

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

Monday, February 11, 2002

6:00 P.M.

MINUTES

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

Present: Chairman MaryAnn E. Black, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe W. Bowser, Philip R. Cousin Jr. and Becky M. Heron

Absent: None

Presider: Chairman Black

Closed Session

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to adjourn into Closed Session pursuant to N.C.G.S. § 143-318.11(a)(5).

The motion carried unanimously.

The Board adjourned into closed session to instruct the staff in negotiating a price for the acquisition of real property pursuant to N.C.G.S. § 143-318.11(a)(5).

7:10 P.M.

Regular Session

Opening of Regular Session

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

Agenda Adjustments

The County Manager will make a presentation following agenda item No. 8 (Triangle J Council of Governments) regarding the County's budget reduction plan that will take place as a result of action by the state.

Chairman Black advised she wanted to speak to the Santee Road issue when the agenda item regarding the Northeast Durham Small Area Plan is discussed.

Commissioner Bowser asked to add an item regarding the need for additional post offices in Southwest Durham and East Durham.

Minutes

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the November 12, 2001 Regular Session Minutes as submitted.

The motion carried unanimously.

Commissioner Comment

Vice-Chairman Reckhow suggested that the Commissioners receive copies of any letters created at its direction during County Commission meetings.

Presentation of Outstanding County Program Award from the North Carolina Association of County Commissioners—Library Youth Partners Program

Durham County has been recognized again with an “Outstanding County Program Award” from the North Carolina Association of County Commissioners for its Library Youth Partners program. The program is run collaboratively by the Durham County Public Library, the N. C. Museum of Life and Science, and two high school media centers. Library Youth Partners lets adolescents earn money while learning to create and deliver story-time presentations to younger children. The program competed against 20 entries in the Public Education/Participation category, and only four winners were chosen. Overall, nearly 100 entries were submitted for participation in this year’s Outstanding County Program Award.

Ms. Rebecca Troutman of the North Carolina Association of County Commissioners will make the award presentation.

Resource Person(s): Rebecca Troutman

County Manager's Recommendation: Congratulate staff and participants of the “Library Youth Partners” program for receiving recognition for this successful program.

Ms. Troutman made the award presentation for this innovative program. She commented that many of the program’s participants were present in the audience. She thanked Dale Gaddis, Library Director, for submitting this program for the NCACC’s consideration. The program is funded by grants and provides worthwhile employment opportunities to at-risk teens by connecting them to their communities, schools, and other public agencies. Ms. Troutman congratulated the County for showing how we can work more creatively for our at-risk teens.

Ms. Troutman presented a plaque from the North Carolina Association of County Commissioners to Durham County for this Outstanding County Program Award for the Library Youth Partners Program.

Ms. Gaddis accepted the plaque on behalf of Durham County and thanked the community partners in this program—the NC Museum of Life and Science, the Durham Public Schools, and Library staff. She recognized Dr. Krakauer from the NC Museum of Life and Science, Barbara Simmons and Larry McDonald from Southern High School, Ruby Potter from Hillside High School, and Library staff Sandy Roberson and Melissa Chity, and any Youth Partners present.

Recognition for “5 Yes! For Durham’s Future” Communications Committee

Last fall, John Burness, Senior Vice President for Public Affairs and Government Relations at Duke University, and Dr. Phail Wynn, President of Durham Technical Community College, cochaired the committee responsible for successfully marketing Durham County’s \$74.4 million bond referendum.

The committee members follow: Carl Webb and Anna Semas—Webb Patterson; Mickey Tezai—Durham County EMS; Dale Gaddis and Pam Jaskot—Durham County Library; Nancy Hester and Michael Yarborough—Durham Public Schools; Tom Krakauer and Kim Shaw—Museum of Life and Science; Alice Alexander—Coordinating Council for Senior Citizens; Kay James and Terry Summers—Durham Public Education Network; Deborah Craig-Ray—staff representing Durham County Government; and Treasurers: Lee Johnson, Mechanics & Farmers Bank, and Lisa Yarborough, Central Carolina Bank.

Commission Chairman MaryAnn E. Black will recognize the work of the participants and present tokens of appreciation.

County Manager's Recommendation: Congratulate members of the “5 Yes! For Durham’s Future” committee for a successful bond campaign.

Chairman Black called the names of all who served on the committee and asked them to come forward to receive thanks from each of the Commissioners and a token of appreciation. She and the County Manager presented each of the committee members in attendance with a County paperweight.

The committee’s co-chairs, Mr. Burness and Dr. Wynn made comments and thanked the committee and Durham voters for their help in making these five projects a great victory. They stated that these bonds would contribute to the quality of life in Durham and thanked the Commissioners for putting together such a strong bond package.

Chairman Black recognized Dr. Lavonia I. Allison, Durham Committee for the Affairs of Black People, for comments on this agenda item.

Dr. Allison thanked the Commissioners for the breakfast meeting regarding the referendum, but said there was some discussion that needed follow-up. She thanked the bond communications committee and its excellent leaders for its hard work, but felt it had very little involvement on the school level and did not know all the facts. She stated that at least three schools with serious deficiencies identified in 1993 were not accounted for. She asked for time to have meaningful participation in the selection of priorities for the bond referendum. Next time maybe we can do a little bit better.

Chairman Black again thanked the committee for its hard work, long hours, and efforts to work with the community to make bond passage successful. The bonds will make it possible to build new schools and renovate other schools in need.

Recognition of Arnold Dennis, 2002 Chain Link Award Winner

Arnold Dennis, Assistant Director for Family Self-Sufficiency for the Department of Social Services, received the Durham Business and Professional Chain's highest award on January 25. The 2002 "Chain Link Award" was presented to Mr. Dennis for his visionary leadership on the "Rites of Passage," a nationally-recognized violence intervention program. He was recognized for his excellent leadership and his strong commitment to the development of youth in the Durham community.

This unique mentoring program, which works with young men between the ages of 13 and 16, is an award-winning endeavor that serves as a model program for young men. Mr. Dennis is one of the founders of the program which began in 1989. With the help of a team of mentors, facilitators, and parents, students in the program receive nine months of training in health, survival skills, social studies, African and African-American history, and entrepreneurship. More than 200 young men have graduated from the program since its inception.

During the awards ceremony, two previous participants in "Rites of Passage" gave moving testimonials about the role Mr. Dennis played in their lives, helping them transform from so-called "trouble-makers" to become focused and goal-oriented young men. Each credited Mr. Dennis' work with "Rites of Passage" to contributing to their current success.

County Manager's Recommendation: Extend sincere congratulations to Mr. Arnold Dennis for this outstanding achievement.

Chairman Black recognized Mr. Dennis and asked him to speak regarding the "Rites of Passage" program.

Mr. Dennis thanked the Board, County Manager, and County Attorney for their congratulations, the opportunity to work with the program, and for time to speak about the Rites of Passage Program. Mr. Dennis spoke to the problem of many talented young people who are having serious problems in the community. He said that instead of filling the detention centers, their talents could be used to strengthen this community if we

would take the time to work with them. There are hard-working parents with so many needs that are having real trouble trying to raise these boys themselves. Thus, the program has African-American men work with these boys to instill values, build self-esteem, and do whatever necessary to try to keep them in school. He asked for community support in building values for youth now so they won't have to be repaired after they go to the juvenile justice system. Mr. Dennis thanked the Commissioners for time to talk about the Rites of Passage Program.

The Board of County Commissioners gave congratulations to Mr. Dennis for his receipt of the 2002 Chain Link Award.

Recognition of James Fields

Mr. James Fields and his camera equipment have been fixtures at major events of the Durham community and beyond for decades. For the past 10 years, he has coordinated the taping and airing of Durham County Commissioner meetings on the local cable channel.

As part of last month's Martin Luther King observances, Mr. Fields was honored for his work chronicling community activities. Representatives of the Martin Luther King Jr. Steering Committee presented to him their organization's Service Award for "devoted services rendered to the Durham community."

County Manager's Recommendation: Extend sincere congratulations to Mr. Fields for this outstanding community recognition.

Chairman Black congratulated Mr. Fields on receipt of the service award acknowledging his contributions to the community. She also thanked him for his service to the Board of Commissioners and the County. Mr. Fields helps us take care of the County's equipment and tapes and ensures that there is a good public record of the Commissioners' meetings.

Mr. Fields thanked the Commissioners for the surprise of tonight's recognition. He expressed his joy for his work for the County and the community.

Chairman Black read the award into the minutes:

Service Award presented to James Fields
for devoted services rendered to the Durham community
The Martin Luther King Jr. Steering Committee
Durham, North Carolina. Doris Randall, Chairperson
January 21, 2002

Triangle J Council of Governments (TJCOG) Presentation

Mr. Dee Freeman, Executive Director of the Triangle J Council of Governments (TJCOG), will provide an annual report regarding the Council of Governments program of work.

Resource Person(s): Dee Freeman, Executive Director, TJCOG

County Manager's Recommendation: The Manager recommends that the Board receive the presentation on Triangle J Council of Governments.

Mr. Freeman began his presentation with words of thanks to Commissioner Reckhow for her service as immediate past Chair at TJCOG, to Commissioner Heron for her work as Vice Chair of the joint regional forum, to Chairman Black for her work and for her kindness to come and extend greetings and do other things of importance to the TJCOG, and to County Manager Ruffin and Deputy County Manager Titus for their work with the manager's group.

Mr. Freeman gave the highlights of the TJCOG annual report. The council has increased to seven counties with the addition of Moore County. He updated the Commissioners on the change of officers. The Commissioners had been given a copy of the full report.

Mr. Freeman stated that TJCOG's regional legislative agenda involved the idea of bringing together a summary of regional legislative agendas from the TJCOG's member counties and municipalities. The top five mutual issues on the agendas were addressed:

1. Additional money to address growth issues—building new schools, new roads, and facilities to foster and accommodate the growth being encountered
2. Protecting local government revenues in light of the budget constraints
3. Regional growth management and planning
4. Transportation strategies and funding
5. Environmental issues of water, sewer, and air

Mr. Freeman advised that these items are interrelated. It is a comprehensive and important piece of work which the TJCOG intends follow up on and advocating with the Legislature, to make sure local governments' voices are heard in Raleigh.

Durham County is a participant in the CORE Project. Six units of government have come together to attempt to plan for the center of our region—about a 600-acre area around the airport. Our interstate system, air transportation, and so many units of local government overlap with respect to planning jurisdiction. This effort has been underway for a few months. The project will culminate in a planning series that will be from April 8-11 in a location yet to be announced. The public is invited and encouraged to participate in this opportunity to engage the process and help plan for the region.

Mr. Freeman stated his enjoyment in working over the last year and a half for the units of government in TJCOG and invited comments and questions from the Board.

Vice-Chairman Reckhow and Commissioner Heron noted the various projects that the TJCOG had helped the County facilitate over the past year through expertise supplied by various of its resource staff. They spoke of the value of having these persons available.

Chairman Black thanked Mr. Freeman for his report.

County Manager's Statement—Budget Reduction Plan

The County Manager met earlier in the day with his staff to talk about a budget reduction plan. He shared that plan in the following statement:

February 11, 2002

I announced a spending reduction plan to Durham County Department Heads this morning that will enable the County to reduce its expenditures over the next 4 ½ months by \$3.6 million. The reduction is required due to Governor Easley's announcement last week that the state is withholding \$3.6 million from Durham County in order to assist with an unexpected \$900 million state shortfall.

I am disappointed that Governor Easley has chosen the easy way out, but I am not surprised. This state has a history of handing its budget problems off to local governments, forcing many communities statewide to raise property taxes just to maintain current service levels. Spreading the problem to over 600 cities and counties isn't going to make it go away. In fact, it makes it all the more obvious, evidenced by hue and cry of public officials across the state.

In spite of our frustration, I have to deal with what "is" as opposed to what "should be." Accordingly, I imposed a hiring freeze for all nonessential positions this morning and have authorized the termination of all temporary employees on Friday, February 15, 2002. I anticipate that the freeze will affect 40 positions and am told that 8 temporary employees will be laid off on Friday. I have also suspended all travel, except that travel that is directly related to mandatory training and certification.

This morning, I approved \$2,790,485 in reductions to operating and capital line items in 27 county budgets. Most of these reductions were achieved by working with department heads that recognize the extraordinary situation in which the county finds itself.

It should be emphasized that no county services are currently jeopardized. While these reductions clearly represent some sacrifices, all services offered by the county will continue to be provided at board-approved levels.

I have every expectation that the state's crisis will carry over into next fiscal year. At a statewide manager's conference last week, executive directors for the North Carolina Association of County Commissioners and the North Carolina League of Municipalities advised managers that the likelihood of state funds next year is equally dismal. In light of that information, I instructed county department heads to submit budget requests for next fiscal year that include a 5% reduction in operating and capital line items.

Finally, let me thank each of you for your input in this process. I look forward to working closely with you over the next few months as we partner to ensure that our citizens continue to be served with the quality of services they deserve. It will not be easy, and what has happened to us is certainly not fair, but I am confident that we will achieve that aim.

County Manager Ruffin stated that copies of the list of reductions approved this morning have been given to the Commissioners. The County contribution of \$59,000 is the savings from the Capital Finance Plan that will not have to be contributed to capital projects. No capital projects currently in process are being affected.

Commissioner Heron commented that the freeze on travel is also being observed by the County Commissioners. The Commissioners will not be attending the NACo Legislative Conference in Washington next month as planned.

Vice-Chairman Reckhow stated that she was troubled that the County had to suffer cuts again for a second year, but was proud that the County had adopted a realistic and conservative budget and was thus better able to deal with the shortfall. She urged that the Durham Delegation lead an effort next year for the state to adopt a realistic, conservative budget so that this doesn't happen to local governments again.

The County Manager addressed Commissioner Cousin's concern regarding temporary staff laid off due to the shortfall. He stated that temporary staff could be rehired if the situation improves. But most of these personnel are provided through temporary agencies that would give them new assignments in other businesses.

Chairman Black commented on a letter she received from the Cumberland County Board of Commissioners. The letter, addressed to Governor Easley, stated Cumberland County's measures to cut the budget to include a layoff of around 100 people, no salary increases, and 15-percent budget cuts to the Sheriff's Department, library system, public health, and mental health. The county appropriation to the school system was cut on a year-to-year basis. Meanwhile the Medicaid budget increased by 15 percent.

Chairman Black commented that once again, the County must absorb problems that actually started at the state level. She urged the Board to be very conservative in the next budget cycle in terms of programs and determining what can and cannot be done. The

Board does not want to make up the deficit through a property tax increase. She commended the County Manager and staff for being conservative in the proposed budget for next year. She stated she hoped Durham County would not have to eliminate employee raises this year as it did last year.

Consent Agenda

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

- * (a) Budget Ordinance Amendment No. 02BCC000047—Public Health—To Recognize Revenue for the General Health Clinic (approve Budget Ordinance Amendment No. 02BCC000047 to recognize \$206,150 from the Department of Health and Human Services for the Bioterrorism Response Team);
- * (b) Budget Ordinance Amendment No. 02BCC000048—Public Health—To Recognize Revenue for the Environmental Health Division (approve Budget Ordinance Amendment No. 02BCC000048 to recognize \$55,000 from the Department of Health and Human Services for the childhood lead poisoning prevention program);
- (c) Board Appointment—Animal Control Advisory Committee (appoint Patricia A. Croom, President of the Board of Directors for the Animal Protection Society, to the Animal Control Advisory Committee to be the official representative of the Animal Protection Society);
- (d) Department of Social Services—Purchase PCs with Funds Received from State Cost Settlement (authorize the purchase of equipment from Gateway Inc. funded by the State cost settlement with no County dollars needed, in an amount not-to-exceed \$220,362);

Commissioners Heron commented on Consent Agenda items 9(a) and 9(b). Regarding 9(a), she wanted to be sure that the bioterrorism response team coordinated with the NC WARN group that works with the Shearon Harris Nuclear Plant. Regarding 9(b), she asked that Public Health Director Brian Letourneau be advised that Dr. Paul Mushak, a world-renowned lead poisoning specialist, who resides in the area, can be contacted for support

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda 9(a). Budget Ordinance Amendment No. 02BCC000047—Public Health—To Recognize Revenue for the General Health Clinic (approve Budget Ordinance Amendment No. 02BCC000047 to recognize \$206,150 from the Department of Health and Human Services for the Bioterrorism Response Team).

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000047

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Budget Ordinance is hereby amended to reflect budget adjustments for the Public Health department

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$276,237,055	\$206,150		\$276,443,205
<u>Revenues</u>				
Intergovernmental	\$230,663,069	\$206,150		\$230,869,219

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

This the 11th day of February 2002

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

Consent Agenda 9(b). Budget Ordinance Amendment No. 02BCC000048—Public Health—To Recognize Revenue for the Environmental Health Division (approve Budget Ordinance Amendment No. 02BCC000048 to recognize \$55,000 from the Department of Health and Human Services for the childhood lead poisoning prevention program);

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000048

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Budget Ordinance is hereby amended to reflect budget adjustments for the Public Health department.

GENERAL FUND

	<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
<u>Expenditures</u>				
Human Services	\$276,443,205	\$55,000		\$276,498,205
<u>Revenues</u>				
Intergovernmental	\$230,869,219	\$55,000		\$230,924,219

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

This the 11th day of February 2002

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

Consent Agenda Items Removed for Discussion

Consent Agenda 9(e). Amendment to Sublease at Durham Regional Hospital (approve the sublease so that Duke University Health System can proceed with the new CON procedure);

Duke University Health System has requested that the Board approve an amendment to its sublease for the proposed Long Term Acute Care Hospital (LTACH) at Durham Regional Hospital. The Board previously approved the LTACH at Regional, but the original proposal has not yet received a Certificate of Need (CON) from the State. Duke wishes to reduce the scale of the proposal from 23,494 square feet to 19,103 square feet (from 49 beds to 30 beds). The new proposal would then be presented for a new CON. The remaining terms of the original sublease would remain the same.

Commissioner Bowser stated that Durham Regional Hospital must remain a full-service hospital. If Duke University Health Systems plans to move Durham Regional Hospital's psychiatric services or other units to Duke, he could not support this sublease amendment.

Chairman Black called for a statement from Mr. Richard Liekweg, CEO, Durham Regional Hospital.

Mr. Liekweg stated that this amendment keeps the psychiatric services at Durham Regional Hospital. The amendment proposes a smaller area of the sixth floor to be leased to create the LTAC. Thus, the inpatient psychiatric unit will remain also on the sixth floor. The planned move of psychiatric services to Duke proved to be cost prohibitive.

Mr. Liekweg clarified for Commissioner Bowser that the earlier board approval to move Durham Regional psychiatric services to Duke had been rescinded due to the projected cost of renovations at Duke UMC for the move.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve Consent Agenda item 9(e).

The motion carried unanimously.

The resolution follows:

RESOLUTION APPROVING SUBLEASE
BETWEEN DUKE UNIVERSITY HEALTH SYSTEM INC. AND
SELECT SPECIALTY HOSPITAL-DURHAM INC.

WHEREAS, the County of Durham (County) and Duke University Health System Inc. (Duke) have previously entered into a sublease for Durham Regional Hospital which requires approval of any sublease of the facility by Duke; and

WHEREAS, Duke has requested the County to approve a sublease between Duke and Select Specialty Hospital-Durham Inc. (Select) to provide a long-term acute care hospital (LTACH) which will be located within the Durham Regional Hospital facility; and

WHEREAS, there is no facility such as that proposed currently serving the needs of the patients in the Triangle area:

NOW, THEREFORE, the Board of Commissioners for the County of Durham do resolve:

1. The proposed sublease between Duke and Select is hereby approved on the following terms and conditions:
 - A. Parties: Duke University Health System Inc. d/b/a Durham Regional Hospital, as Landlord
Select Specialty Hospital-Durham Inc., a Delaware corporation, as Tenant
 - B. Term: 10 years, with a 4-year renewal term subject to Landlord approval.
 - C. Space: 16,603 square feet on the sixth floor of Durham Regional Hospital and 2,500 square feet in the Watts Building, for a total of 19,103 square feet.
 - D. Rent: A flat fee per year, with an annual inflator.
 - E. Sublease: Select Sublease Agreement is subject to the underlying lease between Landlord and Durham County Hospital Corporation, and the lease between Durham County Hospital Corporation and Durham County. If either of these leases is terminated, the Select Sublease Agreement automatically terminates.
 - F. Tenant's Duties: Obtain and maintain CON, licenses, accreditation, certification; Obtain prior Landlord approval for any alterations, improvements, or additions; Upfit and maintain space consistent with the environment of Durham Regional Hospital; Maintain required insurance coverage; and Obtain prior Landlord approval for any sublet or assignment
 - G. Termination: Upon termination of the Select Sublease Agreement, Tenant will remove patients and surrender premises to Landlord.

2. The County Manager is hereby authorized to sign any documents necessary to carry out the terms and intent of this Resolution.

This the 11th day of February, 2002.

/s/ Garry E. Umstead
Clerk to the Board of Commissioners

Consent Agenda 9(f). Execution of Architectural Design Service Contract with Michael Hining Architects for the Renovation of the Agriculture Building—RFQ 01-031—Project No. DC068-30 (authorize the execution of an architectural design contract with Michael Hining Architects in the amount of \$38,450 and any other related contracts, if necessary, not to exceed the estimated project budget of \$42,000).

Commissioner Bowser asked what percentage of the project had MWBE participation. County Engineer Glen Whisler addressed his questions and advised that the recommended proposal meets or exceeds the goal of 15 percent. A minority-owned firm would be doing 20 percent of the project.

Commissioner Bowser asked that the Commissioners receive a copy of all bids received for projects. The County Manager stated that this would be done.

Consent Agenda 9(g). Budget Ordinance Amendment No. 01BCC000049—Accounting Services for Water and Sewer Agreed-Upon Procedures (award the contract to perform the accounting services for the water and sewer agreed-upon procedures to Dixon & Odom in the amount not-to-exceed \$134,900 which represents 50% of the cost of the not-to-exceed amount of \$269,800)

Commissioner Bowser asked for clarification on this item.

Deputy County Manager Wendell Davis explained that this audit would assure that the County is receiving the proper revenues collected by the City for water and sewer extensions resulting from the 1986 bond referendums. A preliminary audit done last year indicated that these revenues were not being adequately transferred.

Vice-Chairman Reckhow added that this audit does not cover the review of the water charges and undercharging having occurred over the past few years due to faulty meters associated particularly with some of the large users—including some in RTP. The sewer charge is directly tied to water usage. She asked that the County Manager contact the City Manager and acquire a sense of the timetable for the review of the water charges.

The County Manager advised that the City would investigate this separately. It would not be a part of a contract. Its timetable would be provided to the County Manager.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve Consent Agenda items 9(f) and 9(g).

The motion carried unanimously.

Public Hearing—Northeast Durham Small Area Plan

Northeast Durham is one of the three small areas without an adopted land use plan. The study area encompasses approximately 24,000 acres. The area lies east of U.S. 70, south of Interstate 85 and the Granville County line, north of NC 98, and west of the Wake County line. The population at the time of the 2000 U.S. Census was approximately 14,000. During the 1990s, the population grew over 32 percent. The Land Use Plan for Northeast Durham encourages and promotes economic development while safeguarding air and water quality.

The plan promotes a mix of residential densities intended to accommodate a wide range of citizen need and preference. The draft plan initially presented to the Planning Committee called for a residential density of 1-2 units per acre in a 2,600-acre area east of the proposed Northern Durham Parkway and west of Burton Road/Fletchers Chapel Road/Stallings Road. However, staff increased the recommended density to 1-3 units per acre to bring the plan into closer conformance with existing zoning and land-use trends in that area. This change has been opposed by a number of citizens who attended public meetings during plan development.

The Planning Committee considered the plan at three meetings and voted to recommend approval at its October 10, 2001 meeting in a 3-2 vote.

Resource Person(s): Laura D. Woods, Planner, City/County Planning

County Manager's Recommendation: The Manager's recommendation is that the Board receive public comment and adopt the Northeast Durham Small Area Plan.

Ms. Woods advised that City/County Planning staff had brought this item back for Commissioner consideration tonight, having made the revisions and additions requested at the November 26 Regular Session. Ms. Woods read those revisions and additions to the Board.

Ms. Woods clarified for Vice-Chairman Reckhow the appropriate uses for neighborhood service centers. The intent was to discourage fast food restaurants, rather than all businesses with drive-through windows. Gas stations were excluded by staff decision.

Chairman Black asked that Planning make sure there is a plan to prevent mass grading of sites for development projects. She also asked that the tree ordinance be reviewed to ensure that trees are not clumped at the back of a site that involves mass grading elsewhere. Dick Hails, Interim C/C Planning Director, advised he would address this.

At Chairman Black's request, Mr. Hails addressed the issue of extending water service out Baptist and Santee Roads due to a developer's interest. A portion of Baptist Road is in the area under consideration in the Urban Growth Area expansion.

The Commissioners had a lengthy discussion regarding the supply of safe water to citizens of Baptist and Santee Roads, citizen involvement in the drawing of the small area plan, and road construction in the area..

Commissioner Heron wanted language included in the Northeast Durham Small Area Plan. The language should state that no funding be appropriated for construction of the Northern Durham Parkway until the plan for the NE/NW Parkway as it was developed by the citizen's committee has been thoroughly evaluated and is on the record as being considered by NCDOT. This is the plan expected to be adopted by the state and constructed. Commissioner Heron commented that former NC Transportation Secretary Tolson had instructed the citizens of Durham to meet and develop an alternative plan, and this has been done. The NCDOT has had the plan for close to two years and has yet to reply.

Commissioner Heron also requested that the language discourage commercial development at intersections of the proposed Northern Durham Parkway. The intent of the road is to move traffic without congestion that commercial development would bring.

Ms. Woods, advised she would revise the language as requested.

Chairman Black opened the Public Hearing, which was properly advertised.

The following persons were signed to speak:

Mr. John Parrish, 2704 Burton Road, representing the Burton Road Neighborhood Association, thanked the Board and City-County Planning for their efforts to make this a good plan. He supported the Northeast Durham Small Area Plan with the exception of the North Durham Parkway. He expressed the view that it should be re-routed over a less restrictive roadway. Also, the urban growth boundary should not extended to provide water in an area that would cause taxes to rise.

Dr. Lavonia I. Allison, representing the Durham Committee for the Affairs of Black People, asked the Board to address her concerns regarding schools. She asked whether new development in the area would accommodate the increased school enrollment it would generate. She also stressed that more input should be allowed by citizens during the planning stage for school improvements.

Chairman Black answered Dr. Allison. She commented on a letter from Mark Reynolds that stated he would not ask for a waiver of impact fees from the developer in exchange for the developer's extension of water lines.

County Attorney Chuck Kitchen answered Dr. Allison's question regarding the spending of bond moneys. He advised that bond money left over from one school project could be

spent on another school's project. The stipulation is that it be spent in the same category, i.e., schools. Also, all requests for spending must be made by the school board to the Commissioners. The Commissioners cannot approve something not requested by the school board.

Ms. Lois Murphy, 222 Santee Road, representing the Santee community, thanked Commissioners Black and Bowser for efforts to extend water to the community. She stated she would be willing to pay for extension of water services to improve quality of life in her neighborhood.

Chairman Black closed the public hearing.

Commissioner Bowser moved, seconded by Commissioner Cousin, to accept the proposal by Mark Reynolds and extension of water lines to the Santee Road area.

The motion carried unanimously.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to adopt the Northeast Durham Small Area Plan as presented with the exception of the two recommended changes by Commissioner Heron (wording added regarding the Northern Durham Parkway and service centers along that parkway).

The motion carried unanimously.

Public Hearing—TC 117-01 Zoning Ordinance Text Amendment to Consider Deletion of Late Fee Requirements

Adopt ordinance removing the late fee provision from the Zoning Enforcement Section of the Zoning Ordinance [Section 20].

Recent court rulings have indicated that public agencies are not allowed to collect late fees imposed on zoning enforcement civil penalties. The Zoning Committee conducted a public hearing on April 10, 2001, and voted 7-0 to recommend approval of the deletion of late fee requirements. The City Council has previously adopted this amendment. This public hearing was advertised on February 1 and 8, 2002 in the Herald-Sun.

Resource Person(s): Pratt Simmons, Planning Supervisor; Dick Hails, Interim Planning Director

County Manager's Recommendation: The Manager's recommendation is that the Board hold the public hearing, receive public comment, and approve the text amendment, if appropriate, based on public comment.

Chairman Black opened and closed the public hearing, as there were no persons signed to speak.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve Zoning Ordinance Text Amendment TC117-01.

The motion carried unanimously.

The adopted ordinance follows:

AN ORDINANCE AMENDING SECTION 20.4.4 OF THE DURHAM ZONING CODE TO DELETE LATE PAYMENT PENALTIES

WHEREAS, the Durham Zoning Ordinance establishes citation and civil penalty requirements for zoning violations; and

WHEREAS, the Durham Board of County Commissioners determines that it furthers the public health, safety, and welfare to change the penalty provisions of the zoning ordinance in the manner described below for the reasons described in the reports and testimony considered by the Board of County Commissioners:

NOW, THEREFORE, be it ordained by the Durham Board of County Commissioners that:

SECTION 1: Section 20 [Enforcement] of the Durham Zoning Ordinance is hereby amended to delete the words shown in ~~strikethrough~~.
20.4.4 Amount

“The Director or his designee may impose a penalty of up to \$300 per violation. If a violator has remedied the violation prior to imposition of the penalty, but not within the deadlines given in the notice of violation, and if the violator is not guilty of previous violations then the penalty shall not exceed \$50. ~~A late payment penalty of \$20 per day per violation may also be imposed for penalties not paid within 15 days of the date of the notice of citation and penalty.~~

The Director shall formulate written guidelines for enforcement personnel to use in assessing penalties. Criteria for assessing penalties shall include, but not be limited to, the violator's knowledge of legal requirements, whether the violator has been guilty of past violations, the possible profit to the violator in continuing the violation, the impact of the violation on the community, the degree of noncompliance, and the cost and time required to remedy the violation.”

SECTION 2: All ordinances in conflict are hereby repealed to the extent of the inconsistency.

SECTION 3: This ordinance shall be in effect upon the date of adoption.

Public Hearing on the Community Development Block Grant—2002 Scattered Site Housing

At the November 5, 2001 Worksession, staff informed the Board of an opportunity for Durham County to apply for \$400,000 in grant funds for the purpose of rehabilitating low-income housing through the 2002 Scattered Site Housing Program. The primary objective of the Community Development Block Grant—Scattered Site Housing Program is to improve the housing conditions of very low-income households with incomes at or below 50% of area median income. Eligible counties receive these funds every three years on a noncompetitive basis. The funds can only be used in the unincorporated areas of the County. As lead agents, counties will receive funds by submitting a detailed plan describing how funds will be distributed to meet housing priorities. The application deadline for receiving funds from the State Department of Commerce—Division of Community Assistance is February 28, 2002. The Commissioners instructed staff to move forward in the application process at the November 5, 2001 Worksession.

A Request for Proposals was published in the newspapers on Sunday, December 9, 2001; proposals were solicited until January 10, 2002 for the purposes of hiring a consulting firm to administer the Scattered Site Housing Program. At the January 28, 2002 meeting, the Board awarded a contract to Benchmark Consulting to prepare the County's application for the Scattered Site Funds. Under the North Carolina Community Development Block Grant Program Regulations, two public hearings must be held to comply with the Citizen Participation requirements. This is the last of the two public hearings required.

Staff requested that the second public hearing be held tonight for the purpose of receiving citizen comments on the County's intentions of receiving these grants.

Resource Person(s): Wendell M. Davis, Deputy County Manager; Michael Walser, Vice President, Benchmark Consulting

County Manager's Recommendation: The Manager recommends that the Board hold the second public hearings on the 2002 CDBG—Scattered Site Housing Program and receive public comment.

Mr. Davis introduced the item.

Chairman Black opened and closed the public hearing, as there were no persons signed to speak.

There was no Commissioner discussion. No action was required on this item.

Public Hearing—M01-03 Cormetech Inc. Major Use Permit

Cormetech Inc. Environmental Technologies is an existing 71,890-square-foot light manufacturing facility located on International Drive in Treyburn Corporate Park. The applicant is proposing a 16,425-square-foot addition with related parking and drive area expansion. This will result in a total impervious surface coverage of 30.91%. Section 5.5.5(1) of the Ordinance requires Major Use Permit approval by the governing body for any non-residential development in the F/J-A Watershed that exceeds 25% impervious surface.

Resource Person(s): Dennis Doty, Planner; Sheila Stains-Ramp, Planning Supervisor

County Manager's Recommendation: The Manager's recommendation is that the Board hold the public hearing and evaluate the evidence presented. The Planning staff will make a recommendation after the hearing of this case. After the hearing, one of these two motions is in order:

Motion A: (Approval With or Without Conditions) Direct the Planning Director to prepare a decision granting with conditions the use permit in Case M01-03. (Commissioners should identify any conditions they wish to incorporate into their approval. Staff will prepare the decision for BOCC's next meeting for action).

Motion B: (Disapproval) Direct the Planning Director to prepare a decision denying the use permit in Case M01-03. (Commissioners should identify the findings they are unable to make so these can be incorporated into the decision. Staff will prepare the decision for BOCC's next meeting for action).

Chairman Black stated the procedure for the hearing regarding presentation of evidence and testimony. Clerk to the Board, Garry Umstead, swore in those persons including staff who would be speaking at the hearing.

At the Chairman's request, Mr. Doty presented testimony on the item. The project's two proposed building additions with related parking will result in a total impervious surface coverage of 30.91%—exceeding the 25% impervious surface limit allowed by County ordinance.

The Commissioners asked questions and made comments.

Chairman Black recognized the applicant and speakers. Mr. Donnie Clark, plan facilitator, and Mr. Terry McTernan, Cormetech plant manager, were present for Commissioner questions. Also present to represent Cormetech were the vice president of sales and marketing, facilities development manager, sales manager, and the professional engineer who developed the plan.

There were no opponents to the plan.

There being no further comment, Chairman Black called for a vote.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to accept Motion A directing the Planning Director to prepare a decision granting the Major Use Permit with the one condition that the project be completed under an approved site plan.

The motion carried unanimously.

Major Site Plan Approval—Cormetech Inc.—5000 International Drive

To approve a Major Site Plan for a building and parking expansion to an existing manufacturing facility located in the F/J-A Watershed District.

Cormetech Inc. Environmental Technologies is an existing 71,890-square-foot light manufacturing facility located on International Drive in Treyburn Corporate Park. The applicant is proposing a 16,425-square-foot addition with related parking and drive area expansion. The building additions are proposed at the east (rear) and south sides of the existing structure. The parking lot addition is planned for the area south of the existing parking lot, which is located in front of the building; a new loading area is planned at the rear of the building. The expansions will result in a total impervious surface coverage of 30.91%.

Resource Person(s): Dennis Doty, Planner; Steve Medlin, Planning Supervisor

Manager's Recommendation: The County Manager's recommendation is that the Board approve the site plan, if appropriate, based upon the evidence presented in the quasi-judicial hearing.

There was no Commissioner discussion.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the Major Site Plan.

The motion carried unanimously.

Request by Commissioner Bowser—Need for Additional Post Offices

Commissioner Bowser requested that a letter be written to send to the US Post Master General requesting that the southwest Durham Branch Post Office be replaced with a larger facility and that a Post Office be built in eastern Durham. The letter should document the daily congestion in the southwest branch and the distance that citizens must

drive from eastern Durham to reach a branch. Vice-Chairman Reckhow suggested that additional personnel be requested in the interim at the southwest branch.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, that the letter be written for the Commissioners' signatures.

The motion carried unanimously.

There being no further business, Chairman Black adjourned the meeting at 10:05 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board

GEU:SBP