

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

Monday, May 14, 2001

7:00 P.M. Regular Session

MINUTES

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

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

Absent: None

Presider: Chairman Black

Opening of Regular Session

Chairman Black opened the Regular Session with the Pledge of Allegiance.

Agenda Adjustments

County Attorney Chuck Kitchen added a Resolution and Notice of Hearing on the Alcoholic Beverage Control Board.

Vice-Chairman Reckhow wished to add a quick announcement relating to an appointment of Chairman Black.

Chairman Black said that she, Vice-Chairman Reckhow, Commissioner Heron, County Attorney Chuck Kitchen, County Manager Mike Ruffin, Deputy County Manager Wendell Davis, and Public Relations Director Deborah Craig-Ray attended a rally in Raleigh on May 9, 2001.

Ms. Craig-Ray said that counties from across the state were asked to come and show their concern about the \$95 million that has been escrowed by Governor Easley to handle the state's financial crisis. Approximately 150 officials attended the rally. The Board's mission was to express that counties need the money restored to their individual budgets.

Chairman Black said the signs carried by the Commissioners spoke to many of the issues relating to county government and the need for additional funding, as well as making

certain our state legislators understand that we need our reimbursement returned and that we need additional revenue options.

Vice-Chairman Reckhow thought the staff of the NCACC did an excellent job conveying the history of Medicaid and the burden local governments must bear in paying 5.5 percent of all Medicaid costs. This currently represents 6 cents on Durham County's tax rate and is projected to increase continually. Our property tax revenue is not growing at the rate the Medicaid costs are growing. This is an important message to get across to our legislators.

Minutes

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the following minutes as submitted:

March 26, 2001 Health and Human Services
March 29, 2001 Worksession
April 9, 2001 CIP Worksession
April 9, 2001 Regular Session
April 23, 2001 Regular Session

and the following minutes as corrected:

February 12, 2001 Regular Session
March 26, 2001 Regular Session

The motion carried unanimously.

Commissioner Heron asked that the record reflect her support of J. Michael Waldroup who was appointed to the Durham City-County Appearance Commission at the March 26, 2001 Regular Session.

Resolution for Brit Strickler

Brit Strickler, a 10-year-old Durham girl, turned concerns about budget reductions at the Durham County Library into action. She organized and held a successful neighborhood book sale and donated proceeds of \$1,000 to help the library.

County Manager's Recommendation: Approve the resolution and present to Brit Strickler, along with thanks for her public service to the community.

RESOLUTION

WHEREAS, Brit Strickler is an avid reader and regular patron of the Durham County Library; and

WHEREAS, when Brit learned that the library's budget had been reduced due to the state's fiscal crisis, she decided to organize a book sale in her neighborhood to raise money to help her local library; and

WHEREAS, through her determination and diligent efforts she gathered 50 boxes of books from her family's collection, from Regulator Book Shop, and Books on Ninth, and from other private donations; and

WHEREAS, this enterprising young lady spent weeks collecting and sorting books in preparation for her sale; and

WHEREAS, Brit conducted a successful book sale and netted more than \$1,000 which she in turn donated to the library for the purchase of new books; and

WHEREAS, this is an excellent example of community service, and because of Brit's actions, others are able to benefit from her support of the library:

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

BRIT STRICKLER

for her interest in reading and her civic-minded efforts which led to a generous donation to the Durham County Library. We urge all citizens to acknowledge her good deed on behalf of the Library.

This the 14th day of May, 2001.

/s/ Five Commissioners
Durham County Commissioners

Vice-Chairman Reckhow announced an upcoming "Friends of the Library" Book Sale. Citizens wishing to donate books may do so. This sale is another way that money is raised for the Library.

Proclamation for North Carolina Central University Chancellor Julius L. Chambers

A proclamation was prepared for outgoing North Carolina Central University Chancellor Julius L. Chambers. He will step down in June following eight years of leadership at the university. An event entitled, "Celebrate the Chambers Years," has been organized by community leaders and university alumni to honor his outstanding tenure. The event would be held on Saturday, May 19, 2001 at the Sheraton Imperial; the proclamation was formally presented.

County Manager's Recommendation: Approve the proclamation and present to Chancellor Julius L. Chambers, along with the sincere appreciation of the Board of County Commissioners.

The following proclamation was read into the record and would be presented to Dr. Chambers at a later time:

PROCLAMATION

WHEREAS, Julius LeVonne Chambers, a native of Mount Gilead, NC, graduated from North Carolina Central University in 1958 with a bachelor's degree in history; and

WHEREAS, he attended the University of North Carolina School of Law where he was the first African-American editor-in-chief of the law review and graduated first in his class in 1962; and

WHEREAS, he founded a Charlotte law firm in 1964 and began a career which would lead him to become a noted legal scholar and an authority on civil rights legislation; and

WHEREAS, in 1984, he became director-counsel of the NAACP Legal Defense Fund, during which time he successfully litigated landmark civil rights cases; and

WHEREAS, he became the sixth leader of North Carolina Central University in 1993, and his handiwork abounds throughout the campus in the form of new buildings, innovative programs, new endowed chairs, and the Biomedical/Biotechnical Research Institute that bears his name; and

WHEREAS, his contributions to the community have been numerous, and he recently received the 2001 Elna B. Spaulding Founders Award, given by Women In Action for the Prevention of Violence and Its Causes for his efforts in making a difference in the community and for improving human relations; and

WHEREAS, on May 1, 2001, the Greater Durham Chamber of Commerce presented to Chancellor Chambers the Civic Honor Award, the highest award bestowed upon a citizen of Durham who has contributed to the overall betterment of the community:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim Saturday, May 19, 2001 as

JULIUS LEVONNE CHAMBERS DAY

in Durham County in grateful appreciation for his dedicated service to the Durham community and beyond. We urge all citizens to recognize the visionary leadership he has unselfishly given during his inspiring 8-year tenure as Chancellor of North Carolina Central University, and during his cutting-edge legal career.

This the 14th day of May 2001.

/s/ Five Commissioners
Durham County Commissioners

Appointment of Chairman Black to the Health and Wellness Trust Fund Commission

Vice-Chairman Reckhow wished to publicly acknowledge that Chairman Black was appointed to the Health and Wellness Trust Fund Commission which is charged with distributing some of the monies from the tobacco settlement as it relates to health and wellness in the state.

Consent Agenda

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

- * (a) Budget Amendment No. 01BCC000060—Criminal Justice Resource Center, Juvenile Day Reporting Center (approve the budget amendment in the amount of \$258,720 and approve the establishment of two provisional Court Specialist positions to serve as liaisons between Safe Schools/Healthy Students grant partners and the juvenile justice system);
- * (b) Budget Ordinance Amendment No. 01BCC000061—Social Services—Recognize New Child Care Subsidy Revenues (recognize new revenues in the amount of \$1,536,342 for child care subsidy payments to allow the program to continue at its present level for the remainder of the current fiscal year);
- * (c) Budget Ordinance Amendment No. 01BCC000062—Social Services (DSS)—Request to Accept New Revenues to Provide Medicaid Reinstatements (accept \$75,000 in additional federal revenues necessary to complete the Medicaid Reinstatement Project);
- * (d) Budget Ordinance Amendment No. 01BCC000064—Recognize Deferred Revenue for Publication of Durham County Historic Inventory Book (recognize deferred revenue in the amount of \$17,000 for the publication of the Historic Inventory Book);
- (e) Amendment to Records Retention and Disposition Schedule (approve the schedule amendments to allow

- for the destruction of records which no longer have any utility within a reasonable time frame);
- (f) Reschedule the May 28, 2001 Regular Session (reschedule for Thursday, May 31, 2001 from 2:30 to 6:00 p.m. due to the national holiday [Memorial Day]);
 - (g) Standard Non-Reimbursable Contracts for the Extension of the County Sanitary Sewer System—Fairfield Subdivision (Phase 4A) and Research Triangle Charter Academy) (authorize the County Manager to execute the utility contracts for these additions to the County sanitary sewer system);
 - * (h) Offer to Purchase County Property—704 Gaston Avenue (pursue the upset bid process; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process);
 - * (i) Capital Projects Amendment No. 01CPA000011—Close Durham Public School Projects (close the three capital projects: Jordan High Roof Replacement \$25,693, CC Spaulding Circular Drive \$2,013, and Mangum Primary Roof Replacement \$11,354 for a total budget decrease of \$39,060.00); and
 - * (j) Approve Amendment to Installment Financing Contract Amendment—First Union Building (approve the amendment to include interest on the proceeds from the original 1996 funds).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda (a). Budget Amendment No. 01BCC000060—Criminal Justice Resource Center, Juvenile Day Reporting Center (approve the budget amendment in the amount of \$258,720 and approve the establishment of two provisional Court Specialist positions to serve as liaisons between Safe Schools/Healthy Students grant partners and the juvenile justice system).

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Budget Ordinance
Amendment No. 01BCC000060

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2000-01 Budget Ordinance is hereby amended to reflect budget adjustments for the Criminal Justice Resource Center.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Public Safety	\$ 30,637,428	\$258,720		\$ 30,896,148
<u>Revenues</u>				
Intergovernmental	\$200,242,612	\$258,720		\$200,501,332

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

This the 14th day of May, 2001.

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

Consent Agenda (b). Budget Ordinance Amendment No. 01BCC000061—Social Services—Recognize New Child Care Subsidy Revenues (recognize new revenues in the amount of \$1,536,342 for child care subsidy payments to allow the program to continue at its present level for the remainder of the current fiscal year).

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Budget Ordinance
Amendment No. 01BCC000061

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2000-01 Budget Ordinance is hereby amended to reflect budget adjustments for the Social Services Department.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$240,573,444	\$1,536,342		\$242,109,786
<u>Revenues</u>				
Intergovernmental	\$200,501,332	\$1,536,342		\$202,037,674

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

This the 14th day of May, 2001.

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

Consent Agenda (c). Budget Ordinance Amendment No. 01BCC000062—Social Services (DSS)—Request to Accept New Revenues to Provide Medicaid Reinstatements

(accept \$75,000 in additional federal revenues necessary to complete the Medicaid Reinstatement Project).

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Budget Ordinance
Amendment No. 01BCC000062

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2000-01 Budget Ordinance is hereby amended to reflect budget adjustments for the Social Services Department.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$242,109,786	\$75,000		\$242,184,786
<u>Revenues</u>				
Intergovernmental	\$202,037,674	\$75,000		\$202,112,674

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

This the 14th day of May, 2001.

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

Consent Agenda (d). Budget Ordinance Amendment No. 01BCC000064—Recognize Deferred Revenue for Publication of Durham County Historic Inventory Book (recognize deferred revenue in the amount of \$17,000 for the publication of the Historic Inventory Book).

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Budget Ordinance
Amendment No. 01BCC000064

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2000-01 Budget Ordinance is hereby amended to reflect budget adjustments for the Economic and Physical Development Department.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Economic & Physical Development	\$ 4,785,065	\$17,000		\$ 4,802,065

Revenues

Intergovernmental	\$202,112,674	\$17,000	\$202,129,674
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 14th day of May, 2001.

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

Consent Agenda (h). Offer to Purchase County Property—704 Gaston Avenue (pursue the upset bid process; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process).

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in the City of Durham, Durham County, North Carolina and properly described as follows:

Parcel ID# 399-03-010
PIN 0830-09-05-9036
50' x 130' lot NW side Gaston Avenue

WHEREAS, Mr. Bryant Roberts has made an offer to the County to purchase the above property for \$7,762.93 and has made a bid deposit in the amount of \$400.00 which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within ten days after the date the notice is published;
3. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
4. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
5. When the bid has been successfully raised (upset), the new bid becomes the current offer;
6. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;

7. When the bid has been successfully raised (upset), the procedure is repeated;
8. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
9. Should the Board of County Commissioners accept the final qualifying offer, a nonwarranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on May 14, 2001.

/s/ Garry E. Umstead
Clerk, Board of Commissioners

Consent Agenda (i). Capital Projects Amendment No. 01CPA000011—Close Durham Public School Projects (close the three capital projects: Jordan High Roof Replacement \$25,693, CC Spaulding Circular Drive \$2,013, and Mangum Primary Roof Replacement \$11,354 for a total budget decrease of \$39,060.00).

DURHAM COUNTY, NORTH CAROLINA
FY 2000-01 Capital Projects Ordinance
Amendment No. 01CPA000011

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2000-01 Capital Projects Budget Ordinance is hereby amended to reflect budget adjustments for the:

CLOSE SCHOOL CAPITAL PROJECTS

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Jordan High Roof Replacement	\$25,693		\$25,693	\$-0-
CC Spaulding Circular Drive	\$ 2,013		\$ 2,013	\$-0-
Mangum Primary Roof Replacement	\$11,354		\$11,354	\$-0-

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

This the 14th day of May, 2001.

(Capital Projects Ordinance Amendment recorded in Ordinance Book _____, page _____.)

Consent Agenda (j). Approve Amendment to Installment Financing Contract Amendment—First Union Building (approve the amendment to include interest on the proceeds from the original 1996 funds).

RESOLUTION APPROVING AN AMENDMENT TO INSTALLMENT FINANCING
CONTRACT AMENDMENT AND APPROVING AND AUTHORIZING CERTAIN
ACTIONS IN CONNECTION THEREWITH

WHEREAS, the County of Durham, North Carolina, a political subdivision of the State of North Carolina (the “County”), has determined to proceed with the financing pursuant to G.S. § 160A-20, as amended, of a portion of the cost of acquiring an existing building known as the First Union Building or the Commerce Building and located at 201 North Roxboro Street in Durham, North Carolina, and related property, including a 30-space parking lot, and renovating said building to provide space for a Juvenile Courtroom, offices for the Guardian Ad Litem and the Public Defender and other court-related facilities (the “Project”) and to approve an amendment to an existing installment financing contract as amended; and

WHEREAS, there has been presented for consideration by the County a draft of an Amendment to Installment Financing Contract Amendment, among the County, First Union National Bank, as lender (the “Lender”), and First Union National Bank, as escrow agent (the “Escrow Agent”) under which the lender would permit the County to use approximately \$2,610,000 of the funds previously advanced by the Lender to the County under an Installment Financing Contract, dated May 14, 1996, among the County, the Lender and the Escrow Agent (the “Contract”), as amended, for the accomplishment of the Project; now, therefore,

BE IT RESOLVED by the Board of Commissioners for the County:

Section 1. The Board of Commissioners for the County (the “Board of Commissioners”) hereby finds and determines that it is in the best interest of the County to enter into the Amendment to Installment Financing Contract Amendment in order to effectuate the financing of the Project as described above.

Section 2. The terms and provisions of the Amendment to Installment Financing Contract Amendment are hereby approved in all respects and the Chairman of the Board of Commissioners, the Interim Finance Director of the County, the Assistant County Attorney of the County and the Clerk to the Board of Commissioners are hereby authorized and directed to execute and deliver the Amendment to Installment Financing Contract Amendment, as may be applicable, in substantially the form presented to the Board of Commissioners, together with such additions, changes, modifications and deletions as they, with the advice of counsel, may deem necessary and appropriate, and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Board of Commissioners and the County.

Section 3. The Board of Commissioners hereby approves, ratifies and confirms the actions of the County Manager, the Interim Finance Director and the Assistant County Attorney of the County in connection with this matter.

Section 4. The officers and employees of the County are authorized and directed (without limitation except as may be expressly set forth herein) to take such other actions and to execute and deliver such other documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effectuate the transactions contemplated by the Amendment to Installment Financing Contract Amendment.

Section 5. The County covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended (the “Code”), as applicable to the

Amendment to Installment Financing Contract Amendment except to the extent that the County obtains an opinion of nationally-recognized bond counsel to the effect that noncompliance would not result in the interest components of the Installment Payments (as defined in the Contract) being includable in the gross income of the recipient thereof under Section 103 of the Code, as more specifically provided in the Contract.

Section 6. This resolution shall take effect immediately upon its passage.

Consent Agenda Item Pulled for Discussion

Consent Agenda (h).—Offer to Purchase County Property—704 Gaston Avenue (pursue the upset bid process; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process).

Commissioner Heron asked that the County look carefully at the bid process because the first bid was one-half of the recent appraisal on this property. Can a minimum bid be set?

County Attorney Chuck Kitchen responded the policy states that the County will settle for the amount of the taxes owed on foreclosed property. If the property is held by the County and is no longer being used, the policy must get the appraised tax value.

Vice-Chairman Reckhow wanted to make sure the property is marketed as well as possible.

Properties for sale are displayed on a bulletin board in the tax office, on the County's Website, a sign is placed on the property, and a legal notice is placed in the newspaper.

Commissioner Heron was also concerned that the person bidding on the property is in arrears on taxes for other property. Why should we sell more property to that person until the back taxes are paid? Policy should be set on this.

Chairman Black directed the County Attorney to give advice in writing to the Board about setting the policy as it relates to selling property to people owing back taxes.

Vice-Chairman Reckhow wanted input as to how staff could further market such properties.

Mr. Bill Martin, Real Property Manager, said he would contact developers or interested parties who may be speculating about such property and see that they are informed.

K. Dan McKittrick, Applicant (Rezoning Case P00-87)

K. Dan McKittrick presented to the Board of County Commissioners a request to rezone 23.98 acres located at 7601 and 7721 Herndon Road, PIN #0727-01-08-7357; Tax Map 533-01-3. Request: RD (F/J-B) to PDR 2.25 (F/J-B). The proposal is in general conformance with the adopted small area plan and 2020 Plan, and the Area C Draft I-40-NC 54 Corridor Study supports low-density residential development (up to 4 units per acre). Staff recommends approval. The Zoning Committee of the Durham Planning Commission conducted public hearings on January 23, 2001 and March 13, 2001, and voted 6-1 to recommend denial.

The public hearing for this request was advertised on April 6 and April 13, 2001 in the Durham Herald-Sun.

The public hearing on this request was held and closed and a decision on this request was continued from the April 23, 2001 County Commissioner meeting.

Resource Person(s): Sheila Stains-Ramp, Planning Supervisor, and Dick Hails, Assistant Planning Director

County Manager's Recommendation: The Manager's recommendation was to approve the rezoning.

Commissioner Heron said the developer has agreed to pay impact fees if such fees are in place prior to his obtaining an occupancy permit.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve Rezoning Case P00-87.

The motion carried unanimously.

Vice-Chairman Reckhow referred to a memo distributed by the developer at the last meeting that references the agreement referred to by Commissioner Heron. Is this something we could put as a note on the rezoning plan?

County Attorney Chuck Kitchen said it could be placed as a note but the developer could not be bound by it.

Vice-Chairman Reckhow amended the motion to add that a note be placed on the plan that the developer will pay impact fees if they are in place prior to his obtaining an occupancy permit.

Commissioner Heron agreed to the amendment.

Major Site Plan—Public Service—D01-111

McKim & Creed, on behalf of Public Service Company of North Carolina, submitted a site plan for an 11,347.6-square-foot operations center on a 6.459-acre tract (Tax Map 783A-1-1; PIN 0833-02-67-9973). The facility is being proposed as an operations/maintenance/storage site for PSNC for their northern Durham operations. The site would be used for office, warehouse, and outdoor storage and for vehicle maintenance and washing with a single, two-way driveway entrance off Old Oxford Highway.

Resource Person(s): Steve Medlin, Planning Supervisor, Durham City/County Planning

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

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the major site plan.

The motion carried unanimously.

New Hope Creek Open Space Acquisition

The Board was requested to approve the purchase of a conservation easement as part of the New Hope Corridor Open Space project.

The County has previously approved the purchase of nine properties totaling 325.7 acres within the New Hope Creek acquisition area. In 1997, the County received a \$750,000 Clean Water Management Trust Fund grant to assist the County with land acquisition and protection in the New Hope Creek Corridor. The CWMTF dollars greatly stretch the County's public investment in funds allocated for New Hope Creek land acquisition.

The proposed purchase was for a conservation easement of approximately 27.1 acres of wooded bottomland with Mud Creek frontage, which is a major tributary of New Hope Creek. The easement for the parcel may be purchased for \$1,342 per acre, with an estimated total acquisition cost of \$44,973. It is estimated that approximately \$37,327 of these costs would be reimbursed by the CWMTF, leaving the County's share of the easement purchase at \$7,646 after reimbursements are received.

Resource Person(s): Mike Giles, Open Space Land Manager, City-County Planning and Dick Hails, Assistant Planning Director, City-County Planning

County Manager's Recommendation: The Manager's recommendation was that the Board approve the 27.1-acre conservation easement purchase (PIN #0800-02-56-4962) as an important addition to the County's New Hope Creek Corridor Open Space project.

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to approve the 27.1-acre Conservation Easement purchase.

The motion carried unanimously.

Introduction of Bond Order

The Bond Order for the proposed GO bond issue in November was adopted at this meeting. Also, the public hearing on the proposed bonds was requested to be set for June 11, 2001 at the regular meeting of the Board.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Approve the order as the second step in the bond process.

Vice-Chairman Reckhow asked if the wording on the ballots would be set by the bond orders.

County Attorney Kitchen would talk to bond counsel about actual language for the ballots.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the order as the next step in the bond process.

The motion carried unanimously.

ORDER AUTHORIZING \$51,800,000 SCHOOL BONDS

WHEREAS, The Durham County Board of Education has certified to the Board of Commissioners for the County of Durham, North Carolina, a resolution passed by said Board of Education on February 22, 2001 showing that adequate school facilities are not now available in the Durham County Administrative Unit to comply with the requirements of Section 2 of Article IX of the Constitution of North Carolina for the maintenance of schools at least nine months in every year and that it is necessary, in order to maintain such term as required by said Section 2 of Article IX of the Constitution, to provide additional school facilities in said Unit by erecting additional school buildings and other school plant facilities, remodeling, enlarging and reconstructing existing school buildings and other school plant facilities and acquiring any necessary land, furnishings and equipment therefor, the estimated cost of which is at least \$51,800,000;

WHEREAS, said resolution requests said Board of Commissioners to take all necessary steps, by the issuance of bonds or otherwise, in order that funds may be provided for such school facilities; and

WHEREAS, said Board of Commissioners has carefully examined the facts and has determined and does hereby find as a fact that the statements made in said resolution are true and that it has become the duty of said Board of Commissioners, acting as an administrative agent of the State of North Carolina in providing a State system of public schools, to order the issuance of bonds of the County of Durham so that the school facilities mentioned in said resolution and in paragraph 1 of this order may be provided in order to maintain the school term in the County of Durham as required by Section 2 of Article IX of the Constitution; now, therefore,

BE IT ORDERED by the Board of Commissioners for the County of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, and in order to maintain the school term in the County of Durham as required by Section 2 of Article IX of the Constitution, the County of Durham, North Carolina is hereby authorized to contract a debt, in addition to any and all other debt which said County may now or hereafter have power or authority to contract, and in evidence thereof to issue School Bonds in an aggregate principal amount not exceeding \$51,800,000 for the purpose of providing funds, with any other available funds, for erecting additional school buildings and other school plant facilities, remodeling, enlarging and reconstructing existing school buildings and other school plant facilities and acquiring any necessary land, furnishings and equipment therefor, in order to provide additional school facilities in said County.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of the debt of said County has been filed with the Clerk to the Board of Commissioners for said County and is open to public inspection.

4. That this order shall take effect when approved by the voters of said County at a referendum as provided in said Act.

ORDER AUTHORIZING \$10,270,000 LIBRARY FACILITIES BONDS

BE IT ORDERED by the Board of Commissioners for the County of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, the County of Durham, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said County may now or hereafter have power or authority to contract, and in evidence thereof to issue Library Facilities Bonds in an aggregate principal amount not exceeding \$10,270,000 for the purpose of providing funds, with any other available funds,

for providing additional library facilities of said County, including the construction of a branch library in the eastern area of said County, the expansion and renovation of an existing branch library, the acquisition of necessary land, rights of way, furnishings and equipment therefor and the acquisition of necessary land and rights of way for additional branch libraries.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of the debt of said County has been filed with the Clerk to the Board of Commissioners for said County and is open to public inspection.

4. That this order shall take effect when approved by the voters of said County at a referendum as provided in said Act.

ORDER AUTHORIZING \$5,840,000 MUSEUM BONDS

BE IT ORDERED by the Board of Commissioners for the County of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, the County of Durham, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said County may now or hereafter have power or authority to contract, and in evidence thereof to issue Museum Bonds in an aggregate principal amount not exceeding \$5,840,000 for the purpose of providing funds, with any other available funds, for enlarging and improving exhibits, parking facilities, visitor facilities, offices and maintenance facilities at the North Carolina Museum of Life and Science and acquiring any necessary furnishings and equipment therefor.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of the debt of said County has been filed with the Clerk to the Board of Commissioners for said County and is open to public inspection.

4. That this order shall take effect when approved by the voters of said County at a referendum as provided in said Act.

ORDER AUTHORIZING \$5,550,000 RECREATIONAL FACILITIES BONDS

BE IT ORDERED by the Board of Commissioners for the County of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, the County of Durham, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said County may now or hereafter have power or authority to contract, and

in evidence thereof to issue Recreational Facilities Bonds in an aggregate principal amount not exceeding \$5,550,000 for the purpose of providing funds, with any other available funds, for providing additional recreational facilities of said County, including the construction of a new center for senior citizens in the downtown area of the City of Durham on land donated to said County and the acquisition of necessary rights of way, furnishings and equipment therefor.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of the debt of said County has been filed with the Clerk to the Board of Commissioners for said County and is open to public inspection.

4. That this order shall take effect when approved by the voters of said County at a referendum as provided in said Act.

ORDER AUTHORIZING \$1,200,000 HEALTH CARE FACILITIES BONDS

BE IT ORDERED by the Board of Commissioners for the County of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, the County of Durham, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said County may now or hereafter have power or authority to contract, and in evidence thereof to issue Health Care Facilities Bonds in an aggregate principal amount not exceeding \$1,200,000 for the purpose of providing funds, with any other available funds, for providing and improving health care facilities of said County, including the construction of a building to house emergency medical services to be relocated from Lincoln Community Health Center and the acquisition of necessary land, rights of way, furnishings and equipment therefor.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of the debt of said County has been filed with the Clerk to the Board of Commissioners for said County and is open to public inspection.

4. That this order shall take effect when approved by the voters of said County at a referendum as provided in said Act.

The Board of Commissioners thereupon designated the Interim Finance Director of the County as the officer whose duty it shall be to make and file with the Clerk to the Board of Commissioners the sworn statement of debt of the County which is required by The Local Government Bond Act, as amended, to be filed after the bond orders have been introduced and before the public hearing thereon.

Thereupon the Interim Finance Director filed with the Clerk to the Board of Commissioners, in the presence of the Board of Commissioners, the sworn statement of debt as so required.

Thereupon the order entitled: "ORDER AUTHORIZING \$51,800,000 SCHOOL BONDS" was passed on first reading.

Thereupon the order entitled: "ORDER AUTHORIZING \$10,270,000 LIBRARY FACILITIES BONDS" was passed on first reading.

Thereupon the order entitled: "ORDER AUTHORIZING \$5,840,000 MUSEUM BONDS" was passed on first reading.

Thereupon the order entitled: "ORDER AUTHORIZING \$5,550,000 RECREATIONAL FACILITIES BONDS" was passed on first reading.

Thereupon the order entitled: "ORDER AUTHORIZING \$1,200,000 HEALTH CARE FACILITIES BONDS" was passed on first reading.

On motion duly made, seconded and unanimously carried, the Board of Commissioners fixed 7:00 P.M. on June 11, 2001, in the County Commissioners Meeting Room in the Durham County Government Administrative Complex at 200 East Main Street, in Durham, North Carolina, as the hour, day and place for the public hearing upon the foregoing orders and directed the Clerk to the Board of Commissioners to publish each of said orders, together with the appended statement as required by The Local Government Bond Act, as amended, once in The Herald Sun not later than the sixth day before said date.

City-County Unified Development Ordinance Contract Authorization

The Durham City-County Planning Department solicited proposals from consultants with expertise in the preparation of a Unified Development Ordinance (UDO) to prepare such an ordinance for Durham City and County. This ordinance effort is the central implementation program for addressing regulatory reforms set forth in the recent Smart Growth Audit. The Planning Department received three proposals. Each proposal consisted of a team of consultants. It was recommended that the City and County extend a two-year contract to the firm of Duncan & Associates in the amount of \$189,500 for the preparation of a UDO and web site adaptation of the final ordinance. The contract would provide a Phase I work effort to be conducted in an amount not to exceed \$130,000 with implementation not to begin until July 1, 2001. Phase 2 of the contract, in the amount of \$59,500, would be funded in the next fiscal year.

Resource Person(s): Dick Hails, Interim Director, and Bonnie Estes, Assistant Director, Durham City-County Planning

County Manager's Recommendation: The Manager's recommendation was that the Board authorize the Manager to execute a three-party agreement in conjunction with the City of Durham and Duncan Associates for the development of a Unified Development Ordinance.

Vice-Chairman Reckhow asked that the Board delay formal action on this item until the next Regular Session (June 11). In the meantime, Planning would amend the contract and provide additional documentation to the Commissioners for their review.

Commissioner Heron asked that the County Manager review the contract.

Chairman Black asked that staff answer all questions posed by the Board. The Commissioners should get any additional questions they might have to staff.

County Attorney Kitchen would look at the fact that the County is not listed in the contract.

Approval of Proposal for Public School Impact Fee Study

Durham County solicited proposals for the preparation and development of a Public School Impact Fee Study during April. Proposals were received from Tischler & Associates Inc. of Bethesda, Maryland, and Ty Cox & Company of Durham. The staff evaluated both proposals and recommended that the Board accept a negotiated proposal from Tischler & Associates for \$57,500. (The original proposal has been modified to facilitate a 90-day completion and provide for community input.) The proposal calls for the completion of 12 tasks, which will provide the Board of Commissioners with the information necessary to decide upon the adoption of a public school impact fee schedule. The early completion will also enable the Board to evaluate the impact of the adoption of public school impact fees on the required tax rate increase that will be necessary to retire the bonded indebtedness for the \$52 million bond referendum that is slated for November.

Resource Person(s): Mike Ruffin, County Manager

County Manager's Recommendation: The Manager recommended that the Board accept the proposal from Tischler & Associates for \$57,500 for the preparation of a Public School Impact Fee Study.

Commissioner Bowser asked why the Ty Cox firm located in Durham was not chosen. He feels that local organizations should be selected.

County Manager Ruffin said that there was no indication in the submitted information that the Cox firm or MGT of America had ever prepared an impact fee study for public schools.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, approval of the proposal from Tischler & Associates for \$57,500 for the preparation of a Public School Impact Fee Study. The County Manager was asked to make this a priority in terms of getting it signed and initiated so the County can get the results as close to 90 days as possible.

The motion carried unanimously.

Resolution and Notice of Hearing on the Alcoholic Beverage Control Board

County Attorney Chuck Kitchen said that the resolution makes certain findings. The resolution follows:

RESOLUTION AND NOTICE OF HEARING ON ALCOHOL BEVERAGE CONTROL BOARD

WHEREAS, the Durham County Alcohol Beverage Control (ABC) Board has experienced and continues to experience discord and rancor among its members; and

WHEREAS, this discord has manifested itself in several complaints filed with the Board of Commissioners by one of the ABC Board members on or about August 28, 2000; and

WHEREAS, this discord has appeared to have a negative effect on the operations of the ABC Board, including the employees thereof; and

WHEREAS, counseling has been provided to employees due to poor staff morale, but the counseling was not effective; and

WHEREAS, the Board of Commissioners has suggested that the ABC Board members seek mediation of their differences in order to alleviate the discord which now exists; and

WHEREAS, Mike Wendt was recommended by the Institute of Government as a mediator for the ABC Board members; and

WHEREAS, after Mike Wendt was hired as a mediator, he interviewed each of the ABC Board members individually, and each of the Board members indicated that they did not wish to proceed with mediation; and

WHEREAS, Mike Wendt has indicated to the County Manager that while there is conflict on the ABC Board, and communication among the ABC Board members has deteriorated, further mediation attempts would be a waste of time; and

WHEREAS, it appears to the Board of Commissioners that due to the discord and rancor existing on the ABC Board that has eroded public confidence in the administration of the ABC system in Durham County; and

WHEREAS, the continued discord has held the ABC Board up to public scrutiny which has resulted in a loss of credibility as evidenced by numerous newspaper articles and editorials; and

WHEREAS, it appears that this Board's appointments to the ABC Board have used poor judgment in overseeing the ABC system in Durham County and failed to take proper and timely action to resolve their relational problems.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS DOTH RESOLVE:

1. The Board of Commissioners hereby gives notice to its three appointees to the Alcohol Beverage Control Board, James Randall, Mary Ellen Williams, and John G. Horton, to appear at the Board of Commissioners meeting on May 31, 2001 at 2:30 p.m. and show cause, if there be any, why they should not be removed by this Board of Commissioners from membership on the Durham County Alcohol Beverage Control Board.

2. The Clerk to the Board is ordered to send a copy of this resolution and notice of hearing to this Board's appointees as listed in paragraph 1 by both first class and certified mail, return receipt requested, and whatever other notice is appropriate.

3. The County Manager is ordered to provide assistance as necessary to bring all relevant facts to light in this matter.

4. Each of the appointees to the Durham County Alcohol Beverage Control Board shall be afforded a hearing on the question of their removal at the Board of Commissioners' meeting on May 31, 2001.

This the 14th day of May, 2001.

Commissioner Bowser was concerned that the ABC Board members were being asked to defend themselves against an outside source (Mr. Wendt) who made accusations about them. He had information reflecting that only one board member had refused mediation.

Commissioner Bowser questioned whether Mr. Wendt is qualified to determine that further mediation attempts would be a waste of time.

Chairman Black and Vice-Chairman Reckhow expressed that Mr. Wendt is a credible person with a strong record in mediation and was recommended by the Institute of Government.

Commissioner Bowser said that until one year ago, the ABC Board had no problem getting along. The problems began when the third member (Mr. James Randall) was placed on the Board. Most of the correspondence and accusations have come from Mr. Randall who did not attend the ABC Board/County Commissioner meeting where the other two board members agreed to attend mediation. Why should we accuse two individuals who have worked hard for the County when Mr. Randall may be the culprit of all the problems experienced by the ABC system? The board had harmony prior to Mr. Randall being appointed, and he is the member who has not cooperated with the Commissioners.

Commissioner Heron understood that all three ABC Board members met with the mediator. The reason the board ran smoothly for a time was because Ex-County Commissioner Bill Bell agreed to stay on the board for a while; he made the difference. When he left, another appointment was made. Commissioner Heron didn't believe all the members were notified of meetings, which has caused many of the existing problems.

Commissioner Bowser had no problem with bringing the ABC Board before the Commissioners to talk with them; however, he felt the resolution states that the board members must prove why they should not be removed. That's what he has a problem with. They are being asked to come under duress. His understanding was that two members did cooperate. It's not fair to people to do them that way.

Chairman Black chose to follow the direction of the County Attorney and asked for motions.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to request that the State Auditor be asked to audit the ABC Board's financial records and inventory as soon as possible.

The motion carried unanimously.

Commissioner Bowser said that in February 2001, he asked the Commissioners to get involved to help solve the problems of the ABC Board. He was told by other Commissioners that he had no right to interfere in those affairs. Why do we have a right to become involved now?

Commissioner Heron moved, seconded by Chairman Black, to request that the ABC Board hire an auditor if the State Auditor is not available immediately.

Chairman Black asked the County Manager to call Ralph Campbell, the State Auditor, and find out if an audit can be done immediately. If not, please find out a date by which they can come; ask if they can send someone to collect the information that they need to start the process as soon as possible.

The motion carried unanimously.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the resolution asking that the three ABC Board members attend a quasi-judicial public hearing before the County Commissioners on May 31, 2001 at 2:30 p.m. to show cause why they shouldn't be removed from the board.

Commissioner Bowser wished to know what the ABC Board members must do to prove that they are not guilty as charged. Will their word be good enough or must they show evidence?

County Attorney Kitchen said the Commissioners must decide on the credibility of the witnesses.

Commissioner Bowser thought the notice of hearing was too short. What if a member cannot attend the meeting on May 31? Are they legally required to attend or can they be absent for a good reason?

County Attorney Kitchen responded that any member may request that the hearing be continued.

Commissioner Bowser felt that the Board of County Commissioners' position was that the ABC Board would be removed, no matter what.

Chairman Black said that the Board has not taken a position on this matter and that she as an individual has not made a decision. She wishes to hear the evidence.

Commissioner Bowser said the Commissioners should have evidence against the ABC Board in order to proceed with the hearing. He would like to see evidence, if there is any. He doesn't want this to go forward. He thinks it is ridiculous.

Commissioner Bowser wished to invite all individuals to the hearing who had attended any ABC Board meeting within the last year.

Chairman Black did not feel the Commissioners should go to that depth. The issues should remain with the ABC Board--its apparent inability to work together and

mediation. She would hesitate to have ABC employees as witnesses. The issues are not with the employees. This is not actually a court hearing.

Vice-Chairman Reckhow asked that the ABC Board be sent a copy of the resolution and an explanation of what is involved in a quasi-judicial hearing. The ABC Board members may wish to seek representation.

The motion carried with the following vote:

Ayes: Black, Cousin, Heron, and Reckhow

Noes: Bowser

Commissioner Bowser asked that the record reflect that he did not vote in favor of the motion because he disagrees with the wording of the resolution.

Board and Commission Appointments

Garry E. Umstead, CMC, Clerk to the Board, distributed ballots to make appointments to boards and commissions.

Vice-Chairman Reckhow asked that the Clerk to Board, in the future, make a note on the application cover sheet if the applicants do not meet the criteria called for.

Chairman Black asked that the County Manager find out whether a staff person could serve on the Citizens Advisory Committee.

The following appointments were made:

- Durham Planning Commission—Dewey A. Davis
- Community Child Protection Team/Child Fatality Prevention Team—Diane E. Wingo
- Convention and Visitors Bureau—William A. Kalkhof
- Historic Preservation Commission—William T. Hutchins Jr.

Resource Person(s): Garry E. Umstead, CMC, Clerk to the Board

Adjournment

Chairman Black adjourned the meeting at approximately 9:30 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board