

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

Monday, January 10, 2005

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman Ellen W. Reckhow, Vice-Chairman Becky M. Heron, and Commissioners Lewis A. Cheek, Philip R. Cousin Jr., and Michael D. Page

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

Agenda Adjustments

Commissioner Cheek read the following quote as guidance for the Board and citizens of Durham:

“Work to become unified. Don’t avoid conversations that are necessary to make peace, but resist the temptation to become angry. Be quick to forgive and careful in your response. Hear the whole story first, then respond. Your opinions may differ, but part as friends. Finding unity within diversity, because of the diversity and not in spite of it, is important.”

Chairman Reckhow welcomed the new Editor of the Herald-Sun, Mr. Robert “Bob” Ashley, to the meeting. She announced that a public hearing for Time Warner Cable’s request for its franchise agreement renewal and the cable television rate increase report will be held at the next Regular Session on Monday, January 24.

2004 Cure for Diabetes Walk

Chairman Reckhow reported that each year, Durham County takes action against this dreadful disease by participating in the Juvenile Diabetes Research Foundation’s “Walk to Cure Diabetes”. She recognized Assistant Health Director Gayle Harris for leading over 80 Durham County participants on October 30, 2004 and collecting a total of \$7,853.88 for the Triangle’s chapter. The County achieved a Gold Level Achievement Award.

Ms. Harris issued thanks to the participants and the Board and accepted the award from Chairman Reckhow.

Chairman Reckhow recognized County Manager Mike Ruffin for comments about the Walk to Cure Diabetes.

Introduction of Operation Breakthrough Executive Director

Chairman Reckhow introduced Mr. Matthew L. Ramadan, who began his official duties as the new Executive Director of Operation Breakthrough Inc. on January 3, 2005.

County Manager Mike Ruffin offered that Mr. Ramadan served as Planning Director & Zoning Administrator in Warren County, NC and served in several management positions in the Minneapolis-St. Paul metropolitan area. He brings over 20 years of experience in nonprofit, state, and local government management, affordable housing and home ownership development, community and economic development, and inner-city revitalization.

Mr. Ramadan thanked the Board and County Manager Ruffin for the extended welcome and gave an overview of Operation Breakthrough.

Anchor Award and Resolution of Thanks to Wendell M. Davis

Chairman Ellen W. Reckhow requested that the following resolution of thanks be prepared for Mr. Wendell M. Davis, in recognition of his outstanding performance while serving as Durham County's Interim County Manager:

RESOLUTION

WHEREAS, beginning October 1, 2004, the Durham County Board of Commissioners named Deputy County Manager Wendell M. Davis as Interim County Manager following an unanticipated dismissal of the County Manager; and

WHEREAS, Mr. Davis willingly agreed to assume substantive additional duties related to managing and directing the county's day to day operations for as long as necessary; and

WHEREAS, following his appointment, Mr. Davis quickly met with Department Heads to give them assurances that despite the perceived period of uncertainty, his goal was to maintain normal operations and ensure that the citizens of Durham County received services without interruption, and that employees continue to operate in a positive manner; and

WHEREAS, this gifted and experienced public administrator implemented new systems and processes to improve the information flow between the Board of County

Commissioners and key staff, including the creation of a technology application called “The Board Room Information Request System”; and

WHEREAS, the system greatly enhanced communications between elected officials, staff, the media, and the public and successfully resulted in a response time to all inquiries within 48 hours; and

WHEREAS, during the stewardship of Mr. Davis, major projects, initiatives, and directives were successfully carried out including:

- Assembled a highly qualified core of Public and Private Professional Auditors from around the state to conduct an audit assessment and made sound recommendations to the Board to complete a highly controversial audit;
- Conducted considerable research on the profession of Auditing and made substantial recommendations to the Board for revamping the County’s Audit Function;
- Resolved several controversial matters related to County government operations and personnel;
- Developed new administrative policies including transition procedures for County Commissioners;
- Developed a structure for management reporting that allowed the Management Team to effectively remain abreast of issues and brought Board Directives to a close in a timely manner;
- Successfully worked with the Interim City Manager to resolve the ongoing debate on the 911 Inter-local Agreement by negotiating a reasonable compromise for both the City of Durham and Durham County;
- Successfully worked with the Finance staff to complete the 2004 Comprehensive Annual Financial Report (CAFR);
- Keeping all of the requirements in the County Manager’s work plan on schedule including the Capital Improvements Program: opened the YMCA Childcare Center for Headstart, completed the renovation of the Agricultural Building, kicked off the construction for the East Regional Library, and opened the Little River Regional Park;
- Provided insight on the structure necessary to move the County’s Results Based Accountability initiative forward; and
- Successfully conducted United Way and Juvenile Diabetes campaigns, as well as County Service Awards:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby extend sincere appreciation to

WENDELL M. DAVIS

for faithful and dedicated service to Durham County Government while serving as Interim County Manager from October 1, 2004 through December 20, 2004. We are grateful for his leadership and for the invaluable contributions he has made to improve the quality of life for the Durham community.

This the 10th day of January, 2004.

Deputy County Manager Davis thanked the Board, his family, and Durham County citizens for their support during his interim period.

Chairman Reckhow presented Mr. Davis with the resolution and the Anchor Award, along with sincere congratulations.

Award Recognitions for Vice-Chairman Becky M. Heron, Commissioner Michael D. Page, and Chairman Ellen W. Reckhow

Deborah Craig-Ray, Public Information Director, acknowledged the following awards:

- Recognition of Commissioner Michael D. Page for Receiving the National Citizen of the Year Award from Omega Psi Phi Fraternity Inc.

In December 2004, Commissioner Michael D. Page received the National Citizen of the Year Award from the Omega Psi Phi Fraternity. Commissioner Page was honored at the Beta Chi Chapter's celebration of its 80th anniversary at the N.C. Mutual Life Insurance building.

Commissioner Page previously received the chapter's Citizen of the Year Award and was the sixth district Citizen of the Year winner.

Mr. Ron Peterson, a member of Omega Psi Phi, elaborated on Commissioner Page's previous awards and accomplishments, which led to his National Citizen of the Year Award nomination.

- Recognition of Commission Chairman Ellen W. Reckhow for Receiving the Goodmon Award for Exemplary Regional Leadership by an Elected Official

During the third annual Leadership Triangle Goodmon Awards luncheon held at the Sheraton Imperial Hotel and Convention Center on December 12, 2004, Commission Chairman Ellen W. Reckhow received the Goodmon Award for Exemplary Regional Leadership by an Elected Official.

Leadership Triangle established the awards to recognize individual leaders, elected officials, organizations, and partnerships who understand and promote regional thinking and action through their professional and/or volunteer efforts.

For the past ten years, Chairman Reckhow has chaired the Smart Growth Committee for the Triangle J Council of Governments, which adopted Regional Development Principles to guide growth and helped initiate the Triangle Greenprint, a regional open space plan. Chairman Reckhow has also been involved in a variety of other

regional initiatives and leadership positions, having chaired the Triangle Transit Authority and the Triangle J Council of Governments.

The awards are named for regional leader James F. Goodmon, President and CEO of Capitol Broadcasting Company and director emeritus of Leadership Triangle.

- Recognition of Commission Vice-Chairman Becky M. Heron for Receiving the 2004 Margaret Hart Hardee Preeminence in Aging Award

Commission Vice-Chairman Becky M. Heron's work on behalf of older adults earned her the 2004 Margaret Hart Hardee Preeminence in Aging Award. The award was presented by the North Carolina Association of Area Agencies on Aging during its recent annual conference held in Durham on October 17 – 20, 2004. Margaret Hart Hardee, like Vice-Chairman Heron, was known for being an advocate who brought about opportunities and support for older adults. During her 21 years as a county commissioner, Vice-Chairman Heron has devoted much of her attention to human service issues, particularly those related to older adults.

In June 1996, the North Carolina Association of Area Agencies on Aging created the Margaret Hart Hardee Preeminence in Aging Award. The purpose of this award is to pay tribute to a gifted and highly successful grassroots advocate whose knowledgeable participation in the public policy debate in North Carolina has brought about myriad opportunities and support to older adults.

The Commissioners commented on their respective awards.

January Anchor Award Winners—Vera Alston, Deborah Craig-Ray, Heidi Duer, Wil Glenn, Robine Holcombe, and Carolyn Titus

The County Manager's office staff was selected to receive January Anchor Awards. Deputy County Manager Wendell M. Davis recognized the following six employees for their outstanding contributions during his term as Interim Manager:

- Public Information/Governmental Affairs Director Deborah Craig-Ray served as Interim Deputy County Manager during the 2½-month period. Public Information Specialist Wil Glenn was promoted to Interim Director of Public Information in Mrs. Craig-Ray's absence.
- Deputy County Manager Carolyn Titus and Assistant County Manager for Special Projects Heidi Duer were given additional duties during Davis' term.
- Administrative Assistant Vera Alston and Staff Assistant Robine Holcomb contributed heavily and were invaluable during this transitional phase.

Chairman Ellen Reckhow presented anchor awards to the recipients, along with her congratulations.

Consent Agenda

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve the following consent agenda items:

- *a. Budget Ordinance Amendment No. 05BCC000025: Technology, One Stop Voting, and Student Election Assistant Program Grants (appropriate North Carolina State Board of Elections grants totaling \$55,110 for compliance with the federal Help America Vote Act);
- b. Renewal of Ambulance Franchise for Johnston Ambulance Service;
- c. Replacement Vehicles for the Durham County Sheriff's Office (authorize the Manager to enter into a contact with the lowest, responsive bidder, University Ford Inc., for \$491,147.18 for replacement vehicles);
- *e. Set a Public Hearing for January 24, 2005 and Adopt a Resolution to Close 638.8 Linear Feet of an Unnamed 20-Foot Wide Roadway West of American Drive (SC04-01B);
- *f. Adopt a Resolution to Set a Public Hearing for January 31, 2005 for Consideration of the Durham Comprehensive Plan; and
- g. RDU Grant Offer (approve the \$10,000 grant offer from the Federal Aviation Administration for costs associated with repairing Jet Bridge A26).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. a. Budget Ordinance Amendment No. 05BCC000025—Technology, One Stop Voting, and Student Election Assistant Program Grants (appropriate North Carolina State Board of Elections grants totaling \$55,110 for compliance with the federal Help America Vote Act).

Chairman Reckhow recognized signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, for comments.

Vice-Chairman Heron agreed with Dr. Allison's concern regarding minimal One Stop Voting locations resulting in long lines.

Michael Ashe, Elections Director, addressed Dr. Allison's questions relating to grant monies being used to enhance early voting operations.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000025

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2004-05 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$259,832,971	\$36,240	\$259,869,211
Service Charges	\$30,805,933	\$18,870	\$30,824,803

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
General Government	\$24,878,679	\$55,110	\$24,933,789

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

This the 10th day of January, 2005.

Consent Agenda Item No. e. Set a Public Hearing for January 24, 2005 and Adopt a Resolution to Close 638.8 Linear Feet of an Unnamed 20-Foot Wide Roadway West of American Drive (SC04-01B).

RESOLUTION DECLARING THE INTENT OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DURHAM TO CONSIDER PERMANENTLY CLOSING 683.8 LINEAR FEET OF AN UNNAMED 20 FOOT WIDE ROADWAY WEST OF AMERICAN DRIVE (SC04-01B) AND CALLING A PUBLIC HEARING THEREON

Whereas, the County Clerk of the County of Durham has received a petition to close 683.8 linear feet of an unnamed 20-foot wide roadway west of American Drive,

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

1. The Board of Commissioners propose to consider permanently close 683.8 linear feet of an unnamed 20-foot wide roadway west of American Drive.
2. A public hearing is hereby called on the question of permanently closing the street named in Paragraph 1 above. Said public hearing shall be on the 10th day of January, 2005 at 7:00 p.m. in the Commissioners Chambers, 200 E. Main Street, Durham, North Carolina.

3. The City-County Planning Department shall notify all owners of property adjoining the street named in Paragraph 1 above as their interests may appear on the County Tax Records.
4. Notice of the closing and public hearing shall be prominently posted in at least two places along the street named in Paragraph 1 above.
5. Any person may be heard at the public hearing on the question of whether or not the proposed closing would be detrimental to the public interest or to the property rights of any individual.
6. If it appears to the satisfaction of the Board of Commissioners after said public hearing that the closing of said street is not contrary to the public interest, and that no property owner would thereby be deprived of reasonable means of ingress and egress to his property, the Board of Commissioners may adopt an Order permanently closing the street named in Paragraph 1 above.
7. BE IT FURTHER RESOLVED that notice of such hearing shall be published in the Durham Herald Sun once a week for two successive weeks, the first publication to be not less than ten days or more than twenty-five days before the date fixed for the hearing.

This 24th day of January, 2005.

Consent Agenda Item No. f. Adopt a Resolution to Set a Public Hearing for January 31, 2005 for Consideration of the Durham Comprehensive Plan.

Resolution Setting Public Hearing to Consider the Adoption
of the Durham Comprehensive Plan

WHEREAS, the Durham City Council and the Durham County Board of Commissioners have given high priority to long-range planning in Durham; and

WHEREAS, the Governing Bodies of the City and County directed Planning staff to prepare a new Durham Comprehensive Plan; and

WHEREAS, a draft Comprehensive Plan has been prepared that establishes a revised pattern of land uses and clarifies basic governmental policies related to development; and

WHEREAS, a public hearing by the City Council and the Board of Commissioners must be held before the Plan can be adopted; and

WHEREAS, the Joint City County Planning Committee recommends that the draft Comprehensive Plan be considered at a joint public hearing before the City Council and County Board of Commissioners:

NOW, THEREFORE, the Durham County Board of Commissioners sets January 31, 2005 at 7:00 p.m. in City Council Chambers, 101 City Hall Plaza as the date, time, and

place for the public hearing to consider the Durham Comprehensive Plan, and directs the Planning staff to advertise such a hearing in accordance with the law.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. d. Budget Ordinance Amendment No. 05BCC000026—E 911 Surcharge Fund (approve for \$524,760 to appropriate \$489,760 of the Wireline Surcharge fund balance and \$35,000 from the Wireless Surcharge fund balance).

County Attorney Chuck Kitchen responded affirmatively to Vice-Chairman Heron’s question about cover items outlined in the Durham Emergency Communications Five-Year Plan.

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to approve Consent Agenda Item No. d.

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000026

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2004-05 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>EMERG SERVICES TELEPHONE SYS</u>			
Other Financing Sources	\$2,108,894	\$524,760	\$2,633,654

Expenditures:

<u>Activity</u>			
<u>EMERG SERVICES TELEPHONE SYS</u>			
Public Safety	\$3,404,894	\$524,760	\$3,929,654

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

This the 10th day of January, 2005.

Consent Agenda Item No. h. Rules of Procedure (consider the changes and approve).

Commissioner Cheek suggested adding the following statement to the “Public Charge” on page three: “Should the offending person fail to leave as directed, he/she will be

removed by the Sheriff and charged with a second degree misdemeanor for failure to leave as directed from a public meeting.”

Since the Public Charge will be printed at the top of the Agenda, Commissioner Page expressed concern that the suggested statement may present a negative tone to the meeting.

As a compromise, Chairman Reckhow asked County Attorney Chuck Kitchen if Commissioner Cheek’s suggestion could be included in another section of the Rules of Procedure.

County Attorney Kitchen advised that the statement could be included in Section VII. Powers of the Chairperson.

Commissioner Cheek explained his reasoning for making the suggestion.

Commissioner Cousin contributed that the Rules of Procedure states that the Board is to follow Robert’s Rules of Order, which includes necessary actions to be taken by the Chairman, such as using the Sheriff’s deputy to maintain order at meetings.

Commissioner Heron agreed with Commissioner Cheek.

Commissioner Page reiterated his concern about setting a negative tone for meetings.

Chairman Reckhow informed the Board that at past meetings, decorum has been maintained. She recommended that the Public Charge remain as is and that Commissioner Cheek’s statement be incorporated into Section VII as suggested by County Attorney Kitchen.

Commissioner Cheek referenced Section V. Public Address to the Board on page three, pertaining to issuing a deadline for citizens to submit signup sheets for requesting to speak on agenda items. He proposed a rule stating that signup sheets submitted after the meeting commences would not be accepted, unless a member of the Board makes a motion to allow a citizen to speak under special circumstances.

Commissioner Cousin disagreed with instituting a rule that discourages public input.

Chairman Reckhow supported accepting signup sheets after commencement of the meeting, allowing citizens to arrive during an approximate time that their item of interest would be discussed. Requests to speak after the meeting begins are to be submitted to the clerk.

For meeting efficiency, Commissioner Cheek suggested signing up speakers in advance via telephone.

Chairman Reckhow directed the Clerk to the Board to explore additional methods for signing up citizens (i.e. via County website or telephone).

To address Commissioner Cousin's concern, Chairman Reckhow clarified the additions to Section V. Public Address to the Board, relating to time limits established for speakers.

In reference to Section VIII. Action by the Board, Commissioner Cheek inquired about a limit to the number of substitute motions. He suggested a limit of two substitute motions.

The Commissioners discussed setting a limit.

County Attorney Kitchen stated that according to both versions of Robert's Rules of Order, no more than two substitutes are permitted.

The Board agreed to set the limit at two substitute motions.

Commissioner Cheek reminded the Board that if more than two substitute motions are desired for a controversial issue, the rule could be waived.

Chairman Reckhow called signed speaker E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, forward for comments.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the Rules of Procedure as amended.

The motion carried unanimously.

RULES OF PROCEDURE FOR THE DURHAM COUNTY BOARD OF COMMISSIONERS

INTRODUCTION

The following rules of procedure were developed for use by the Durham County Board of Commissioners. They incorporate general principles of parliamentary procedure and the applicable laws of North Carolina. The Rules were designed with the following guidelines in mind:

1. The Board must act as a body;
2. The Board should proceed in the most efficient manner possible;
3. The Board must act by at least a majority vote;
4. Every member must have an equal opportunity to participate in decision-making;
5. The Board must apply the rules of procedure consistently;
6. When situations occur which are not explicitly covered by these Rules and cannot be resolved through reasonable inference from or interpretation of these Rules, then Robert's Rules of Order shall be followed.

It is the policy of this Board that all hearings, deliberations, and actions be conducted fairly, openly, and consistent with the applicable Statutes of North Carolina.

I. YOUR COUNTY COMMISSIONERS

Durham County has a five-(5) member Board of Commissioners which is elected at-large for four-(4) year terms. The Board sets policies and enacts ordinances which are administered by the County Manager and his/her staff.

II. REGULAR MEETINGS

The Board shall hold a regular meeting on the second and fourth Monday of each month. The meeting shall be held at the Durham County Government Administrative Complex, 2nd floor in the Commissioners' Meeting Room, 200 East Main Street, Durham, NC and shall begin at 7:00 pm (meetings may begin earlier in some circumstances) and end not later than 11:00 pm, unless extended by majority vote to 12:00 midnight. An extension of the meeting beyond 12:00 midnight shall require a unanimous vote of the Board. If the Board votes to extend the meeting beyond midnight, then the Board shall also vote to determine those items remaining on the agenda on which a vote will be taken.

III. SPECIAL MEETINGS

The Chairperson or a majority of the members of the Board may at any time call a special meeting by signing a written notice stating the time and place of the meeting and the subjects to be considered. Notice of the meeting shall be delivered to each Board member and posted at the Court House at least 48 hours before the meeting.

If a special meeting is called to deal with an emergency, the notice requirements of this rule do not apply. However, the person or persons who call an emergency special meeting shall take reasonable action to inform the other members and the public of the meeting. Only business connected with the emergency may be discussed at the meeting.

At the first meeting in December following an election of County Commissioners, all the newly elected members of the Board shall take and subscribe the oath of office. At the first meeting in December of each year, as the first order of business, the Board, with the County Attorney presiding, shall elect a chairperson. The Board will immediately thereafter elect a vice-chairperson. These officers shall not otherwise be removed from office unless disqualified as a member of the Board. The second order of business for the first meeting in December of each year shall be for the Board to approve the Durham County Public Official performance bonds.

IV. AGENDA

The Clerk to the Board shall prepare the agenda for the meeting. Agenda packages will be distributed by the end of the Wednesday preceding the meeting date. All agenda materials must be submitted to the Clerk to the Board on the Monday, two weeks preceding the meeting date. Any board member, by a timely request, may have an item placed on the agenda for inclusion in the agenda package.

A complete copy of the agenda with attached material shall be available for public inspection as soon as distribution to Commissioners has been completed.

At least one copy of the complete agenda package shall be available for public inspection and reference at the rear of the Commissioners' Meeting Room during the meeting, one copy shall be available on the sign-up table, and one copy shall be available at each of the branch libraries.

Any member of the Board, the County Manager, or County Attorney may add any item to the Agenda at the beginning of the meeting by a majority vote of the Board.

As part of the Agenda, the County Manager in consultation with the Chairman or, in the absence of the Chairman, Vice Chairman shall prepare consent items for the Agenda. These items shall consist of routine business items which are not considered to be controversial, or items which have previously been discussed at a Worksession. Any item may be removed by a Commissioner or by a member of the public by signing up to speak on the item. Should any item on the consent agenda be removed from the consent agenda, the Chairman, in his/her discretion, may place the item at the end of the Agenda.

Each Agenda shall contain a "Public Charge" at the top of the Agenda, which shall read as follows:

The Board of Commissioners asks its members and citizens to conduct themselves in a respectful, courteous manner, both with the Board and fellow citizens. At any time, should any member of the Board or any citizen fail to observe this public charge, the Chairman will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chairman will recess the meeting until such time that a genuine commitment to the public charge is observed.

As a courtesy to others, please turn off cell phones during the meeting.

V. PUBLIC ADDRESS TO THE BOARD

The public may present a written petition to the Board by submitting it to the Clerk to the Board prior to any regular meeting of the Board or during normal business hours at the Clerk's Office. The Clerk shall forthwith make copies of the petition and forward it to each Commissioner with a copy to the County Manager.

Any citizen of Durham County shall have the right to request, in writing to the Clerk of the Board, that any item be placed on the agenda for consideration by the Board at a Worksession. The request must be submitted to the Clerk to the Board at least two weeks preceding the meeting date as provided on Page 9, Agenda. Please refer to Page 10, Citizen Comment, for details.

Any member of the public who wishes to address the Board regarding an agenda item shall complete a sign-up card on the table outside the entrance door to the

Commissioners' room clearly indicating the item number(s) to which they intend to speak. Sign-up cards will be available beginning 30 minutes before the start of the meeting. No one will be allowed to have his/her name placed on the list by telephone request to County Staff. A time limit is established of three minutes to speak on regular agenda items and two minutes to speak on consent agenda items for each individual (other than staff and those presenting the request to the Board) in an effort to ensure adequate discussion of that item and all the other items on the agenda. The Chairman may shorten this time limit, or otherwise limit the number of speakers, based on the number of individuals who sign up to speak on an item. Each individual signed up to speak shall only be entitled to the time allotted to each speaker and one additional time period which may be yielded to him by another individual who has also signed up to speak on that item. Information sheets outlining the process for the public's participation in Board meetings will also be available in the rear of the room.

VI. ORDER OF BUSINESS*

- 1) Adjustment of Agenda*
- 2) Approval of Minutes
- 3) Approval of Consent Items
- 4) Public Hearings
- 5) Other Business
- 6) Closed Session**
- 7) Adjournment

*By general consent of the Board, items may be considered out of this order.

**May be at the beginning of the meeting.

VII. POWERS OF THE CHAIRPERSON

The Chairperson shall preside at meetings of the Board. In the Chairperson's absence, the Vice-Chairperson shall preside and shall have all the powers specified herein. If the Chairman and Vice-Chairman are both absent from the meeting, the Clerk to the Board shall convene the meeting and the remaining members shall elect a member to preside for that meeting or until either the Chairperson or Vice-Chairperson appears. A member must be recognized by the Chairperson in order to address the Board. The Chairperson shall have the following powers:

1. To rule motions in or out of order, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;
2. To establish time restraints for discussion, except for matters requiring a quasi-judicial public hearing;
3. To determine whether a speaker has gone beyond reasonable standards of courtesy in his/her remarks and to entertain and rule on objections from other members on this ground;
4. To entertain or refer to the County Attorney questions of parliamentary law or procedure;
5. To call a brief recess when needed;
6. To adjourn in an emergency;

7. To conduct public hearings as otherwise provided for herein; and
8. The Chairman shall have the Duty to decide upon and to assign those members of the Board as he or she sees fit to membership on any other board or commission which requires a county commissioner to serve *ex officio*. After such an appointment has been made, the Chairman shall inform the other members of the Board at the next regular meeting of the Board who shall then ratify the appointments or take other appropriate action.
9. To direct any person to leave the meeting when the person willfully interrupts, disturbs, or disrupts the meeting. Any person who fails to leave the meeting after being directed to do so by the Chairman shall be removed by the Sheriff and charged with a misdemeanor pursuant to O.S. § 143- 318.17.

VIII. ACTION BY THE BOARD

The Board shall proceed to discuss an item, including receipt of comment from the staff or the public, when the item is announced by the Chairman. Upon completion of discussion, the Board shall, unless some other action is deemed appropriate, proceed by motion on the item. Any member, including the Chairman, may make a motion or second a motion.

Second Required

Any motion to be considered for a vote shall require a second. If the motion does not receive a second, it "dies" for lack of a second. If the motion is seconded, and stated by the Chairman, it then goes before the Board for discussion and debate.

Substantive Motions

Only one substantive motion may be considered on the floor. A new substantive proposal may not be put forth until action on the preceding one has been concluded.

A subsidiary motion can be made only while a substantive motion is pending. Examples of subsidiary motions are: a motion to table a motion, to move the previous question, to go into closed session, to amend a main motion, to make a substitute motion with only two substitute motions being allowed to the main motion.

Adoption by Majority Vote

A motion shall be adopted by a majority of the votes cast, a quorum being present unless otherwise required by these rules, an ordinance, or state statute.

Debate

The Chairman shall state the motion and then open the floor to debate. The Chairman shall preside over the debate according to these general principles:

- (a) The introducer (the person who makes the motion) is entitled to speak first;
- (b) A member who has not spoken on the issue shall be recognized before a member who has previously spoken;

- (c) To the extent possible, the debate should alternate between opponents and proponents of the measure.

Procedural Motions

The following procedural motions and no others shall be in order.

1. To Adjourn. The motion may be made only at the conclusion of action on a pending matter; it may not interrupt deliberation of a pending matter.
2. To Take a Recess. The motion is in order at any time a member feels a recess is needed. The Chairman also has the power to call a brief recess.
3. To Defer Consideration. A substantive motion whose consideration has been deferred expires one hundred (100) days thereafter, unless a motion to revive consideration is adopted.
4. To Revive Consideration. This motion is in order at any time following the expiration of 100 days after a vote to defer consideration of an item.
5. To Reconsider. The motion must be made by a member who voted with the prevailing side in the prior action.

A motion to reconsider an item on which action has been taken following a public hearing required by statute may be considered only after a public hearing on the reconsideration request.

A motion to reconsider an item on which action has been taken following a discretionary public hearing may be considered without further public hearing in the discretion of the Board determined by majority vote.

6. To Ratify. To provide clarity the Board may later ratify any action which it has or could have authorized.
7. To Prevent Reconsideration for Six (6) Months. The motion shall be in order immediately following the defeat of a substantive motion and will not be allowed at any other time. The action of the Board, if the motion is adopted, is valid for six (6) months or until the next regular election of county commission board members, whichever occurs first.
8. To Amend. An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the amended motion has the same effect as rejection of the original motion. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last offered amendment is disposed of by vote. Any amendment to a proposed ordinance shall be reduced to writing before the vote on the amendment.
9. Renewal of Motion. A motion that is defeated may be renewed at any subsequent meeting unless a motion to prevent reconsideration has been adopted.
10. Withdrawal of a Motion. A motion may be withdrawn by the introducer at any time before a vote.

11. Suspension of the Rules. These rules may be suspended by a majority vote of the Board, but such motion may not be made if a substantive motion is already before the Board.

Duty to Vote

Every member must vote unless excused by a majority vote according to law. A member who wishes to be excused from voting shall so inform the Chairman, who shall take a vote of the remaining members prior to any discussion of the item.

G.S. 153A-44 provides members may be excused from voting on matters in which they have a direct financial interest, or on questions involving the Board member's official conduct. The County Attorney may be asked by the individual Commissioner, the Board, or any other interested party to render an opinion on questions of conflicts of interest arising from financial interest, official conduct, or any other circumstance presenting the appearance of conflict of interest of any member.

Introduction of Ordinances

A proposed ordinance shall be deemed to be introduced at the first meeting in which it is placed on the agenda, regardless of whether it is actually considered by the Board.

Adoption of Ordinances

To be adopted at the meeting at which it is first introduced, an ordinance must receive the approval of all members of the Board. If the proposed ordinance is approved by a majority of those voting but not by all the members of the Board, or if the ordinance is not voted on at that first meeting of the Board, it shall be considered at the next regular meeting. If it then or at any time thereafter within 100 days of its introduction receives another majority vote, the ordinance is adopted.

Adoption of the Budget Ordinance

1. Any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the board by a simple majority vote.
2. No action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the Board.
3. The adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any local act concerning and calling of an initiative or referendum.

During the period beginning with the submission of the budget to the Board and ending with the adoption of the budget ordinance, the Board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Any provisions of law concerning the call of special meetings do not apply during that period so long as (i) each

member of the Board has actual notice of each special meeting called for the purpose of considering the budget, and (ii) no business other than consideration of the budget is taken up.

Closed Session

The Board may hold closed sessions as provided by law. It shall commence a closed session by a majority vote on a motion to do so which specifically refers to the provision(s) of law providing the authority for the closed session as required by the amended Open Meetings Law.

Quorum

A majority of the membership of the Board shall constitute a quorum. The members required for a quorum shall not be affected by vacancies. If a member is absent or has withdrawn from a meeting without being excused by a majority vote of the remaining members, he/she shall be counted as present for the purposes of determining whether a quorum is present.

Public Hearings

Public hearings required by law or deemed advisable by the Board shall be organized and adopted by a majority vote, setting forth the subject, date, place, and time of the hearing.

The Board may adopt a standing rule that the staff may schedule and give notice of public hearings on requests for zone changes and special use permits pursuant to the Planning and Zoning Ordinance.

At the appointed time, and after the staff or other appropriate persons have presented the item, the chairperson shall call the hearing to order, open the public hearing, and when the allotted time expires or no one who has not yet spoken wishes to do so, the Chairman shall declare the hearing ended. To the extent required by state law, the Chairman shall have the authority to administer oaths or authorize the Clerk to do so to witnesses presenting evidence in public hearings. Except for matters requiring a quasi-judicial public hearing, the party presenting the request shall have five minutes to present its request. Any other persons either speaking in favor of or opposed to the request shall have three minutes each for their remarks. Additional time shall be allowed for all speakers to answer questions from the Board of Commissioners. Each individual signed up to speak shall only be entitled to the time allotted to each speaker, plus one additional time period if yielded to him by another signed up to speak on the same item. Rebuttals will only be permitted if deemed necessary by the Chairman, with time limits therefor being set in the discretion of the Chairman.

Minutes

Minutes shall be kept of all meetings of the board, including closed sessions as provided by law.

The Rules of Procedure for Durham County Commissioners were adopted by the Board on March 13, 1989 and became effective March 13, 1989. There have been periodic

amendments which are reflected in this revision adopted January 27, 1997, February 10, 2003, and January 10, 2005.

RULES OF PROCEDURE FOR DURHAM COUNTY COMMISSIONERS TO GOVERN WORKSESSIONS

INTRODUCTION

The following rules of procedure were developed for use by the Durham County Board of Commissioners in conducting Worksessions. Since Worksessions have been initiated for the purpose of discussion only with the intent of reducing the amount of time for consideration of items at regularly scheduled meetings, it is intended that no action will be taken on any item during the Worksession, other than that of giving directions to the administration and staff as to preparation and presentation of the item at a scheduled regular meeting. However, since notices of the sessions are given as required by the Open Meetings Law, they constitute an Official Meeting of the Board, and action can be taken. It is recommended however, that actions not be taken unless necessary to address an issue which is time-sensitive and which cannot wait until a regularly scheduled meeting of the Board. In the event action is required to be taken on a time-sensitive issue, those Rules of Procedure adopted by this Board on March 13, 1989 and as amended relate to motions and votes shall be followed.

To the extent the Rules of Procedure adopted by this Board on March 13, 1989 as amended govern discussions of items and materials, they shall apply to discussions at the Worksession.

I. MEETING TIME

The Worksessions will be held on the first Monday of each month unless the meeting time is changed to avoid conflicts with regularly scheduled holidays, or unless changed or canceled by majority vote of the Board. The meetings will be held in the County Commissioners' Meeting Room beginning at 9:00 a.m.

II. AGENDA

The Clerk to the Board shall prepare the agenda for the meeting. Agenda packages will be distributed on the Wednesday preceding the meeting date. All agenda materials must be submitted to the Clerk to the Board on Monday, two weeks preceding the meeting date. Any board member may, by a timely request, have an item placed on the agenda.

A complete copy of the agenda with attached material shall be available for public inspection as soon as distribution to Commissioners has been completed. Each Board member shall receive a copy of the agenda with the agenda materials by the end of the Wednesday preceding the day of the meeting.

At least one copy of the complete agenda package shall be available for public inspection and reference at the rear of the Commissioners' Meeting Room during the meeting.

The Board may, by majority vote, add an item that is not on the agenda.

III. CITIZEN COMMENT

Any citizen of Durham County shall have the right to request, in writing to the Clerk to the Board, that any item be placed on the agenda for consideration by the Board at a Worksession. The request should include a summary of the issue being presented and such background material as the requester deems relevant. Upon such request in writing, the Clerk shall forward the request to the County Manager and Chairman of the Board who shall determine whether, in their discretion, to place the item on an appropriate agenda, or whether the matter can be handled by the County Administration. If the item is placed on an agenda, the person making the request shall have up to five minutes to speak on the item. The request must be submitted to the Clerk to the Board at least two weeks preceding the meeting date as provided on Page 9, Agenda.

IV. POWERS OF THE CHAIRPERSON

The Chairperson shall preside at the Worksessions. In the Chairperson's absence, the Vice-Chairperson shall preside and shall have all the powers specified herein. A member must be recognized by the Chairperson in order to address the Board. The Chairperson shall have those powers specified in the Board's Rules of Procedure related to discussion of items and materials on the agenda for the Worksession, and specifically

1. To establish time restraints for discussion;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his/her remarks and to entertain and rule on objections from other members on this ground;
3. To entertain or refer to the County Attorney questions of parliamentary law or procedure;
4. To call a brief recess when needed; and
5. To adjourn in an emergency.

V. DISCUSSION BY THE BOARD

The Board shall proceed to discuss an item, including receipt of comment from the staff, when the item is announced by the Chairman. Upon completion of discussion, the Board shall give the staff and administration direction as to preparation for and presentation of the item at a regularly scheduled meeting. This may take the form of expressed consensus among the members, but if necessary to establish the Board's intent, may be expressed in the form of a motion and voted upon. These rules may be suspended by a majority vote of the Board.

Quorum

A majority of the membership of the Board shall constitute a quorum. However, since it is intended that no action will be taken during the Worksession, a quorum is not required to discuss materials and agenda items. In the event it is necessary to vote on any item which is time-sensitive, a quorum must be present for the motion and vote. For purposes of such votes in the Worksessions, if a member is absent or has withdrawn from a meeting without being excused by a majority vote of the remaining members, he/she shall be counted as present for the purposes of determining whether a quorum is present.

VI. MINUTES

Minutes of the Worksessions shall be prepared by the Clerk to the Board to the same extent as a regular meeting and as required by law.

These Rules of Procedure to Govern Conduct of Worksessions were adopted by the Durham County Board of Commissioners on January 14, 1991, and became effective on that date. They have amended from time to time, and said amendments are reflected in this revision adopted January 27, 1997, February 10, 2003, and January 10, 2005.

Consent Agenda Item No. i. New Hope Creek Open Space Potential Acquisition (approve the proposed option to purchase with Centex Homes for 28.2 acres in the New Hope Creek corridor for parcel # 139109 (partial) with up to \$1,500 in total acquisition costs).

Per request by Commissioner Cheek, Real Estate Manager Jane Korest synopsized this agenda item.

Commissioner Cheek moved, seconded by
Commissioner Cousin, to approve Consent Agenda
Item No. i.

Ms. Korest responded to Vice-Chairman Heron's concern about how the 28.2 acres of open space would be addressed in the rezoning.

The motion carried unanimously.

Public Hearing—Herndon/Millennium (P04-58)

Frank M. Duke, AICP, City-County Planning Director, reported that Perimeter Developers LLC presented the Board with a request to rezone a 30.28-acre site located on the west side of Herndon Road, north of Scott King Road, PIN 0717-17-95-8116, 8317, 8508, 8718, 8906; --96-8125, 8306, and 8518. The proposal is in conformance with the small area plan. Staff recommended approval. The Durham Planning Commission conducted a public hearing on November 9, 2004 and voted 9-4 to recommend approval.

The public hearing for this request was advertised on December 24, 2004 and December 31, 2004 in the Durham Herald-Sun.

Commissioner Page related his traffic concerns in the Herndon Road area to Mr. Duke.

Chairman Reckhow advised Mr. Duke to relay Commissioner Page's concerns to the City Transportation Department.

Chairman Reckhow opened the public hearing that was properly advertised and recognized the following signed speakers for comments:

Mr. Bill Ripley, 5011 Southpark Drive, Durham, NC 27713, representing Perimeter Developers, LLC.

Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, representing the Durham Committee on the Affairs of Black People.

Chairman Reckhow closed the public hearing and referred the matter back before the Board.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the Herndon/Millennium (P04-58) rezoning.

The motion carried unanimously.

Public Hearing—Plan Amendment—Long Beverage (A04-12)

Frank M Duke, AICP, City-County Planning Director, introduced this item. The Board was requested to hold a public hearing and receive public comment on a Plan Amendment for Long Beverage (A04-12) amending the *Triangle Township Plan* and adopt a resolution amending the Plan.

Planning Department Recommendation—Approval
Planning Commission Recommendation—Approval, November 9, 2004 (12-1)

Mr. Duke responded to Chairman Reckhow's questions about surrounding designations. In addition, Chairman Reckhow suggested that the cause of a change in designation on an adjoining parcel be included in future staff reports.

Commissioner Heron asked Mr. Duke to explain "Designations" on the Area Land Uses and Designations chart on page two of the staff report.

Chairman Reckhow opened the public hearing that was properly advertised and recognized Mr. Patrick Byker, 2614 Stuart Drive, Durham, NC 27707, representing Long Beverage, to speak.

Chairman Reckhow closed the public hearing and referred the matter back before the Board.

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve Plan Amendment A04-12.

The motion carried unanimously.

BOARD OF COMMISSIONERS RESOLUTION
AMENDING TRIANGLE TOWNSHIP PLAN
Long Beverage, A04-12

WHEREAS, The Durham County Board of Commissioners has adopted long range land use plans, including small area plans, to help guide the future development of land within the County's jurisdiction; and

WHEREAS, changed community conditions, the age of the adopted plan, development activity within the planning area, and other factors may warrant a change to an adopted plan; and

WHEREAS, the Durham County Board of Commissioners has adopted a resolution that requires that the Board consider changes to adopted land use plans when requested rezoning substantially conflicts with an adopted land use plan.

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

SECTION 1

That the Future Land Use map of the *Triangle Township Plan* be amended as follows:

To identify as Industrial the recommended future uses of parcel 0758-03-31-7293 as shown on the map.

SECTION 2

This change shall become effective upon the adoption of this resolution.

This the 10th day of January, 2005.

Memorandum of Understanding—Little Lick Creek Local Watershed Plan

Frank M Duke, AICP, City-County Planning Director, requested that the Board approve a Memorandum of Understanding with the North Carolina Ecosystem Enhancement Program for planning purposes in the Little Lick Creek Watershed.

Commissioner Cheek moved, seconded by Commissioner Page, to receive the Memorandum of Understanding and authorize the County Manager's signature.

The motion carried unanimously.

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING, made this the 10th day of January 2005, by and between the NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, ECOSYSTEM ENHANCEMENT PROGRAM (EEP), the CITY OF DURHAM and DURHAM COUNTY.

SECTION 1 - Background

The purpose of the Ecosystem Enhancement Program (EEP) is to restore, enhance, and protect watershed functions including water quality, hydrology and habitat, throughout North Carolina's 17 major river basins. The EEP is interested in restoring and protecting the wetlands, creeks, streams and unnamed tributaries within the Little Lick Creek Drainage area (which includes the City of Durham and Durham County). This stream is experiencing impacts from increased development including loss of buffers, channelized streams, flooding and degraded water quality.

As part of this restoration effort, the EEP is interested in working with the City of Durham and Durham County to actively initiate the Local Watershed Planning process within the Little Lick Creek watershed within a portion of the City of Durham and Durham County. The overall goal of Local Watershed Planning is to identify projects which can improve water quality, hydrology and aquatic habitat. This initiative will involve local government and resource professionals as well as some other local stakeholders. Local Watershed Planning works to identify locally owned sites for wetland, stream, and riparian buffer restoration. In addition to wetland, stream and buffer projects, other innovative techniques to reduce pollution such as storm water best management practices and storm water control retrofits may be identified. These projects may be funded by Nutrient Offset Payments or via the Neuse Riparian Buffer Fund – which are both within the EEP's In-Lieu Fee Program. The Local Watershed Planning process for the Little Lick Creek area is planned to begin November 2004.

SECTION 2 - Scope of Work

The EEP agrees to:

1. Work with the City of Durham and Durham County to initiate a Local Watershed Planning Process within watersheds encompassing portions of the City of Durham and Durham County.
2. For selected restoration or best management practice projects identified provide an environmental contractor to conduct a feasibility study of potential projects to improve water quality in the City of Durham and Durham County.
3. Implement one or more selected projects within the City of Durham and Durham County based on feasibility studies, the EEP need for projects, as well as compatibility with future city and county plans.
4. Monitor and manage implemented projects for a period of five years.

The City of Durham and Durham County agree to:

1. Allow the EEP to coordinate its efforts through one main City and one main County representative. These representatives appointed by the City and County will serve as the City of Durham's and Durham County's points of contact on all EEP project and Local Watershed Planning efforts.
2. Hear and receive the recommendations developed through the Local Watershed Planning process.
3. Provide the EEP with previously collected data, mapping, utility information, trail plans, and other pertinent information as may be reasonably required and which is readily available to the City and County at little or no cost to the City or County.
4. Allow the EEP to implement one or more selected projects within the City of Durham and Durham County at such location or locations as may be satisfactory to the City, County and the EEP provided that the projects do not conflict with future city or county plans.

SECTION 3 - Cooperation and Termination

This Memorandum of Understanding is an agreement in principle and good faith concerning the work described above. The EEP, the City of Durham, and Durham County acknowledge that it is their desire to facilitate the process set forth in this agreement by open communication and cooperation. If any party wishes to withdraw from this agreement, it may do so by giving written notification to the other parties. Amendment of this Memorandum of Understanding requires written approval by all parties.

Board and Commission Appointments

The Board made the following appointments:

Operation Breakthrough, Inc.

Nina F. Bullock

Public Health Board

Philip D. McHugh (Veterinarian)

Sandra A. Peele (Nurse)

Ronald David Spain (Dentist)

Raleigh-Durham Airport Authority

Craigie Sanders

William Stephens Toler

Closed Session

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to adjourn to Closed Session to

consider the performance of a public officer pursuant to
G.S. § 143-318.11(a)(3) & (6).

The motion carried unanimously.

Reconvene to Open Session

Chairman Reckhow announced that direction was given to staff in the Closed Session; no action was taken.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 10:57 p.m.

Respectfully submitted,

Vonda C. Sessoms
Deputy Clerk to the Board