

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

Monday, February 14, 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

Minutes

Vice-Chairman Heron moved, seconded by Commissioner Page, to approve as submitted the January 10, 2005 Regular Session Minutes and approve as corrected the January 24, 2005 Regular Session Minutes.

The motion carried unanimously.

In accordance with the Rules of Procedure, Vice-Chairman Heron instructed staff to submit agenda items to the Clerk to the Board's office in a timelier manner.

Resolution In Support of Medicaid Relief for Counties

Chairman Reckhow reported that Medicaid Relief is one of the legislative priority items approved by the North Carolina Association of County Commissioners (NCACC). Jim Blackburn, General Counsel of the NCACC, requested that all counties approve a resolution in support of Medicaid Relief as part of the Association's comprehensive strategy to seek legislation to phase out county participation in Medicaid costs.

Chairman Reckhow read the following resolution, which staff prepared for the Board's consideration:

RESOLUTION

WHEREAS, Durham County pays \$9.4 million or 2% of its General Fund Budget expenditures for services to Medicaid eligible citizens; and

WHEREAS, the counties share of Medicaid reimbursements has increased over 67% in the last five years and now totals approximately \$440 million; and

WHEREAS, North Carolina is one of only two states in the nation that requires counties to pay a share of all Medicaid service costs; and

WHEREAS, in Durham County, the Medicaid budget has grown 34% since 2000, and the overall Medicaid budget is \$176,937,518 or 68% of the Social Services budget, which represents 36.98% of the General Fund Budget:

NOW, THEREFORE, BE IT RESOLVED that the Durham County Board of Commissioners urge the North Carolina General Assembly to provide immediate Medicaid relief to Durham County.

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to members of the General Assembly representing Durham County.

Adopted this the 14th day of February, 2005.

Consent Agenda

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

- a. Lease Amendment—414 E. Main Street (ASAP) (approve the Lease Amendment with Area Services and Programs Inc. at a rate of \$10.00 per sq. ft.);
- *b. Stone Road Abandonment (SR1956) Petitions for Abandonment of Road Addition and Addition to State Maintained Roads (approve the petition and forward to the North Carolina Department of Transportation for action);
- *c. Budget Ordinance Amendment No. 05BCC000030—EMS—Authorization to Receive Reimbursement for Wrecked Emergency Medical Services Vehicle (accept the \$50,000 reimbursement and \$3,000 salvage amounts);
- *d. Budget Ordinance Amendment No. 05BCC000031—Social Services—Recognize Additional Revenue (represents funding changes in Crisis Intervention Prevention, Energy Administration, LINKS (Independent Living), State Adult Day Care, TANF

Domestic Violence, Work First Block Grant, Work Force Investment Act Grant, and Child Care (approve for a total increase of \$2,043,364);

- *e. Budget Ordinance Amendment No. 05BCC000032—Public Health—Recognize Title X Bonus Family Planning Funds for \$87,315 and \$52,934 from the N.C. Department of Health and Human Services;
- *f. Budget Ordinance Amendment No. 05BCC000033—Public Health—Recognize Grant Funding for \$33,328 from Temporary Aid to Needy Families Through the N.C. Department of Health and Human Services;
- *g. Budget Ordinance Amendment No. 05BCC000034—Public Health—Recognize Funds for the Health Education Division for \$15,000 for the Syphilis Elimination Project from the N.C. Department of Health and Human Services;
- *h. Budget Ordinance Amendment No. 05BCC000035—Public Health—Recognize Funds for the Health Education Division for \$5,000 for the Youth Tobacco Prevention Mini-Grant Initiative from the N.C. Department of Health and Human Services Tobacco Prevention and Control Branch;
- *i. Budget Ordinance Amendment No. 05BCC000036—Criminal Justice Resource Center (approve a discretionary grant from the NC Department of Corrections, Criminal Justice Partnership Program for \$4,700);
- *j. Budget Ordinance Amendment No. 05BCC000038—General Services—Contract Award to Precision Walls Inc. for the Cleaning and Repainting of the Exterior Steel and Masonry on the Detention Center (approve the appropriation of additional property tax revenue totaling \$96,008);
- l. Final Qualifying Bid to Purchase County Property (accept the offer from Michael P. Jackson to purchase 2100 Charles Street for \$3,000 and have a non-warranty deed prepared for the Chairman’s signature);
- *n. Property Tax Releases and Refunds for Fiscal Year 2004-05 (accept the property tax release and refund report for January 2005 and authorize the Tax Assessor to adjust the tax records as outlined by the report); and
- o. Contract Award to BFI Waste Services, LLC for the Hauling and Disposal of Solid Waste from County Facilities and Residential Convenience Centers (RFP 05-013) (approve for the hauling and disposal of solid

waste from 12 county facilities and 4 residential convenience centers for \$292,183).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. b. Stone Road Abandonment (SR1956) Petitions for Abandonment of Road Addition and Addition to State Maintained Roads (approve the petition and forward to the North Carolina Department of Transportation for action).

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR ADDITION OF STATE MAINTAINED SECONDARY ROAD SYSTEM

North Carolina

County of Durham

Road Description: SR 1956 (Stone Road) located west of Wrenn Road, south of Stone Park Court. Re-alignment of right-of-way to follow previously re-aligned road.

WHEREAS, the attached petition has been filed with the Board of County Commissioners of the County of Durham requesting that the above-described road, the location of which has been indicated in red on the attached map,* be added to the secondary road system; and

WHEREAS, the Board of County Commissioners is of the opinion that the above-described road should be added to the secondary road system, if the road meets minimum standards and criteria established by the Division of Highways of the Department of Transportation for the addition of roads to the system:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Durham that the Division of Highways is hereby requested to review the above-described road and to take over the road for maintenance if it meets established standards and criteria.

CERTIFICATE

The foregoing resolution was duly adopted by the Board of County Commissioners of the County of Durham at a meeting on the 14th day of February, 2005.

*In the office of the Clerk to the Board.

Consent Agenda Item No. c. Budget Ordinance Amendment No. 05BCC000030—EMS—Authorization to Receive Reimbursement for Wrecked Emergency Medical Services Vehicle (accept the \$50,000 reimbursement and \$3,000 salvage amounts).

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000030

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	\$3,763,356	\$53,000	\$3,816,356

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$40,664,480	\$53,000	\$40,717,480

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

This the 14th day of February, 2005.

Consent Agenda Item No. d. Budget Ordinance Amendment No. 05BCC000031—Social Services—Recognize Additional Revenue (represents funding changes in Crisis Intervention Prevention, Energy Administration, LINKS (Independent Living), State Adult Day Care, TANF Domestic Violence, Work First Block Grant, Work Force Investment Act Grant, and Child Care (approve for a total increase of \$2,043,364).

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000031

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	\$259,939,578	\$2,043,364	\$261,982,942

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$318,940,651	\$2,043,364	\$320,984,015

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

This the 14th day of February, 2005.

Consent Agenda Item No. e. Budget Ordinance Amendment No. 05BCC000032—
Public Health—Recognize Title X Bonus Family Planning Funds for \$87,315 and
\$52,934 from the N.C. Department of Health and Human Services.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000032

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	\$261,982,942	\$140,249	\$262,123,191

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$320,984,015	\$140,249	\$321,124,264

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

This the 14th day of February, 2005.

Consent Agenda Item No. f. Budget Ordinance Amendment No. 05BCC000033—
Public Health—Recognize Grant Funding for \$33,328 from Temporary Aid to Needy
Families Through the N.C. Department of Health and Human Services.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000033

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	\$262,123,191	\$33,328	\$262,156,519

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$321,124,264	\$33,328	\$321,157,592

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

This the 14th day of February, 2005.

Consent Agenda Item No. g. Budget Ordinance Amendment No. 05BCC000034—
Public Health—Recognize Funds for the Health Education Division for \$15,000 for the
Syphilis Elimination Project from the N.C. Department of Health and Human Services.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000034

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	\$262,156,519	\$15,000	\$262,171,519

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$321,157,592	\$15,000	\$321,172,592

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

This the 14th day of February, 2005.

Consent Agenda Item No. h. Budget Ordinance Amendment No. 05BCC000035—
Public Health—Recognize Funds for the Health Education Division for \$5,000 for the

Youth Tobacco Prevention Mini-Grant Initiative from the N.C. Department of Health and Human Services Tobacco Prevention and Control Branch.

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000035

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	\$262,171,519	\$5,000	\$262,176,519

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$321,172,592	\$5,000	\$321,177,592

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

This the 14th day of February, 2005.

Consent Agenda Item No. i. Budget Ordinance Amendment No. 05BCC000036—Criminal Justice Resource Center (approve a discretionary grant from the NC Department of Corrections, Criminal Justice Partnership Program for \$4,700).

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000036

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	\$262,176,519	\$4,700	\$262,181,219

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$40,717,480	\$4,700	\$40,722,180

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

This the 14th day of February, 2005.

Consent Agenda Item No. j. Budget Ordinance Amendment No. 05BCC000038—
General Services—Contract Award to Precision Walls Inc. for the Cleaning and
Repainting of the Exterior Steel and Masonry on the Detention Center (approve the
appropriation of additional property tax revenue totaling \$96,008).

DURHAM COUNTY, NORTH CAROLINA
FY 2004-05 Budget Ordinance
Amendment No. 05BCC000038

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>			
Taxes	\$144,105,407	\$96,008	\$144,201,415

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
General Government	\$24,933,789	\$96,008	\$25,029,797

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

This the 14th day of February, 2005.

Consent Agenda Item No. n. Property Tax Releases and Refunds for Fiscal Year 2004-
05 (accept the property tax release and refund report for January 2005 and authorize the
Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies,
duplicate listings, and clerical errors, etc., the attached report details releases and refunds
for the month of January 2005.

Releases & Refunds for 2004 Taxes:

Real Estate	\$	13,996.90
Personal	\$	6,263.73
Registered Vehicles	\$	30,866.56
Vehicle Fees	\$	435.00

Solid Waste Fees	\$	<u>225.00</u>
Total for 2004 Taxes and Fees	\$	51,787.19

Prior years' (2001-2003) releases and refunds for January 2005 are for \$11,441.82. The total current year and prior years' releases and refunds amount to \$63,229.01.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. k. Bringing Income Maintenance Salaries Up to Market Rate (approve the recommended increase in the hiring rate, adjust existing IM staff salaries effective February 28, 2005 [March 24, 2005 payroll], and amend the education and experience requirements for Income Maintenance positions).

To justify her voting against this item at the February 7 Worksession, Vice-Chairman Heron explained that issuing raises mid-year for IM staff is inappropriate. It would be unfair to other departments experiencing similar inequities.

Chuck Harris, DSS Interim Director, opined on behalf of DSS and its management that issuing raises at this time would be appropriate for the following reasons: 1) federal government will pay half of the increases; 2) the decision will affect community health partners (i.e. Duke University and community health centers); and 3) good use of available funds. This decision is about fulfilling a commitment to IM staff, spending available monies, and taking the first step towards a solution.

Mr. Harris clarified for Vice-Chairman Heron the funding that would be used.

Commissioner Cheek addressed inequities in other departments, stating that he would consider similar proposals if funds are available.

Chairman Reckhow supported the item and agreed with Commissioner Cheek.

Commissioner Cheek moved, seconded by Commissioner Page, to approve Consent Agenda Item No. k.

The motion carried with the following vote:

Ayes: Cheek, Cousin, Page, and Reckhow
Noes: Heron

Consent Agenda Item No. m. Street Annexation Petition—Terry Brook Lane and River Forest Drive (adopt the resolution to approve the addition of South Forty Road to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation).

Vice-Chairman Heron directed staff to enclose street annexation maps in future agenda packets.

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

The motion carried unanimously.

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR ADDITION OF STATE MAINTAINED SECONDARY ROAD SYSTEM

North Carolina
County of Durham

Road Description: Terry Brook Lane and River Forest Drive – Mistletoe Hills Subdivision located in Durham County. Location—.1 miles northeast of the intersection of Route 2396 (Bighorn) and Route Terry Brook Lane and River Forest (no numbers). Length of road—.5 miles.

WHEREAS, the attached petition has been filed with the Board of County Commissioners of the County of Durham requesting that the above-described road, the location of which has been indicated in red on the attached map,* be added to the secondary road system; and

WHEREAS, the Board of County Commissioners is of the opinion that the above-described road should be added to the secondary road system, if the road meets minimum standards and criteria established by the Division of Highways of the Department of Transportation for the addition of roads to the system:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Durham that the Division of Highways is hereby requested to review the above-described road and to take over the road for maintenance if it meets established standards and criteria.

CERTIFICATE

The foregoing resolution was duly adopted by the Board of County Commissioners of the County of Durham at a meeting on the 14th day of February, 2005.

Witness my hand and official seal this the 14th day of February, 2005.

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

Consent Agenda Item No. p. Extension of Civic Center Management and Catering Agreements (approve authorization to enter into the Agreements with the City of Durham and the Shaner Hotel Group Inc. extending the term of the current Agreements to May 31, 2005 to allow for the completion of the contractual agreements).

Vice-Chairman Heron inquired about the Board viewing the new agreements before May.

Deputy County Manager Carolyn Titus replied that details of the agreements are complete, with the exception of a calculation affected by the Living Wage Policy. She offered to share the terms and conditions of the new agreements with the Commissioners individually or at the March 7 Worksession.

County Manager Mike Ruffin recommended that the agreements be discussed with the Commissioners individually as soon as the information is received.

Commissioner Page asked about approving an incomplete item.

Chairman Reckhow clarified that the proposal is for an extension.

Deputy County Manager Titus explained that Civic Center Authority members requested a final extension of the existing Civic Center Management and Catering Agreements that originated in 1987. Staff wanted to make changes to the agreement before the 20-year expiration. If the extension were approved, the Board would review the changes and offer feedback before May.

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

The motion carried unanimously.

Advance Public Hearing on the FY2005-2006 Budget

The Board held an Advance Public Hearing to receive public comment for the FY2005-2006 Budget. As County staff begins preparation of the budget, public comment was solicited on issues that may need to be addressed.

The County Manager's Recommended FY2006 Budget will be presented to the Board of Commissioners on Monday, May 23, 2005, with individual budget worksessions to be scheduled for the period May 31 – June 17. Final adoption of the FY2005-06 Budget Ordinance is scheduled for Monday, June 27, 2004.

Chairman Reckhow opened the public hearing that was properly advertised. As no one signed to speak, she closed the public hearing and referred the matter back before the Board.

Chairman Reckhow asked County Manager Mike Ruffin about alternative routes that citizens could take to supply input.

County Manager Ruffin informed the public that comments could be submitted via the County's website, telephone, email, and/or placed in the Commissioners' mail boxes located in the Clerk to the Board's office. Comments would be forwarded to the Commissioners and Pam Meyer, Budget Director.

Public Hearing on the Community Block Grant—2005 Scattered Site Housing

Wendell M. Davis, Deputy County Manager, reported that the State Department of Commerce Division of Community Assistance has made available to the County of Durham \$400,000 in grant funds to rehabilitate low-income housing. The funds can only be used in the unincorporated areas of the county. The primary objective of the Community Development Block Grant Scattered Site Housing Program is to improve the housing conditions of very low-income households at or below 50 percent of area median income. Recent changes by the General Assembly now provide that all eligible counties receive these funds every three years on a non-competitive basis. As lead agents, counties will receive funds by submitting a detailed plan describing how funds will be distributed to meet housing priorities. The application deadline for receiving funds from the Sate Department of Commerce Division of Community Assistance is February 28, 2005. Staff has moved forward with the application process.

An informal RFP was posted on the County website. Proposals were solicited until February 10, 2005 for the purpose of hiring a consultant to administer the Scattered Site Housing Program.

Staff requested that the first public hearing be held to receive citizen comments on the County's intentions of receiving this grant and awarding a contract to one of the consulting firms for purposes of administering the Scattered Site Housing Program in Durham County.

Chairman Reckhow opened the public hearing that was properly advertised. As no one signed to speak, she closed the public hearing and referred the matter back before the Board.

Deputy County Manager Davis explained to Vice-Chairman Heron that the funds are exclusively designated for rehabilitating low-income housing.

To address Commissioner Page's question, Mr. Davis stated that a list of residents who are eligible for the 2005 grant is available.

Closeout of the 2002 CDBG Scattered Site Housing Program

Wendell Davis, Deputy County Manager, introduced Brian Crawford, President of Leah Consulting Group, to the Board. Mr. Davis reported that the County of Durham contracted with Leah Consulting Group to administer the 2002 CDBG Scattered Site

Housing Program. The CDBG grant was for \$400,000 from the State Department of Commerce Division of Community Assistance. The purpose of grant funds was to repair homes in the unincorporated portion of Durham County for residents whose income was very low, meaning at or below 50 percent of area median income.

Mr. Crawford, program administrator, discussed 2002 CDBG Scattered Site Housing Program results, thus closing out the grant.

Vice-Chairman Heron inquired about rehabilitation on Felicia Street.

Mr. Crawford explicated that renovations per house must not exceed \$29,999. If a home renovation exceeds that amount, the group would discuss another solution with the homeowner.

Vice-Chairman Heron expressed her concern about not repairing uninhabitable homes because of the funding limit.

Deputy County Manager Davis informed Vice-Chairman Heron that the State does not allow the County to overspend the \$29,999 maximum on renovations per house.

Vice-Chairman Heron continued to inquire about the remaining homes.

Commissioner Cheek asked if the funds were depleted.

Mr. Crawford responded in the affirmative.

Chairman Reckhow asked Mr. Crawford to elaborate on repairs to significantly damaged homes on Felicia Street and additional funding.

In response to Vice-Chairman Heron's question, Mr. Crawford responded that no septic tanks or wells were replaced.

Budget Ordinance Amendment No. 05BCC000037—Interlocal Agreement with the City of Durham for the Implementation of the Cultural Master Plan

County Manager Mike Ruffin introduced this item and Mr. Alan DeLisle, City Office of Economic and Employment Development, to the Board.

Mr. DeLisle requested that the Board approve the Interlocal Agreement for Implementation of the Cultural Master Plan with the City of Durham. Both the City Council and County Commissioners have approved a Cultural Master Plan implementation strategy. The implementation strategy calls for the establishment of an Advisory Board and a full-time project manager to be located within City offices (within OEED). The two-year implementation plan will be funded with \$500,000 from the Occupancy Tax that was approved in 2001 and has already been collected by the County. The Interlocal Agreement establishes the relationship between the City and County in implementing the Cultural Master Plan.

Mr. DeLisle also requested that the Board approve a budget amendment to appropriate the portion of first year's budget that will be needed for the remainder of current Fiscal Year 2004-2005. Funding totaling \$29,887 will be appropriated for the remainder of the year that represents four months of salary and benefits, an estimated \$22,100, and operating expenses estimated at \$1,787, plus one-time expenses of \$6,000. The County's FY2005-2006 budget will include full funding for the salary, benefits, and operating expenses estimated at \$71,660.

Background: The Cultural Master Plan was a result of an extensive process to establish specific goals and recommendations for cultural development in the City and County. The assessment process included 6 community meetings, 114 individual interviews, 33 small group meetings, and 15 committee meetings. The County Commissioners approved the Cultural Master Plan on August 23, 2004. Because of the Plan being approved, the 17-member Executive Committee and the 63-member Steering Committee established an implementation strategy utilizing the \$500,000 in occupancy tax funds dedicated for this project.

The Implementation Strategy called for the establishment of an advisory board to execute and monitor administration of the strategy and recommended that a full-time project manager be located in the City's Office of Economic and Employment Development. It was determined that the relationship between economic development and cultural development was critical to the success of the strategy. The Implementation Strategy was presented to the City-County Joint Task Force and approved. The City-County Joint Task Force directed City and County staff to negotiate an interlocal agreement to execute administrative details.

The Interlocal Agreement contains the following substantive provisions:

- An Advisory Board is established to advise the governing bodies of the City and County regarding the implementation strategy. The powers and duties of this Board are also established.
- The Advisory Board shall consist of 12 members – six appointed by the County Commissioners and six appointed by the City Council. These 12 members were selected from the Durham Cultural Master Plan Steering Committee and Executive Committee. The Advisory Board can appoint up to three voting student representatives from area schools to advise regarding youth's interests in cultural planning. The Advisory Board membership was approved by the County Commissioners at their December 13, 2004 meeting.
- A full-time project manager will be hired by the City and be housed in the offices of OEED. The responsibilities of the project manager are outlined in the agreement.
- The County will provide an amount not to exceed \$500,000 to be used for expenses related to implementation, such as costs of salary and benefits of the Project Manager, operating expenses as provided in the budget, and grants that will be separately approved by the County Commissioners to community agencies to launch primary initiatives for the Plan.
- The agreement also contains a sunset clause that states that if the 1% occupancy tax is repealed, the Interlocal Agreement terminates.

- Budgets will be presented to the County Commissioners for approval. The first year's budget is part of the Interlocal Agreement and outlines a salary for the project manager and reasonable operating expenses, including one-time expenses such as computers and furniture. The second-year projected budget includes salary and benefit adjustments and operating expenses, but will be brought back before the Board for approval around January 2006. All grant funding to community-based organizations must first be approved by the Advisory Committee and then approved by the County Commissioners as a separate item from the above budget process.
- The City will receive 12 monthly payments of the amount indicated in the approved budget.
- The term of the agreement is 24 months.

In reference to the job advertisement for project manager, Chairman Reckhow inquired about clarity for the applicants that the position is dependent upon a 2-year grant.

Mr. DeLisle assured Chairman Reckhow that applicants would be informed in the advertisement and during interviews that the position would be a 2-year commitment.

Vice-Chairman Heron asked if meeting attendance is required for students.

County Attorney Chuck Kitchen responded that attendance requirements depend on which Ethics Policy the member falls under – the City or County. He recommended that the Agreement be modified to specify the applicable policy.

Vice-Chairman Heron commented that the Agreement should reflect an attendance requirement.

Chairman Reckhow suggested amending letter B in Section 4. Organization and Meetings to read: “The Advisory Board shall adopt rules of procedure outlining attendance policy and the Ethics Policy that will be followed (City or County).”

County Attorney Kitchen offered the amendment, “The Advisory Board shall adopt rules of procedure as well as an attendance and ethics policy in accordance with City or County policy.”

Chairman Reckhow directed Carol Hammett, Assistant County Attorney, to include the amendment in the agreement.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the Interlocal Agreement with the City of Durham as amended.

The motion carried unanimously.

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>			
Licenses and Permits	\$30,441,310	\$29,887	\$30,471,197

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Cultural & Recreation	\$8,027,948	\$29,887	\$8,057,835

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

This the 14th day of February, 2005.

Durham City-County Interlocal Agreement
to Implement the Durham Cultural Master Plan and
Establish a Cultural Master Plan Advisory Board

This is an Interlocal Cooperation Agreement between City of Durham, a North Carolina municipal corporation (hereinafter "City"), and County of Durham, a political subdivision of the State of North Carolina (hereinafter "County"). This Agreement is made pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes. The Date of the Interlocal Cooperation Agreement is February 21, 2005 (hereinafter "Agreement").

WITNESSETH:

WHEREAS, the City and County desire to utilize the Durham Cultural Master Plan dated August 2004(hereinafter the "Plan") to enhance its cultural landscape, maximize scarce resources, and provide coordinated vision and collaboration among a variety of cultural, civic, and business partners; and

WHEREAS, the City, through its Office of Employment and Economic Development or such other City department as the City Manager may designate from time to time to carry out economic development functions (hereinafter "OEED") is willing to provide, with designated Occupancy Tax funds, the personnel and administrative functions necessary to implement the Plan and the County is willing to provide initial funding for the implementation through designated Occupancy Tax funds; and

WHEREAS, The City and County desire to establish an Advisory Board to assist the OEED and advise the City and County governing bodies regarding the progress of the implementation of the Plan as well as act as a community advocate.

NOW THEREFORE, for and in consideration of mutual covenants contained herein and the mutual benefits to result therefrom, the parties hereby agree as follows:

SECTION 1. CREATION AND PURPOSE

The City Council and the Board of County Commissioners hereby establish the Durham Cultural Master Plan Advisory Board (hereinafter "Advisory Board"). The purpose of this Advisory Board is to advise the governing bodies of the City and County regarding the implementation of the Plan. The Advisory Board is a public body, and as such, shall be subject to the requirements of Chapter 132 and Article 33C of Chapter 143 of the General Statutes of North Carolina.

SECTION 2. POWERS AND DUTIES

The Advisory Board shall have the following powers and duties:

- A. Present the Plan, its immediate goals and its long-term impact, to all sectors of the community.
- B. Review priorities and recommend a sequence of action from the Plan's initiatives.
- C. Identify, engage, convene, and coordinate community partners in early Plan implementation initiatives.
- D. Design and propose a mechanism for distributing Implementation Funds (defined in Section 6A, below) to community partners, which shall be presented to the County for its approval.
- E. Advocate for public and private sector funding and identify a long-term dedicated revenue stream for on-going Plan implementation.
- F. Review and recommend proposed budgets and spending by the OEED for the implementation and administration of the Plan.
- G. Monitor and report to the City and County on progress of the Plan implementation.
- H. Participate in the hiring process of the staff person, hired by the OEED, as described below.
- I. Assess effectiveness of Plan implementation structure.

SECTION 3. MEMBERSHIP OF ADVISORY BOARD

- A. Appointment. The Advisory Board shall consist of twelve (12) members with six (6) to be appointed by the Durham County Board of Commissioners and six (6) to be appointed by the Durham City Council. The first twelve appointments to the Advisory Board shall be drawn from the County Commissioner-appointed members of the Durham Cultural Master Plan Steering Committee and Executive Committee. Following those appointments, attempts shall be made to assure that the appointments represent a cross section of the community and reflect the interests of the County, City, and private sectors. All members shall have equal rights regardless of whether the matters at issue are located inside or outside the corporate limits. The Advisory Board may recommend to the governing bodies individuals for appointment to the Advisory Board. The Advisory Board may appoint up to three voting student representatives from area schools to advise it regarding youths' interests in cultural planning.
- B. Qualifications. Members shall meet those general qualifications specified by the appointing body, which are requirements for all individuals serving on an advisory board.

- C. Tenure. Members shall serve one two-year term (“Term”). Vacancies occurring for reasons other than the expiration of Terms shall be filled by the appointing authority as they occur for the period of the unexpired term. No person shall be appointed to more than one Term, except that an appointment for the remainder of a vacant seat does not preclude a member from being appointed to serve a full 2 year Term. A person appointed to serve the remainder of a vacant seat may be appointed to serve one full 2-year Term or the remainder of another vacant seat, but he or she shall not be appointed to a third vacant seat.
- D. Compensation. Members shall serve without pay.

SECTION 4. ORGANIZATION AND MEETINGS

- A. The Advisory Board shall elect a Chairperson and Vice-chairperson at its first meeting and every first meeting of each fiscal year thereafter.
- B. The Advisory Board shall adopt rules of procedure as well as an attendance and ethics policy in accordance with City or County policy.
- C. The Advisory Board shall meet at least four (4) times per calendar year.
- D. The Advisory Board shall, no later than April 15 of each year, submit to the governing bodies, a written report of its activities performed during the then current fiscal year.

SECTION 5. IMPLEMENTATION OF THE CULTURAL MASTER PLAN

- A. Responsibilities of the OEED. The OEED shall work to implement the Plan and create an effective structure that will:
- Visibly engage both the public and private sectors in implementing the Plan through the stewardship of an informed, committed, empowered Advisory Board.
 - Utilize Implementation Funds effectively and efficiently to support necessary administration while providing maximum stimulus for community initiatives.
 - Provide a mechanism that ensures responsible oversight of the Plan implementation.
 - Coordinate with the leadership and goals of the OEED to maximize resources and coordination, and
 - Provide time to test and assess the effectiveness of the proposed Plan implementation structure as a long-term strategy.
- The parties understand and agree that clerical assistance shall not be provided by the OEED or the City.
- B. Personnel. One full-time individual will be hired by the City Manager, with designated Implementation Funds as described herein, using appropriate City pay classifications, to administer the Plan implementation described herein (hereinafter “Project Manager”). The Advisory Board and the County Manager will participate in the hiring process, but the final decision on hiring will be the City Manager’s. The Project Manager will be a City employee and will be located within the OEED. The Project Manager will work closely with the Advisory Board and will work solely on the work of implementing the Plan. Location within the OEED is intended to allow OEED and the Project Manager to be informed of and coordinate appropriate initiatives. The City shall perform reviews of the Project Manager in accordance with the City’s usual procedures. The County and the Advisory Board shall have the

opportunity to provide input into those reviews. Responsibilities of the Project Manager shall include but not be limited to:

- Provide ongoing public relations support for and public “roll out” of the Plan.
- Identify, engage, convene, and coordinate community partners to undertake early initiatives in the Plan.
- Provide staff support for the grant process to allocate the Implementation Funds to community agencies.
- Provide regular progress reports to the Advisory Board.
- Provide staff support for Advisory Board (preparing notices and agendas for the meetings and keeping the record of the Advisory Board meetings, attendance and minutes), advocacy efforts, coordinating and convening meetings and ongoing communications for the Advisory Board.

Nothing in this Agreement is intended to limit the City Manager’s authority over the Project Manager, except that the Project Manager shall be located in the OEED as provided above and shall have the responsibilities as provided in this Agreement.

SECTION 6. FUNDING

- A. County Contribution. The County shall provide an amount not to exceed \$500,000 of the 1% Durham Occupancy Tax, already collected during the first 24 months from the date of levy pursuant to S.L. 2001-480 as amended by S.L. 2002-36, to the City as the source of funding for the implementation of the Plan (“Implementation Funds”). It is acknowledged and agreed by both parties that use of the Implementation Funds is limited specifically to implementation of the Plan and to those things for which this Agreement specifically allows Implementation Funds to be used. Implementation Funds may be used for expenses related to implementation, such as costs of salary and benefits of the Project Manager, operating expenses as provided in the Budget, and grants approved by the Board of County Commissioners to community agencies to launch some primary initiatives for the Plan.

The City and County understand and agree that in the event the 1% Occupancy Tax is repealed pursuant to section 7(a) of S.L. 2001-480, as amended, then this Agreement shall terminate as of the date of the repeal.

- B. Budgets and Expenditures. A budget of the OEED regarding the Plan Implementation (“Budget”) shall be effective only if approved by the Board of County Commissioners. The Budget for the first 12 months of the Term is attached hereto as Exhibit 1 and made a part hereof. The execution by the County of this Agreement constitutes approval of the Budget specified in Exhibit 1. The second Budget, which shall be effective only upon approval by the Board of County Commissioners, shall be for the remaining 12 months of the Term. All expenditures that are not included in the Budget, including grants to community agencies, shall be first reviewed by the Advisory Board, and then presented to the Board of County Commissioners for approval before any payment from Implementation Funds will be made. Grants directly related to the implementation of the Plan may be proposed by the Advisory Board but must be approved by the Board of County Commissioners prior to disbursement. All expenditures shall be in accordance with the provisions of this Agreement.

- C. Method of Payment. The City shall submit requests to the County for Implementation Funds as set forth in subsection B of this Section 6 or as set forth below. It is expressly understood and agreed by City that Implementation Funds available for this project will not exceed the maximum sum of \$500,000 for the full 24-month term of the Agreement.
1. Operating Budget. On the first day of each calendar month of the Term, and continuing until the County has made 12 payments, the County shall, on the first day of each calendar month, pay to the City one twelfth (1/12) of the amount specified in Exhibit 1. On the first day of the thirteenth calendar month of the Term, and continuing until the County has made 12 payments, the County shall, on the first day of each calendar month, pay to the City one twelfth (1/12) of the amount in the second Budget. The parties acknowledge that the amount of the Project Manager's salary and benefits may be adjusted to the extent the City changes the salary and benefits of the Project Manager using the City's usual standards and procedures for such changes, so long as the adjustment is approved in the second Budget.
 2. Grant funds. Grants directly related to the implementation of the Plan may be proposed by the Advisory Board but must be approved by the Board of County Commissioners prior to disbursement.

SECTION 7. TERM AND TERMINATION

This Agreement shall be effective as of the date first written above and shall be in effect for 24 months (the "Term").

This Agreement may be terminated earlier by either party, upon 6 months notice given in writing prior to the intended date of termination. In case of repeal of the 1% Occupancy Tax, this Agreement shall terminate as provided in section 6(B) above.

Effect of Termination. Upon termination of this Agreement for any reason, (i) all outstanding invoices received by the County on or before the date of termination shall be paid, (ii) the Advisory Board shall be immediately dissolved, and (iii) the City's and the County's obligations hereunder shall be immediately terminated.

SECTION 8. APPOINTMENT OF PERSONNEL

Except to the extent provided otherwise in this Agreement, it is agreed that the City Manager shall designate persons to carry out the City's obligations under this Agreement, and the County Manager shall designate persons to carry out the County's obligations under this Agreement.

SECTION 9. AMENDMENTS

This Agreement may be amended at any time upon mutual written agreement of the City and County. The City Council and County Commissioners shall be the final authority in approving all amendments.

SECTION 10. GOVERNING LAW

This 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.

SECTION 11. ENTIRE AGREEMENT

This Agreement together with the agreements referenced in this Agreement, shall constitute the entire understanding between the City and the County and shall supersede all prior understandings and agreements relating to the subject matter hereof.

SECTION 12. CONTRACT NOT DIVISIBLE

This Agreement is not divisible. The obligations exchanged by the City and County under each part of this Agreement constitute consideration for each part of this Agreement.

SECTION 13. HEADINGS

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 purposes of interpretation shall be made to the contrary.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 8:02 p.m.

Respectfully submitted,

Vonda C. Sessoms
Deputy Clerk to the Board