

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

Monday, September 10, 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 called the Regular Session to order with the Pledge of Allegiance.

Thanks From Commissioner Bowser

Commissioner Bowser thanked Ms. Tabron and her fifth grade class from Mount Zion School "for being so nice to me when I visited your school today." Commissioner Bowser said the class of six students was watching the Commissioners' meeting tonight.

Agenda Adjustment

County Manager Mike Ruffin said he wanted to add one item to the agenda—consideration of a request for local legislation to increase the Occupancy Tax by one percent. Chairman Black added this as item 6½.

Chairman Black added one item concerning C. C. Spaulding School and the school system. The Chairman and Commissioner Cousin will address this item.

Consent Agenda Items Removed for Discussion

Commissioner Heron removed Consent Agenda items 3(e), 3(f), and 3(h) for questions and a brief discussion.

Vice-Chairman Reckhow removed Consent Agenda item 3(d) for an explanation.

Commissioner Cousin removed Consent Agenda item 3(f) for a question.

Staff and the school representatives answered the questions raised by the Commissioners.

Mr. Bob Novak, 5500-89A Fortunes Ridge Drive, Durham, NC 27713, a citizen representing himself, asked a question about Consent Agenda item 3(i).

Chairman Black asked County Manager Mike Ruffin to address the question asked by Mr. Novak about the County “getting out of the sewer business.”

Consent Agenda

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the following Consent Agenda items:

- * (a) Budget Ordinance Amendment No. 02BCC000008—Library (approve Budget Ordinance Amendment No. 02BCC000008 to recognize and expend an LSTA Hispanic Services grant in the amount of \$28,560);
- * (b) Budget Ordinance Amendment No. 02BCC000009—Cooperative Extension (approve Budget Ordinance Amendment No. 02BCC000009 to appropriate \$15,000 in revenue and budget for school-age child care programs);
- * (c) Budget Ordinance Amendment No. 02BCC000010 and 02CPA000004—Wastewater Treatment Plant Improvement Capital Fund Project (approve Budget Ordinance Amendment No. 02BCC000010 and 02CPA000004 to appropriate \$1 million of retained earnings of the Sewer Utility Enterprise Fund to be transferred to the Wastewater Treatment Plant capital project);
- (d) Authorize EMS Contract with Zoll Medical for Defibrillator Purchase (to purchase four (4) M Series ECG Monitor/Defibrillators);
- (e) Amendments to Vehicle Operations Policy (approve minor changes to make the administration of policy more equitable and efficient);
- * (f) Resolutions Approving Board of Education Multi-Year Contracts for Capital Outlay (approve the two resolutions as well as the contracts);
- * (g) Budget Ordinance Amendment No. 02BCC000011—Human Resources—Increase of Flexible Benefits Spending Credit, Health Insurance Renewal (approve Budget Ordinance Amendment No. 02BCC000011 to increase the spending credit from \$160 to \$165 per pay period);
- (h) Substantial Equivalency (grant approval to petition the State for Substantial Equivalency to establish a local personnel system for DHHS employees that approximates the State system and allows for administration of personnel actions at the County level);
- (i) Standard Non-Reimbursable Contract for the Extension of the County Sanitary Sewer System—Keystone East (authorize the County Manager to execute the Utility Contract for these additions to the County sanitary sewer system); and
- (j) Offer to Purchase County Property (612 Bingham Street) (retain the deposit and return the parcel to the surplus property listing).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda 3(a). Budget Ordinance Amendment No. 02BCC000008—Library (approve Budget Ordinance Amendment No. 02BCC000008 to recognize and expend an LSTA Hispanic Services grant in the amount of \$28,560).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000008

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 Library.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Culture & Recreation	\$ 7,690,284	\$28,560		\$ 7,718,844
<u>Revenues</u>				
Intergovernmental	\$229,231,641	\$28,560		\$229,260,201

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

This the 10th day of September, 2001.

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

Consent Agenda 3(b). Budget Ordinance Amendment No. 02BCC000009—Cooperative Extension (approve Budget Ordinance Amendment No. 02BCC000009 to appropriate \$15,000 in revenue and budget for school-age child care programs).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000009

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	\$ 5,286,806	\$15,000		\$ 5,301,806
<u>Revenues</u>				
Intergovernmental	\$229,260,201	\$15,000		\$229,275,201

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

This the 10th day of September, 2001.

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

Consent Agenda 3(c). Budget Ordinance Amendment No. 02BCC000010 and 02CPA000004—Wastewater Treatment Plant Improvement Capital Fund Project (approve Budget Ordinance Amendment No. 02BCC000010 and 02CPA000004 to appropriate \$1 million of retained earnings of the Sewer Utility Enterprise Fund to be transferred to the Wastewater Treatment Plant capital project).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
 FY 2001-02 Budget Ordinance
 Amendment No. 02BCC000010

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 Enterprise Fund.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Transfer to Water Sewer/ 2000 2/3 Bonds	\$0	\$1,000,000		\$1,000,000
<u>Revenues</u>				
Appropriated Retained Earnings	\$0	\$1,000,000		\$1,000,000

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

This the 10th day of September, 2001.

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

The capital projects budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
 FY 2001-02 Capital Projects Ordinance
 Amendment No. 02CPA000004

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 Wastewater Treatment Plant Improvement Project.

WASTEWATER TREATMENT PLANT IMPROVEMENT PROJECT

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Wastewater Treatment Plant Improvement Project</u>	\$7,153,284	\$1,000,000		\$8,153,284
<u>Other Financing Sources</u>	\$0	\$1,000,000		\$1,000,000

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

This the 10th day of September, 2001.

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

Consent Agenda 3(f). Resolutions Approving Board of Education Multi-Year Contracts for Capital Outlay (approve the two resolutions as well as the contracts).

The resolutions follow:

RESOLUTION
DURHAM COUNTY BOARD OF COMMISSIONERS
DURHAM COUNTY, NORTH CAROLINA

WHEREAS, the Durham Public Schools Board of Education wishes to enter into a continuing contract for capital outlay with Academic Capital Government Finance, Inc. ("Academic Capital") for computers and related equipment and services under N.C. General Statutes 115C-528; and

WHEREAS, the contract may require the Durham Public Schools Board of Education to pay Academic Capital a total of \$211,687.26, with as much as \$70,652 being paid during three fiscal years, beginning in fiscal year 2001-2002 through fiscal year 2003-2004; and

WHEREAS, the contract totals nearly \$250,000 and therefore may be a continuing contract for capital outlay subject to the provisions of N.C. General Statutes 115C-441(c1) and -528, including the approval of the Durham County Board of County Commissioners:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, agrees to appropriate sufficient funds to the Durham Public Schools Board of Education in ensuing fiscal years to meet the Academic Capital contract obligations. Said funds shall be a part of, and not in addition to, regular appropriations made to the Durham Public Schools Board of Education.

This the 10th day of September, 2001

/s/five commissioners

RESOLUTION
DURHAM COUNTY BOARD OF COMMISSIONERS
DURHAM COUNTY, NORTH CAROLINA

WHEREAS, the Durham Public Schools Board of Education wishes to enter into a continuing contract for capital outlay with Key Municipal Finance and 4Front Systems, Inc. for computers and related equipment and services under N.C. General Statutes 115C-528; and

WHEREAS, the contract may require the Durham Public Schools Board of Education to pay Key Municipal Finance a total of \$2,987,642.39, with as much as \$597,528.48 being paid during each of five fiscal years, beginning in fiscal year 2001-2002 through fiscal years 2003-2007; and

WHEREAS, the contract totals nearly \$250,000 and therefore may be a continuing contract for capital outlay subject to the provisions of N.C. General Statutes 115C-441(c1) and -528, including the approval of the Durham County Board of Commissioners:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, agree to appropriate sufficient funds to the Durham Public Schools Board of Education in ensuing fiscal years to meet the Key Municipal Finance contract obligations. Said funds shall be a part of, and not in addition to, regular appropriations made to the Durham Public Schools Board of Education.

This the 10th day of September, 2001

/s/five commissioners

Consent Agenda 3(g). Budget Ordinance Amendment No. 02BCC000011—Human Resources—Increase of Flexible Benefits Spending Credit, Health Insurance Renewal (approve Budget Ordinance Amendment No. 02BCC000011 to increase the spending credit from \$160 to \$165 per pay period).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
 FY 2001-02 Budget Ordinance
 Amendment No. 02BCC000011

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 increase of the flexible benefits spending credit, health insurance renewal.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease Budget</u>	<u>Revised</u>
<u>Expenditures</u>				
General Government	\$ 21,207,659	\$13,461		\$ 21,221,120
Public Safety	\$ 33,028,512	\$34,640		\$ 33,063,152
Environmental Protection	\$ 2,340,052	\$ 1,560		\$ 2,341,612
Economic & Physical Development	\$ 5,301,806	\$ 737		\$ 5,302,543
Human Services	\$273,794,598	\$55,247		\$273,849,845
Cultural & Recreational	\$ 7,718,844	\$ 6,786		\$ 7,725,630
<u>Expenditures</u>				
Nondepartmental	\$ 18,453,149		\$ 112,551	\$ 18,340,593
Self Insurance Fund	\$ 1,824,222	\$ 120		\$ 1,824,342

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

This the 10th day of September, 2001.

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

C. C. Spaulding School

Chairman Black brought a newspaper article before the Commissioners concerning the PTA president asking for help relative to safety issues at the school.

On Tuesday, Chairman Black visited the school to discuss safety issues with the principal and Board of Education Chairman Kathryn Meyers. The issues dealt with the loading and unloading of school buses and children walking to school.

Chairman Black asked the Commissioners' permission to write the City of Durham Transportation Department to request a traffic signal (flashing light) to address the school safety issues. The need for additional parking for the teachers was expressed. Chairman Meyers will approach the Board of Education to investigate whether something could be

done to make more parking spaces for teachers. C. C. Spaulding School is to be enlarged in the near future.

Chairman Black called on Commissioner Cousin, the liaison to the Board of Education, to report on the amount of funding given to the innercity schools and what has happened to some of the bond funding spent during the last several years. Commissioner Cousin presented his report beginning with expenditures from the early 1990s and included the funding spent in the various schools to upgrade the facilities over the years. The report stated the amount of funding each intercity school has received and each school will receive in bond funding in the various bond referendums.

The Commissioners made remarks and asked questions about the school system's capital improvement programs over the past few years. The Commissioners also discussed the safety issues. Chairman Black stated that the ideas discussed would be carried to the school board and the City of Durham Transportation Department.

No official action was taken on this agenda item.

Zoning Ordinance Text Amendment—High Density Residential Development (TC121-01)

Staff is proposing an amendment to Section 4 of the Zoning Ordinance to create new or revised zoning districts in which high-density residential development could occur. These districts are directly related to major transit facilities and would only be allowed within Compact Neighborhoods as defined in the 2020 Plan. The Zoning Committee of the Durham Planning Commission recommended these changes, along with several added provisions, by a vote of 7-0 at its August 2001 meeting. The City Council held a public hearing on this matter last Tuesday (September 4) and deferred the amendments to the JCCPC. That Committee discussed the matter on September 5 and suggested additional word changes to the amendment. Staff recommends that the County Commissioners receive the report on these changes, open the public hearing, and continue the matter until their next meeting.

Resource Person(s): Dick Hails, Interim Planning Director

County Manager's Recommendation: The County Manager's recommendation is that the Board hold the public hearing, receive public comment, and refer the amendments to the rezoning committee for recommendation. This text amendment constitutes a significant change from the initial amendment and by statute is required to go back to the rezoning committee.

Interim Planning Director Dick Hails presented the Commissioners an overview of the proposed zoning ordinance text amendment for high-density residential development.

County Attorney Chuck Kitchen advised that the document should go back to the City-County Planning Department's Zoning Committee for additional consideration due to changes in Section 1. He advised that the Board had the option to hold the public hearing and approve changes in Section 2.

After a brief question and answer period, Chairman Black opened the public hearing that was properly advertised.

Mr. Jim Schaafsma, spoke representing Craig Davis Properties, 3605 Glenwood Avenue, Raleigh, NC. His company is a co-developer of the Triangle Metro Center 25-acre site with the Research Triangle Foundation and in collaboration with the Triangle Transit Authority. He stated he wanted to advise the Board of his company's support for the text amendments for the O & I zoning.

There being no one else signed to speak, Chairman Black closed the public hearing and referred the item back to the County Commissioners for consideration.

Commissioner Reckhow suggested we sever the O&I-2 District with the one qualifier of inserting the language that Dick Hails, Interim Planning Director, thought would be appropriate in 'A. Purpose,' and that we move forward.

Commissioner Reckhow moved, seconded by Commissioner Cousin, "that the amendment to 'A. Purpose' linking it to the transit station and in addition the motion would also recommend that we defer action on the three RM Zones 40, 60, and CN and send the proposed amended language back to the Planning Commission for its consideration."

County Attorney Chuck Kitchen commented that Commissioner Reckhow is moving Sections 2, 3, and 4. You are not moving Section 1. Chuck asked Commissioner Reckhow to read what she would like in the motion.

Commissioner Reckhow said, "what I propose is that in Section 2, O&I-2 District in 'A. Purpose,'—where it speaks to the establishment of higher densities and mixed use zones associated with Compact Neighborhood areas—that we add after the statement, the wording that is here, [this district shall only be applied in Compact Neighborhoods as per the Durham 2020 Comprehensive Plan in an area of one-half mile of a regional transit station location or in other areas as designated by the local governing body. Each station location around which Compact Neighborhoods are centered shall be established by governing body action of either the Triangle Transit

Authority or by other agencies responsible for such transit station designation.]”

The Commissioners had a lengthy discussion about this agenda item.

Chairman Black said the Board is voting on Sections 2, 3, and 4 of the zoning text amendment.

The motion carried with the following 4-1 vote:

Ayes: Black, Bowser, Cousin, and Reckhow

Noes: Heron

Absent: None

Commissioner Reckhow moved, seconded by Commissioner Cousin, that we direct the Planning staff to include on the list of items we would like addressed with the Unified Development Plan, the issue of requiring opening space in our nonresidential districts with particular focus on the districts where we do now allow residential usage.

The motion carried unanimously.

Section 1 will be referred back to the Zoning Committee for consideration, and then it will be sent through the public hearing process per the Chairman of the Board of County Commissioners.

Zoning Ordinance Text Amendment—Nonconforming Lots(TC116-01)

Staff proposed an amendment to Section 19.5 of the Zoning Ordinance to cover the development of vacant nonconforming residential lots of record. The proposed amendment allows a lot that was lawfully created and met the zoning regulations at the time prior to January 1, 1994 and is a minimum of 50 feet in lot width to be developed by right. The amendment also changes certain language involving required recombinations of adjacent nonconforming lots of record in both Section 19 and the Watershed Ordinance. This item was first heard at the August 13, 2001 BOCC meeting but was deferred for further clarification on setbacks and other wording. These changes have been made and are described in the Staff Recommendation in the staff report. (The public hearing was held and properly closed at the meeting of August 13, 2001.)

Resource Person(s): Dennis Doty, Planner and Dick Hails, Interim Planning Director

County Manager’s Recommendation: The County Manager recommended that the Board receive the presentation and approve the amendment.

Dennis Doty, Planner, presented the Commissioners an overview of the agenda item.

The Commissioners asked questions and made comments about the zoning ordinance text amendment to which Dennis responded.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the “Ordinance Amending Sections 5 and 19 of the Durham Zoning Ordinance to Allow the Development of Nonconforming Vacant Single Family Lots Under Certain Conditions.”

The motion carried unanimously.

The Zoning Ordinance Amendment follows:

TC-116-01

AN ORDINANCE AMENDING SECTIONS 5 AND 19 OF THE DURHAM ZONING
ORDINANCE TO ALLOW THE DEVELOPMENT OF NONCONFORMING
VACANT SINGLE FAMILY LOTS UNDER CERTAIN CONDITIONS

WHEREAS the adoption of zoning regulations and subsequent amendments have created situations where residential lots that were lawfully created under the zoning regulations at the time have been rendered nonconforming in lot width and/or lot area;

WHEREAS it is the intent of the Governing Bodies of Durham City and County to allow and promote infill of vacant single family residential lots whose development will be compatible with surrounding existing development;

NOW, THEREFORE, BE IT ORDAINED that:

Section 1. Section 19.5.1 General Standards is hereby deleted and replaced with the following:

1. The creation of a lot with a width or area smaller than allowed by existing zoning requirements is prohibited, except by governmental action, such as a road widening or an officially adopted housing program. Where governmental action has reduced the size of a lot, construction, reconstruction, and additions shall be considered under the standards for nonconforming lots set forth in this subsection. Notwithstanding this prohibition, the creation of a lot that does not meet ordinance requirements is allowed where such lot is comprised of one or more legal nonconforming lots that are being enlarged to create a lot that more closely meets ordinance standards.

2. Relationship with other provisions. Where a nonconforming lot is governed by both these provisions and other provisions specifically addressing nonconforming lots in the zoning or subdivision ordinance, the stricter of the applicable provisions shall apply.

Section 2. That Section 19.5.2 Residential lots is hereby deleted and replaced with the following:

In order for a single family structure to be built on a legal nonconforming lot where such single family structure is an allowed use, the lot shall be increased in width and/or size to meet current ordinance requirements. However, enlargement is not required if the lot has a width of at least 50 feet and falls into either category (a) or (b) described below. The applicant shall produce all information required to make these determinations, including documents that show the creation of the lot through deed or plat.

- a. A legal nonconforming single family lot may be developed without a use permit if all of the following criteria are met:
 1. it is located on an already-built street, and has either City water/sewer, or approval from the Durham County Health Department for well and septic use;
 2. it is not part of a development in which a new subdivision plat or site plan is being approved to allow development of the subject lot and adjacent lots;
 3. it is not bisected by lot lines or parcel lines such that development will result in a building being placed on a lot line;
 4. it is not more than 20% smaller in area or narrower in width than lots that front on the same street and are within 150 linear feet of the subject lot, measured from each side property line; and
 5. it is not owned by an owner who, as of January 1, 1994, owned 3 or more adjacent nonconforming lots, including the subject lot.
- b. A legal nonconforming single family lot may be developed if it receives a minor special use permit from the Board of Adjustment. Lots that do not fall into category (a) above may be considered for such a use permit. In addition to making the findings normally required for such permit, the Board shall also find that one of the 3 findings below are also met:
 1. the general area around the subject lot is developed and the size of the lot to be developed is reasonably consistent with the general pattern of surrounding development; or
 2. the general area around the subject lot is developed and the building to be constructed will not substantially impact surrounding development in a negative manner; or
 3. it would be unreasonable or cause undue economic hardship to not allow development of the subject lot. Factors to be considered include but are not limited to ownership history; prior development approvals regarding the subject lot or surrounding lots; economic investments; and the purposes to be served by requiring compliance with lot size requirements.

2. To develop lots that do not meet lot width requirements, the following applies: The sum of the width of the 2 side yards of a nonconforming lot of record shall be at least 30 percent of the lot width. The minimum side yard of a nonconforming lot of record shall be 12 percent of the lot width. In addition to these requirements, the following minimums apply: If the nonconforming lot of record exceeds a width of 55 feet, then each side yard shall be a minimum of 8 feet wide. If the nonconforming lot of record is 55 feet wide or less, each side yard shall be a minimum of 6 feet wide.

Section 3. That Section 19.5.3 Non-Residential Lots is hereby deleted and replaced with the following:

Where otherwise allowed by the zoning code, a non single-family structure may be constructed on a legal nonconforming lot only upon the issuance of a use permit by the Board of Adjustment. The Board shall issue such a permit if it finds that the structure meets all requirements for issuance of a minor special use permit, and finds, in addition, that the proposed structure will not negatively impact the surrounding area or surrounding development in any manner.

Section 4. That Section 5.5.14(2) Existing Single Family Lots be deleted and replaced with the following:

New construction and additions to existing residential buildings on legal nonconforming single family residential lots recorded prior to January 1, 1994, shall be exempt from the minimum lot size provisions of this ordinance if one of the exceptions below applies. New construction and additions on such lots shall be constructed in accordance with the watershed protection regulations, if any, in effect at the time the lot was created. A legal nonconforming lots may be developed under previously-applicable watershed provisions if it:

1. meets the requirements of 19.5.2.a, and, in addition, is located in a development for which roads, sewer lines, or water lines were required for construction and all such infrastructure serving such lots that was required on approved plans has been completed prior to January 1, 2002; or
2. meets the requirements of 19.5.2a, and, in addition, is at least 20,000 square feet in area; or
3. obtains a minor special use permit from the Board of Adjustment. In order to grant such a permit, the BOA shall make all generally applicable findings, and in addition shall also find that it would be unreasonable or cause undue economic hardship to not allow development of the subject lot. Factors to be considered include but are not limited to ownership history; prior development approvals

regarding the subject lot or surrounding lots; economic investments; and the purposes to be served by requiring compliance with lot size requirements.

Section 5. All ordinances and resolutions in conflict herewith are hereby repealed to the extent of the conflict.

Section 6. This Ordinance shall become effective upon adoption.

Appointments—Durham and Wake Counties Research and Production District

Ms. Elizabeth H. Rooks, Director of Physical Development, Research Triangle Foundation of NC, requested that the Board of County Commissioners, on behalf of the Research Triangle Park owners and Tenants Association, appoint the following nominees to the service district:

	<u>Term</u>
Joseph Griscti (MEMA)	7/10/01 – 6/30/04
Ray Gunner (IBM Corp.)	7/10/01 – 6/30/04
Larry Lawrence (Cisco Systems Inc.)	7/10/01 – 6/30/04
Robb Teer (Teer Associates)	7/10/01 – 6/30/04

The following recommendation was made to fill the unexpired term for M. S. Huang of Delta Products who has been transferred to California:

David Gouveia (Eisai Inc.)	6/30/01 – 6/30/02
----------------------------	-------------------

Ms. Rooks spoke regarding the nominees to the service district. Comments were made to clarify the Commissioners' questions about the nominees.

Commissioner Heron moved, seconded by Commissioner Reckhow, to appoint the following nominees to the Durham and Wake Counties Research and Productions District:

Joseph Griscti	7/10/01—6/30/04
Ray Gunner	7/10/01—6/30/04
Larry Lawrence	7/10/01—6/30/04
Robb Teer	7/10/01—6/30/04
David Gouveia	6/30/01—6/30/02

The motion carried unanimously.

Consider Request for Local Legislation to Increase Occupancy Tax by 1%

Durham County currently levies a five-percent (5%) room occupancy tax. Three percent (3%) was authorized by the General Assembly in 1985. The remaining two percent (2%) was authorized in 1991.

General Assembly approval would also be required for the Board of County Commissioners to impose a one-percent increase in the tax. Proceeds from the tax, which could be realized as early as January 1, 2002, will be distributed pursuant to an Interlocal Agreement between the City of Durham and Durham County as follows: The initial eighteen (18) months of collections, which will generate approximately \$2.05 million, will be used to fund a Master Plan for Cultural Arts (\$200,000); the creation of a Cultural Arts Reserve Fund (\$500,000); additional funds for marketing for the Durham Convention and Visitors Bureau (\$700,000); funds to help defray additional debt service for the Museum of Life and Science (\$400,000); and funds to assist the City of Durham with advance design services for a downtown theater (\$250,000). Beginning July 1, 2003, and each year thereafter, \$1.4 million will be appropriated to the City of Durham to be applied against debt service for a new downtown theater. Any amount collected in addition to \$1.4 million will be retained by the County to defray additional debt service for the Museum of Life and Science, up to a maximum of \$500,000 per year. The County and City will evenly divide any amount in excess \$500,000 and agree to use those proceeds for any purpose authorized by law.

Resource Person(s): Mike Ruffin, County Manager

County Manager's Recommendation: The Manager recommended that the Board authorize the Chairman to submit a request to the Durham County legislative delegation to introduce legislation as heretofore described.

Chairman Black called on County Manager Michael Ruffin to "walk" the Commissioners through the process.

Manager Ruffin introduced the issue of an additional one-percent increase in the hotel occupancy tax, raising it from the current 5% to 6%. The issue stems from a meeting earlier in the day of City and County officials with the legislation delegation.

The Manager recommended that this Board give Chairman Black the authority to authorize the Durham Delegation to propose enabling legislation, allowing Durham to raise an additional one-cent in occupancy tax. The Manager recommended those funds be used for: Cultural Arts Master plan (\$200,000), Cultural Arts Reserve fund (\$500,000), Museum of life and science to defer its debt service created by BioQuest expansion (\$400,000), City of Durham for its downtown theater (\$250,000), and marketing for the Durham Convention and Visitors Bureau (\$700,000). The earliest date this tax could be imposed would be January 1, 2002. Approximately 18 months are expected to elapse before any of the proceeds are needed to fund the downtown theater

project. During the 18 months, approximately \$2,000,050 will be generated. The recommended use of these funds are as designated above. The City of Durham advises that starting January 1, 2003 it will need \$1.4 million to assist with the debt service on the theater. We recommend that \$1.4 million be dedicated for that need. The County will receive a maximum of \$500,000 annually for debt service to support the improvements to the Museum of Life and Science. The last recommendation is any amount over \$1.9 million is either divided 50/50 between the City and the County or 100% will go to the Durham Convention and Visitors Bureau.

County Manager Ruffin recommended that any amount of money over \$1.9 million should be divided 50/50 between the City and County and used for any purpose that the law provides.

The Commissioners asked questions and made comments to which various people responded.

Shelly Green, Executive Vice President of Marketing for the Durham Convention and Visitors Bureau, and Ronald J. Hunter, Chairman, Durham Convention and Visitors Bureau, spoke about the events of the last few years relative to raising funds to spend on the cultural needs of our community. They also discussed the position of the Durham Convention and Visitors Bureau concerning the occupancy tax.

Marcia Conner, Durham City Manager, explained the City of Durham's position on the occupancy tax and addressed questions about the occupancy tax. She also talked about the theater project.

Mike Hill, Capital Broadcasting Company, spoke to the Board about the size of theaters in Raleigh.

William Kalkhof, Executive Director, Downtown Durham Inc., discussed with the Commissioners the need to have a 4000- to 5000-seat theater. The local competition in the area was also discussed.

The Commissioners had a general discussion about the occupancy tax with the County Attorney before Chairman Black called for the motion.

Commissioner Reckhow moved, seconded by Commissioner Heron, for the Board to endorse the increase of the room occupancy tax from 5% to 6% with the proceeds to be distributed pursuant to an interlocal agreement. That would be the message sent to the General Assembly.

The Board went on record this evening agreeing in principle to the distribution of moneys outlined by the Manager earlier and that the Board go into the City/County Committee

meeting tomorrow with the City, basically in agreement around these ideas. Vice-Chairman Reckhow wanted this motion made clear. She felt it would be inappropriate for the legislature to tie the County's hands to specific numbers. She gave as an example the \$200,000 master plan for cultural arts. If that master plan cost \$175,000, we would not want to go back to Raleigh to amend a piece of legislation because we are not expending the moneys exactly as was laid out here. There is no way of knowing how much everything is going to cost. She stated it would be very important that the General Assembly recognize an informal agreement that would then be ironed out with a formal interlocal agreement around these ideas. The wording of the bill should say "pursuant to an interlocal agreement." I hope this message will be conveyed to the General Assembly.

Chairman Black asked County Attorney Chuck Kitchen to draft the language needed to send this to Raleigh.

The motion carried unanimously.

Chairman Black said the City/County Committee meeting would be held tomorrow at noon at City Hall.

Board and Commission Appointments

Garry E. Umstead, CMC, Clerk to the Board, distributed ballots to make appointments to the Alcoholic Beverage Control Board and the Animal Control Advisory Committee.

The vote follows:(asterisks indicate appointees):

Alcoholic Beverage Control Board

Two positions.

William J. Berutti—no votes
George W. Birmingham Jr.—no votes
Murray D. Brandt—no votes
*E'Vonne Coleman—Black, Bowser, Cousin, and Reckhow
Shauna L. Dozier—no votes
Bill Russell Dun—no votes
Patricia B. Farlow—no votes
Jimmy L. Gibbs—no votes
Clarrisa L. Grady—no votes
Ricky L. Hart—no votes
Irving A. Herman—no votes
Clarence Ray Jones—no votes
William A. Marsh III—Cousin
James Randall—no votes
Theodore S. Royall—no votes
Winston M. Sanford—no votes

James E. Scott Jr. —no votes
Marshall J. Thaxton—no votes
Joseph E. Thomas Jr.—no votes
Sherwood T. Van Campen—no votes
Wanda Wagstaff—Bowser
*Charles T. Wilson Jr.—Black, Heron, and Reckhow
Lucy V. Zastrow—Heron

Ms. Coleman's term will begin September 10, 2001 and end on July 31, 2003.
Mr. Wilson's term will begin September 10, 2001 and end on July 31, 2004.

Animal Control Advisory Committee

One unexpired veterinarian position and one unexpired at-large position.

*Carol S. Charping (at-large)—Black, Cousin, and Reckhow

Ms. Charping's term will begin September 10, 2001 and end January 2004.

Adjournment

Chairman Black adjourned the meeting at 9:00 p.m.

Respectfully Submitted,

Garry E. Umstead, CMC
Clerk to the Board