

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

Monday, November 26, 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 meeting with the Pledge of Allegiance.

Agenda Adjustment

Vice-Chairman Reckhow said she had an announcement to make at the end of the meeting.

Minutes

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the minutes of the October 1, 2001 Regular Session and the October 8, 2001 Regular Session as submitted.

The motion carried unanimously.

November Anchor Award Winner—Katherine J. Mellown

Katherine J. Mellown, Durham County EMS Special Program Coordinator, is the winner of this month's Anchor Award. In the nomination letter, EMS Director Mickey Tezai noted Ms. Mellown's efforts of helping the agency resolve its most serious problem—the recruitment and retention of qualified workers. Over an 18-month period, she helped reduce the number of EMS staff vacancies from 15 to 3, thus significantly reducing the department's annual overtime costs.

Mr. Michael Smith, representing the Emergency Medical Services Department, introduced Ms. Mellown to the County Commissioners.

Ms. Mellown spoke about the recruitment and retention of employees in the department. She thanked the Commissioners for the recognition of the work she has done in the past few months.

Chairman Black presented the anchor award and a check in the amount of \$200 to Ms. Katherine J. Mellown.

Consent Agenda

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

- (a) Cancellation of the December 24, 2001 Board of County Commissioners' Regular Session (per the Chairman, the Board will discuss cancellation of this meeting);
- (b) Sales Tax Refund Audit Services (RFP 02-003) (recommendation is to enter into a service contract with Ernst and Young LLP);
- *(c) Capital Amendment Number 02CPA000006: Approval of Professional Services Building Programming and Pre-Design Contract for the Durham County Justice Building Capital Project (No: DC066) (approve Capital Amendment Number 02CPA000006 including an appropriation of funds and execution of contract with O'Brien/Atkins Associates, P.A., in the amount of \$234,970.00, plus a reimbursable amount of \$16,800.00 thus totaling \$251,770.00 and to execute any other related contracts, if necessary, not to exceed the estimated budget of \$280,000.00);
- *(d) Offer to Purchase County Property (0 Alben Street) (pursue the upset bid process);
- *(e) Property Tax Releases and Refunds Report for October 2001 (accept the report as presented and authorize the Tax Assessor to adjust the tax records as outlined in the report); and
- *(f) Budget Ordinance Amendment No. 02BCC000035—Cooperative Extension—recognize deferred revenues for school-age child care grant funding (approve Budget Ordinance Amendment No. 02BCC000035 in

the amount of \$3,494 to reflect appropriation of revenue and expenditures from FY 2001-2002).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item 5(c). Capital Amendment Number 02CPA000006: Approval of Professional Services Building Programming and Pre-Design Contract for the Durham County Justice Building Capital Project (No: DC066) (approve Capital Amendment Number 02CPA000006 including an appropriation of funds and execution of contract with O'Brien/Atkins Associates, P.A., in the amount of \$234,970.00, plus a reimbursable amount of \$16,800.00 thus totaling \$251,770.00 and to execute any other related contracts, if necessary, not to exceed the estimated budget of \$280,000.00).

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Capital Projects Ordinance
Amendment No. 02CPA000006

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Capital Projects Budget Ordinance is hereby amended to reflect budget adjustments for the Justice Center Capital Project.

JUSTICE CENTER CAPITAL PROJECT

	<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
<u>Justice Center</u>	\$50,000	\$280,000		\$330,000

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

This the 26th day of November, 2001.

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

Consent Agenda 5(d). Offer to Purchase County Property (0 Alben Street) (pursue 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 which is described as follows:

Parcel ID# 513-03-005
PIN 0729-01-27-7053
0 Alben Street

WHEREAS, Mr. Henry Richardson has made an offer to the County to purchase the above property for \$2,450 and has made a bid deposit in the amount of \$122.50, which is not less than 5% 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 of property is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within 10 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% of the first \$1,000.00 and 5% of the remainder of the original or current offer;
4. Bids shall be made to the Clerk to the Board or the Real Property Manager, together with a 5% 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 November 26, 2001.

/s/Garry E. Umstead, CMC
Clerk to the Board

Consent Agenda 5(e). Property Tax Releases and Refunds Report for October 2001 (accept the report as presented and authorize the Tax Assessor to adjust the tax records as outlined in the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details releases and refunds for the month of October 2001.

Releases & Refunds for 2001 Taxes:

Real	\$161,216.47
Personal	\$ 9,263.52
Registered Vehicles	\$ 44,537.35
Vehicles Fees	\$ 630.00
Solid Waste	<u>\$ 72,600.00</u>
Total for 2001 Taxes and Fees	\$288,247.34

Prior Years (1994-2000) releases and refunds for October 2001 are in the amount of \$15,980.94.

Total Current Year and Prior Year Releases and Refunds \$304,228.28

(Recorded in Appendix A in the Permanent Supplement of the November 26, 2001 Minutes of the Board.)

Consent Agenda 5(f). Budget Ordinance Amendment No. 02BCC000035—Cooperative Extension—recognize deferred revenues for school-age child care grant funding (approve Budget Ordinance Amendment No. 02BCC000035 in the amount of \$3,494 to reflect appropriation of revenue and expenditures from FY 2001-2002).

DURHAM COUNTY, NORTH CAROLINA
 FY 2001-02 Budget Ordinance
 Amendment No. 02BCC000035

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 Cooperative Extension Department.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Economic & Physical Development	\$ 5,310,768	\$3,494		\$ 5,314,262
<u>Revenues</u>				
Intergovernmental	\$229,902,657	\$3,494		\$229,906,151

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

This the 26th day of November, 2001.

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

Receive Public Comment and Adopt a Priority List for the TIP 2004-2010

The Transportation Improvement Program (TIP) determines how state and federal transportation funds will be spent throughout Durham County and the State of North Carolina in upcoming years. The bi-annual TIP preparation begins with a process of priority setting by local jurisdictions. Each jurisdiction gives a priority recommendation for transportation projects that have not been funded or that are partially funded. Wesley Parham of the City Transportation staff provided background on the process and, at the Commissioners' Worksession on November 5, 2001, made a presentation on proposed road projects. The Board of County Commissioners elected to hold a public hearing on the TIP; it was scheduled for November 26, 2001 to allow a three-week comment period and was advertised. Following the public hearing, TIP priorities should be adopted by the Board.

Resource Person(s): Bonnie Estes, City-County Planning; Wesley Parham, City of Durham

County Manager's Recommendation: The County Manager recommended that the Board receive the public comment and adopt a list of TIP 2004-2010 priorities.

Wesley Parham, City of Durham Transportation Department, said the Board did receive a presentation at its November 5, 2001 Worksession. An overview was given to the Commissioners on the most recently approved State Transportation Improvement Program and the projects included in that program for Durham County. A draft list of priority projects was also presented to the Commissioners for consideration and endorsement. It was recommended that the Board hold a public hearing this evening. The list of proposed projects has been advertised in the local newspaper. The item is before the Board to receive any public comments.

Chairman Black asked the Commissioners if there were any questions and comments. There were none.

Chairman Black opened the public hearing that was properly advertised.

The following citizens signed to speak at the public hearing:

Reverend Clay Stevens, Pastor, Bethesda Baptist Church, 1914 S. Miami Blvd, came to the public hearing to request the advancement of funding to put a traffic signal at the corner of Ellis Road and S. Miami Blvd. The cost would be \$30,000 to \$50,000.

The second person to speak was Tony Manning, 2 Bonham Court. Mr. Manning, who is the principal of Bethesda Christian Academy, also asked for funding to help pay for the traffic signal.

Chairman Black asked Mr. Parham and County Attorney Chuck Kitchen to respond to the requested funding for the traffic signal.

Mr. Parham stated that he would be able to assist the people regarding the process they must follow in order to obtain help through the NC Department of Transportation.

As no one else signed to speak at this public hearing, Chairman Black closed the public hearing and referred the agenda item to the Commissioners for discussion.

The County Commissioners asked several questions and made comments about the TIP 2004-2010 to which Mr. Parham responded.

The Commissioners told the delegation requesting the funding for the traffic signal to come back to the Board if they need help to get the traffic signal funded and installed.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to adopt the Priority List for the TIP 2004-2010 in the accompanying resolution.

The motion carried with the following 4-1 vote:
Ayes: Black, Cousin, Heron, and Reckhow
Noes: Bowser

The resolution follows:

**RESOLUTION CONCERNING THE TRANSPORTATION PROJECTS CONTAINED
IN THE FY 2004-2010 TRANSPORTATION IMPROVEMENT PROGRAM (TIP)**

WHEREAS, the Durham Board of County Commissioners recognizes the importance of transportation to the economic and social well-being of the community; and

WHEREAS, a Transportation Improvement Program which identifies transportation projects scheduled for State and Federal funding over the next seven years is prepared annually by the NC Board of Transportation and the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (MPO); and

WHEREAS, the North Carolina Board of Transportation and the MPO solicit input for identifying transportation projects of local and regional importance to be included in the FY 2004-2010 Metropolitan TIP; and

WHEREAS, the identification of locally important transportation projects include projects in the current TIP and additional priority projects to be considered for inclusion in the development of the FY 2004-2010 TIP; and

WHEREAS, on June 14, 1999 the Board of County Commissioners approved the “Resolution Concerning the Durham Northwest and Northeast Loop (Eno Drive) and to Endorse the Northern Durham Parkway and Innovative Measures to Increase Transportation Options;” and

WHEREAS, the Board of County Commissioners strongly supports the design and implementation of new transportation projects with bicycle and pedestrian facilities, divided median sections, landscaping, and protection for neighborhoods.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Durham, North Carolina that:

1. The Board of County Commissioners endorses and supports local transportation projects contained in the FY 2002-2008 TIP, with the provisions included in section 2 below; and
2. The Board of County Commissioners requests that the State and the MPO implement the Northern Durham Parkway and associated road improvements, as specifically identified in the Board’s June 14, 1999 resolution; and
3. The Board of County Commissioners endorses the attached project priority list of transportation projects to be considered for inclusion in the FY 2004-2010 TIP; and
4. The Board of County Commissioners urges the North Carolina Department of Transportation and the MPO to fully fund the partially funded highway projects in the FY 2002-2008 TIP, with the provisions included in section 2 above, and to fund the attached priority project requests before funding other major projects in the urban area; and
5. The Board of County Commissioners requests that funding be allocated to Phase E of the American Tobacco Trail (NC 54 south to Wake County); and
6. The Board of County Commissioners requests that the Martin Luther King Jr. Parkway and NC 55 interchange (U-2405) feasibility study be updated expeditiously and that funding for this important project be identified.

Public Comment—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 N.C. 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 by 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 in order 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. The Committee voted to recommend approval at its October 10, 2001 meeting in a 3-2 vote.

Resource Person(s): Laura D. Woods, Planner, was to present the item.

County Manager's Recommendation: Accept public comment and adopt the Northeast Durham Small-Area Plan.

Chairman Black recognized Laura D. Woods, Planner, who presented the County Commissioners an overview of the Northeast Durham Small-Area Plan.

The Commissioners asked questions and made remarks about the plan to which Ms. Woods and Dick Hails, Interim Planning Director, responded.

The Commissioners offered their concerns with the proposed plan. Commissioner Bowser was concerned with the problem of providing enough water to the area.

Chairman Black asked for more information regarding the plan to provide water to Neal Middle School.

Commissioner Heron said this area should remain low-density. The density designation should be considered again.

Chairman Black and Commissioner Bowser requested additional information concerning the waterlines to Neal Middle School and what would be required to provide water to the residents in the area beyond the school. Commissioner Bowser wanted to know where the lines are located and where they stop at this point. He said water should be provided for area homeowners. If the waterlines would not be put in the area, the homeowners should be notified of that fact.

Vice-Chairman Reckhow asked for various changes to the proposed plan.

Commissioner Heron said this is basically a good plan with many good ideas. She said she thoroughly agreed with many parts of the plan and emphasized the importance of planning for multi-use facilities such as schools, libraries, parks, and playgrounds. She complimented Planning for that. She said she did have a problem with the increased density in the plan.

Chairman Black opened the public hearing that was properly advertised.

The following citizens spoke about the small-area plan:

John Parrish, 2704 Burton Road, representing the Burton Road Neighborhood Association, spoke in opposition to the small-area plan. He asked others in the audience, also in opposition, to stand. He reviewed several aspects of the plan for the Board and asked several questions for the staff to comment on.

Raymond Pennell, 3006 Burton Road, yielded his time to John Parrish.

Paul T. Glenn, 2612 Burton Road, Burton Road Neighborhood Association, spoke in opposition to the small-area plan. He yielded the majority of his time to Jackie Brown. His comments were in opposition to the density recommended by staff.

Jackie Brown, 3005 Davie Drive, Durham Planning Commission member, spoke in favor of Plan A, which she said the Planning Commission passed twice but has now been altered. She stated the Planning Commission did not want the alternate plan.

Chairman Black asked the staff to come to the podium to comment on the questions raised at this meeting.

Dicks Hails, Interim Planning Director, advised that the Commissioners could either vote for the draft plan presented to the Planning Committee or for the amended plan with proposed higher density.

Chairman Black sent the item back to the City-County Planning Department for more consideration, to include the concerns posed by the Commissioners including land use, transportation, and facilities issues. She stated the Board was not ready to vote on this proposal tonight.

Mr. Hails said the plan could come back in a month.

Vice-Chairman Reckhow suggested that Mr. Hails recommend to the City Council not to take action given that Planning is revisiting this item. The Commissioners wanted to take the plan back to the City/County Planning Committee in January or February.

Commissioner Bowser requested that staff listen to the neighbors in the area and incorporate their concerns into the plan.

Announcement

Vice-Chairman Reckhow announced that Jim Ritchey General Manager, Triangle Transit Authority, resigned and would be leaving at the end of January.

Quasi-Judicial Hearing—M01-02 Addition to Lebanon Volunteer Fire Department

Douglas E. Griffin, on behalf of the Lebanon Volunteer Fire Department, submitted a Major Special Use Permit for a 3,000-square-foot addition to an existing facility on ±2.311 acres zoned RD, M/LR-B and Eno-B. The property is located at 7900 Russell Road—on the southeast side of Russell Road, south of Guess Road (Tax References 861-1-6, 6A, 7, 8A; PIN 0816-04-72-9417,9579, 0816-04-82-0638,0797; County Street Atlas Page 27, Blocks D-3 & D-4). Governing Body approval of the Major Special Use Permit was required for government facilities in the Rural District. Notice of the governing board consideration of this major special use permit was published in the newspaper in accordance with the requirements of the Durham Zoning Ordinance Section 13.2.2.3 Major Special Use Permits. A Traffic Impact Analysis was not required for this project.

Resource Person(s): Teri Danner, Senior Planner

County Manager's Recommendation: Hold the public hearing and evaluate the evidence presented. The Planning staff was to make a recommendation after the hearing of this case. The County Manager would make a recommendation after the hearing of this case. After the hearing, one of these two motions would be in order:

Motion A: (Approval with or without Conditions)—To direct the Planning Director to prepare a decision granting with conditions the use permit in Case M01-02. (Commissioners should identify any conditions they wish to incorporate into their approval. Staff will prepare the decision for the Commissioners' next meeting for action).

Motion B: (Disapproval)—To direct the Planning Director to prepare a decision denying the use permit in Case M01-02. (Commissioners should identify the findings they are unable to make so these can be incorporated into the decision. Staff will prepare the decision for the Commissioners' next meeting for action).

Chairman Black asked everyone planning to speak, including the Planning Staff, to report to the Clerk to the Board so that he could administer the oath to everyone signed to give testimony/evidence at this meeting.

The Clerk to the Board administered the oath to six persons.

Chairman Black advised that the next matter was a request for a major special use permit for Lebanon Volunteer Fire Department. The hearing was judicial in nature and would be conducted in accordance with special due process safeguards.

Chairman Black stated that all the speakers had been sworn in.

Chairman Black asked if there were Board conflicts on this item. There were no conflicts declared by the Commissioners.

The Chairman asked County Manager Mike Ruffin to speak on behalf of Durham County.

County Manager Ruffin disclosed, for the record, that Durham County has seven firefighters stationed at the Lebanon Volunteer Fire Department. That disclosure was made at the beginning of the hearing for Counsel.

Chairman Black asked that any Board members having any information or special knowledge about the case that may not come out at tonight's hearing to please describe that information for the record, so that interested parties would know and could respond.

The Commissioners did not have any special knowledge about the case.

Chairman Black stated that in this hearing, the Planning Staff and other County witnesses would be heard from first, then the applicant and their witnesses, and then from the opponents to the request. There were four proponents signed to speak. There were no opponents signed to speak.

Chairman Black called on Planning staff for the presentation. Teri Danner, Senior Planner, presented the County Commissioners an overview of the proposal. All requirements and regulations had been met.

The staff requested that the Clerk to the Board enter the Staff Report and all attachments and exhibits as part of the permanent record.

The Commissioners were to make findings under Durham Zoning Ordinance Section 13.2.2.3 Major Special Use Permits and give consideration to items 1 through 10 as listed under Section 13.2.4. of the Staff Report.

Chairman Black asked if there were questions from the Commissioners. There were none.

Chairman Black called the four proponents for their remarks.

Douglas E. Griffin, 3200 Croasdaile Drive, President of the Board of Directors, Lebanon Volunteer Fire Department, spoke on behalf of three of the proponents signed to speak. They are as follows: Cliff Credle, 204 E. Markham Avenue, Brian Smyla, 7814 Grand Lillie Drive, and Mildred Jones, 7908 Russell Road. Mr. Griffin made brief remarks about the request.

Vice-Chairman Reckhow asked a question about the width of the buffer adjoining the property. Mr. Griffin responded to the question.

Ms. Mildred Jones, 7908 Russell Road, adjoining property owner, said she had no problems with the addition to the fire department. All of her questions have been answered.

As no one else signed speak at the Quasi-Judicial hearing, Chairman Black closed the hearing and referred the item back to the Commissioners for their consideration.

Chairman Black called for the motion. The motion follows:

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the Major Special Use Permit for the 3000-square-foot addition to the Lebanon Volunteer Fire Department.

The motion carried unanimously.

The Order Granting a Major Special Use Permit follows:

ORDER GRANTING, UPON CERTAIN CONDITIONS, A MAJOR SPECIAL USE PERMIT FOR ADDITION TO LEBANON VOLUNTEER FIRE DEPARTMENT, 7900 RUSSELL ROAD—GOVERNMENT FACILITY IN A RESIDENTIAL ZONE, NOT TO INCLUDE CORRECTIONAL FACILITIES AND JAILS—CASE M01-02

The Board of County Commissioners for the County of Durham, having conducted a hearing on Case M01-02 and having considered all evidence presented at such hearing, hereby determines that the Ordinance requirements for the granting of a Major Special Use Permit in this case have been met, and that the Use Permit should be granted upon certain conditions.

THE BOARD OF COUNTY COMMISSIONERS HEREBY FINDS that the use meets the requirements of 13.2.3 of the Durham Zoning Ordinance, and that it is

1. In harmony with the area and not substantially injurious to the value of properties in the general vicinity;
2. In conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Section of this Ordinance; and
3. Will not adversely affect the health or safety of the public.

THE BOARD OF COUNTY COMMISSIONERS ALSO FINDS that considerations listed in 13.2.4 of the Ordinance have been addressed.

THE BOARD OF COUNTY COMMISSIONERS FURTHER DETERMINES THAT IT IS NECESSARY TO CONDITION THE GRANTING OF THE USE PERMIT UPON THE FOLLOWING:

1. That the applicant develops the approved use in conformity with the site plan, approved by the Development Review Board on October 19, 2001, as corrected, and any approved revision to such site plan.

THIS SPECIAL USE PERMIT SHALL BECOME NULL AND VOID UPON DETERMINATION BY THE APPROPRIATE OFFICIALS DESIGNATED BY ORDINANCE THAT THE ABOVE CONDITIONS HAVE NOT BEEN COMPLIED WITH.

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

Approved by the Board of County Commissioners, this the 26th day of November, 2001.

/s/Garry E. Umstead
Clerk to the Board

(Recorded in Appendix B in the Permanent Supplement of the November 26, 2001 Minutes of the Board)

Public Hearing—Coulter, Jewell, Thames P.A., Applicant (Rezoning Case P01-69)

Coulter, Jewell, Thames, P.A. presented to the Board of County Commissioners a request to rezone 60 acres of a 109.052-acre tract bounded by Red Mill Road, Teknika Parkway, and Old Oxford Road, PIN 0845-02-67-5196 (TM 950-1-1). Request: RAD and I-2 to I-2; F/J-A. The proposal is in general conformance with the small area plan and 2020 Plan. Staff recommended approval. The Zoning Committee of the Durham Planning Commission conducted a public hearing on November 13, 2001 and voted to recommend approval.

The public hearing for this request was advertised on November 16 and 23, 2001 in The Herald-Sun.

Resource Person(s): Nazeeh Abdul-Hakeem, Acting Planning Supervisor, and Dick Hails, Interim Planning Director

County Manager's Recommendation: The Manager recommended that the Board hold the public hearing and approve the rezoning, if appropriate, based on public comment.

Chairman Black asked the Staff to present the rezoning case.

Nazeeh Abdul-Hakeem, Acting Planning Supervisor, and Dick Hails, Interim Planning Director, presented the overview of the rezoning case.

The Commissioners asked questions and made comments about the proposal to which Mr. Abdul-Hakeem responded.

Chairman Black open the public hearing which was properly advertised.

The following citizens spoke at the public hearing:

Dan Jewell, 1025 Gloria Avenue, President, Coulter, Jewell, Thames, P.A., Land Planning and Engineering firm, representing Treyburn Limited Liability Company and EMD Pharmaceutical, presented the Commissioners an overview of the proposal to rezone the property. He urged the Commissioners to rezone the property so that development could move forward.

Ted Conner, Vice-President for Economic Development, Durham Chamber of Commerce, talked about EMD's project and urged the Commissioners to approve the rezoning request.

As no one else signed to speak at the public hearing, Chairman Black closed the public hearing and referred the request to the Commissioners for their consideration.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve Rezoning Case P01-69.

The motion carried unanimously.

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

Public Hearing on 2/3's Bonds

The Board of Commissioners set the public hearing on the bond orders for the two 2/3's bond issues, public buildings and library, for November 26, 2001. Bond Counsel has prepared a copy of the suggested proceedings.

It should be recalled that 2/3's bonds are general obligation bonds that are limited to 2/3's of the amount of principal debt retired in the previous fiscal year. These bonds do not require voter approval, and for this reason are the most cost-effective form of financing available to the County.

Resource Person(s): Chuck Kitchen, County Attorney; Pam Meyer, Budget Director; and George Quick, Finance Officer

County Manager's Recommendation: Hold the public hearing as required, and pass the bond orders if appropriate.

Chairman Black asked County Attorney Chuck Kitchen to explain this agenda item.

The Commissioners asked questions and made comments to which Attorney Kitchen responded.

Chairman Black opened the public hearing that was properly advertised

As no one signed to speak at this public hearing, Chairman Black closed the public hearing and referred the item to the Commissioners for consideration.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the Bond Order.

The motion carried unanimously.

The Bond Order for public buildings and library facilities follows:

A regular meeting of the Board of Commissioners for the County of Durham, North Carolina, was held in the County Commissioners Meeting Room in the Durham County Government Administrative Complex at 200 East Main Street, in Durham, North Carolina, the regular place of meeting, at 7:00 P.M. on November 26, 2001.

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

Absent: None

At 7:00 p.m. the Chairman announced that this was the hour, date, and place fixed by the Board of Commissioners for the public hearing upon the orders entitled: "ORDER AUTHORIZING \$5,910,000 PUBLIC BUILDING BONDS" and "ORDER AUTHORIZING \$5,140,000 LIBRARY FACILITIES BONDS" and that the Board of Commissioners would immediately hear anyone who might wish to be heard on the question of the validity of said orders or the advisability of issuing said bonds.

No one appeared, either in person or by attorney, to be heard on the question of the validity of said orders or the advisability of issuing said bonds and the Clerk to the Board of Commissioners announced that no written statement relating to said questions had been received.

Thereupon, upon motion of Commissioner Ellen W. Reckhow, seconded by Commissioner Joe W. Bowser and carried, the order introduced and passed on first reading on November 12, 2001 entitled: "ORDER AUTHORIZING \$5,910,000 PUBLIC BUILDING BONDS" was read a second time by title and placed upon its final passage. The vote upon the final passage of said order was:

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

Noes: None

The Chairman then announced that the order entitled "ORDER AUTHORIZING \$5,910,000 PUBLIC BUILDING BONDS" had been adopted.

Thereupon, upon motion of Commissioner Ellen W. Reckhow, seconded by Commissioner Joe W. Bowser and carried, the order introduced and passed on first reading on November 12, 2001 entitled: "ORDER AUTHORIZING \$5,140,000 LIBRARY FACILITIES BONDS" was read a second time by title and placed upon its final passage. The vote upon the final passage of said order was:

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

Noes: None

The Chairman then announced that the order entitled "ORDER AUTHORIZING \$5,140,000 LIBRARY FACILITIES BONDS" had been adopted.

The Clerk to the Board of Commissioners was thereupon directed 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.

Public Hearing on Refunding Bonds

The Board of Commissioners set the public hearing on the bond order for the refunding bond issue for November 26, 2001. A copy of the suggested proceedings has been prepared by Bond Counsel.

Depending on market conditions, the refunding bond should save the County approximately \$1,500,000. The time for repaying the refunded bonds will not be changed from the original bonds.

Resource Person(s): Chuck Kitchen, County Attorney; Pam Meyer, Budget Director; George Quick, Finance Officer

County Manager's Recommendation: Hold the public hearing as required, and pass the bond order if appropriate.

Chairman Black asked the County Attorney to explain the refunding bonds agenda item.

There were no questions from the County Commissioners.

Chairman Black opened the public hearing, which was properly advertised.

As no one signed to speak at the public hearing, Chairman Black closed the public hearing and referred the item back to the Commissioners for consideration.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser to approve the Refunding Bond Order.

The motion carried unanimously.

The Refunding Bond Order follows:

A regular meeting of the Board of County Commissioners for the County of Durham, North Carolina, was held in the County Commissioners Meeting Room in the Durham County Government Administrative Complex at 200 East Main Street, in Durham, North Carolina, the regular place of meeting, at 7:00 P.M., on November, 26, 2001.

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

Absent: None

At 7:00 P.M. the Chairman announced that this was the hour, date and place fixed by the Board of Commissioners for the public hearing upon the order entitled: "ORDER AUTHORIZING \$39,000,000 REFUNDING BONDS" and that the Board of Commissioners would immediately hear anyone who might wish to be heard on the question of the validity of said order or the advisability of issuing said bonds.

No one appeared, either in person or by attorney, to be heard on the question of the validity of said order or the advisability of issuing said bonds and the Clerk to the Board of Commissioners announced that no written statement relating to said questions had been received.

Thereupon, upon motion of Commissioner Ellen W. Reckhow, seconded by Commissioner Joe W. Bowser and carried, the order introduced and passed on first reading on November 12, 2001 entitled: "ORDER AUTHORIZING \$39,000,000 REFUNDING BONDS" was read a second time by title and placed upon its final passage. The vote upon the final passage of said order was:

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

Noes: None

The Chairman then announced that the order entitled "ORDER AUTHORIZING \$39,000,000 REFUNDING BONDS" had been adopted.

The Clerk to the Board of Commissioners was thereupon directed to publish said order, together with the appended statement as required by The Local Government Bond Act, as amended, once in The Herald-Sun.

Reimbursement Resolution for School Bonds

As the general obligation bonds for public schools have now passed, the schools must proceed with design work in order to put the projects out to bid. The schools may also want to begin work on some of the smaller projects. In order for this to be paid out of bond proceeds, a reimbursement resolution must be adopted. A portion of the approved bonds will probably be sold in late winter or early spring. The exact sale date would be determined based on a cash flow needs analysis by Budget.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Approve the resolution so the County can be reimbursed for the school expenditures from bond proceeds.

Chairman Black asked County Attorney Kitchen to explain the reimbursement resolution.

The Commissioners asked questions and made comments to which Attorney Kitchen and County Manager Ruffin responded.

The Commissioners wanted to know how the 1991 Bond Issue money was spent. The Board of Education will be asked to supply that information.

The Commissioners, by consensus, decided to bring back this item at a later Commissioner meeting.

Chairman Black recognized Dr. Lavonia I. Allison, who had signed to make public comments.

Dr. Allison said she came to ask for support from the elected officials who have the responsibility to provide the fiscal resources for what happens in the public schools. Dr. Alison talked about the capital improvements in the school system and the need for all interested parties to get together to build public buildings.

Purchase of Malpractice Insurance

The County currently purchases insurance for The Durham Center, Public Health Department, and Emergency Medical Services Department to cover any malpractice claims. The coverage provides \$1,000,000 per each occurrence with an aggregate coverage limit in the amount of \$3,000,000. The policy premium for the past year was

\$76,889. The policy year ends November 31, 2001. Being aware that insurance premiums were on the rise, \$100,000 was budgeted for this year's coverage.

The current malpractice coverage is with St. Paul. They have informed the County that they will no longer insure The Durham Center or the Public Health Department. They have indicated that this is a business decision to not continue coverage for these types of public entities, and had nothing to do with Durham County. Marsh USA Inc., the County's insurance broker, has received a quote for similar coverage from CNA. Marsh was unable to obtain any other quotes from other companies at this time. The quote was \$202,000. Due to this tremendous increase, Risk Management also had Marsh seek insurance coverage for only EMS and the doctors and dentists who are employed by the Public Health Department and the Durham Center. The premium for this coverage is \$91,636 from the current carrier, St. Paul. This was the least expensive premium from the insurance companies for this coverage.

Due to the increase in premium, it is requested that the Board approve for the County to contract for the coverage of EMS and the doctors and dentists with St. Paul. The employees of The Durham Center and the Public Health Department no longer covered by insurance will be covered by the County's policy on representation of employees and payment of claims, as are the employees in other departments.

Resource Person(s): Chuck Kitchen, County Attorney; Cathy Whisenhunt, Risk Manager

County Manager's Recommendation: Purchase the insurance to cover EMS and the doctors and dentists for malpractice. The premium for the insurance similar to the current plan is cost prohibitive, and the uninsured employees will be protected by the County's policy on representation and payment of claims.

County Attorney Chuck Kitchen explained the agenda item to the Commissioners.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the agenda item.

The motion carried unanimously.

Board and Commission Appointments

Garry E. Umstead, CMC, Clerk to the Board, distributed ballots to make appointments to the following boards and commissions. (The asterisk designates appointees.)

Animal Control Advisory Committee (Term expires January 2003.)

*Jenny Walker Nichols, DVM—Black, Bowser, Cousin, Heron, and Reckhow

Environmental Affairs Board (Term expires June 2004.)

*Samantha Miller, Air Resources—Black, Bowser, Cousin, Heron, and Reckhow

Adjournment

Chairman Black adjourned the meeting at 9:45 p.m.

Respectfully submitted.

Garry E. Umstead, CMC
Clerk to the Board