing shall be prominently posted in at least two places along the streets named in Paragraph 1 above.
5. Any person may be heard at the public hearing on the question of whether or not the proposed closings would be detrimental to the public interest or to the property rights of any individual.
6. If it appears to the satisfaction of the Board of Commissioners after said public hearing that the closing of said streets is not contrary to the public interest, and that no property owner would thereby be deprived of reasonable means of ingress and egress to his property, the County Commissioners may adopt an Order permanently closing the streets named in Paragraph 1 above.

BE IT FURTHER RESOLVED that notice of such hearing shall be published in the Herald Sun once a week for two successive weeks, the first publication to be not less than ten days nor more than twenty-five days before the date fixed for the hearing.

This 14<sup>th</sup> day of June, 2004.

---

Consent Agenda Item No. h. To Set a Public Hearing to Close Rondelay Drive (SC03-17) (adopt the resolution and set the public hearing for June 28, 2004).

RESOLUTION DECLARING THE INTENT OF THE DURHAM COUNTY BOARD OF COMMISSIONERS TO CONSIDER PERMANENTLY CLOSING A PORTION OF RONDELAY DRIVE (SC03-17) AND CALLING A PUBLIC HEARING THEREON

Whereas, the County Clerk of the County of Durham has received a petition to close 1,893.89 linear feet within the public right-of-way of Rondelay Drive.

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

1. The Board of Commissioners proposes to consider permanently closing 1,893.89 linear feet within the public right-of-way of Rondelay Drive.
2. A public hearing is hereby called on the question of permanently closing the street named in Paragraph 1 above. Said public hearing shall be on the 28<sup>th</sup> of June, 2004, at 7:00 p.m. in the Commissioner's Chamber, Durham, North Carolina.
3. The City-County Planning Department shall notify all owners of property adjoining the streets named in Paragraph 1 above as their interests may appear on the County Tax Records.
4. Notice of the closings and public hearing shall be prominently posted in at least two places along the streets named in Paragraph 1 above.
5. Any person may be heard at the public hearing on the question of whether or not the proposed closings would be detrimental to the public interest or to the property rights of any individual.
6. If it appears to the satisfaction of the Board of Commissioners after said public hearing that the closing of said streets is not contrary to the public interest, and that no property owner would thereby be deprived of reasonable means of ingress and egress to his property, the County Commissioners may adopt an Order permanently closing the streets named in Paragraph 1 above.

BE IT FURTHER RESOLVED that notice of such hearing shall be published in the Herald Sun once a week for two successive weeks, the first publication to be not less than ten days nor more than twenty-five days before the date fixed for the hearing.

This 14<sup>th</sup> day of June, 2004.

---

Consent Agenda Item No. i. To Set a Public Hearing to Close Wenham Court (SC03-18) (adopt the resolution and set the public hearing for June 28, 2004).

RESOLUTION DECLARING THE INTENT OF THE DURHAM COUNTY BOARD OF COMMISSIONERS TO CONSIDER PERMANENTLY CLOSING A PORTION OF WENHAM COURT (SC03-18) AND CALLING A PUBLIC HEARING THEREON

Whereas, the County Clerk of the County of Durham has received a petition to close 199.46 linear feet of Wenham Court.

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

1. The Board of Commissioners proposes to consider permanently closing 199.46 linear feet of Wenham Court.
2. A public hearing is hereby called on the question of permanently closing the street named in Paragraph 1 above. Said public hearing shall be on the 28<sup>th</sup> of June, 2004, at 7:00 p.m. in the Commissioner's Chamber, Durham, North Carolina.
3. The City-County Planning Department shall notify all owners of property adjoining the streets named in Paragraph 1 above as their interests may appear on the County Tax Records.
4. Notice of the closings and public hearing shall be prominently posted in at least two places along the streets named in Paragraph 1 above.
5. Any person may be heard at the public hearing on the question of whether or not the proposed closings would be detrimental to the public interest or to the property rights of any individual.
6. If it appears to the satisfaction of the Board of Commissioners after said public hearing that the closing of said streets is not contrary to the public interest, and that no property owner would thereby be deprived of reasonable means of ingress and egress to his property, the County Commissioners may adopt an Order permanently closing the streets named in Paragraph 1 above.

BE IT FURTHER RESOLVED that notice of such hearing shall be published in the Herald Sun once a week for two successive weeks, the first publication to be not less than ten days nor more than twenty-five days before the date fixed for the hearing.

This 14<sup>th</sup> day of June, 2004.

---

Consent Agenda Item No. j. Board Appointments—The Durham Center Area Board (extend the following Area Board members' terms to four years [July 2004 to July 2008]):

Doug Wright, Chair  
Phillip Golden  
George Quick  
Karen Crumbliss

Nancye Bryan, Vice Chair  
Colleen Kilsheimer  
Ellen Reckhow

Terrance McCabe  
Thomas Owens, MD  
Hugh Wright Jr.

---

Consent Agenda Item No. m. Living Wage Policy (adopt to require service contractors to pay a living wage).

RESOLUTION ADOPTING A POLICY ON PAYING A LIVING WAGE

WHEREAS, it is in the interest of the health and welfare of all citizens of the County of Durham that workers be paid a wage which enables them to live above the poverty level; and

WHEREAS, the County enters into many contracts with companies for provision of services to the county government; and

WHEREAS, the County has the authority to enter into contracts pursuant to G.S. §§ 153A-11 and 153A-13; and

WHEREAS, the Board of Commissioners has the authority to direct the provisions contained in the County's contracts pursuant to G.S. § 153A-12; and

WHEREAS, the County desires to ensure that its employees continue to live above the poverty level; and

WHEREAS, pursuant to G.S. § 153A-92, the Board of Commissioners has the obligation and authority to adopt general policies regarding the compensation to be paid to County employees.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DO TH RESOLVE:

1. Living Wage Policy.

It is the policy of the County of Durham that persons working full-time for the County be paid a living wage, including medical insurance.

2. Payment of Minimum Compensation to Employees.

- a. A minimum wage shall be paid to all full-time employees of the County at a rate of not less than seven and one-half percent (7.5%) above the Federal Poverty Guidelines, as defined by the Bureau of Census, for a family of four. This rate shall be determined by annualizing the hourly rate paid to full-time employees if such employees were working a forty-hour workweek.
- b. The County Manager shall calculate or cause to be calculated the minimum wage rate for employees on a yearly basis and shall make such adjustments in the County's pay plan to ensure the minimum wage rate as stated herein is paid to all full-time employees.
- c. This minimum wage rate to be paid by the County of Durham shall not apply to full-time or part-time volunteers, or others who are not paid a wage by the County.
- d. This minimum wage rate shall be applied to all contracts with temporary agencies for personnel.
- e. This minimum wage rate to be paid by the County of Durham shall not apply to full-time or part-time students who are working for the County in positions designed to further the students' education.

### 3. Service Contracts.

- a. Living Wage Definition. For purposes of service contracts, a living wage is defined to be a wage paid at an hourly rate of not less than seven and one-half percent (7.5%) above the Federal Poverty Guidelines, as defined by the Bureau of Census, for a family of four. This rate shall be determined by annualizing the hourly rate paid to employees if such employees were working a forty-hour workweek.
- b. The Living Wage Policy shall apply to all service contracts entered into by the County of Durham unless otherwise exempted by this resolution.
- c. The County Manager shall cause to be included in all service contracts to which this policy applies a provision requiring the contractor to pay to all employees performing services for the County a living wage. The provision shall additionally require that the contractor furnish a copy of the contractor's payroll on at least a quarterly basis showing the wages paid to the contractor's employees who perform work under the contract for the County's benefit.
- d. The following service contracts shall be exempted from the operation of this resolution:

- i. Contracts subject to Federal or State Laws or Grants which provide for a payment to the lowest bidder, provide for a particular rate of payment for services, or provide for payment by the unit of service.
  - ii. Contracts between the County and another unit of government.
  - iii. Contracts between the County and a non-profit corporation which is exempt from income tax pursuant to Section 501(c)(3) of the Internal Revenue Code.
  - iv. Any contract exempted by action of the County Manager when requested to do so by the Department Head of the department administering the contract when it is determined that compliance with this policy will result in the loss of an essential service to the County due to the refusal of the contractor to agree to pay the living wage or otherwise comply with the terms of this policy.
- e. The purchasing division of the Finance Department shall monitor the compliance by the contractors with the provisions of this policy.
- f. All contracts subject to this policy shall provide that the failure to comply with the living wage policy may, in addition to all other remedies for breach, result in being barred from receiving any other contract with the County for a period of up to three years.

4. Effective Date.

This policy shall be effective on and after July 1, 2004.

This the 14<sup>th</sup> day of June, 2004.

**Consent Agenda Items Removed for Discussion**

Consent Agenda Item No. b. Budget Ordinance Amendment No. 04BCC000076—State Grant for Mental Health—Housing for New Hope New Leaf Program and Duke Family Care Program (approve the appropriation of \$20,000).

Chairman Reckhow removed this item for citizen comment by Victoria Peterson.

Ms. Victoria Peterson, P.O. Box 101, Durham, NC, asked County Manager Ruffin how much money Duke is investing in the program, where the program is located, who is being helped, how many persons are being helped, and if the two programs plan to request funding from the County next year.

County Manager Ruffin stated that Ellen Holliman, Interim Area Director, would respond to the questions.

Ms. Holliman commented that the \$20,000 State appropriation (one-time pass-through dollars for equipment and approved purchases by the State) must be used specifically for these two programs, which receive State funding to provide services to women with substance abuse problems. Ms. Holliman would obtain additional answers to Ms. Peterson's questions and forward them to her, as well as to the Commissioners.

Commissioner Heron moved, seconded by Commissioner Jacobs, to approve Budget Ordinance Amendment No. 04BCC000076—State Grant for Mental Health—Housing for New Hope New Leaf Program and Duke Family Care Program (approve the appropriation of \$20,000).

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA  
FY 2003-04 Budget Ordinance  
Amendment No. 04BCC000076

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

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$299,843,419	\$20,000	\$299,863,419

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$358,819,124	\$20,000	\$358,839,124

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

This the 14<sup>th</sup> day of June, 2004.

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

Consent Agenda Item No. n. Resolutions in Support of Triangle Mobility Compact and High Occupancy Lanes along Interstate Highway 40 (approve both resolutions).

Commissioner Heron removed this item to obtain a better understanding of the Triangle Mobility Compact Resolution. She wanted to ascertain whether the resolution would encourage the transportation alliance group to move forward with creating additional revenue sources. In the last couple of years, \$240 million of our Highway Trust Fund has been transferred to the General Fund to balance the State budget. This money should have been dedicated for roads.

Chairman Reckhow assented to the Triangle Mobility Compact, which speaks to forging a broad consensus but does not identify revenue sources. The Long-Range Transportation Plan, approved by the Durham-Chapel Hill-Carrboro Advisory Committee, has an \$800 million gap. The Plan will not be sustainable without new revenue sources that can be obtained in a variety of ways. One way is to request that the State use gas tax revenue for transportation instead of moving it to the General Fund. This resolution merely commits the Board to work to identify additional revenue needed to enhance mobility. The Board will not be committed to any specific source of revenue. Any definite proposal must be presented to the County Commissioners.

Commissioners Cousin and Jacobs concurred that the resolution would commit the Board to identify local revenue sources, not designate the sources. Commissioner Jacobs asked County Attorney Kitchen to advise.

County Attorney Kitchen agreed with the comments by Commissioners Cousin and Jacobs.

Vice-Chairman Bowser inquired about the authority sanctioned by the resolution.

Chairman Reckhow responded that the resolution states a need and urges that a consensus be forged in concert with local county and state elected officials. The resolution was brought forward by a consortium involving the Chambers of Commerce, business leaders, and government officials across the Triangle.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the resolutions in support of Triangle mobility compact and high occupancy lanes along Interstate Highway 40.

The motion carried unanimously.

**RESOLUTION TO ENCOURAGE AND SUPPORT THE CONSTRUCTION OF  
EXPRESS HIGH OCCUPANCY LANES ALONG INTERSTATE 40 IN THE  
TRIANGLE AREA USING TOLL FINANCING OR OTHER MEANS**

WHEREAS, the Triangle region continues to receive many national accolades, including being among the best places to live, start a business, and raise a family, and



WHEREAS, our continued population growth – more than 70 percent between 1980 and 2000 compared to a 20 percent national growth rate – has created a tremendous and growing strain on the Triangle’s transportation system, and

WHEREAS, the region’s economic heart, the Greater Research Triangle Park area still has the potential to double in employment from 100,000 to 200,000 employees by build out, and

WHEREAS, significant growth in jobs and enrollment is anticipate at the region’s colleges and universities – including an additional 20,000 at Carolina North at the University of North Carolina at Chapel Hill, and an additional 30,000 at NC State University’s Centennial Campus, and

WHEREAS, the triangle continues to struggle with increasing congestion and air quality concerns, and

WHEREAS, federal transportation funding to North Carolina has not increased adequately to meet the need for expanded roadways, transit, bicycle and pedestrian facilities, and

WHEREAS, the ability of North Carolina’s Highway Fund – and indeed the Highway Trust Fund, passed in 1989 – to serve as a statewide funding source for all needs is being steadily eroded by ever increasing statewide demands, and

WHEREAS, the business community, elected officials, and community leaders possess a shared commitment for the region’s continued prosperity and high quality of life, and

WHEREAS, a continued effort to forge a consensus on the need for additional revenues and institutional frameworks to improve mobility has been sustained by members of the Regional Transportation Alliance – a partnership of 15 chambers of commerce – in concert with local, county and state elected officials, and

WHEREAS, a 2000 study commissioned by the mayors of Raleigh, Durham, Chapel Hill, and Cary identified a series of multimodal transportation components – such as new express lanes along congested freeway corridors – that would help to maintain mobility and travel options throughout our urban region,

BE IT THEREFORE RESOLVED, that the undersigned members of the Triangle’s business, government, and community organizations are committed to implementing express high occupancy free-flow lanes along Interstate 40 in Orange, Durham, and Wake Counties, (with the western Triangle being the higher priority), in order to encourage carpooling and transit ridership and create an effective alternative for users during peak travel conditions.

BE IT FURTHER RESOLVED that the undersigned members of the Triangle’s business, government, and community organizations encourage the consideration of free-flow

electronic tolling that would enhance the mobility of travelers while providing an additional source of revenue to accelerate the construction and maintenance of the express high-occupancy corridor.

### THE TRIANGLE MOBILITY COMPACT

A multimodal transportation agreement for the Raleigh-Durham-Chapel Hill area best places to live, start a business, and raise a family; and

WHEREAS, our continued population growth – more than 70 percent between 1980 and 2000 compared to a 20 percent national growth rate – has created a tremendous and growing strain on the Triangle’s transportation system; and

WHEREAS, the region’s economic heart, the Greater Research Triangle Park area still has the potential to double in employment from 100,000 to 200,000 employees by build out; and

WHEREAS, significant growth in jobs and enrollment is anticipated at the region’s colleges and universities – including an additional 20,000 at Carolina North at the University of North Carolina at Chapel Hill, and an additional 30,000 at NC State University’s Centennial Campus; and

WHEREAS, the triangle continues to struggle with increasing congestion and air quality concerns; and

WHEREAS, federal transportation funding to North Carolina has not increased adequately to meet the need for expanded roadways, transit, bicycle and pedestrian facilities; and

WHEREAS, the ability of North Carolina’s Highway Fund – and indeed the Highway Trust Fund, passed in 1989 – to serve as a statewide funding source for all needs is being steadily eroded by ever increasing statewide demands; and

WHEREAS, a 2000 study commissioned by the mayors of Raleigh, Durham, Chapel Hill, and Cary identified an estimated \$8 billion shortfall in state and federal revenues to meet future mobility needs; and

WHEREAS, that study identified a series of multimodal transportation components – such as new highways, pedestrian and bicycle facilities, regional rail service, municipal and regional bus service, and express lanes along congested freeway corridors – that would help to maintain mobility and travel options throughout our urban region and improve air quality; and

WHEREAS, the business community, elected officials, and community leaders possess a shared commitment for the region’s continued prosperity and high quality of life; and

WHEREAS, any effort to protect and improve mobility requires a comprehensive and broad-based strategy, including cooperation with the state Blue Ribbon Commission for Urban Mobility needs and other venues that provide opportunities to address growing congestion; and

WHEREAS, a continued effort to forge a consensus on the need for additional revenues and institutional frameworks to improve mobility has been sustained by members of the Regional Transportation Alliance - a partnership of 15 chambers of commerce – in concert with local, county, and state elected officials:

BE IT THEREFORE RESOLVED, that the undersigned members of the Triangle's business, government, and community organizations are committed to working together in order to identify the local revenue sources needed to help the Triangle and other metropolitan regions in North Carolina gain more control over our regional mobility future.

#### **Public Hearing on the 2004-05 Recommended Budget**

The Board of County Commissioners conducted a public hearing to receive citizen input on the FY 2004-2005 recommended budget. To allow comments from all interested citizens, Chairman Reckhow set a time limit of three minutes for each speaker.

County Manager's Recommendation: The Manager recommended that the Board receive input from speakers and incorporate in the deliberations prior to finalization of next fiscal year's budget.

As requested by Commissioner Jacobs, Chairman Reckhow asked the County Manager to give a brief overview of the highlights in the budget and the rationale for the recommended 3-cent tax increase.

County Manager Mike Ruffin stated the following reasons for the proposed 3-cent property tax increase:

1. 1.61 cents for additional debt service anticipated to be incurred largely as a result of voter-approved debt that has been issued;
2. 1 cent to fund \$2 million of the proposed \$4.25 million increase for Durham Public Schools; and
3. .39 cent for pent-up demand for needed services due to three years of State-imposed reductions, which have forced substantial financial restraints.

Mr. Ruffin highlighted the following areas that received major funding considerations:

- Capital Improvement Program—several projects are planned for next year (to continue land acquisition for the new courthouse, to pay for the first installment on the Head Start Facility for Operation Breakthrough, and to continue Open Space Land Acquisition)

- Employees
  - Pay-for Performance Increases for 1800 employees (3.25 or 4.25%)
  - Longevity Pay Program (\$500,000)
  - 5% across-the-board increase for all sworn law enforcement personnel and detention officers beginning October 1 (\$542,000)
  - Additional funds to assist with benefits
  - 297 retirees in the life insurance program, 222 receiving health insurance benefits (\$940,000)
- Nonprofits (\$900,000)

Chairman Reckhow called the following signed speakers forward:

Ms. Kimberly Willis, 220 Monmouth Avenue, Durham, NC 27701, Chairman of the Durham County Animal Control Advisory Committee, requested two additional officers to provide evening and weekend coverage.

Ms. Kimberly O'Neil, 2667 Hitchcock Drive, Durham, NC 27705, Animal Control Advisory Committee member, also requested two additional officers for Animal Control.

Ms. Margaret Gwynn, 2707 Little River Drive, Hillsborough, NC 27278, requested funding for New Home and Durham Missionary Baptist Association—Youth Development Program.

Ms. Victoria Peterson, PO Box 101, Durham, NC, voiced concern about the County building a \$68 million courthouse. She expressed her opinion that the County is not receiving its fair share of revenue generated in the judicial system.

Dr. E. Lavonia Allison, PO Box 428, Durham, NC 27702, voiced opposition to the proposed tax increase because citizens have not been enlightened on the priorities.

Ms. Elsa Wood, 24 Glenmore Drive, Durham, NC 27707, Chairman, Durham Public Library Board of Trustees and member of the Executive Committee of the Friends of the Library, asked the Board to fund the following Library Board priorities: (1) Hispanic Services Coordinator; (2) Library staff custodial position; (3) Increase part-time IT technician to full-time; and (4) Security personnel.

Mr. Willis P. Whichard, 84402 Winslow Court, Chapel Hill, NC 27517, President, Durham Library Foundation, requested that the Commissioners support County funding for the Library's top priorities, specifically the Hispanic Services Coordinator.

Ms. Celedonia Lopez, 2804 C Bainbridge Drive, Durham, NC 27713, supported funding for the Library's Hispanic Services Coordinator.

Mr. Rodrigo Dorfman, 2303 West Knox Street, Durham, NC 27701, also supported County funding for the Hispanic Services Coordinator.

Reverend Rodney Green, 1014 Carrol Street, Durham, NC 27707, requested funding for the “Changing-a-Generation Outreach Ministry.”

Ms. Ruth Powell, 4600 University Drive #303, Durham, NC 27707, spokesperson for Durham Public Schools’ bus drivers, asked the Commissioners to request that DPS give the drivers a raise.

Ms. Judy Johnson, Durham, NC, echoed the comments made by Ms. Powell.

Mr. Burly Page, 2405 Otis Street, Durham, NC 27707, expressed his opinion that the proposed tax increase would be burdensome to Durham County citizens.

Laura Bates, 1104 Lady Banks Drive, Durham, NC 27703, supported funding the Hispanic Services Coordinator for the Library.

Chairman Reckhow spoke to various citizen comments by stating that:

- the Board plans to discuss the Library staff custodial position at tomorrow’s worksession and plans to upgrade;
- County Manager Ruffin will make a request to the Schools regarding Dr. Allison’s appeal for information pertaining to cuts in the proposed Schools’ budget. (Citizens inquired about a number of items at the Joint BOCC/DPS Board meeting in May. Chairman Reckhow directed County Manager Ruffin to send Dr. Allison a copy of the responses.)
- Bus driver salaries are a significant issue and should be discussed with the DPS Board. (The Commissioners must work with the school board this upcoming fiscal year on the concept of a living wage). Chairman Reckhow asked Ms. Powell and Ms. Johnson to provide contact information to the Clerk so they can be contacted on the status of their requests.
- School impact fees were levied last fall, but the County was quickly sued and is in litigation; therefore, the funds were set aside in a special escrow account. Staff has estimated that the County would have been able to save about .25 cent on the tax rate increase if these funds could have been utilized.

Vice-Chairman Bowser asked Mr. Ruffin to obtain information about bus drivers’ salaries (whether an increase is proposed and, if so, the amount of the increase). He encouraged the bus drivers to request an increase greater than the living wage so they will be paid a fair hourly wage for their work.

Commissioner Cousin requested that the DPS Board provide a timetable as to when its budget will be finalized. At that time, the Commissioners can meet with the School Board to be apprised of its cuts and adjustments.

County Manager Ruffin spoke to a question raised by Mr. Page. A portion of the additional debt service is related to American Tobacco (approximately \$400,000). In two years, it will generate an income for the County.

Chairman Reckhow added that after two years, as the project builds out, a high tax value and the income from parking will generate enough to pay for the debt service.

County Manager Ruffin addressed Ms. Peterson's comments about the new courthouse, a multi-year project in the County's CIP. Funds are currently appropriated by the Board for land acquisition and part of the design work. The architectural firm is employed and under contract for the design work, which has not yet begun because the site has not been secured. The County is currently in negotiations for land, which is expected to take place during the upcoming fiscal year. Once the land negotiations are firmed up, the architectural work will begin, leading to construction beginning in about two years.

Regarding revenues generated by court cases, County Attorney Kitchen stated that as a requirement of the constitution, funds from fines must be given to the schools. The County, law enforcement, and the State receive fees collected in association with civil and criminal court cases.

Chairman Reckhow directed Mr. Kitchen to find out what percentage of revenue collected in the courthouse is allocated to Durham County.

Chairman Reckhow thanked persons who participated in the public hearing.

**Public Hearing—Zoning Ordinance Text Amendment—Common Signage Plans in the Mixed-Use and Downtown Design Overlay Districts (TC 04-01)**

In developing the UDO, concern was raised that existing requirements for common signage plans were too restrictive for Downtown and mixed-use projects, where greater variety in signage could stimulate visual interest. Accordingly, the UDO draft permits the DDRT to approve variations in all elements of a common signage plan. Design considerations may include compatibility with historic character, relation to architectural proportions, views, durability, and conformance with the design guidelines for downtown. This Amendment incorporates those changes in the Zoning Ordinance. The Zoning Committee of the Durham Planning Commission reviewed the Amendment and voted to recommend Approval (6-0) at its April 14, 2004 meeting. The Durham City Council voted to approve (7-0) the amendment at its May 17, 2004 meeting.

Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

County Manager's Recommendation: The Manager recommended that the Board hold a public hearing and, if appropriate, adopt the amendment to the Zoning Ordinance.

Mr. Duke presented additional information pertaining to the text amendment. He stated that the Zoning Ordinance establishes the elements of common signage plans to ensure

uniformity. The proposed zoning text amendment permits the Durham Design Review Team (DDRT) to recommend additional variations in common signage plans in the Downtown Design Overlay District and the Mixed Use (MU) District. The draft amendment is intended to facilitate the design of varied and interesting signage in keeping with the organic and eclectic character of downtown or mixed-use development. Uniform signage, as required by the current sign ordinance provisions, may be appropriate for suburban shopping centers but is not in keeping with the downtown architecture and streetscape that the Downtown Durham Master Plan envisions or in mixed-use development.

Commissioner Heron inquired whether this amendment would affect Ninth Street.

Mr. Duke responded that Ninth Street is not part of the Downtown Design Overlay District; it is not required to have a common signage plan given that it is not a single development.

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 to the Board.

Commissioner Heron moved, seconded by Commissioner Cousin, to adopt Zoning Ordinance Text Amendment—Common Signage Plans in the Mixed-Use and Downtown Design Overlay Districts (TC 04-01).

The motion carried unanimously.

AN ORDINANCE AMENDING THE DURHAM ZONING ORDINANCE TO AMEND  
STANDARDS FOR COMMON SIGNAGE PLANS IN THE MIXED USE AND  
DOWNTOWN DESIGN OVERLAY DISTRICTS

WHEREAS, the Durham County Board of Commissioners wishes to amend the Durham Zoning Ordinance, and

WHEREAS, uniform signage may be appropriate for suburban shopping centers but is not in keeping with the downtown architecture and streetscape or in mixed-use development, and

WHEREAS, the Durham County Board of Commissioners wishes to facilitate the design of varied and interesting signage in keeping with the organic and eclectic character of downtown or mixed-use development.

THEREFORE, be it ordained:

SECTION 1

That Section 4B.2.12 [Signs] be revised to read as follows:

An approved common signage plan as specified elsewhere in this ordinance shall be required for the entire mixed-use zoning district prior to the issuance of any sign permits. Sign size limits for nonresidential zones (excluding the CBD District) shall apply to the Mixed Use District. The DDRT may recommend varying any or all elements of a common signage plan pursuant to Section 12.6.1 on a case-by-case basis.

## SECTION 2

That Section 5.4.12 [Signs] be revised to read as follows:

The limited setbacks and pedestrian oriented nature of the Overlay District generally eliminates the need for freestanding business signs. In the overlay, signs should be placed on or attached to buildings. Low stature freestanding business signs and menu and sandwich board signs, whose surface area does not exceed 15 square feet and which are pedestrian scaled, may be allowed in the Overlay District subject to review and approval by the DDRT. The DDRT may recommend varying any or all elements of a common signage plan pursuant to Section 12.6.1 on a case-by-case basis. Informational, traffic and directional, and other governmental freestanding signs are allowed in accordance with Section 12.

## SECTION 3

That Section 12.6.1 [Common Signage Plan] be revised to read as follows:

Prior to issuance of any sign permit in a development containing several buildings or businesses, a common signage plan for the development shall be approved and filed with the Inspections Department. Signage plans for developments containing 20,000 square feet or less of floor area may be approved by the Inspections Department. Signage plans for developments of 20,000 square feet of floor area or greater shall be approved by Development Review Board. In the case of any conflict between the signage plan and the zoning ordinance, the ordinance shall apply.

Drawings, sketches, and or photographs shall be submitted and kept on file to demonstrate the common signage plan.

The common signage plan shall consist of 5 elements:

- A. *Location*: identification of sign locations on buildings or property.
- B. *Materials*: description of the type of sign and sign materials including construction materials and proposed lighting if any.
- C. *Size*: itemization of sign size or band area at identified locations.
- D. *Letter style*: description of dominant letter style and letter height to be used on the signs.
- E. *Color*: listing of the colors to be used on each sign. A maximum of 3 colors are allowed in a single common plan. Any neon lighting for building signage must be matched to an approved color specified on the signage plan in order to be included as a part of the color scheme.



Where more than one sign is located on a property, or where more than one building or business is located in a single development project, such as a shopping center, the common signage plan will demonstrate that these elements create consistency and uniformity among signs within the project. The approving authority may allow modifications to the lettering style to accommodate state and federally registered trademarks (logos) if the approving authority feels that the intent of the common signage plan requirements will be maintained. In allowing the modifications, the approving authority may limit the logo size. The requirements of a common signage plan shall apply to all businesses within a related project, even if the properties have been subdivided. Within the Mixed Use or Downtown Design Overlay Districts, the DDRT may recommend varying any or all elements of a common signage plan on a case-by-case basis.

Revisions or amendments to the common signage plan shall require documentation from all tenants on the property prior to approval. Signs erected after September 1, 1989 and subsequently made nonconforming because of an amendment to a common signage plan, shall be brought into compliance with the amended plan within 6 months of approval of the amended plan.

Minor alterations in sign locations resulting from unexpected conditions on site may be approved by the Inspections Director or the Director's designated representative.

#### SECTION 4

That the Zoning Ordinance may be renumbered where necessary to accommodate these changes.

#### SECTION 5

That this ordinance becomes effective upon adoption.

#### **Sheriff's Office—Gang Activity Presentation**

Locally, Durham has over 3,000 confirmed gang members and countless local gangs and gang members are unaccounted. Statistically, local gangs are engaged in 84% of the drug trafficking and violent crimes. Although gang-related crimes are not as prevalent at this time in the unincorporated areas of Durham County as they are within City limits, they do heavily affect the safety in our schools and our detention facility. It is not against the law to belong to a gang. It is against the law to commit a crime, and this gang-related violence has dramatically increased over the past few years.

Intelligence and education are the community and law enforcement's strongest weapon against gang activity. People are needed to gather intelligence and educate the public. Through a partnership between the Sheriff's Office and Durham Police Department, an intelligence software package has been purchased and is being implemented. Currently, the Sheriff's Office has no dedicated resources to respond to this community crisis. The

department is asking the Commissioners to evaluate this priority in the Durham Community.

Resource Person(s): C.W. Crabtree, Lt. Don Ladd, Deputy Dodson

County Manager's Recommendation: The Manager's recommendation was that the Board receive the presentation and provide direction as appropriate.

Deputy Chief Crabtree introduced Lt. Ladd to address the extent of the gang problem, situations that cause gang involvement, and the impact of gang activity in Durham.

Lt. Ladd gave the following presentation:

What is a gang?

- A group of three or more persons
- With a common sign, name, and/or symbol
- Are engaged in criminal activity as an individual or collectively

Why do youths join a gang?

- |                  |                        |            |              |
|------------------|------------------------|------------|--------------|
| • Identification | Protection             | Fellowship | Intimidation |
| • Self-Esteem    | Love                   | Belonging  | Respect      |
| • Recognition    | Brotherhood/Sisterhood |            |              |

Facts: According to the FBI,

- 400,000 youths are gang members
- 95% of all large- and medium-sized counties (Durham is considered medium) have gangs involved in turf wars
- Gang violence has grown rapidly in the past 5 years

It is estimated that more than 24,500 gangs (not members) are active in the U.S.

- 43%--Hispanic
- 37%--African-American
- 13%--White
- 7%--Asian

Gangs and Drugs Nationwide

- Hispanic gangs—engage in drug trafficking 80.6% of the time
- Hate groups (Skin Heads, Aryan Brotherhood)—engage in drug trafficking 29.4% of the time
- Motorcycle gangs—engage in drug trafficking 86.1% of the time
- Rural and urban gangs (Crips, Bloods, Folk)—engage in drug trafficking 96.7% of the time

Gangs and Violent Crimes Nationwide

- Hispanic gangs—83.9% commit violent crimes

- Hate groups—58.8% commit violent crimes
- Motorcycle gangs—61.6% commit violent crimes
- Rural and urban gangs—76.7% commit violent crimes

In 2003, gang members were reportedly responsible for an estimated 2,364 homicides in the nation.

#### Juvenile Gang Statistics Nationwide

- 47% of the students report gangs in their schools
- Juveniles in gangs have nearly tripled from 55% to 78% in an 8-year span
- 50% of gang members are under the age of 18
- In U.S. cities with population over 200,000—91% report having a gang problem that has spread from the streets into areas traditionally considered safe havens, such as schools.

#### Gangs in Durham

- |                                  |                                     |
|----------------------------------|-------------------------------------|
| • Crip                           | Blood                               |
| • BGD (Black Gangster Disciple)  | BCS (Bull City Skins                |
| • 1% (motorcycle gangs)          | 5% (jail- or prison-based gang)     |
| • IGD (Insane Gangster Disciple) | GD (Gangster Disciple)              |
| • NDC (North Durham Crew)        | Hot Boys                            |
| • Green St. Boys                 | Maple St. Posse                     |
| • SUR 13 (Southern 13)           | NOR 14 (Northern 14)                |
| • Wall Town Boys                 | EDC (East Durham Crip, Crew, Click) |
| • Dark Blade                     | Latin Kings                         |
| • MS 13                          | BPL (Brown Pride Loco)              |
| • Kirwood Posse                  | Vice Lords                          |

In fall 2003 at the N.C. Gang Assn. Conference, John Philips, Gang D.A. for Durham, stated, “There are over 3,000 gang members in Durham.”

#### Gang involvement in Durham—Homicides

- 42% of the homicides were gang related, either by victim or suspect
- 19 confirmed or suspected gang members were involved in the homicides
- 60% of the suspects were confirmed gang members in Durham

#### In Durham Public Schools

- 2002-2003—193 gang-related incidents
- 2003-2004—1<sup>st</sup> semester—132 gang-related incidents (66% fights, 24% drugs, 10% weapons)

#### Sheriff’s Office Involvement with Gang Activity

- Responsible for maintaining Gang Intelligence Files
- 20% of the traffic stops made by Deputies are gang-related

- 60% of the arrests made by the Sheriff's Office Narcotic Unit are gang-related
- 48% of the time, during school, S.R.O.s deal with gang-related incidents
- 42% of the fights in the courthouse are gang-related
- 62% of juveniles visited at home by juvenile probation officers are gang members or affiliated with gangs

The Department of Correction of North Carolina manages 152,477 persons, as of January 16, 2004.

- Out of 33,974 inmates, 76% are gang members or suspected members
- Out of 116,157 probationers, 69% are gang members or suspected members
- Out of 2,346 parolees, 71% are gang members or suspected members

How do we combat the gangs in Durham County?

Information from the F.B.I.—“Intelligence is the law enforcement officer's number one weapon against a gang. Intelligence gathering must be an ongoing prerequisite for all members of the department. Many times the patrol officer, working the same beat or sector day by day, is the frontline for this intelligence...”

Why expand the Office of the Sheriff's role in combating gang activity?

- To expand community awareness training and partnerships to deter juvenile gang involvement
- To expand gang investigations for county residents and the Durham Public Schools system
- For gang training in the Sheriff's Office Academy or Detention Officer's Academy
- To expand formalized gathering of gang information
- To expand formalized dissemination of information to the Deputies
- To expand formalized dissemination of information from or to the Detention Center about gang members or activity

Lt. Ladd concluded his presentation by stating that criminal gang activity affects each citizen of Durham County, regardless of race, sex, and social or economic position.

Chief Deputy Crabtree expounded on particular data presented by Lt Ladd. The Sheriff's Department would be capable of doing more to address the increasing gang problem with adequate resources. The four additional sworn law enforcement officers requested to gather intelligence and enter information into a gang database (jointly owned by the County and City with State capabilities [the State paid for the hardware]) had been removed from the budget.

Chairman Reckhow reported that the six new positions requested by the Sheriff's Office primarily due to the gang issue in the Detention Center would be discussed at tomorrow's worksession.

Commissioner Cousin asked for clarity regarding the number of new positions requested in the Sheriff's budget for the gang-related problem. He anticipated discussing this further at tomorrow's meeting.

Vice-Chairman Bowser stated that the Board should attempt to reduce the gang activity in the school system and in the jail. He asked his colleagues to support the request for at least three additional officers.

Chief Deputy Crabtree informed the Commissioners that the gang problem is currently addressed on a part-time basis. With additional officers, information from the database could be disseminated to the jail, to law enforcement officers, the City, and the State.

Commissioner Heron asked questions. Chief Deputy Crabtree made the following responses:

- Where are most of the gangs located? Within the City limits.
- How many units does Chief Chalmers have working on the gang issue? About a dozen a few months ago; however, the number has increased.
- What is the working relationship between the Sheriff and the City Police as it relates to gangs? The County and City will share information in the Internet-based system jointly owned by the two entities. The system has the potential of being a statewide information system.
- How do you communicate with the Schools and the Police regarding gang members in the schools? It has been accomplished on an individual basis by word of mouth but will now be achieved with the new system.
- How many schools have Sheriff's officers? Five out of six high schools; nine out of twelve middle schools. Some schools have two officers, some have one, for a total of 22.
- Is two percent of the jail population involved in gangs? Only two percent are identified.
- Will additional Detention Officers in the jail allow for additional training? No, because most officers will be replacing lost positions and will be dedicated strictly to security.
- Is there a way to do in-service training? The Sheriff's Office does in-service training on a restricted basis because of limited staff.

Commissioner Heron desired that the Schools, City Police, and the Sheriff's Department work together to make a difference in this community-wide problem.

Commissioner Jacobs mentioned that she read recently that gang members are migrating from urban to rural areas. She asked questions; Chief Deputy Crabtree gave the following responses:

- How many officers were requested in the FY 04-05 budget? Twenty Detention Officers were requested. Ten were approved by the Board. The four gang-related officers that were requested in the Sheriff's budget were not included in the County Manager's recommended budget.

- Where would the four officers be stationed? These officers would be liaisons between the Schools, City Police, and the Sheriff's Department, gathering associated information to provide gang members' names, addresses, affiliations, etc.
- Are the gang members prosecuted? Durham County has an Assistant District Attorney, John Philips, whose sole responsibility is gang-related crimes.

Commissioner Jacobs, alarmed at the amount of gang activity in Durham, especially in the school system, expressed concern about the children. She thanked Chief Deputy Crabtree for the information.

Vice-Chairman Bowser recommended that the County Manager consider not filling management positions that have been vacant for an extended period and using the lapsed salaries to fund the four positions. He directed the County Manager to provide statistics about his recommendation.

Chairman Reckhow emphasized that much is provided through the Sheriff's Office for school security (\$800,000 – \$900,000 per year). Durham Public Schools was one of the first systems in the state to implement the School Resource Officer program. There are currently two dedicated truancy officers. (Truancy is a definite precursor to gang involvement.) The Board will work to enhance that activity and work towards keeping youngsters in school; thus, they will have no opportunities to become gang-involved. She expressed appreciation for the excellent presentation.

Ms. Victoria Peterson, P.O. Box 101, Durham, NC, questioned the accuracy of the information presented by Lt. Ladd. She commented that Durham has no gang problem but a crime problem among African Americans. Ms. Peterson challenged the black and white communities to unite and attend to this problem.

Vice-Chairman Bowser stated that he is a member of the Criminal Justice Partnership Advisory Board that is committed to curbing crime and poverty in Durham County.

**Public Hearing—Zoning Ordinance Text Amendment—Package Plants in Watershed Critical Areas (TC 04-02)**

The Zoning Ordinance prohibits the extension of sewer lines and the location of sewer facilities into watershed critical areas. The proposed zoning text amendment permits the location of sewer facilities and/or the extension of sewer lines into such areas to serve developments designed consistent with the principles of a Conservation Subdivision subject to the issuance of a major special use permit and establishes conditions for the issuance of such a permit. The Zoning Committee of the Durham Planning Commission recommended approval (5 – 2) at its May 11, 2004 meeting.

Resource Person(s): Frank M. Duke, AICP, City-County Planning Director

County Manager's Recommendation: The Manager recommended that the Board hold a public hearing and, if appropriate, adopt the amendment to the zoning ordinance.

Vice-Chairman Bowser added this item to the agenda, stating that the item had been removed from the agenda several days ago due to concerns of Commissioners Cousin and Heron. He commented that two Commissioners should not have the authority to defer an item. Vice-Chairman Bowser expressed that, in fairness to the petitioner, the item should not have been removed. Any decisions regarding this text amendment must be made by the Board as a whole, in conjunction with the petitioner.

Chairman Reckhow stated that she had agreed with Commissioners Cousin and Heron about delaying this item, which has been referred to the State since Durham County has no local technical expertise regarding the plants (licensed by the State). She explained that the amendment is associated with the Unified Development Ordinance; however, several months ago Vice-Chairman Bowser made a request to sever the amendment from the UDO and expedite discussion and possible approval.

Vice-Chairman Bowser wanted to know who requested that the ordinance amendment be referred to the State.

Chairman Reckhow responded that Commissioner Heron made the suggestion, which was supported by Commissioner Cousin.

Commissioner Heron expanded on the discussion, stating that the item was referred to the State Department of Environment and Natural Resources, Division of Water Quality.

County Attorney Kitchen explained that Durham County's watershed protection program has been approved by the State. Any amendment adopted by the Board must be forwarded to the State for approval. In this particular instance, a request had been made that the Board determine, in advance, whether the State would approve the amendment if it were adopted by the Commissioners.

Mr. Duke informed the Board that Planning staff sought and received input from the State on the draft ordinance amendment.

Vice-Chairman Bowser recommended that the Board move on this item at tonight's meeting or at the June 28 Regular Session. He emphasized that the State has approved Chatham County's treatment plant and could not understand why the Commissioners were having concerns with this item.

Commissioner Heron stated that she would not approve this item as presented at tonight's meeting. Approval would allow Jordan, Lake Mickie, Eno, and Falls watersheds to be exposed to wastewater treatment/package plants. Over the past years, the Board has endeavored to protect Durham County's watersheds from further degradation to water quality.

Mr. Duke responded to a question by Vice-Chairman Bowser by stating that the ordinance language has no impact on Lake Mickie or Eno watersheds; it only applies to the Falls/Jordon critical area. Planning staff coordinated very closely with the Environmental Affairs Board on the proposed language, discussed the regulations that affect other North Carolina jurisdictions with similar provisions, and solicited input from the State. Mr. Duke opined that this amendment contains restrictions that are, in many respects, more limiting than the provisions in surrounding jurisdictions.

Chairman Reckhow suggested that Planning staff insert language to specify a non-discharge system that meets North Carolina reuse standards. She also recommended that the public hearing be opened, yet deferred until the June 28 meeting to allow time to obtain the State's input and allow Planning to prepare the revised ordinance language.

Commissioner Jacobs questioned why the public hearing would not be held, as no decision had to be made at this meeting. She consented to support Chairman Reckhow's recommendation.

Vice-Chairman Bowser stated that since his tenure as a County Commissioner, he has been environmentally sensitive and has taken all possible measures to protect Durham's drinking water. The Board should move forward on this particular project since all protective measures are in place. Furthermore, the Commissioners in Chatham County would not have approved their plant if contamination of Jordan Lake had been possible. The County is not financially responsible for infrastructure associated with the development and homes will be provided for executives, particularly those in RTP. Vice-Chairman Bowser concurred to amending the language if the item will be placed on the June 28 agenda.

Commissioner Heron emphasized her concern with the amendment. She would consider approving the text amendment only if airtight protective measures are included to safeguard the homeowners from ultimately becoming responsible for the plants.

Chairman Reckhow opened the public hearing and continued it until June 28. She directed staff to consider the suggested wording to provide greater specificity to the types of plants allowed.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to continue the public hearing on the "Zoning Ordinance Text Amendment—Package Plants in Watershed Critical Areas" to June 28 to allow staff to include the suggested language.

The motion carried unanimously.



### **Major Site Plan—Hamlin Road Bus Parking (D04-085)**

Coulter Jewell Thames, P.A., on behalf of Durham County and Durham Public Schools, has submitted a site plan for a school bus parking lot with 68 parking spaces and a 1,344-square-foot office trailer to be added along with an existing building and parking lots on a 10.61-acre site. The proposed project will be located at the northwest corner of Hamlin Road and Industrial Drive and be accessed by two existing driveway entrances off Hamlin Road and a new driveway entrance off Industrial Lane. Street Atlas Page 43, Block B-2. PIN 0843-01-29-5738.

The site plan was denied by the Development Review Board due to the absence of a turn lane into the bus parking lot. The County is confronted with legal constraints that prohibit its ability to construct and pay for road improvements. A copy of General Statute 136-98 was included in the attachments. Approval of the site plan in its present configuration would allow staff to move forward with construction of the North Regional Library.

Resource Person(s): Frank M. Duke, AICP, Planning Director

County Manager's Recommendation: The Manager's recommendation was that the Board approve the site plan.

Mr. Duke informed the Board that staff and the Development Review Board had recommended denial of the site plan because technical Ordinance requirements are not being met due to the absence of provisions for road improvements (turn lane). North Carolina law limits the ability of the County to make those road improvements. The Zoning Ordinance makes no provision for waving the technical requirements of the ordinance dealing with making improvements required to maintain safe and efficient traffic flow; however, the approving authority can make a determination that the improvements are not required. NCDOT and the City of Durham Transportation Division have continued to maintain that the turn lane is necessary.

County Attorney Kitchen stated the he had received written correspondence from Bond Counsel Robinson Bradshaw & Hinson, opining that the County is not authorized to use a portion of the proceeds of the library bonds to finance road improvements. In addition, G.S. § 136-98 contains three different prohibitions on counties constructing or improving roads. They are as follows: 1) "no county ... shall levy any taxes for the maintenance, improvement, reconstruction, or construction of any of the public roads..."; 2) "nor shall any county ... sell or enter into any contract to issue or sell any bonds ... for the purpose of obtaining money with which to improve, maintain, reconstruct, or construct roads..."; and 3) "No Board of county commissioners ... shall enter into any contract to build or construct roads". There have been no cases involving the court system's interpretation of this section of the General Statutes. The only published Attorney General's opinion regarding this section relates to the conflict between this section and an act that allowed counties to construct subdivision roads in the mountains. It makes two important points: (1) There is no authority to levy taxes for road improvements contained in G.S. § 153A-

149. This is the statute that sets forth the purposes for which taxes may be levied by counties in North Carolina; (2) The Attorney General opined, “a county has no power under its land planning authority to levy taxes or to construct or maintain subdivision roads”. As the County has no authority to construct or improve roads under its land planning authority, the County cannot give itself authority to construct or improve roads by requiring the construction of road improvements in a zoning ordinance.

County Attorney Kitchen further explained that the turn lane would not have been an issue if it were an onsite road improvement as opposed to an off-site road improvement. In addition, the County as an agency of the State, is to perform certain governmental functions, two of which are to build libraries and schools. The North Carolina Department of Transportation builds roads. Attorney Kitchen was perplexed as to why the Durham Transportation Division has an issue with funding and building this turn lane.

Commissioner Heron suggested placing this turn lane project on the 2004-05 Secondary Road Construction Program under the safety factor. She also questioned the justification for a center turn lane.

Discussion was held regarding the need for the turn lane.

Mr. Dan Jewell reminded the Board that this bus lot must be built to replace the lot in front of Carrington Middle School so the new North Branch Library can be built. If this bus lot is not built in a timely manner, library construction will be delayed.

Chairman Reckhow suggested that the Board go along with the County Attorney’s recommendation and not build the turn lane but to try to seek State support. She asked the County Attorney to consider, during the next fiscal year, an amendment to allow for the provision of appropriate infrastructure associated with new development since the County will be building major facilities, which may have major road impacts. Public improvements should not create public problems such as traffic jams. The Board should have the ability to meet technical requirements which it recognizes. This should be addressed in the future. Chairman Reckhow recommended that the Board move forward with the site plan.

County Manager Ruffin suggested approving the site plan without the turn lane so the project is not stalled. In the interim, the turn lane issue may be resolved with DOT.

Glen Whisler, County Engineer, addressed the need to move ahead quickly with this project so site preparations can begin for the North Branch Library.

Dr. E. Lavonia Allison, PO Box 428, Durham, NC 27702, expressed opposition to the project.

Vice-Chairman Bowser also expressed opposition to this particular project, stating that the library should be built across from Northern High School, which would have saved

the County money. In addition, this state-of-the art facility should be showcased, not hidden.

The Commissioners discussed various methods for getting the turn lane constructed.

Commissioner Heron moved that the Board approve the Major Site Plan—Hamlin Road Bus Parking (D04-085) and continue to work with DOT to identify monies to build the turn lane.

Commissioners Cousin and Jacobs were cautious about approving the site plan without a definite plan for turn lane construction.

The motion failed with the following vote:  
Ayes: Heron and Reckhow  
Noes: Bowser, Cousin, Jacobs  
Noes: None

Vice-Chairman Bowser recommended that the Library Board be given the opportunity to consider an alternative site for the North Branch Library. Plans for the turn lanes should be finalized prior to approval of the site plan.

Commissioner Jacobs suggested that the Schools be asked to fund the road improvements with capital monies from the State, or place this project on the Secondary Road Construction Program.

Direction to Manager: Ascertain how to get the turn lane built and consider performing traffic counts on Hamlin Road to determine whether the turn lane is necessary.

### **State Legislation to Phase Out North Carolina Counties Share of Medicaid**

Statewide support was being sought to encourage sponsorship of legislation in the North Carolina General Assembly to phase out counties share of Medicaid over a five-year period. Durham County's share of Medicaid for FY 2005 is estimated at over \$10 million.

Resource Person(s) Mike Ruffin, County Manager

County Manager's Recommendation: The Manager recommended that the Board endorse the proposed legislation and authorize the Chairman to notify Durham County's legislative delegation of the Board's action.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to endorse the proposed legislation and authorize the Chairman to notify Durham County's legislative delegation of the Board's action.

The motion carried unanimously.

**Confirmation of Human Resource Audit—Content**

Commissioner Jacobs referenced correspondence the Board received from the County Manager regarding supporting documentation for the audit relating to 1995-1999 transfers from the Cafeteria Plan to the General Fund and related insurance premium overcharges. She stated that the information beginning with year 2000 would be sufficient. Commissioner Jacobs requested the Board's input.

Chairman Reckhow informed the Commissioners that the transfers into General Fund from Cafeteria Fund would be reflected in the budget. She advised that the records be retrieved, to the degree possible, starting at 1995 when the problem began. The Board should strive for completeness as opposed to expediency. Half of a report would do limited good in terms of understanding the situation.

County Manager Ruffin and County Attorney Kitchen explained that records prior to 1999 might have been destroyed due to water damage in the judicial building where the records were stored.

Vice-Chairman Bowser recommended using the records beginning in 1999 provided the the report would be available on June 28; otherwise, he would concur with Commissioner Jacobs's suggestion to begin with the year 2000.

Commissioner Jacobs moved, seconded Vice-Chairman Bowser, that the auditor go back to the year 1999 if the information can be available in time for the June 28 discussion, if not, the year 2000 would be sufficient.

Commissioner Heron amended the motion that the auditor go back to the year 1995, to the degree possible, provided the information is available for the June 28 discussion.

The amended motion carried unanimously.

**Tax Revenues—Raleigh-Durham International Airport**

Vice-Chairman Bowser added this item to permit discussion, suggesting that the Board move forward in pursuit of collecting Durham County's share of undedicated revenues generated at the Airport.

Chairman Reckhow referenced a letter from Mr. Reyn Bowman, offering to facilitate negotiations.

County Manager Ruffin informed the Board that at the May 28 meeting with Wake County and Raleigh City Managers, Mr. Bowman offered to proceed with developing a model to determine the amount of revenue involved. The offer was rejected by both Managers. They did not want to participate in the development of the report. The law is fully on their side; they have no legal obligation to share the revenues, as all the pertinent taxes are collected in Wake County. Both Managers stated that their recommendation to the Council and Commission would be not to consider an interlocal agreement to share in the revenues.

Commissioner Jacobs recommended further pursuit and investigation of this matter.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, that the Board direct Chairman Reckhow to send a letter to the Wake County Commissioners and the City of Raleigh to inform them that the Durham Commissioners will move forward in pursuit of collecting Durham County's share of undedicated revenues generated at the Airport. Copy the letter to the State Legislators.

The motion carried unanimously.

### **Communication to Our Legislators on Social Service and Education Cuts**

Chairman Reckhow shared information she received regarding a chart showing public school funding as a percentage of the State's general fund budget. Approximately 30 years ago, 52 percent of the State's general fund budget was allocated to public school systems. If the adopted House budget were approved, the percentage would be reduced to 38.9 percent. Durham Public Schools stands to lose \$487,347. In addition, the Governor proposed a \$10 million increase in childcare subsidies; however, the House has decreased that amount to \$2 million, which may result in the elimination of about 2,000 children from the childcare subsidies program. Also, the Health Choice program for youngsters has been frozen. Chairman Reckhow recommended that the Board appeal to the State Senators to work towards restoring the education funding and, in particular, the childcare subsidy funding.

Vice-Chairman Bowser and Commissioners Cousin, Jacobs, and Heron concurred with Chairman Reckhow's suggestion.

### **Adjournment**

Chairman Reckhow adjourned the meeting at 10:58 p.m.

Respectfully submitted,

Vonda C. Sessoms

Deputy Clerk to the Board