

**February 23, 1998**

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

Monday, February 23, 1998

7:24 P.M. Regular Session

**MINUTES**

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

Present: Chairman MaryAnn E. Black and Commissioners William V. Bell, Joe W.  
Bowser, Becky M. Heron, and Ellen W. Reckhow

Absent: None

Presider: Chairman Black

**Opening of Regular Session**

Chairman Black called the Regular Session to order with the Pledge of Allegiance.

**Agenda Adjustments**

County Attorney Chuck Kitchen requested the following two agenda items be added:  
(1) alcoholic beverage permits; and (2) contract with Public Consulting Group Inc.

Commissioner Bowser requested the Willow Hill sewer project be added to the agenda.

County Manager David F. Thompson asked that the Federal Express resolution in support  
of the Mid-Atlantic Hub be placed on the agenda.

**Minutes**

Commissioner Reckhow moved, seconded by Commissioner  
Heron, to approve the January 26, 1998 Regular Session  
Minutes of the Board as submitted.

The motion carried unanimously.

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Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the January 27, 1998 Hospital Merger Minutes of the Board as submitted.

The motion carried unanimously.

**Anchor Award Winner--Angela Breeden**

Angela Breeden, Human Resources Analyst, was the latest Anchor Award winner. Ms. Breeden was actually selected by County Manager David F. Thompson to receive this recognition as part of the recent Service Awards Program in December 1997. In a surprise announcement, he noted that he chose Ms. Breeden because of her strong commitment to ensure the success of the Durham County Government Employee Volunteer Program. Through her diligence, she makes sure that County employees are made aware of volunteer opportunities in the community, and that Durham County Government is represented at many volunteer events and activities. Some of her successes include team participation with the Juvenile Diabetes Foundation, Habitat for Humanity, and Brogden Middle School.

While she personally shuns the spotlight, Ms. Breeden always works to make sure other employees are recognized for their efforts in the County Newsletter. Her unsung, behind-the-scenes activities help the total employee family. She is a fitting example of an employee who goes the extra mile to enhance the image of Durham County employees in the larger community.

County Manager's Recommendation: Reaffirm the Anchor Award which was presented in December to Ms. Angela Breeden, along with the sincere congratulations of the entire organization.

County Manager Thompson introduced Ms. Breeden and commented on her strong commitment to ensure the success of the Durham County Government Employee Volunteer Program.

Chairman Black presented the Anchor Award to Ms. Breeden and congratulated her on behalf of the entire organization.

**Introduction**

County Manager David F. Thompson introduced Brandon Laughlin, a Boy Scout from Troop 408 sponsored by the Mount Sylvan Ruritan Club. He was working on a merit badge.

Chairman Black welcomed him to the meeting.

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**Resolution in Support of the Federal Express Mid-Atlantic Hub Locating in the Research Triangle Region**

The Greater Durham Chamber of Commerce was requesting that the Board of County Commissioners pass the resolution in support of the Federal Express (“FedEx”) Mid-Atlantic hub locating at the RDU International Airport.

The FedEx project would create approximately 815 new jobs paying between \$9 to \$10 per hour with full health benefits. The Chamber has expressed its commitment to work closely with FedEx, the County, and the Durham Employment Security Commission to place as many Durham residents in these new jobs as possible.

Resource Person: Patrick Byker, Vice President of Government Relations.

County Manager’s Recommendation: Adopt the resolution as submitted.

Chairman Black read the following resolution into the minutes:

**RESOLUTION IN SUPPORT OF THE FEDERAL EXPRESS MID-ATLANTIC HUB  
LOCATING IN THE RESEARCH TRIANGLE REGION**

WHEREAS, we, in the Research Triangle Region, need to create a diversity of jobs with economic opportunity for all segments of our population; and

WHEREAS, the families of the Research Triangle Region need the kind of jobs that would be created by the proposed FedEx Hub, which would work as an economic equalizer; and

WHEREAS, the proposed FedEx Mid-Atlantic Hub initially creates employment opportunities for in excess of 800 families; and

WHEREAS, the employees of the proposed hub would be well compensated, in terms of salary and full benefits plan, for both full-and part-time workers; and

WHEREAS, FedEx will be required to meet all noise standards set by RDU International Airport; and

WHEREAS, FedEx is nationally recognized as being a good corporate citizen, bringing cultural and charitable investment in addition to its business investment:

NOW, THEREFORE, BE IT RESOLVED that the Durham Board of County Commissioners supports employing every effort to attract the proposed FedEx Mid-Atlantic Hub to the Research Triangle Region.

/s/ MaryAnn E. Black, Chairman

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Board of County Commissioners

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to adopt the resolution in support of the Federal Express Mid-Atlantic Hub locating in the Research Triangle Region.

The motion carried unanimously.

### Alcoholic Beverage Permits

The Board was requested to consider the advisability of refusing to issue beer and wine licenses to any business which has sold alcoholic beverages to underage persons on two separate occasions within the preceding 12-month period prior to the issuance of the licenses. Charles Clark, Tax Administrator, was present to answer any questions regarding ABC operations.

County Manager's Recommendation: Consider the options as presented by the County Attorney, ABC General Manager, and Tax Administrator and give appropriate direction to staff as to how the Board wishes to proceed.

Commissioner Bell introduced the subject. Vice-Chairman Reckhow had written a letter to Commissioner Bell asking if the ABC Board could take steps to prevent persons from selling alcoholic beverages to people under age. Commissioner Bell said it is an issue that has to come back to the Board of County Commissioners for action. The Commissioners can take action to prevent businesses from obtaining beer and wine licenses if it has been convicted of selling alcoholic beverages to persons under age. The process would begin with the ABC Officer notifying the taxing authority in Durham County. The ABC Board has endorsed the process and has requested that the Board of County Commissioners take action for adoption.

Vice-Chairman Reckhow said this action would affirm that the Commissioners are serious about alcoholic beverages not being sold to minors.

County Attorney Chuck Kitchen discussed the guidelines for refusal to issue alcoholic beverage privilege licenses.

Randy Mills, ABC General Manager, introduced Chief R.D. Allen to speak about the sting operation held on February 19, 1998.

The Commissioners asked several questions about the proposal. Chief Allen and County Attorney Kitchen responded.

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Commissioner Heron moved, seconded by Commissioner Bowser, to approve the guidelines for refusal to issue alcoholic beverage privilege licenses to take effect immediately.

The motion carried unanimously.

The guidelines follow:

GUIDELINES FOR REFUSAL TO ISSUE  
ALCOHOLIC BEVERAGE PRIVILEGE LICENSE

G.S. 105-113.71 sets forth the circumstances when a license to sell alcoholic beverages may be denied by the Board of Commissioners. Specifically, the statute provides that there may be a refusal to issue a license when: "the applicant committed any act or permitted any activity in the preceding year that would be grounds for suspension or revocation of his permit under G.S. 18B-104." The refusal to issue the license may only be made after a quasi-judicial hearing on ten-days notice. The following guidelines are to be used in conducting this process. These guidelines deal with the refusal to issue the permit for selling alcohol to underage persons on two separate occasions in the 12-month period preceding the issuance of the license by the Tax Administrator.

1. ABC police cite place of business for selling to underage person on two separate occasions.
2. ABC office notifies Tax Administrator's office and Clerk to the Board.
3. Tax Administrator places hold on any application for alcohol beverage license by the business.
4. If and when any application for a license is received by the Tax Administrator, the Clerk to the Board will be notified by the Tax Administrator. The Clerk to the Board will then have the matter set on an agenda to set the hearing on the possible refusal of the license.
5. The applicant and the ABC office is given notice of the hearing by the Clerk to the Board at least ten days prior to the date of the hearing.
6. The attorney for the ABC Board will "prosecute" the case before the Board of Commissioners. The County Attorney will advise the Board of Commissioners on the proceedings. The ABC attorney shall be responsible for presenting all evidence as to why the permit should not be issued and ensuring that the witnesses which the attorney intends to call are present.
7. The hearing is a quasi-judicial hearing with all witnesses sworn. The Board members must disclose any interest they may have in the case, and must disclose any prior knowledge of the facts of the case.
8. After all evidence is presented, the Board will continue the hearing until its next regular meeting. It shall indicate to the County Attorney what disposition it wishes to make of the license application. The County Attorney shall prepare a proposed order

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for approval at the adjourned hearing. In the alternative, the Board may indicate what disposition it wishes to make of the application, and the County Attorney shall prepare the proposed order while other business is brought before the Board.

9. The applicant has ten days to appeal any denial of a license to the Superior Court of Durham County.

Chairman Black instructed staff to write a letter to all businesses with an alcoholic beverage permit to let them know of the action the Board has taken and to enclose the guidelines with the letter.

Commissioner Bell said the ABC Manager has been instructed by his board to consider restricting the age of persons allowed to enter the ABC stores. The ABC Board has adopted guidelines to achieve this.

Mr. Mills and Chief Allen discussed the age restriction policy. The new policy will be implemented within two to four weeks.

**Consent Agenda**

Chairman Black requested that consent agenda item No. 5(e), Area Mental Health Board—removal of Vanessa McGee-Smith as a board member (remove Ms. McGee-Smith from the Area Mental Health Board due to poor attendance), be removed from the consent agenda.

Chairman Black requested a letter be mailed to Ms. McGee-Smith requesting her resignation since she has stated she plans to resign.

Commissioner Bell moved, seconded by Commissioner Bowser, to approve the following consent agenda items:

- \*(a) Street Annexation petition—Bland Springs Place and Oak Wind Court (adopt a resolution to approve the addition of Bland Springs Place and Oak Wind Court [Chapel Estates] to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the North Carolina Department of Transportation);
- (b) Engineering services for replacement of the Judicial Building chiller and cooling towers (authorize the County Manager to execute an engineering services contract with Sud Associates in the amount of \$59,500);
- \*(c) Property tax release and refund report (adopt the property tax release and refund report as presented and

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authorize the Tax Administrator to adjust the tax records as outlined by the report);

- \* (d) Vehicle equipment and supplies (authorize the County Manager to enter into contracts with Lawman's Safety Supply for \$43,160.25 and Piedmont Communications for \$32,022.69 to furnish, deliver, and install vehicle equipment and supplies);
- \* (f) FY 1997-98 Budget Ordinance Amendment No. 98BCC000028 (approve a budget amendment to recognize an \$8,062 grant in the Environmental Health budget to fund computer equipment to support Environmental Health programs); and
- (g) Letter of support for new state child health insurance initiative (authorize staff to prepare a letter for the Chairman's signature expressing Durham County Commissioner support for Secretary Bruton's proposal for a federal and state funded child health insurance program).

The motion carried unanimously.

\*The documents related to these items follow:

Consent Agenda 5(a). Street Annexation petition—Bland Springs Place and Oak Wind Court (adopt a resolution to approve the addition of Bland Springs Place and Oak Wind Court [Chapel Estates] to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the North Carolina Department of Transportation).

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

North Carolina

County of Durham

Road Description: Bland Springs Place and Oak Wind Court (Chapel Estates)

WHEREAS, the attached petition has been filed with the Durham Board of County Commissioners requesting that the above described roads, the location of which have 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 roads should be added to the secondary road system, if the roads meet 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 Durham Board of County Commissioners that the Division of Highways is hereby requested to review the above described roads, and to take over the roads for maintenance if they meet established standards and criteria.

CERTIFICATE

The foregoing resolution was duly adopted by the Durham Board of County Commissioners at a meeting on the 23<sup>rd</sup> day of February, 1998.

Witness my hand and official seal this the 24<sup>th</sup> day of February, 1998.

/s/ Garry E. Umstead

Clerk, Board of Commissioners

County of Durham

\*In the office of the Clerk to the Board.

Consent Agenda 5(c). Property tax release and refund report (adopt the property tax release and refund report as presented and authorize the Tax Administrator 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 reports detail releases and refunds for the month of January 1998.

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For current FY 97-98, releases and refunds amounted to \$32,547.13 in taxes for real property, \$32,558.84 in taxes for personal property, \$53,236.57 in taxes for registered motor vehicles, \$855.00 in City vehicle fees, and \$342.95 in solid waste fees.

For FY 98-99, personal property taxes in the amount of \$7,446.54 are to be released.

For prior years, releases and refunds amounted to \$8,632.53 in taxes and fees.

(Recorded in Appendix A in the Permanent Supplement of the February 23, 1998 Minutes of the Board.)

Consent Agenda 5(d). Vehicle equipment and supplies (authorize the County Manager to enter into contracts with Lawman's Safety Supply for \$43,160.25 and Piedmont Communications for \$32,022.69 to furnish, deliver, and install vehicle equipment and supplies).

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ATTACHMENT A  
BID TABULATION SHEET

VEHICLE EQUIPMENT AND SUPPLIES  
IFB# 98-015

| BIDDER                  | TOTAL BID PRICE<br>(ALL ITEMS) | BID RESPONSES                             |
|-------------------------|--------------------------------|---|
| R&R Uniform             | \$47,512.78                    | Partial Bid, did not include installation |
| Southern Public Safety  | \$50,359.38                    | Partial Bid, did not include installation |
| Global Electronics      | \$88,918.28                    | Includes Installation                     |
| Piedmont Communications | \$80,855.26*                   | Includes Installation                     |
| Lawman's Safety Supply  | \$42,160.25*                   | Partial Bid, did not include installation |
| Mobile Communications   | NO BID                         | Cannot be competitive                     |

\*It is in the best interest of the County to make an award on a lot basis in order to obtain a more favorable delivery date as indicated in the Special Terms and Conditions, Paragraph 4, Contract Award clause of IFB# 98-015. Lawman's Safety Supply is the low bidder for the light bars, switch panels, sirens, consoles, wire cages, miser strobe, and speakers. Piedmont Communications is the low bidder for the car radios and the installation cost for all the above equipment and supplies.

Consent Agenda 5(f). FY 1997-98 Budget Ordinance Amendment No. 98BCC000028 (approve a budget amendment to recognize an \$8,062 grant in the Environmental Health budget to fund computer equipment to support Environmental Health programs).

The budget ordinance amendments follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 1997-98 Budget Ordinance  
Amendment No. 98BCC000028

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1997-98 Budget Ordinance is hereby amended to reflect budget adjustments for Durham County Health Department.

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GENERAL FUND

|                     | <u>Current<br/>Budget</u> | <u>Increase</u> | <u>Decrease</u> | <u>Revised<br/>Budget</u> |
|---------------------|---------------------------|-----------------|-----------------|---------------------------|
| <u>Revenues</u>     |                           |                 |                 |                           |
| Intergovernmental   | \$174,500,511             | \$8,062         |                 | \$174,508,573             |
| <u>Expenditures</u> |                           |                 |                 |                           |
| Human Services      | \$206,740,321             | \$8,062         |                 | \$206,748,383             |

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

This the 23<sup>rd</sup> day of February, 1998.

(Budget Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

**Public Hearings to Consider Amendments to the Zoning Ordinance Described as TC 66B-97 [Revisions to the I-2 District to Delete Transfer Stations]; TC 70-97 [Revisions to the Sign Standards to Allow Pedestrian Oriented Signs]; and TC 71-97 [Provision of Standards for Nonconforming Communication Towers]**

The following amendments were proposed for adoption into the Durham Zoning Ordinance to improve the efficiency of the ordinance. These proposals were recommended for approval by the Joint City-County Planning Committee and by the Zoning Committee of the Planning Commission in January. The amendment proposals to be considered in separate public hearings were:

1. TC66B-97: An amendment to modify the County's version of the Zoning Ordinance to delete transfer stations from the Industrial 2 district. Transfer stations would still be allowed in the I-3 district with a Major Use Permit.
2. TC70-97: An amendment to establish standards to allow signs oriented toward pedestrians on sidewalks in specific commercial areas oriented to pedestrian traffic.
3. TC71-97: An amendment to establish standards for nonconforming towers for transmitting and receiving electronic signals.

Bonnie Estes was at the meeting to present these items.

County Manager's Recommendation: Approval of the amendments.

The zoning ordinance amendments follow:

TC66B-97: An amendment to modify the County's version of the Zoning Ordinance to delete transfer stations from the Industrial 2 district. Transfer stations would still be allowed in the I-3 district with a Major Use Permit.

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Chairman Black opened the public hearing that was properly advertised.

Mr. Jack Steer, 2416 Dawn Trail, representing Friends of Durham, signed to speak at the public hearing but withdrew his name.

As no one else asked to speak, Chairman Black closed the public hearing and referred the matter back to the Commissioners for consideration.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve zoning ordinance amendment TC66B-97.

The motion carried unanimously.

TC66B-97

AN AMENDMENT TO AMEND THE ZONING ORDINANCE  
REGARDING CHANGES TO ZONING DISTRICTS TRANSFER STATIONS

WHEREAS, the Durham Board of County Commissioners wishes to amend the Durham Zoning Ordinance; and

WHEREAS, the Zoning Ordinance currently allows transfer stations with a major special use permit in the Industrial 2 [I-2] zoning district in Durham County; and

WHEREAS, it is believed that this use is not appropriate for inclusion in the I-2 district and should be deleted from that zoning district and allowed only in the Industrial 3 [I-3] district:

NOW, THEREFORE, be it ordained that:

Section 1

That Zoning Ordinance Section 4E.4.5 [Major Uses in I-2] be amended to delete:  
“Transfer Stations”

Section 2

That the ordinance be renumbered to accommodate this change.

Section 3

That the permitted use chart be revised to reflect this change.

Section 4

That this ordinance become effective upon adoption.

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(Zoning Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

TC70-97: An amendment to establish standards to allow signs oriented toward pedestrians on sidewalks in specific commercial areas oriented to pedestrian traffic.

Chairman Black opened the public hearing that was properly advertised.

As no one asked to speak, Chairman Black closed the public hearing and referred the matter back to the Commissioners for consideration.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve zoning ordinance amendment TC70-97.

The motion carried unanimously.

TC70-97

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO  
PROVIDE FOR SIDEWALK LEVEL SIGNS IN CERTAIN PEDESTRIAN  
ORIENTED COMMERCIAL DISTRICTS

WHEREAS, the Zoning Ordinance provides regulations for the placement of signs for nonresidential and residential uses; and

WHEREAS, in certain commercial zoning districts, buildings containing shops and restaurants abutting the street sidewalk are concentrated; and

WHEREAS, in those circumstances, such shops and restaurants are more limited in how they can advertise their services to their pedestrian-oriented customer base using traditional signage as allowed by the Zoning Ordinance; and

WHEREAS, providing more flexibility within limits in those situations will enhance the economic viability of such areas while at the same time maintaining controls over excessive sign clutter visible to motorists:

NOW THEREFORE, BE IT ORDAINED THAT:

SECTION 1

That Section 12.4 (Signs permitted in public rights-of-way without a permit) be rewritten to add the following subsection:

6. Moveable signs located on sidewalks within the street right-of-way in pedestrian-oriented commercial areas within the NC, GC, and CBD Districts provided that all the following criteria are met:
  - a) the area consists of one or more contiguous blocks where at least 75% of the blockface contains buildings which abut the street sidewalk, and

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at least 50% of the buildings have space at the street level which consists of retail stores, shops, and restaurants. Also, the sidewalk in the area must be wide enough to allow for at least 6 feet of width for unrestricted pedestrian movement with the sidewalk signs in place.

- b) a plan for sidewalk signage is submitted for the review and approval of the Development Review Board by a merchants association or community development organization representing the merchants of the area. Such plan shall indicate at a minimum what the merchants have agreed to in terms of a common approach to sign type and design, size, location on the sidewalk, and the method of indemnification for public liability from injury or property damage caused by such signs. When the area is located in an historic district overlay zone, the plan shall be reviewed by the Historic Preservation Commission, and its comments shall be forwarded to the Development Review Board prior to any action being taken on the plan. The Development Review Board may disapprove the plan if it finds that it does not represent a common agreement among the merchants in the area, that safety and liability issues are not adequately addressed, that the location of such proposed signs poses conflicts with service delivery or pedestrian movement, or that the elements of consistency concerning proposed signs have not been completely addressed.
- c) any signage allowed under such a plan shall not exceed 2.5 feet in width or 30% of the sidewalk width, whichever is less, and that the height of any such sign shall not exceed 4 feet in height. There shall not be any lighting allowed on the sign and the lettering shall be small enough not to be legible from automobile traffic on the street. The sign itself shall be moveable, shall not be attached in any way to the sidewalk, and shall not be chained or attached in any way to street furniture, other signs, street trees, other landscaping, or other fixtures or appurtenances on or in the sidewalk. Signs shall also not be placed on any section of the sidewalk in a way that narrows the effective width of the sidewalk for pedestrian movement purposes at that point to less than 6 feet. Upon approval of this plan, all signs located on the sidewalk in the area must conform with the plan. The plan is valid for a period of five years from the date of Development Review Board approval, and may be re-approved by DRB upon receipt of a new application which documents continued compliance with all conditions in this section, including those conditions which qualify the area for such signage.
- d) a license agreement (in the City) or an encroachment agreement (outside the City) allowing for such signs on the public right-of-way. As part of the license or encroachment agreement approval, each individual merchant desiring to utilize such signs, or, alternatively, the merchants association or community development agency representing

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such merchants collectively, shall produce a form of surety (insurance) acceptable to the City Engineering Department for sidewalks in the City, or the County Attorney and NCDOT for sidewalks outside the City, which protects the City, County, or State from any liability resulting from injury or property damage caused by any such sign.

- e) each sidewalk sign permitted under this section shall be maintained in good condition, shall be removed each day by the close of business, and be replaced or removed when the appearance or condition of the sign deteriorates through damage, weathering, etc.

## SECTION 2

That the Zoning Ordinance shall be renumbered to accommodate this change.

(Zoning Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

TC71-97: An amendment to establish standards for nonconforming towers for transmitting and receiving electronic signals.

Chairman Black opened the public hearing that was properly advertised.

Mr. Jack Steer, 2416 Dawn Trail, representing Friend of Durham, signed to speak at the public hearing but withdrew his name.

As no one else asked to speak, Chairman Black closed the public hearing and referred the matter back to the Commissioners for consideration.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve zoning ordinance amendment TC71-97.

The motion carried unanimously.

TC71-97

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO PROVIDE STANDARDS FOR NON-CONFORMING COMMUNICATION TOWERS

WHEREAS, the Durham Board of County Commissioners wishes to amend the Zoning Ordinance; and

WHEREAS, the ordinance establishes standards for towers for transmitting and receiving electronic signals; and

WHEREAS, additional standards addressing those towers which were legally erected but do not meet current regulations would improve the clarity of the ordinance; and

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WHEREAS, standards for towers will provide for the health, safety, and welfare of the citizens of Durham:

NOW, THEREFORE, BE IT ORDAINED THAT:

SECTION 1

That Section 7 of the Zoning Ordinance be revised to: [County Ordinance: add a new item to the Subsection titled: TOWERS FOR TRANSMITTING AND RECEIVING ELECTRONIC SIGNALS.] [City Ordinance: replace the existing item 3 at the end of the Subsection titled: TOWERS FOR TRANSMITTING AND RECEIVING ELECTRONIC SIGNALS.] with the following:]

"3. Requirements for nonconforming towers.

Continuation, relocation, and reconstruction of, and enlargements and modifications to towers and associated equipment that do not meet current requirements of this ordinance [*generally towers constructed prior to 8/95*] are subject to the requirements below in lieu of requirements regarding grandfathering and nonconforming structures found in Section 19 of this Ordinance. Provided the requirements below are met, a special use permit is not required. A site plan must be submitted for any relocation or reconstruction of a nonconforming tower.

A) increases in height shall not exceed 15% of the height of the tower as it existed in 1995, and shall not equal or exceed a height that would either require a major special use permit or would require the tower, if unlit, to add lights;

B) any relocation or structural change: i) must be on the tower's current site; ii) must eliminate the need for an additional tower or provide both additional co-location opportunities and additional antenna space beyond what is provided by the current tower; and iii) may not change the style of the tower, if the tower is currently a monopole;

C) any relocation must comply with current ordinance setback requirements, if physically possible, or, if compliance is not possible, the relocation must not increase the amount by which setbacks are nonconforming, other than increases necessitated solely by changes in size of the base to support the new tower. If the foregoing setback requirements cannot be met, then setbacks may only be decreased by up to 15% of the originally constructed tower height, which decrease must be considered by the Board of Adjustment as a variance, applying the criteria for expansion of existing structures under Section 16.4.1.

D) no structural change to a nonconforming tower may be made unless the tower, as modified, meets the requirements of 1A through D above (Requirements for all towers and associated equipment) regarding interference with radio and TV reception, lighting, and

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building code and ANSI requirements. Additional antenna and dishes may not be placed on nonconforming towers that do not meet such standards.

E) if a nonconforming tower is damaged to the degree defined in Section 19.7.1.b of this code, a replacement tower constructed on the same site or lot must meet all requirements of part B) of this subsection, may not exceed the height of the previous tower, and must comply with all requirements of the current ordinance, except the requirement for a use permit.

Any change to a nonconforming tower that does not meet the criteria set forth in 3 A) through E) above shall be considered a new tower subject to all current provisions of the ordinance, including use permit requirements.”

#### SECTION 2

That the ordinance be renumbered to accommodate this change.

#### SECTION 3

That this ordinance become effective upon adoption.

(Zoning Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

#### **Approval of County Contract with TROSA (Triangle Residential Options for Substance Abusers)**

The Department of Corrections has awarded \$106,000 to Durham County to purchase slots at TROSA to which the Court could probate Structured Sentencing Act offenders as part of the Durham Community-Based Corrections program. The grant requires that funds flow through Durham County, thus requiring the County to enter into a contract with TROSA to disburse the funds. Board approval is required to approve contracts for professional services exceeding \$20,000.

As reported to the Board of Commissioners on September 22, 1997, funds paid to TROSA will ultimately provide capital for the renovation of the former YE Smith School. This renovation will enable TROSA to use this building for additional residential capacity. TROSA requested that the County provide the entire grant fund at one time rather than on a reimbursement basis as required by the grant. The Board approved this request on September 22, 1997.

The County has written a contract with TROSA applying contractual conditions that protect the County from the risk of using its own funds to support TROSA endeavors not funded with discretionary funds.

Gudrun Parmer, Director of Community-Based Corrections, will monitor the program.

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Mr. Kevin McDonald, Judge Craig Brown, and Ms. Gudrun Parmer were resource persons for this item.

County Manager's Recommendation: Approve the contract with TROSA for \$106,000.

Chairman Black asked County Attorney Chuck Kitchen to address the item since the Commissioners have questions about the contract.

Judge Craig Brown discussed the grant proposal for the Commissioners. He answered several questions.

County Attorney Chuck Kitchen and County Manager David F. Thompson assisted with the questions and comments. Mr. Thompson said there is no liability to the County if the agreement is executed.

County Manager Thompson recommended approval of the contract.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the contract with TROSA for \$106,000.

The motion carried unanimously.

**Presentation—Triangle Transit Authority**

Jim Ritchey, General Manager, Triangle Transit Authority, gave the Commissioners a presentation on the Triangle Transit Authority's Annual Financial Report for the fiscal year ended June 1997 and Station Area Development Guidelines for Regional Transit Stations.

The Commissioners asked several questions about the proposal to which Mr. Ritchey responded.

No official action was taken on the presentation and reports.

**Department of Social Services--Receipt of Grant Funds For Work First Employment Transportation and Resolution to Approve Application for Work First/Employment Transportation Operating Assistance**

The North Carolina Department of Transportation (NCDOT) has awarded grant funding to North Carolina counties to assist with the employment transportation needs of Work First recipients. A budget amendment is needed to recognize \$23,086 for the Department of Social Services. These funds are part of a base allocation awarded to all counties that is

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anticipated to continue in future years. In addition, counties are encouraged to apply for demonstration funds for additional operating assistance.

As required by the grant, representatives from the County Manager's office, the Department of Social Services, and the Coordinated Transportation program met to jointly determine the appropriate local entities to receive funds from the County for the base allocation and for demonstration projects. A resolution approving the County's proposals must be adopted by the Board of County Commissioners.

Using base allocation funds, Laidlaw Transit Services Inc., Durham Area Transit Authority, and Operation Breakthrough will be contracted to provide van services to approximately 30 recipients (20 adults and 10 children). Van services will be provided to employment sites in the Research Triangle Park and to the Center for Employment Training (CET) also located in Research Triangle Park. Operation Breakthrough, specializing in transportation for children, will transport children by van to child care sites. The funds are available through September 1998.

The Department of Social Services is also applying for one-time demonstration funds of \$36,960 to provide transportation for a unique work training program offered by TROSA and the Department of Mental Health for substance abusers who are also Work First recipients.

Dan Hudgins, DSS Director, and representatives from Laidlaw Transit Services Inc. were present to answer questions.

County Manager's Recommendation: Adopt the resolution approving the transportation proposals for base allocation and demonstration funds for submission to NCDOT. In addition, approve the budget amendment as recommended (98BCCC000028).

Chairman Black asked Mr. Hudgins to present the agenda item.

The County Commissioners asked several questions about the transportation proposals for base allocation and demonstration funds to which Mr. Hudgins responded.

Mr. Tim McCann, representing Laidlaw Transit Services Inc., assisted with answering the questions.

Mr. Ritchey also answered questions.

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, to approve the agenda item by adopting the resolution and budget ordinance amendment.

The motion carried unanimously.

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The resolution and budget ordinance amendment follow:

APPLICANT SEEKING PERMISSION TO APPLY AND ACCEPT SFY 1997-98  
WORK FIRST/EMPLOYMENT TRANSPORTATION OPERATING FUNDS

A motion was made by Board of County Commission member William V. Bell and seconded by Vice-Chairman Ellen W. Reckhow for the adoption of the following resolution and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the purpose of these transportation funds is to support transitional transportation needs of Work First participants after eligibility for cash assistance has concluded and/or other employment transportation needs; and

WHEREAS, the SFY 1997-98 funds are available for eligible program costs for the period specified by the North Carolina Department of Transportation; and

WHEREAS, the Durham County Board of Commissioners has approved the local entity(s) designated to receive the operating allocation for Work First and employment transportation; and

WHEREAS, the Durham County Board of Commissioners hereby assures and certifies that it will comply with state statutes, executive orders, and all administrative requirements which relate to applications made to and assistance received from the North Carolina Department of Transportation for the Work First/Employment Transportation Operating Funds program:

NOW, THEREFORE, BE IT RESOLVED that the Durham County Board of Commissioners hereby submits an application for FY 1997-98 Work First/Employment Transportation Operating Assistance Program funds for use by the designated local entity(s) and assures that it will provide to the North Carolina Department of Transportation information regarding the use of the funds at such time and in such manner as the Department may require.

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I, Garry E. Umstead, CMC, Clerk to the Board, do hereby certify that the above is a true and correct copy of an excerpt of the minutes of a meeting of the Durham County Board of Commissioners duly held on the 23<sup>rd</sup> day of February, 1998.

February 23, 1998

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

Subscribed and sworn to me on 2-24-98  
/s/ Susan B. Page  
Notary Public

Durham County Government Administrative Complex  
200 East Main Street, Durham, NC 27701

My commission expires on 12-20-2000.

DURHAM COUNTY, NORTH CAROLINA  
FY 1997-98 Budget Ordinance  
Amendment No. 98BCC000028

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1997-98 Budget Ordinance is hereby amended to reflect budget adjustments for Durham County Department of Social Services.

GENERAL FUND

|                     | <u>Current</u><br><u>Budget</u> | <u>Increase</u> | <u>Decrease</u> | <u>Revised</u><br><u>Budget</u> |
|---------------------|---------------------------------|-----------------|-----------------|---------------------------------|
| <u>Revenues</u>     |                                 |                 |                 |                                 |
| Intergovernmental   | \$174,500,511                   | \$23,086        |                 | \$174,523,597                   |
| <u>Expenditures</u> |                                 |                 |                 |                                 |
| Human Services      | \$206,740,321                   | \$23,086        |                 | \$206,763,407                   |

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

This the 23<sup>rd</sup> day of February, 1998.

(Budget Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

**Resolution--Approve Application for Public Transportation Funding to Purchase Capital Equipment and to Fund Administrative Expenses Associated with Coordinated Transportation**

Annually, the County applies for grant funding through the NC Department of Transportation (NCDOT) to purchase vehicles and to subsidize administrative costs

**February 23, 1998**

associated with the Coordinated Transportation program. NCDOT, streamlining its grant processes, has combined the capital (formerly Section 5311) and operating (formerly the Human Service Transportation Management Program) grants into a single application package called the Community Transportation Program Grant. The program grant has also been redesigned to promote NCDOT's Transit 2001 initiatives that call for meeting the transportation needs of the entire community. As an effort toward this initiative, the County has requested technical assistance and funding support from the Department of Transportation (a separate request) to conduct a community-wide strategic transportation plan. At this time, the NCDOT is exploring the possibility of conducting a regional study that will include Durham, Wake, and Orange Counties and Triangle Transit Authority.

Laidlaw Transit Services Inc., the contractor for Coordinated Transportation services, has prepared the FY 1998-99 grant application for the administrative costs and replacement of three vehicles and an outdated communication system.

Board approval was required to submit this grant application. The funds requested total \$173,583. Of this amount, \$19,446 was required as local match. An additional \$2,400 was needed to pay for road use fees and license tags on the vehicles as required by the state.

The local match needed for the Community Transportation Program Grant will decrease from \$44,200 to \$21,846 in the subsequent fiscal year primarily because a large number of vehicles were replaced and added to the Coordinated Transportation fleet in this current year. Thus, fewer vehicles were requested for FY 1998-99. In addition, a lower local match was required for administrative support (15 percent versus current year local match of 25 percent).

Representatives from Laidlaw Transit Services Inc. were present to answer questions.

County Manager's Recommendation: Adopt the resolution approving Durham County to submit the FY99 Community Transportation Program Grant application to the State of North Carolina. Commit \$21,846 for inclusion in the County's FY98 budget to meet the local match requirements and the required state road use and tag fees.

Ms. Bing Roenigk and Mr. Tim McCann, representing Laidlaw Transit Services Inc., gave the Commissioners an overview of the resolution and funding proposal request.

The Commissioners asked questions and made comments about the agenda item.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to adopt the resolution approving Durham County to submit the grant application and commit \$21,846 for inclusion in the County's Fiscal Year 98 Budget.

February 23, 1998

The motion carried unanimously.

RESOLUTION

Applicant Seeking Permission to Apply for CTP Funding,  
Enter Into Agreement With the North Carolina Department of Transportation,  
and to Provide the Necessary Assurances.

A motion was made by Vice-Chairman Reckhow and seconded by Commissioner Bowser for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation has received a grant from the U.S. Department of Transportation, Federal Transit Administration, and funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services; and

WHEREAS, the County of Durham hereby assures and certifies that it will comply with the federal and state statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements which relate to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U.S.C.:

NOW, THEREFORE, BE IT RESOLVED that Chairman MaryAnn E. Black of the Durham County Board of Commissioners is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications, and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

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I, Garry E. Umstead, CMC, Clerk to the Board, do hereby certify that the above is a true and correct copy of an excerpt of the minutes of a meeting of the Durham County Board of Commissioners duly held on the 23<sup>rd</sup> day of February, 1998.

/s/ Garry E. Umstead

February 23, 1998

Clerk, Board of Commissioners  
County of Durham

Subscribed and sworn to me on 2-24-98

/s/ Susan B. Page

Notary Public

Durham County Government Administrative Complex  
200 East Main Street, Durham, NC 27701

My commission expires on 12-20-2000.

**Insurance Brokerage/Consultant Contract**

The County Manager requested Board approval to negotiate and enter into a service agreement with J & H Marsh & McLennan Inc. for insurance brokerage/consultant services. This is a three-year contract. Cost of services will be \$22,500 to \$32,500 annually. Cost of the contract is not to exceed \$32,500 annually.

**Scope of Service:**

Assist in preparing insurance applications.

Process Certificates of Insurance.

Process bonds, auto identification cards, and motor vehicle report requests.

Issue binders prior to expiration to current policies.

Place General Liability Policy, Property Policy, Workers' Compensation Excess, Medical Malpractice, and any other requested coverage.

Maintain an updated schedule of insurance.

Review Loss Runs with County Risk Manager.

Check the accuracy of audits, rating adjustments, and dividend calculations.

Claims administration; loss analysis, trends, recommend and coordinate special loss control services.

Negotiate with underwriters on behalf of the County, monitor third-party claims, and provide reports.

Review experience modification.

Evaluate reserves and seek decreases where warranted.

**Summary of Procedure:**

A committee comprising Susan Fox-Kirk, Assistance Finance Officer; Chuck Kitchen, County Attorney; Donald Sherrod, Human Resource Benefits Administrator; and Steve Walters, Budget Officer, reviewed the six responses received from our Request for Qualification for insurance broker/consultant.

**February 23, 1998**

The three finalists interviewed were: Aon Corp., AJ Gallagher, and J & H Marsh & McLennan. The committee chose J & H Marsh & McLennan as having the best qualifications.

The resource person for this item was Leonard H. Bois.

**County Manager's Recommendation:** The Manager recommends approval.

Len Bois, Risk Manager, gave the Commissioners a presentation on the County Manager's request to negotiate and enter into a Service Agreement with J & H Marsh & McLennan Inc. for insurance brokerage/consultant services.

Commissioner Heron moved, seconded by Commissioner Bell, to approve the contract with J & H Marsh & McLennan.

The motion carried unanimously.

### **JTPA Reorganization Plan and Service and Substate Area Redesignation**

The Job Training Partnership Act (JTPA) is a federally-funded program administered at the state level through the Division of Employment and Training, locally funded by the City of Durham, and guided by a jointly appointed Workforce Development Board. To comply with direction from the state division of Employment and Training, the Workforce Development Board seeks the signature of the Chair of the Board of County Commissioners on three documents as follows:

1. A reorganization/corrective action plan developed and approved by the Workforce Development Board in response to deficiencies noted from a performance review;
2. A form redesignating Durham County as a Service Delivery Area for 1998-2000 in order to continue receiving Job Training Partnership Acts Funds; and
3. A form redesignating the Employment Security Commission as the Substate Grantee for the receipt of Job Training Partnership Act Title III (Dislocated Worker) funds.

Per state designation, these documents must be and already have been signed by the Mayor, the City Manager, and the Chairman of the Workforce Development Board.

Dr. Toby Kahr, Workforce Development Board Chairman, and Ms. Sharon S. Baker, Durham Employment and Training Program (JTPA) Director, were available to address any questions.

**County Manager's Recommendation:** Authorize the Chairman of the Board of County Commissioners to sign off on JTPA Reorganization/Corrective Action Plan and Service Delivery Area and Substate Grantee Redesignations.

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Ms. Baker gave the Commissioners an overview of the JTPA reorganization plan and service and substate area redesignation.

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, to authorize the Chairman of the Board of County Commissioners to sign off on JTPA Reorganization/Corrective Action Plan and Service Delivery Area and Substate Grantee Redesignations.

The motion carried unanimously.

### **Willow Hill Sewer Concerns**

Commissioner Bowser visited the Willow Hill subdivision to observe the community's sewer problems. He was surprised to see the intensity of the problems. He urged the Commissioners to take corrective action to address the situation.

County Manager David F. Thompson said this is the number one sewer project on the master list. It has already been certified by the Public Health Department as a health problem. The City will participate with the County in building the sewer line.

Ms. Jill Packard, 5502 Genesee Drive, and Ms. Kathy Lucas showed the Commissioners photographs of the sewer problems in the subdivision.

Chairman Black asked the County Manager to look into the problems and get in touch with her tomorrow.

County Manager Thompson stated he would prefer Ms. Packard talk with Chuck Hill since he coordinates the sewer plan and will bring it forward to the City and County. Mr. Hill will be asked to come to the March 9, 1998 Regular Session to give the Board a calendar of events for this project. If the Commissioners are ready to authorize the project, staff is ready to bring it forward.

The Commissioners had a general discussion about the Willow Hill Subdivision sewer project.

### **Public Consulting Group Inc. Contract**

County Attorney Chuck Kitchen said the County has been billed approximately \$23,000 based on the contract. The company has incurred essentially all of the \$100,000 previously authorized. The County needs to extend the contract. An additional \$75,000 is needed for completion. The company will continue to bill on an hourly rate.

**February 23, 1998**

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, that the Commissioners approve the item to appropriate from contingency up to \$75,000 for consulting work performed by Public Consulting Group Inc.

The motion carried unanimously.

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 1997-98 Budget Ordinance  
Amendment No. 98BCC000030

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1997-98 Budget Ordinance is hereby amended to reflect budget adjustments for nondepartmental budget.

**February 23, 1998**

**GENERAL FUND**

|                     | <u>Current<br/>Budget</u> | <u>Increase</u> | <u>Decrease</u> | <u>Revised<br/>Budget</u> |
|---------------------|---------------------------|-----------------|-----------------|---------------------------|
| <u>Expenditures</u> |                           |                 |                 |                           |
| General Government  | \$16,320,434              | \$75,000        |                 | \$16,395,434              |
| Nondepartmental     | \$ 2,847,684              |                 | \$75,000        | \$ 2,772,684              |

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

This the 23<sup>rd</sup> day of February, 1998.

(Budget Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

**Adjournment**

Chairman Black adjourned the meeting at 9:23 p.m.

Respectfully submitted,

Garry E. Umstead, CMC  
Clerk to the Board