

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

Monday, January 24, 2005

MINUTES

7:00 P.M. Regular Session

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

Welcome—Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

Agenda Adjustments

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve the addition of Agenda Item No. 10a, Public Hearing—Closing of 638.8 Linear Feet of an Unnamed 20-Foot-Wide Roadway West of American Drive (SC04-01B).

The motion carried unanimously.

Minutes

Commissioner Cousin moved, seconded by Vice-Chairman Heron, to approve as corrected the Board of County Commissioners' December 6, 2004 Worksession Minutes and to approve as submitted the December 13, 2004 Regular Session Minutes.

The motion carried unanimously.

Recognition of Eagle Scouts Who Contributed to the Completion of Little River Regional Park

Chairman Reckhow announced that members of two local Eagle Scout Troops assisted with various projects related to the successful completion and early December 2004 opening of

the 391-acre Little River Regional Park and Natural Area. (Durham and Orange Counties developed the park jointly in partnership with several other groups.) Volunteers were tremendous in the work of the park including hiking and mountain biking trails and amenities (benches, bird houses, etc.). Chairman Reckhow thanked Durham County Open Space Land Manager Mike Giles for a superb job directing the volunteers.

Mr. Giles conveyed that Little River Regional Park opened December 5, 2004. Public support and visitation of the park has been an overwhelming success. The park's success has also been the result of partnerships forged in planning and construction, support of both Durham and Orange County Boards of Commissioners, and assistance of hundreds of volunteers who helped with trail building and other construction activities. Five young men became Eagle Scouts as the result of their innumerable hours of work on a variety of park projects. These projects have become integral components of the visitor experience at the park. Mr. Giles recognized the following Eagle Scouts and their efforts:

- Dan Porter of Troop 400 constructed a wooden bridge and one bench along the south loop hiking trail.
- Max Elkins of Troop 400 constructed the information kiosk and two benches at the main trailhead for all hiking trails.
- Joe Simpson of Troop 400 constructed and installed 30 bluebird boxes around the open field at the park entrance.
- Will Alexander of Troop 400 constructed two benches and planted over 30 trees along the 1.4-mile handicap accessible trail at the beginning of the trail system.
- Phillip Grubaugh of Troop 822 constructed two information kiosks at the south loop trailhead and at the Summer Lane neighborhood entrance.

Chairman Reckhow presented each Eagle Scout member a Certificate of Appreciation for invaluable assistance with Little River Regional Park. (Joe Simpson received Dan Porter's certificate, as he was absent from the meeting). The certificates read: "This certificate is awarded to 'Scout Name' in recognition of valuable contribution toward the successful completion of the Little River Regional Park and Natural Area—Presented by the Durham County Board of Commissioners". Chairman Reckhow commented that the Scouts' work augments the enjoyment of Little River Regional Park and will live on for many years.

Vice-Chairman Heron congratulated the Eagle Scouts from Troops 400 and 822 for their accomplishments.

Proclamation for "Dr. John Hope Franklin"

Chairman Reckhow publicized that the proclamation would be presented to Dr. John Hope Franklin at a special luncheon in his honor at North Carolina Central University on January 28, 2005. She read the following proclamation into the record:

PROCLAMATION

WHEREAS, Dr. John Hope Franklin was born on January 2, 1915, in Rentiesville, Oklahoma, to Buck and Mollie (Parker) Franklin; and

WHEREAS, Dr. Franklin is a pioneer African-American historian and a highly respected scholar who has lived and written on many aspects of American history; and

WHEREAS, Dr. Franklin is a graduate of Fisk University and received the A.M. and Ph.D. degrees in history from Harvard University. He has taught at a number of institutions, including Fisk University, The University of Chicago, St. Augustine's College, North Carolina Central University, Duke University, and Howard University; and

WHEREAS, his dedication to service and his commitment to the Durham community have been evident during his residency in Durham and his tenure at Duke University, where he is the James B. Duke professor emeritus of history, and at N.C. Central University where he also has taught; and

WHEREAS, he is known for a considerable body of scholarly research and for his books The Emancipation Proclamation, The Militant South, The Free Negro in North Carolina, Reconstruction After the Civil War, and A Southern Odyssey: Travelers in the Ante-Bellum North, and perhaps his best known book, From Slavery to Freedom: A History of African-Americans, now in its seventh edition; and

WHEREAS, Dr. Franklin has been honored with numerous awards including the Presidential Medal of Freedom, the Gold Medal in History by the American Academy of Arts and Letters, the North Carolina Lifetime Achievement Award, and he also chaired former President Bill Clinton's Initiative on the Race Advisory Board; and

WHEREAS, Dr. Franklin, a national treasure known for his graciousness, humility, and knowledge, has expressed that teaching is the greatest joy of his life:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim Friday, January 28, 2005 as

DR. JOHN HOPE FRANKLIN DAY

in Durham County in recognition of his 90th birthday, and for Dr. Franklin's innumerable contributions towards celebrating the human spirit and improving the quality of life for all Americans.

This the 24th day of January, 2005.

Recognition of Government Finance Officers' Association (GFOA) Distinguished Budget Presentation Award for FY2004-2005 Durham County Budget Document

County Manager Mike Ruffin reported that in August 2004, the Budget & Management Services Department submitted Durham County's FY2004-2005 Budget Document for consideration to GFOA for its Distinguished Budget Presentation Award. To receive the award, a governmental unit must publish a budget document that meets program criteria as a policy document, as an operations guide, as a financial plan, and as a communications device. Durham County received notification at the end of December that a panel of independent reviewers had completed its examination of Durham County's budget document and voted to award the GFOA Distinguished Budget Presentation Award to Durham County. This is the first time since the mid-1990s that Durham County has applied for and received this award. County Manager Ruffin congratulated the entire Budget & Management Services staff which included: Kimberly Cook, Kevin Etheridge, Keith Lane, Pam Meyer, Trevor Minor, and Bill Renfrow.

Budget and Management Services Director Pam Meyer thanked the County Manager for publicly recognizing the staff. She expressed gratitude to Intern Kevin Etheridge for his contribution to Durham County's FY2004-2005 Budget Document.

Chairman Reckhow applauded the efforts of Ms. Meyer and her hard working staff. She mentioned that the Budget Document, which now includes Results Based Accountability measures, offers a great overview of County government.

Consent Agenda

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

- * (b) Revocable License to Duke Energy Corporation for Use of Stadium Parking Lot (approve and authorize execution by the Manager);
- (c) Bahama and Parkwood Volunteer Fire Department EMS Contract Modification (approve contract modifications);
- (g) Request from Emergency Management to Approve Sole Source Purchase of a Bomb Response Truck Using 2003 Department of Homeland Security Part II Grant Program Funds (approve the purchase and authorize the Manager to enter into a \$113,233 purchase of goods contract with NABCO Inc.);
- (h) Standard Non-Reimbursable Utility Contract for the Extension of the County Sanitary Sewer System—Contract with Park Partners LLC to extend the County sewer system by approximately 80 linear feet to serve

- Atlantic Tire on Hwy 54 (authorize the Manager to execute the contract for this addition to the System);
- (i) Set Advance Public Hearing on the FY2005-2006 Budget (set Monday, February 14, 2005 as the date); and
 - (j) Renewal of Ambulance Franchise for Johnston Ambulance Service.

The motion carried unanimously.

*The document related to this item follows:

Consent Agenda Item No. b. Revocable License to Duke Energy Corporation for Use of Stadium Parking Lot (approve and authorize execution by the Manager).

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

REVOCABLE LICENSE AGREEMENT

This REVOCABLE LICENSE AGREEMENT made an entered into this the ___ day of _____, 2005, by and between the COUNTY OF DURHAM, a political subdivision of the State of North Carolina, hereinafter the "Licensor", and DUKE ENERGY CORPORATION, a for profit North Carolina Corporation, hereinafter the "Licensee".

WITNESSETH:

WHEREAS, the Licensor is the owner in fee simple of certain real estate known as the Durham County Memorial Stadium, situated on Stadium Drive and Duke Street in the City of Durham, Durham County, North Carolina, hereinafter referred to as the "Property;" and

WHEREAS, Licensee is desirous of utilizing the parking lot located on the south side of said Property for the purpose of a temporary staging area for vehicles and equipment necessary to restore power to residents of Durham County in the event of a mass power outage in the Triangle area on an as needed basis.

NOW, THEREFORE, In consideration of the performance of the conditions hereinafter set forth the Licensee and Licensor hereby agree as follows:

1. LICENSE GRANTED: The Licensor hereby grants to Licensee, the revocable non-exclusive right, license, and privilege to utilize the south side parking lot of the Durham County Memorial Stadium ("Lot") so long as the Lot is not otherwise under contract for use by another person or entity. Licensee is permitted to utilize the Lot for the sole purpose of establishing a temporary staging area for vehicles and equipment necessary to restore power to residents of Durham County in the event of a mass power outage in the Triangle area on an as needed basis.
2. TERM: This Revocable License shall become effective upon final approval and proper execution by both parties. Licensor may revoke this license at anytime by providing Licensee written notice of its intent to revoke and the date the license is deemed terminated. On or before the date of termination, the Licensee shall remove

from the Lot and Property, at its expense, all materials and equipment belonging to it and shall leave the site in as neat, safe, and undamaged condition as it was prior to Licensee's use.

3. INDEMNIFICATION and HOLD HARMLESS: To the fullest extent permitted by laws and regulations, Licensee shall indemnify and hold harmless the Licensor, the Durham County Stadium Authority and their officials, agents, and employees from and against all claims, damages, losses, and expenses, direct, indirect, or consequential (including but not limited to rents and or lost profits, fees and charges of attorneys, and other professionals and costs related to court action), arising out of or resulting from Licensee's use of the Property pursuant to this Agreement or the actions of the Licensee or its officials, employees, or contractors under this Agreement or under the contracts entered into by Licensee in connection with this Agreement. This indemnification shall survive the termination of this Agreement.
4. INVOCATION AND CONDITIONS: Licensee shall obtain the prior written approval of the Durham County Stadium Manager regarding the availability, imminent need for use of the Lot and estimated length of use. In the event that the Stadium Manager is unavailable, Licensee may obtain the concurrence of the County Manager. Licensee also agrees to conduct its operations in a manner which, as far as practicable, will permit other previously scheduled uses of the Property or Lot to proceed.
5. AMENDMENTS: No modification, amendment, or alteration of the terms or conditions contained herein shall be effective unless contained in a written document by the parties hereto and approved and executed with the same formality and of equal dignity herewith.
6. NOTICES: Whenever either party desires to give notice to the other, OTHER THAN NOTICE REQUIRED BY SECTION 4 ABOVE, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:
FOR LICENSOR:
Durham County Stadium Authority
Attn: Michael Turner, Stadium Manager
310 South Dillard Street
Durham, NC 27701
Telephone: 560-0430
FOR LICENSEE:
Duke Energy Corporation
Attn: Ottis (Buster) Allen
2500 Fairfax Road
Greensboro, NC 27407
Telephone: (336) 632-3708
7. ENTIRE REVOCABLE LICENSE AGREEMENT: This Revocable License Agreement sets forth the entire agreement between the Licensor and the Licensee and supersedes any and all other agreements on this subject between the parties.

8. GOVERNING LAW/VENUE: This Revocable License Agreement shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Agreement shall be brought in the General Court of Justice in the County of Durham and the State of North Carolina.
9. LAWS AND ORDINANCE: Licensee shall observe all laws and ordinances of the county, city, state, and federal agencies directly relating to the rights and privileges set forth herein.
10. HEADINGS/INTERPRETATION: The subject headings of the paragraphs are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This agreement shall be deemed to have been drafted by both parties and no interpretation shall be made to the contrary.
11. NO WAIVER: No waiver of any provision in this Revocable License Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
12. EXECUTION: The date of execution of this Revocable License Agreement shall mean the last day upon which it becomes fully executed by Licensor and Licensee.
13. NON-ASSIGNMENT: This Agreement is not transferable nor assignable by either party, by operation of law or otherwise.

IN TESTIMONY WHEREOF, the Licensor has caused this Revocable License Agreement to be signed in its name by its County Manager, and Licensee, acting under and by virtue of the authority in them vested, have hereunto set their hand and seal, the day and year first written above.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. a. Property Tax Releases and Refunds for Fiscal Year 2004-05 (accept the property tax release and refund report for December 2004 and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Commissioner Cheek asked whether the monthly reports differentiate between refunded amounts and released amounts.

Ken Joyner, Tax Administrator, responded that the reports do not indicate which amounts are refunded or which amounts are released.

Commissioner Cheek stated that he wished to arrange a future meeting with Mr. Joyner since he had additional questions.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the property tax releases and refunds for Fiscal Year 2004-05 (December 2004).

The motion carried unanimously.

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details releases and refunds for the month of December 2004.

Releases & Refunds for 2004 Taxes:		
Real Estate	\$	22,172.13
Personal	\$	8,497.96
Registered Vehicles	\$	29,246.25
Vehicle Fees	\$	290.00
Solid Waste Fees	\$	<u>75.00</u>
Total for 2004 Taxes and Fees	\$	60,281.34

Refunds to correct City of Durham Vehicle fee error \$23,656.00.

Prior years' (2002-2003) releases and refunds for December 2004 are \$2,622.30.

The total current year and prior years' releases and refunds amount to \$86,559.64.

(Recorded in Appendix A in the Permanent Supplement of the January 24, 2005 Regular Session Minutes of the Board.)

Consent Agenda Item No. d. Budget Ordinance Amendment No. 05BCC000027—Criminal Justice Resource Center—"A New Day" Juvenile Day Reporting Center (approve the \$1,000 anonymous donation).

Chairman Reckhow removed the item to allow signed speaker Victoria Peterson, P.O. Box 101, Durham, NC, to comment.

Ms. Peterson spoke about the crime dilemma in Durham, particularly in the African-American community. She asked the County Commissioners to collaborate with other Durham organizations (faith-based, nonprofits) to address the crime problem.

Chairman Reckhow stated that the Criminal Justice Resource Center collaborates with various stakeholder groups.

Commissioner Cheek requested that citizens' comments remain relevant to the subject matter of an agenda item. Consent Agenda Item No. d does not pertain to partnering with other groups or establishments; it deals specifically with accepting a \$1000 donation for A New Day program. Public comment periods should not be used as a forum for general comments or concerns. County business must be conducted in a business-like manner.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve Budget Ordinance Amendment No. 05BCC000027—Criminal Justice Resource Center—

“A New Day” Juvenile Day Reporting Center (approve the \$1,000 anonymous donation).

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000027

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>			
Miscellaneous Income	\$ 3,762,356	\$1,000	\$ 3,763,356

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$40,663,480	\$1,000	\$40,664,480

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

This the 24th day of January, 2005.

Consent Agenda Item No. e. Budget Ordinance Amendment No. 05BCC000028—Social Services—Maureen Joy Charter School (approve a Social Worker II position to provide home/school coordination services).

Commissioner Cheek asked for an explanation of the relationship between the County and charter schools.

Chairman Reckhow explained that the County is required by the State to fund charter schools with local funds at the same level as public schools. Per capita dollars are expended equally to charter and public schools, except charter schools receive no capital improvement funds. Maureen Joy Charter School agrees to pay 50% of the requested position with the remainder supported by Medicaid At-Risk Case Management program reimbursements. No County dollars are involved for this provisional position based on the availability of the revenue agreement for the County share.

Commissioner Cheek expressed his opinion and concern that the County has an inadequate number of Social Workers to sustain current programs; however, given this position is provisional, he would support the request.

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve Budget Ordinance Amendment No. 05BCC000028—Social Services—Maureen Joy Charter School (approve a Social Worker II position to provide home/school coordination services).

Arnold Dennis, Division Director, DSS, answered a question posed by Vice-Chairman Heron that the “provisional” position is considered a “new hire”, involving no County funds.

Commissioner Cousin clarified that charter schools are a component of the Durham Public Schools System. He advocated providing analogous services to all schools, charter and public. It is the County’s responsibility to approve this request.

Commissioner Page asked if the Social Worker would be considered a County employee, with County liability.

Mr. Dennis answered in the affirmative.

Mr. Dennis replied to a question by Chairman Reckhow that the monies are sufficient to cover the employee salary and benefits. A prerequisite for utilizing Medicaid funds is that a significant percentage of the student population receive reduced and free lunches; approximately 80% of Maureen Joy Charter School students qualify.

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000028

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	\$259,869,211	\$20,367	\$259,889,578

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$318,920,284	\$20,367	318,940,651

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

This the 24th day of January, 2005.

Consent Agenda Item No. f. Budget Ordinance Amendment No. 05BCC000029—Cooperative Extension—Mary Reynolds Babcock Community Problem Solving Grant (\$50,000) (approve to develop the Strengthening Families Parent and Family Advocacy Leadership Program).

Regarding the program, Commissioner Cheek inquired about:

- implementation;
- home base or office location;
- future plans; and
- the definition of “community-based”.

Cheryl Lloyd, County Extension Director, responded that the pilot project was initiated and funded by a number of community organizations about one year ago. The project’s primary location is within the Cooperative Extension Department, but moves from community to community, similar to many programs offered through Cooperative Extension. Funding from the Babcock Foundation grant will be used to develop infrastructure and test curriculum. Subsequently, community organizations will use the developed resources at their particular base. This community-based project is not “owned” by Cooperative Extension or County Government. Community leaders will be responsible for assisting with supervision and training.

Delpine Sellars, Community Development Outreach Coordinator, Cooperative Extension, stated that the Strengthening Families Parent and Family Advocacy and Leadership Development Project is the result of a partnership between Cooperative Extension, Durham Public Education Network, the Jordan Institute for Families and School of Government, The Durham Center, Durham Public Schools, and UNC Television. The purpose of the project is to train parents to assume leadership roles within the Strengthening Families Team, parent advisory councils, parent support groups, and civic committees and boards. The premise is that parents and the community, through education, leadership, guidance, and support, can work collaboratively to make sure our children succeed. Cooperative Extension, with the partners noted, will expand on the pilot program by completing and evaluating the curriculum and offering English and Spanish programs over the next 12 months. These additional grant funds will expand the program’s capacity to reach and support more parents and allow the development of a replicable program design. This program, while dependent upon the administrative support of the Cooperative Extension Department, will not require a local match or the addition of new local funds for its implementation.

Commissioner Page applauded Cooperative Extension’s diligence toward this project. He had written a support letter for the grant and was delighted that it was awarded. He expressed appreciation to all organizations involved and hoped other resources would become available to strengthen the project.

Vice-Chairman Heron asked whether the work associated with this project reduces Ms. Sellars’ ability to oversee other important matters.

Ms. Sellars responded that the program has been an ongoing collaboration; the only difference is that the program will now benefit from funding.

Commissioner Cheek moved, seconded by Commissioner Page, to approve Budget Ordinance Amendment No. 05BCC000029—Cooperative Extension—Mary Reynolds Babcock Community Problem Solving Grant (\$50,000) (approve to develop the Strengthening Families Parent and Family Advocacy Leadership Program).

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000029

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	\$259,889,578	\$50,000	\$259,939,578

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Economic & Physical Development	\$ 3,198,153	\$50,000	\$ 3,248,153

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

This the 24th day of January, 2005.

Consent Agenda Item No. k. Capital Project Amendment No. 05CPA0000009 for the Criminal Justice Resource Center (CJRC) Renovation Project (approve \$70,946 to increase the project budget to \$501,946).

Victoria Peterson, P.O. Box 101, Durham, NC, representing Triangle Citizens Rebuilding Communities, voiced concern that the initial project budget was established at \$395,000. The amendment, if approved, will increase the budget to approximately \$500,000. She felt the Commissioners should ask questions about the need for additional funding.

Chairman Reckhow thanked Ms. Peterson for her comments. She referenced the “detailed, well-written” memorandum from Glen Whisler, County Engineer, to Deputy County Manager Wendell Davis, dated January 13, 2005, which itemized the changes and outlined why the changes occurred.

Commissioner Cheek agreed with the concerns aired by Ms. Peterson. He noted the electrical and HVAC modifications, window repairs, and the elevator maintenance listed in the memo, and questioned why these issues were not discovered before the renovations commenced.

Vice-Chairman Heron concurred with Commissioner Cheek. She had concerns about restroom modifications, hardware changes, panic bars, and key cylinders. Vice-Chairman Heron expressed her opinion that the architect should have been more thorough when initially examining the former Jail Annex. She asked staff to express to the architect that additional fees are inappropriate.

Mr. Whisler reminded the Commissioners that the facility was used as a temporary jail facility several years ago. In a number of areas in the facility, construction methodology used for the jail made access impossible previous to demolition work (during the design phase). City-County Inspectors are requiring restroom modifications because the lower-level space in the front of the building that is not planned for occupation (as indicated on the plans) has the potential for future use.

Commissioner Cousin concluded that the requested amendment was reasonable, considering that 20% of the increase was for IT cabling and telephone installations and unforeseen problems arise when remodeling an old building.

Chairman Reckhow stated that the most salient point is that “the project grew in size and complexity from around 10,500 square feet to 14,600 square feet and from interior renovations to problems with the building envelope”. An additional 4,000 square feet is being renovated than initially intended. The project budget has grown only 25% while the County is gaining 40% more space. Staff should be commended that the project has not expanded to the degree that it could have. The cost is incredibly reasonable and will be recovered in four or five years because the need for the current leased space will be eliminated (approximately \$96,000 per year).

Vice-Chairman Heron pointed out that A New Day program was included in the original occupancy plans.

Gudrun Parmer, CJRC Director, restated that the original plans did allow for A New Day program to occupy a portion of the lower level. Additional costs have ensued because of code requirements.

Vice-Chairman Heron moved to approve the request for additional funds and that the County Engineer attempt to negotiate the \$10,000 for architectural fees.

Commissioner Cheek introduced a substitute motion that the Manager's recommendation be approved (Capital Project Amendment No. 05CPA0000009 for the Criminal Justice Resource Center Renovation Project [approve \$70,946 to increase the project budget to \$501,946]).

Commissioner Cheek recommended that in the future, staff make a conscientious effort to identify all costs associated with a project so the initial budgeted amount will cover all expenses.

Commissioner Cousin seconded Commissioner Cheek's motion.

Vice-Chairman Heron clarified that her motion was that the County Engineer make an attempt to negotiate the architectural fees, not that the fees remain unpaid.

Commissioner Cheek seconded Vice-Chairman Heron's motion.

Commissioner Cousin recommended that the Commissioners reconsider the negotiation request.

Commissioner Page agreed with Commissioner Cousin. He was in favor of moving ahead with the project.

Chairman Reckhow stated that time was of the essence since the lease in the current building has expired.

Chairman Reckhow called for the question on the substitute motion, stating that the Board has a sense of the motion (that staff attempt to negotiate with the architect).

The motion carried unanimously.

For the benefit of Commissioners Cheek and Page, County Manager Ruffin remarked that he did not recall a similar situation since his tenure as County Manager. "This is clearly the exception and not the rule. Mr. Whisler and his staff are very good about minimizing change orders. This particular building posed many unanticipated problems; nevertheless, dissatisfaction with some of the due diligence by the architect has been expressed and is being monitored."

Chairman Reckhow pointed out that the old automobile showroom was up-fitted for the temporary, emergency jail facility very quickly and for little money. She could understand why several issues were discovered as renovations progressed.

Commissioner Cheek elucidated that he was not criticizing staff; he was simply making general comments and observations, particularly about the architect.

Public Hearing to Implement a Community Needs Assessment

Chairman Reckhow announced that Time Warner Cable has asked for its cable franchise to be renewed for another 10-15-year period. As part of the franchise renewal evaluation, the County is required by Federal Law to implement a community cable-related needs assessment. Part of that assessment includes a public hearing to obtain feedback from County residents regarding the adequacy of the service provided by Time Warner. The County is seeking feedback regarding service availability, cost, adequacy of customer service, and other technological operational improvements. Specifically, the County seeks feedback on any changes or improvements residents believe necessary to accommodate future service needs and interests, such as high-definition TV, public access television, high capacity (40 Mb) symmetrical broadband service to the home, and any other issues.

Chairman Reckhow asked Bob Sepe and Catharine Rice, Action Audits, LLC, for preliminary comments.

Mr. Sepe introduced himself as Durham County's cable consultant through Triangle J. In terms of gathering data, approximately 75% of the franchise renewal process is complete. A community needs study and franchise compliance review has been completed. Twelve key stakeholders have been interviewed to ascertain their understanding of Durham County's cable-related and telecom needs. Remaining matters to complete the process are this public hearing, preparation of the final report, and drafting of the cable standards ordinance and a model franchise agreement. Citizens could submit comments on the proposed franchise agreement via email to County Attorney Lowell Siler; providing a home address would be helpful.

Chairman Reckhow announced Mr. Siler's email address and asked citizens to include whether they live inside or outside City limits. This particular franchise agreement is related to customers within Durham County, outside the City limits.

Ms. Rice stated that citizens' comments received thus far comprise five key areas:

1. Lower rates and senior or low-income discounts. Serious concern expressed that a large portion of Durham County's residence have been priced out of access to high speed broadband service and more advanced features of the system or being denied cable and broadband service completely. 88.6% of the survey respondents described cable rates as being higher than reasonable.
2. Dramatically improved customer service. Concern about not reaching a "human being." Long hold periods preceding connections to customer service representatives. Representatives repeatedly described as harboring poor attitudes, unfriendly, arrogant, rude, etc.
3. Qualified cable technicians. Time Warner technicians described as subcontractors are poorly trained and are responsible for poor installations and sloppy repair work.

4. Improved quality of programming, more local programming, and a channel devoted to programming produced by local educational institutions.
5. Local accountability.

Ms. Rice conveyed that she met with representatives from Durham Technical Community College, North Carolina Central University, Duke University, Duke Medical Center, and Durham Public Schools (which currently has its own channel, but has additional content it wishes to televise). Much interest was expressed by the higher educational institutions to form a consortium to be able to program lifetime learning and to work towards a community media access center where students work with members of the public and with the government to provide more local programming.

Chairman Reckhow opened the public hearing which had been properly advertised.

Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, City resident, expressed concern about the lengthy period of the franchise (10-15 years) because of rapid technology changes. In addition, various downtown areas currently have no access to Roadrunner. Dr. Allison asked the Commissioners to consider means for citizen participation prior to public hearings concerning serious matters.

Reverend James Vaughan, City Resident, Durham Cable Advisory Board Chairman and Cable Access Association President, 3206 Cole Mill Road, Durham, NC 27712, announced that the Cable Advisory Board meets at City Hall, second floor, in the City Clerk's Conference Room each third Monday at 3:30 pm. The meetings are open to the public and provide a vehicle for citizen input. Rev. Vaughan thanked Chairman Reckhow and Deputy County Attorney Lowell Siler for their support concerning cable matters. He commended Mr. Sepe and Ms. Rice for their vigilance regarding cable issues. Rev. Vaughan spoke to public access television which he referred to as PEG (Public Educational and Government) access. Over 12,000 PEG media centers have been instituted throughout the nation. Durham needs channels dedicated to community-wide media campaigns such as reconciliation efforts and sharing common visions. The Cable Advisory Board wished to present its findings regarding PEG media research at a future Commissioner meeting.

Chairman Reckhow recommended that Rev. Vaughan contact the County Manager to be placed on an upcoming worksession agenda.

Gene Cook, City Resident, 603 E. Hammond Street, Durham, NC 27704, shared Dr. Allison's comments that the 10-15-year renewal period is unrealistic due to technology changing dramatically and rapidly. Mr. Cook echoed Rev. Vaughan's sentiments concerning PEG access. He also recommended:

- Dramatic improvement in the basic tier service;
- Channel dedicated to Durham County; and
- Improvement in second tier to provide more programming that portrays minorities (particularly African Americans) in a positive light; aimed at adult, not teen population.

Chairman Reckhow closed the public hearing. She stated that the Commissioners are considering a separate government channel associated with the franchise agreement. No action is required of the Board at this time.

Mr. Sepe commented that all due diligence will be completed by the end of March, including final reports and documents.

County Attorney Chuck Kitchen outlined the timeframe in terms of moving forward with the franchise agreement:

1. Write the new draft ordinance.
2. Provide a copy to the Commissioners at the May Worksession.
3. Meet with Time Warner representatives for negotiations.

(The new franchise ordinance will be divided into two ordinances so the rules are separate from the actual franchise agreement.)

Commissioner Page recommended that the new ordinance include options in terms of the tenure for the contract.

Commissioner Cheek moved, seconded by Commissioner Page, to receive the citizens' comments.

The motion carried unanimously.

Chairman Reckhow thanked the citizens who spoke.

Public Hearing—Zoning Map Change—Long Beverage Parking (Case P04-60)

Frank M. Duke, AICP, Planning Director, stated that the request was for a zoning map change for a 3.35-acre site from RD to I-2(D), located on the east side of Page Road, south of World Trade Boulevard, and north of Airport Road. PIN 0758-03-31-7293. Request: RD to I-2(D) Staff recommends approval if the plan amendment is approved. The Planning Commission conducted a public hearing on December 14, 2004 and recommended approval by a vote of 12-0. The public hearing for this request was advertised on January 7 and 14, 2005 in the Durham Herald-Sun.

Mr. Duke remarked on the following development plan elements:

- All uses are restricted for this property except for parking and access for the proposed development located in the Town of Cary.
- Maximum number of parking spaces—three.
- Construct sidewalks along the frontage of the site along Page Road in conformance with the Durham City-County Zoning Ordinance standards. The sidewalks must be completed prior to the issuance of a certificate of occupancy by the Town of Cary.
- Dedicate additional right-of-way to provide a total of 55 feet of right-of-way from the existing centerline of Page Road for the frontage of the site. Prior to the issuance of any improvement permits, a copy of the plat will be submitted to the Durham

- City-County Planning Department within 90 days of the issuance of any building permits by the Town of Cary or any other permitting agency.
- Construct left-turn lane on Page Road at World Trade Boulevard. The left-turn lane must be completed prior to the issuance of a certificate of occupancy by the Town of Cary.

Chairman Reckhow opened the public hearing that was properly advertised.

Craigie Sanders, Attorney for Womble Carlyle & Assoc. and representing Long Beverage, congratulated the newly elected County Commissioners and expressed gratitude for their making the community a better place to live and work. Mr. Sanders restated several remarks made by Mr. Duke.

As no one else requested to speak on the matter, Chairman Reckhow closed the public hearing and referred the item back before the Board of Commissioners.

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve Zoning Map Change—Long Beverage Parking (Case P04-60).

The motion carried unanimously.

Five-Year Consolidated Plan “Needs” Public Hearing

Mike Barros, Director, City of Durham Department of Housing and Community Development, requested that the Board of County Commissioners hold a Five-Year Consolidated Action Plan (FY 2005-2010) “Needs” public hearing. The purpose of this public hearing is to receive citizen comments on how City-County HOME Consortium funds can be used to address housing needs in Durham during the next five fiscal years. Durham anticipates receiving approximately \$1,300,000 annually in HOME Consortium funds from HUD. In previous years, HOME Consortium funds have been used primarily for housing activities in Durham with special focus in target neighborhoods, including existing homeowner rehabilitation and new homebuyer rehabilitation activities. Approximately \$275,000 in nonfederal funds will be needed annually from the HOME Consortium for the matching funds requirement of the HOME program.

Commissioner Page asked if Partners Against Crime (PACs) had been made aware of the public hearing.

Constance Stancil, Assistant Director, replied in the affirmative.

Chairman Reckhow opened the public hearing that was properly advertised.

Doug Osbourn, 2314 Huron St., Durham, NC 27707, past Vacant House Survey volunteer, stated the following Survey results:

- 781 vacant houses not being marketed (did not include houses with rental or for-sale signs);
- 126 houses viewed as Priority One (dangerous—open windows, damaged by fire, etc.); and
- 37 out of the 126 houses have been brought up to code.

Mr. Osbourn encouraged the Commissioners to attend to the vacant property owned by the County, specifically the property at 2009 S. Roxboro Street.

Chairman Reckhow stated that the County is developing a policy to transfer unmarketable property to nonprofit groups that will provide affordable housing.

County Attorney Chuck Kitchen spoke about properties held by the County through tax foreclosures. City assessments plus delinquent tax amounts cause a dilapidated house to become virtually unmarketable. When the County is aware of these properties, General Services works to clean them up so they neither are eyesores nor considered dangerous. The policy referred to by Chairman Reckhow is being reviewed by the City; the County is waiting on comments before presenting it to the Board.

Rich Lee, Executive Director, Durham Affordable Housing Coalition and Co-Chair of Results Based Accountability Workgroup, 331 W. Main Street, Durham 27701, spoke about housing needs which should be addressed during the 2005-2010 Consolidated Action Plan; and specifically, how HOME dollars can be used to address the needs of low-income persons who must utilize rental housing. His recommendation was that HOME funds be used as a cash match that is required to access HUD Continuum of Care funding for development of permanent housing for homeless persons with a disability.

Lorisa Seibel, representing the Campaign for Decent Housing, 2410 Par Place, Durham 27705, urged the Commissioners to consider the Campaign's 2005 housing goals:

1. Accountability: Recruit representatives to the Citizens Advisory Committee to advise the County & City on housing goals, funding priorities, and policies by March 2005.
2. Safe Neighborhoods: Eliminate unsafe properties and reduce crime in current target areas by December 2005.
3. Safe Housing: Help more elderly, disabled, and low-income homeowners repair their homes (County and City).
4. Healthy Homes: Eliminate lead poisoning from substandard housing by 2010.
5. Affordable Housing: End chronic homelessness by 2015.

Dr. E. Lavonia Allison, representing the Durham Committee on the Affairs of Black People, P.O. Box 428, Durham, NC 27702, proposed increased funding to assist low-income homebuyers. Dr. Allison suggested that the Commissioners implement new initiatives with faith-based communities in order to provide additional housing.

Nancye Bryan, representing Next Step Housing and the Durham Chapter of the National Alliance for the Mentally Ill, 3408 Dover Road, Durham 27707, spoke about the housing needs for persons with disabilities, particularly the mentally handicapped. She stressed that

the Five-Year Consolidated Action Plan must include respectable percentages of funding for persons who depend on rental housing.

Gene Cook, Durham Affordable Housing Coalition, and Results Based Accountability Workgroup member, 603 E. Hammond Street, Durham, NC 27704, praised Mr. Barros and his staff for cooperating with the ad hoc committee on substandard housing. He commended the County for working on a policy to transfer unmarketable property to nonprofit groups that will provide affordable housing; however, he felt the timelines established between the time of ownership and when the new owner must obtain a permit are excessive and not in the best interest of the community. Mr. Cook addressed the cost benefit for demolishing decrepit houses. These properties devalue adjoining properties, which results in less taxes being collected. The houses are a haven for criminal activity and create public health and safety issues and increased costs in services. Mr. Cook advocated the elimination of lead from substandard housing.

Ellen Holliman, Interim Area Director for the Durham Center; NC Commission on Mental Health, Developmental Disabilities, and Substance Abuse Services; Housing Task Force member (2004), 815 Green Street, Durham 27701, emphasized that HOME monies should be spent to provide housing for persons with special needs.

Victoria Peterson, P.O. Box 101, Durham, NC, appealed to the Commissioners to provide housing for persons who had been incarcerated. She suggested that the County would gain by selling unmarketable properties for \$1 to persons who would renovate them.

Chairman Reckhow thanked the speakers for their beneficial comments. She repeated the comments regarding housing needs for the mentally disabled.

Commissioner Page conveyed that he was moved by the comments and valued each one. His hope was that a plan would be crafted to respond to the needs. He looked forward to the response of the Housing Department.

Commissioner Cheek inquired about certain aspects of the Five-Year Plan, primarily the dollar amounts received and how much was spent. He was aware that in past years not all the funding received was spent, which is inexcusable. A structure must be established to get the entire community, especially the faith-based community, involved in finding solutions to our housing problems. Properties that serve no purpose should be sold for \$1 if they are transformed to help the community. He expressed a great concern for the housing dilemma and his desire for improvement.

Ms. Stancil stated that she would provide the dollar amounts that were spent last year in a memorandum to the Commissioners.

Ms. Stancil synopsised the progress made on Felicia Street, stating that the City gave \$470,000 toward the project.

Vice-Chairman Heron extended gratitude to the Housing Department for its efforts regarding Felicia Street.

Vice-Chairman Heron requested that the Housing Department provide the Commissioners with information concerning the amount of money spent versus received, the number of people served, and how the money was disbursed.

Chairman Reckhow announced that over the past few years, a change in the Housing Department's approach has been evidenced. She commended staff for the new approach and the greater level of responsiveness. Commissioner Cheek's concerns were valid and have been valid in the past; however, the Housing Department is much more attentive to spending allocated funding. She asked the Department to take tonight's comments seriously and with due consideration.

Chairman Reckhow inquired as to whether HOME funds could be used for demolition of blighted houses.

Mr. Barros responded that the possibility of using HOME funds was slight.

Chairman Reckhow and Mr. Barros related their desire for County and City staff to work together to address the vacant house issue.

Public Hearing—Closing of 638.8 Linear Feet of an Unnamed 20-Foot-Wide Roadway West of American Drive (SC04-01B)

Frank M. Duke, AICP, Durham City-County Planning Director, announced that the request is to hold a public hearing to close permanently 638.8 linear feet of an unnamed 20-foot-wide roadway west of American Drive. This public right-of-way is unopened and has not been accepted for maintenance. No lot will be left without frontage for access; no adverse impacts have been identified. Property owners have petitioned for the closing of this "paper" street because they are considering property development. The roadway will revert back to the property owners. A portion of the road lies within Durham City limits. Staff recommends approval.

Chairman Reckhow opened the public hearing that had been properly advertised. She then closed the public hearing as no one requested to speak to the item.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the closing of 638.8 linear feet of an unnamed 20-foot wide-roadway west of American Drive.

Commissioner Page inquired about the urgency of the request. Since this request had been added to the agenda today, he did not have time to review the request or visit the referenced site. He expressed that the Commissioners should be given sufficient time to examine requests for action.

Chairman Reckhow explained that the item was an oversight and the public hearing had been advertised; therefore, the public hearing had to be held. She requested that staff spend more time reviewing the staff report since the Commissioners had little notice of the item.

The motion carried unanimously.

**ORDER PERMANENTLY CLOSING 683.8 LINEAR FEET OF AN UNNAMED
20-FOOT-WIDE ROADWAY WEST OF AMERICAN DRIVE**

WHEREAS, the Durham Board of Commissioners adopted a Resolution on January 10, 2005 declaring its intent to close the street or alley or portion thereof that is generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein;

WHEREAS, the Resolution provided for the holding of a public hearing on the question of whether said street should be permanently closed; and

WHEREAS, notice of the closing of said street was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street to be closed; and

WHEREAS, a Notice of the closing and public hearing was prominently posted in at least two places along the street to be closed; and

WHEREAS, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came for hearing before the Durham Board of Commissioners at its regular meeting on January 24, 2005 and all persons who desired to be heard were heard at that time.

NOW, THEREFORE, the Board of Commissioners of the County of Durham having carefully considered the question of permanently closing the street or alley or portion thereof as it more fully described in Attachment A, finds:

1. That closing of the street or alley described in Attachment A is not contrary to the public interest, and
2. No individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to his or her property.

IT IS THEREFORE, ORDERED:

1. That the street described in Attachment A is permanently closed under the authority of GS 160A-299(c).
2. That utility easements that may be referenced in Attachment A or shown on the plat referenced in Attachment A shall be retained by the County, and that easements owned by private utility companies that are shown on such plat be retained by the private utilities indicated.

3. That a certified copy of this Order and the plat referred to in Attachment A shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
4. That property owners adjacent to the closed street shall take right, title, and interest as is provided in GS 160A-299 (c), as may be further illustrated on the plat referenced in Attachment A.
5. That this Order is effective upon and after the date of its adoption.

Legal Description—SC04-01B

Lying and being in Durham County, North Carolina and being more particularly described as follows:

Commencing a concrete monument marking the northwest corner of Lot 10, American Village, Section 10A as shown on a plat recorded in Plat Book 105, Page 208, Durham County Registry; thence along and with the northern line of property belonging to Duke University North 84 degrees 51' 03" West 214.02 feet to an axle; thence continuing along and with the northern line of said Duke University property North 85 degrees 32' 10" West 875.77 feet to a computed point being the point of BEGINNING; thence from said point of beginning along and with the western line of property belonging to Duke University and the eastern line of a 20 foot roadway (not opened) North 04 degrees 45' 07" East 344.79 feet to a computed point; thence continuing along and with the western line of property belonging to Duke University and eastern line of said 20 foot roadway (not opened) North 04 degrees 45' 07" East 338.97 feet to a computed point; thence North 85 degrees 25' 42" West 20 feet to an iron rod set in the eastern line of property belonging to Duke University and the western line of said 20 foot roadway (not opened); thence along and with the eastern line of said Duke University property and the western line of said 20 foot wide roadway (not opened) the following distances and calls:

South 04 degrees 45' 07" West 338.96 feet to a concrete monument;
South 04 degrees 45' 07" West 344.84 feet to an iron rod;

thence along and with the northern line of property belonging to Duke University South 85 degrees 32' 10" East 20.00 feet to the POINT AND PLACE OF BEGINNING; being a roadway (not opened) approximately 20 feet in width lying along the western line of Tracts 5 and 6, as shown on a boundary survey prepared by Philip Post & Associates (Drawing No. A016PB02 / Project No. 78101A), dated November 10, 2003 and entitled "Road Closing Survey", to which survey is reference is hereby made for a more particular description.

The above described 20-foot-wide roadway being further shown located to the west of Tracts 1-6, inclusive, on a survey entitled "A.J. Carroll Estate" surveyed September 15, 1928.

Time Warner Cable—Raleigh/Durham Division—Cable Television Rate Report

Bob Sepe, Action Audits, LLC, stated that on September 30, 2004, Time Warner Cable (TWC) submitted a form to set a new regulated rate for basic cable service. It requested to continue the rate set in its initial form filed five years ago. TWC also submitted a form to set new regulated rates for equipment rental and installation services. These documents were submitted to the County for approval.

Mr. Sepe explained Action Audits' rate report—A Review of Time Warner Cable's 2005 FCC1240, FCC1235 & FCC1205 Rate Filing Seeking Approval to Set New Rates for Regulated Cable Services in Durham County. Action Audits took issue with the upgrade charge because Time Warner Cable (TWC) was allowed to collect in advance, from Years 1995 to 2000, \$180 from each Durham County cable subscriber (\$1.8 million) to pre-capitalize the upgrade. Additionally, Time Warner began the upgrade and was allowed under the rate rules the cost of its investment beginning in Year 2000 through today. Action Audits has requested that TWC provide an accounting of the balance to be paid. Mr. Sepe asked the Commissioners to approve the report and table the rate order until he receives and reviews the financial information from TWC.

Chairman Reckhow asked Mr. Sepe about the different rates and the associated geographic areas.

Mr. Sepe responded that two different rates are the result of two different franchises because, at some point in the past, Durham County had two cable operators. The franchises were acquired by Time Warner through assimilation.

Commissioner Cousin voiced concern about the potential of over-recovery by TWC. He asked whether the rates for the various communities listed in Table 4 could be matched with zip codes.

Mr. Sepe recommended that Commissioner Cousin's request be made to TWC.

Commissioner Cheek moved, seconded by Commissioner Cousin, that the Board adopt the report and table the rate order.

Vice-Chairman Heron asked for clarification regarding FCC's "cost of service" rules for the calculation of the rate for the add-on charges (\$2.11 and \$1.81). She requested information on how the County could combine the two rates into a single rate.

Mr. Sepe responded that TWC must petition the FCC to consolidate the two different franchise areas.

Chairman Reckhow stated that the problem in requesting consolidation of the franchise areas is the potential that all subscribers' rates could increase from \$10.40 to \$13.55.

County Attorney Kitchen commented that the initial rate filings were different due to different costs of equipment. The different rates have continued for years.

Andy Curtis, representing TWC, asked if the Commissioners had questions of her. She stated that the request could be made to consolidate the two different franchises, which would result in an average of the two rates.

The motion carried unanimously.

Commissioner Page asserted that the Board request a rate consolidation for its citizens.

Chairman Reckhow mentioned that a large majority of cable subscribers are paying the lower rate. She directed staff to research the matter further.

Dr. E. Lavonia Allison, representing the Durham Committee on the Affairs of Black People, P.O. Box 428, Durham, NC 27702, pointed out that surrounding communities are paying lower rates than Durham County residents. She voiced concern that the Board's policy change for citizen comments was undesirable.

Chairman Reckhow assured Dr. Allison that the Board's Rules of Procedure have not changed as they relate to citizen comments.

Durham County 2005 Legislative Agenda

Deborah Craig-Ray, Public Information/Governmental Affairs Director, conveyed that at the January 3 Worksession, staff and the Board reviewed a number of legislative items for possible inclusion in the Durham County 2005 Legislative Agenda. That discussion included a presentation on Court Legislative Initiatives, City of Durham Legislative Initiatives, and proposed Legislative Goals of the North Carolina Association of County Commissioners. Once adopted by this Board, the package will be presented to the Durham Legislative Delegation for discussion. The breakfast meeting is set for February 4 at 8:00 am in the Board's Conference Room. Staff made changes as requested by the Board and is bringing forward the following package for approval:

Court System Legislative Request
Provide increased funding for:

Tier 1

1. Two additional clerks
2. Three assistant District Attorneys
3. Funds to incorporate youth treatment court
4. One additional magistrate

Tier 2

1. Three additional clerks
2. Five additional assistant District Attorneys
3. One additional court reporter or equipment

Tier 3

1. Additional District Court "Pods" (2)
Pod = one judge, two ADA's; two clerks

North Carolina Association of County Commissioners' approved goals included the following items submitted by Durham County:

1. Support legislation that will give counties the option of applying an impact tax to support capital improvements for county government infrastructure responsibility, such as the needs of education, the construction of jails, or any other county facility currently authorized under existing state law.
2. Support legislation to eliminate the Second Primary.
3. Support legislation that would authorize medical care providers to charge counties now more than the rates set in the workers' compensation schedule of charges for county inmate medical care.
4. Seek legislation to allow all counties to enact any or all of several revenue options from among those that have already been authorized for any other county.
5. Support an increase in alcohol taxes to fund mental health services for target population who are not Medicaid-eligible.
6. Support legislation to allow the county to enter into public-private partnerships in the development of land and sale of properties owned by the county.
7. Support legislation to amend G. S. 115C-140.1 to provide for reporting by local school administrative units of the number of children with special needs that are placed- in or assigned to group or foster homes, and the related costs, to better enforce the requirement that local school administrative units in which such children are domiciled transfer appropriate funds to the local school administrative units in which the group or foster homes are located.

Legislative issues from the City of Durham:

1. Extend for one year the deadlines under the one percent room occupancy tax, such that the date for approval of a plan for financing the Performing Arts Theatre and commencement of construction is extended from August 31, 2005 until August 31, 2006. Increase the cap on the amount of the initial proceeds of the tax that may be spent on design and engineering from \$248,000 to \$3,000,000. Also, if the deadlines are not met and the tax is repealed, allow a portion of the unexpended funds previously collected to be used to implement the Cultural Arts Master Plan.
2. Modify and clarify the City/County's authority to adopt ordinances and guidelines regarding protest petitions, including allowing property owners that are "catty-corner" from a proposed rezoning to file a protest petition. The goal is to make sure that the City and the County operate with the same guidelines.
3. Require residential property to be inspected for lead as part of a pre-sale housing inspection, with the results of the inspection furnished to the buyer and seller. Consider tax credits for lead abatement costs.

Chairman Reckhow asked John Phillips, Assistant District Attorney, to come forward and report on legislative recommendations of the Durham Crime Cabinet Legislative Committee.

Mr. Phillips spoke about the following recommendations:

Legislation that Affects the 14th Judicial System

1. To advocate that the N.C. General Assembly, through our local delegation, allocate appropriate funding to the 14th Judicial District Court System to insure orderly, timely and fair case resolutions for the perpetrators and victims of crime.

Problem: The most significant challenge facing our local court system regards the shortfall of resources for all of its various components. This resource shortfall is contributing to a case backlog and a delay in disposition results and rates.

Recommendation: Adopt the resource request presented by members of the 14th Judicial District Management Council and propose that the Durham Legislative Delegation seek this funding through our General Assembly.

Legislation Impacting the State of North Carolina

2. To advocate that the N.C. General Assembly, through our local delegation, allocate appropriate funding to the N.C. State Bureau of Investigation to insure the orderly and timely processing and reporting of all types of forensic analysis for the entire range of criminal cases charged in N.C.
3. To advocate that the N.C. General Assembly, through our local delegation, allocate appropriate funding to complete the Criminal Justice Information Network (CJIN) projects in a timely manner.
4. Magistrate Appointment, Supervision, and Retention (N.C.G.S. 7A-171 et seq.)

Problem: Due to the disjointed manner in which Magistrates are appointed and supervised, an inherent problem exists regarding their accountability to the Criminal Justice System and to the Citizens of North Carolina. This circumstance makes it impossible for supervising authorities to enforce policy and ensure that the safety of the public is appropriately considered in the pre-trial release conditions that are set for criminals.

Recommendation: That the North Carolina Legislature enact law regarding the appointment, supervision, and retention of Magistrates that will allow a hiring authority to enforce its policies. Specifically, the statute would eliminate the current necessity requiring a petition/removal process by allowing the hiring authority, presumably the Senior Resident Superior Court Judge, to terminate the employment of a Magistrate.

5. Use of Firearms Penalties for Convicted Felons (N.C.G.S. 14-415.1)

Problem: A growing number of crimes are being committed by persons who use or display a firearm during the perpetration of their illegal activity. North Carolina law does not set forth punishment that effectively deters this serious and dangerous activity.

Recommendation: That the North Carolina Legislature strengthen the law relating to the penalties for the use/display of a firearm during the commission of a crime or the mere possession of a firearm by a convicted felon to be consistent with Federal Law.

6. Gang Status Offenses

Problem: There is clear evidence of significant criminal activity by gang members in the State of North Carolina. Many offenses relate to violent behavior and illegal controlled substances distribution. For many of these violations, the penalties are minor and, correspondingly, have no deterrent affect.

Recommendation: That the North Carolina Legislature enact legislation to create punishment enhancements for offenses committed by defined, identifiable gang members as described in the legislation sponsored by Representative Michaux in H.B. 732.

Chairman Reckhow noted that the first item of the Crime Cabinet is basically the same item in the Commissioners' legislative items. She recommended incorporating the general verbiage of Item No. 1 as an introduction into Tiers 1, 2, and 3.

Chairman Reckhow asked Mr. Phillips to send the new language concerning Item No. 6, Gang Status Offenses, to Ms. Craig-Ray prior to the BOCC/Legislative Delegation Breakfast Meeting.

Barker French, Crime Cabinet member, clarified that the Criminal Justice Information Network (CJIN) is an organization with multiple projects.

Chairman Reckhow directed that an "s" be added to "project" in Item No. 3.

Chairman Reckhow recognized Victoria Peterson, P.O. Box 101, Durham, NC, who signed up to speak on this item.

Ms. Peterson asked that dollars be set aside for rehabilitation for incarcerated persons. She also addressed the high crime rate in African-American communities.

Chairman Reckhow replied that Durham County provides resources through the Criminal Justice Resource Center for re-entry programs. Jim Stella, Re-Entry Program Director, Durham Chamber of Commerce, locates jobs for people leaving the prison system.

Commissioner Page expressed a desire for the Commissioners to contribute more toward the fight against crime, especially in the African-American community. Durham's communities need to be safe.

Chairman Reckhow stated that the Safety Initiatives Committee, a subcommittee of the Results Based Accountability Committee, has made recommendations to address root causes of the safety problem. The Committee's report will be presented at the BOCC Retreat on February 14.

Commissioner Page was looking forward to hearing the report. A concentrated effort must be made to create a safe environment and to give returning society members a second chance at life by providing housing and jobs.

Chairman Reckhow asked Ms. Craig-Ray to incorporate the three primary goals of the NCACC (menu of revenue items, relief from the Medicaid burden, and school construction monies).

Mr. Phillips announced that Representative Michaux has asked for \$20 million for intervention and prevention programs in relation to the gang problem.

Commissioner Cousin moved, seconded by Commissioner Cheek, to adopt the proposed legislative issues as outlined with the addition of the three priorities from NCACC.

The motion carried unanimously.

Ms. Craig-Ray communicated that Durham County would be working toward having a greater presence in Raleigh and will be working with the County Commissioners to improve lobbying efforts. She would share with the Commissioners a list of House and Senate members with county experience with the hope that conversing with them will help move our issues forward.

Chairman Reckhow mentioned that Mecklenburg County shares Durham County's interests, particularly in the court needs area. A Mecklenburg commissioner telephoned her to express interest in a joint venture. He also indicated an interest in our impact fee issue.

Resignation of Clerk to the Board of County Commissioners

Chairman Reckhow declared that on January 17, 2005, Clerk to the Board Garry E. Umstead formally announced his retirement from Durham County Government effective April 1, 2005, after 32 years of service.

Mr. Umstead commented that he appreciated the opportunity to work with Durham County Government for 32 years. He has enjoyed working with staff and various County Commissioners and Managers.

Chairman Reckhow applauded Mr. Umstead for his commitment to the County and his years of hard work.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to accept Mr. Umstead's resignation with regrets.

The motion carried unanimously.

Closed Session

Commissioner Cousin moved, seconded by Commissioner Cheek, to adjourn to Closed Session to instruct staff concerning the position to be taken on the terms of possible acquisition of 247 S. Mangum Street owned by U-Haul Real Estate Company and 306 S. Roxboro Street owned by Scarborough and Hargett Funeral Home; to consult with an attorney and preserve the attorney-client privilege to discuss *Durham Land Owners vs. County of Durham 03CVS5500*; and to consider the performance of an individual public officer or employee pursuant to G.S. § 143-318.11(a)(3)(5) & (6).

The motion carried unanimously.

Reconvene to Open Session

Commissioner Cousin moved, seconded by Commissioner Cheek, to extend the meeting to 11:10 pm.

The motion carried unanimously.

Commissioner Cheek moved, seconded by Commissioner Cousin, to recognize Tax Administrator Ken Joyner's years of service in the State and Local Government Retirement System relating to vacation leave; consequently, provide Mr. Joyner with six additional days of leave per year. In recognition of his professional designation through the International Association of Assessing Officers as a Residential Evaluation Specialist, increase his salary by 2½ percent to \$89,687.50 effective November 13, 2004.

The motion carried unanimously.

Vice-Chairman Heron moved, seconded by Commissioner Page, to direct the County Attorney to prepare the necessary documents to begin soil testing on U-Haul Real Estate Company and Scarborough and Hargett Funeral Home sites under the imminent domain statutes.

Commissioner Cheek wished the record to reflect that he would support the motion because substantial efforts have been made to negotiate purchase of these properties for the building of the new courthouse. Since negotiations have been unsuccessful to date, the Board must move forward with the soil testing. Should the Board be unable to purchase the properties, his position will be that condemnation action be initiated and pursued to its conclusion.

The motion carried unanimously.

Adjournment

There being no further business, the meeting ended at 11:05 p.m.

Respectfully submitted,

Vonda C. Sessoms
Deputy Clerk to the Board