

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

Monday, February 28, 2000

6:30 P.M. – 7:15 P.M.

Closed Session

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to adjourn into Closed Session pursuant to G.S. § 143-318.11(a)(6) in order to discuss a personnel matter.

The motion carried unanimously.

7:15 P.M. Regular Session

MINUTES

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

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

Absent: None

Presider: Chairman Black

Opening of Regular Session

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

Agenda Adjustments

County Attorney Chuck Kitchen requested that item No. 9(k), "Second Approval—Ambulance Franchise Request for AAA Transport Service," be added to the consent agenda.

Chairman Black requested that a resolution for the National Association for the Advancement of Colored People (NAACP) be added to the agenda.

Minutes

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the January 3, 2000 Worksession Minutes of the Board as corrected and the January 10, 2000 Regular Session Minutes of the Board as submitted.

The motion carried unanimously.

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Resolution Honoring David F. Thompson

A resolution honoring outgoing County Manager David F. Thompson was prepared. Mr. Thompson joined Durham County on May 6, 1996 and will leave on March 3, 2000.

Chairman Black said the Board of County Commissioners and the Durham Chamber of Commerce will hold a reception on Tuesday, February 29, 2000 in the Commissioners' Chambers for the outgoing County Manager. Everyone is invited.

Chairman Black read the resolution into the record.

RESOLUTION

WHEREAS, David F. Thompson began his affiliation with Durham County Government in May 1996 when he was hired as County Manager; and

WHEREAS, he quickly became recognized for his insightful leadership skills and strong professional abilities; and

WHEREAS, early in his tenure David Thompson took the unusual step of temporarily moving his office to the Holloway Street School for one week, to learn personally more about the services provided to residents of the area known as Northeast Central Durham, in an effort to improve human service delivery to those residents; and

WHEREAS, in September 1996, he managed and directed the County's response to Hurricane Fran, one of this community's most devastating natural disasters, and during his tenure was also challenged to coordinate the response to several other natural disasters including a tornado in northern Durham County, Hurricane Floyd, and the most recent record-setting snow storm earlier this year; and

WHEREAS, David Thompson championed a philosophy of promoting from within the ranks of County government, and implemented a progressive, pay-for-performance pay plan which allows employees to move through the range during their tenure; and

WHEREAS, continuous staff training and development, particularly in the area of customer service, were hallmarks of his leadership; and

WHEREAS, he successfully negotiated the complicated lease agreement between Durham Regional Hospital and Duke University Health System which was approved by the Board of County Commissioners in 1998; and

WHEREAS, David Thompson instituted the idea of doing a higher level of business with local companies and directed the unique banking partnership involving Durham Public Schools and the City and County of Durham with hometown financial institutions Central Carolina Bank and Mechanics & Farmers Bank; and

WHEREAS, he was actively involved in many community organizations including Durham Rotary, Board of Directors of Triangle United Way, and Downtown Durham Inc.:

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

DAVID F. THOMPSON

for dedicated service to Durham County Government as County Manager from May 1996 - 3March 2000. He will long be remembered for his visionary and innovative leadership style and for the invaluable contributions he has made to improve the quality of life for the Durham community. We wish for him a wealth of success as he begins a new career in the private sector.

This the 28th day of February, 2000.

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/s/ Five Commissioners

Durham County Commissioners

Chairman Black presented the resolution to outgoing County Manager David F. Thompson.

Mr. Thompson made remarks about the County Manager's position and Durham County. He thanked the Board for the honor and recognition.

The Commissioners made remarks to County Manager Thompson and they thanked him for his service.

Resolution Honoring Mr. Gary Hock

A resolution honoring Mr. Gary Hock was prepared at the request of Commissioner MaryAnn Black. For many years, Mr. Hock has faithfully shared his resources during the holidays to help children, primarily those who live in the Oxford Manor neighborhood.

County Manager's Recommendation: Present the resolution to Mr. Hock and extend sincere congratulations to him for his efforts to bring smiles to so many children in this community.

Chairman Black read the resolution into the record.

RESOLUTION

WHEREAS, Gary M. Hock believes in a philosophy of helping others in need, most especially children and young people; and

WHEREAS, his company Hock Development Corporation has enjoyed success in the Durham area, and Mr. Hock firmly views it as a pleasure and a responsibility to "give back" to others in this community; and

WHEREAS, for many years he has generously shared his resources with children in need, with the hope that giving of time and resources will positively impact the children; and

WHEREAS, Mr. Hock most recently presented 400 families in Oxford Manor with various gifts, computer software, and scholarships in the spirit of Christmas; and

WHEREAS, he particularly helps residents of Oxford Manor because it is close to his business and he wants to help those in his neighborhood; and

WHEREAS, Mr. Hock's kindness is further demonstrated by the fact that he serves on the Board of a Virginia orphanage, where he also donates gifts to children; and

WHEREAS, those who know him well understand that, for him, providing a helping hand to others is truly a labor of love performed by a kind and caring gentleman:

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

GARY M. HOCK

for many years of generosity, and for unselfishly donating considerable time and resources to those in need in the Durham community.

This the 28th day of February, 2000.

/s/ Five Commissioners

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Mr. Hock made remarks of appreciation for the recognition.

Daniel C. Hudgins, Director of Social Services, spoke about the toys and gifts Mr. Hock gave the foster care children during the holiday season. He also talked about the fund Mr. Hock helped Social Services establish to give every foster care child a suitcase.

Chairman Black and the Commissioners thanked Mr. Hock for the many things he does for the children in Durham throughout the year.

Resolution—National Association for the Advancement of Colored People

Commissioner Bowser read the resolution into the record.

RESOLUTION

WHEREAS, Since 1909, the National Association for the Advancement of Colored People (NAACP) has devoted its actions to making democracy work; and

WHEREAS, the organization is built on, and has survived because of the collective courage of thousands of people of all races who are united on a single premise—that all men and women are created equal; and

WHEREAS, over the years, the nation's oldest civil rights organization has steadfastly worked to change the face of history by:

- Bringing successful court challenges to address social injustice, inequalities in education, employment, housing, and more,
- Pressing the issues, which led to the passing of the Civil Rights Act and the Voting Rights Act, and
- Most recently, bringing forward an initiative to increase opportunities for people of color with the national broadcast networks; and

WHEREAS, the Durham Branch of the NAACP has been an especially active local arm of this organization, and through committed, visionary leadership has worked tirelessly for generations to ensure the political, educational, social, and economic equality of minorities in the Durham community and beyond; and

WHEREAS, the Durham Branch annually hosts the “Freedom Fund Banquet” during which time the organization honors a community “trailblazer” who has proven to be a highly skilled leader, and has made unique and significant contributions over time; and
WHEREAS, through the Durham Branch NAACP Youth Council, young people learn skills necessary to become good leaders, as well as the importance of being socially and politically involved in one's community; and

WHEREAS, the Durham Branch continues to hold high the ideals of the NAACP, and seeks to build coalitions with other like-minded organizations in Durham to make sure that our community values its diversity and respects all people:

NOW, THEREFORE BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby salute the

“DURHAM BRANCH OF THE NAACP”

during this Black History Month for working to bring positive change through the years, and for making significant contributions to the quality of life for all in the Durham community. We further urge all residents of Durham County to join in saluting this outstanding organization for the many accomplishments it has made during its rich history.

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This the 28^h day of February, 2000.

/s/ Five Commissioners
Durham County Commissioners

Proclamation for “National School Breakfast Week”

A proclamation was prepared recognizing “National School Breakfast Week” during March 6–March 10. Ms. Tracey Bates, MPH, RD, LDN of the Public Health Department’s Nutrition Division, was present to make remarks and say a few words about the events scheduled during that week.

County Manager's Recommendation: Approve the proclamation for “National School Breakfast Week,” and present a copy to Ms. Tracey Bates.

Chairman Black read the proclamation into the record.

PROCLAMATION

WHEREAS, since 1989, the American School Food Service Association has sponsored National School Breakfast Week to raise awareness of and to increase participation in the School Breakfast Program; and

WHEREAS, numerous reports point to the fact that starting the day with a healthy breakfast helps a student’s academic performance; and

WHEREAS; students throughout the Durham community will participate in activities aimed at celebrating National School Breakfast Week during the week of March 6-10; and

WHEREAS, this year’s theme, “School Breakfast—A Great Adventure,” seeks to raise awareness of and participation in the School Breakfast Program, and further encourages schools to promote the program; and

WHEREAS, students at Chewning, Neal, and Rogers-Herr Middle Schools will use their talents and creative energy to decorate the cafeterias using the national theme, and prizes will be awarded for the greatest participation in school breakfast during the week:

NOW, THEREFORE BE IT RESOLVED that I, MaryAnn E. Black, Chairman of the Durham County Board of Commissioners, do hereby proclaim the week of March 6-10, 2000 as

“NATIONAL SCHOOL BREAKFAST WEEK”

in Durham County, and hereby urge all citizens to recognize and support this observance. I further ask all citizens to support the idea of a wholesome morning meal and the role breakfast plays in helping all children have healthy and fulfilling daily lives.

This the 28th day of February, 2000.

/s/ MaryAnn E. Black, Chairman
Durham County Board of Commissioners

Ms. Bates made remarks about the “National School Breakfast Week” program and purpose.

Announcement

Vice-Chairman Reckhow announced that the Commissioners have been invited to the Health Department at 8:30 a.m. tomorrow to learn about the school nursing program.

Consent Agenda

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

- * (a) Street Annexation Petition—Gray Hawk Trail (Gray Hawk Subdivision) (adopt the resolution to approve the addition of Gray Hawk Trail to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation);
- * (b) State Applicant Disaster Agreement & Designation of Applicant's Agent Form (approve Carolyn Titus, Deputy County Manager, as the agent for the County of Durham in the agreement with the North Carolina Department of Emergency Management. Designating an agent allows the County of Durham to move forward in the process to receive public assistance from the North Carolina Department of Emergency Management regarding the Presidential Emergency Declaration Severe Snow Storm FEMA 1312-DR-NC);
- (d) Standard Non-Reimbursable Utility Contract for Extension of the County Sanitary Sewer System--Page Moor Subdivision (authorize the execution of the utility contract for this addition to the County sanitary sewer system);
- * (e) Budget Amendment No. 00BCC000035 to Recognize an Increase in Intergovernmental Revenues due to Revised State Allocation Figures (approve Budget Amendment No. 00BCC000035 in the amount of \$211,459 to increase The Durham Center budget to reflect the State's FY99-00 allocation. This is the annual budget reconciliation with The Durham Center and the State Division of Mental Health);
- * (f) Offer to Purchase County Property (118 & 110 Plantation Drive) (pursue the upset bid process at this time. The Board will have the authority to accept or reject any offer at the conclusion of the upset bid process as it so desires);
- * (g) Resolution to Release Funds to Triangle J Council of Governments (approve the resolution on the consent agenda since it requires no local appropriation and it is an annual action);
- * (h) Budget Amendment No. 00BCC000038 to Accept New DSS Revenues for Unified Child Care Subsidy System (approve Budget Amendment #00BCC000038 for DSS to accept new revenues in the amount of \$150,000 from the Durham Partnership for Children [Smart Start] for the Unified Child Care Subsidy System);
- (i) Lease Agreement for the Department of Social Services (DSS) for the Unified Child Care Subsidy System (authorize the execution of a 39-month lease with Mechanics and Farmers Bank for 5,757 square feet of space at 2634 Chapel Hill Boulevard, Durham, NC at an annual rate of \$48,528.00 to house the unified child care subsidy system); and
- (k) Second Approval—Ambulance Franchise Request for AAA Transport Service.

The motion carried unanimously.

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*The documents related to these items follow:

Consent Agenda 9(a). Street Annexation Petition—Gray Hawk Trail (Gray Hawk Subdivision) (adopt the resolution to approve the addition of Gray Hawk Trail to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation) follows:

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

North Carolina

County of Durham

Road Description: Gray Hawk Trail (Gray Hawk subdivision) Rougemont

WHEREAS, the attached petition has been filed with the Durham Board of County Commissioners 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 Durham Board of County Commissioners 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 Durham Board of County Commissioners at a meeting on the 28th day of February, 2000.

Witness my hand and official seal this the 29th day of February, 2000.

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

*In the office of the Clerk to the Board.

Consent Agenda 9(b). State Applicant Disaster Agreement & Designation of Applicant's Agent Form (approve Carolyn Titus, Deputy County Manager, as the agent for the County of Durham in the agreement with the North Carolina Department of Emergency Management. Designating an agent allows the County of Durham to move forward in the process to receive public assistance from the North Carolina Department of Emergency Management regarding the Presidential Emergency Declaration Severe Snow Storm FEMA 1312-DR-NC) follows:

DESIGNATION OF APPLICANT'S AGENT

RESOLUTION

BE IT RESOLVED BY the Board of Commissioners of the County of Durham that Carolyn Titus, Deputy County Manager, is hereby authorized to execute for and in behalf of the County of Durham, a public entity established under the laws of the State of North Carolina, this application and to file it in the appropriate State office for the purpose of obtaining certain federal financial assistance under the Disaster Relief Act (Public Law 288, 93rd Congress) or otherwise available from the President's Disaster Relief Fund.

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THAT the County of Durham, a public entity established under the laws of the State of North Carolina, hereby authorizes its agent to provide to the State and to the Federal Emergency Management Agency (FEMA) for all matters pertaining to such Federal disaster assistance the assurances and agreements printed on the reverse side hereof.

Passed and approved this 28th day of February, 2000.

/s/ MaryAnn E. Black, Chairman
Durham County Board of Commissioners

/s/ Carolyn P. Titus
Deputy County Manager

Consent Agenda 9(e). Budget Amendment No. 00BCC000035 to Recognize an Increase in Intergovernmental Revenues due to Revised State Allocation Figures (approve Budget Amendment #00BCC000035 in the amount of \$211,459 to increase The Durham Center budget to reflect the State's FY99-00 allocation. This is the annual budget reconciliation with The Durham Center and the State Division of Mental Health).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 1999-2000 Budget Ordinance
Amendment No. 00BCC000035

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1999-2000 Budget Ordinance is hereby amended to reflect budget adjustments for Mental Health.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$207,768,771	\$211,459		\$207,980,230
<u>Revenues</u>				
Intergovernmental	\$174,808,953	\$211,459		\$175,020,412

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

This the 28th day of February, 2000.

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

Consent Agenda 9(f). Offer to Purchase County Property (118 & 110 Plantation Drive) (pursue the upset bid process at this time. The Board will have the authority to accept or reject any offer at the conclusion of the upset bid process as it so desires).

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in the City of Durham, Durham County, North Carolina and properly described as follows:

118 and 110 Plantation Drive
Parcel #831-04-003 and 831-04-004

WHEREAS, Emmett Caldwell has made an offer to the County to purchase the above property for \$8,500.00 and has made a bid deposit in the amount of \$1000.00 which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the

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amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within ten days after the date the notice is published;
3. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
4. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
5. When the bid has been successfully raised (upset), the new bid becomes the current offer;
6. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
7. When the bid has been successfully raised (upset), the procedure is repeated;
8. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
9. Should the Board of County Commissioners accept the final qualifying offer, a nonwarranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on February 28, 2000.

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

Consent Agenda 9(g). Resolution to Release Funds to Triangle J Council of Governments (approve the resolution on the consent agenda since it requires no a local appropriation and it is an annual action) follows:

RESOLUTION

Whereas, in North Carolina the Lead Regional Organizations, as voluntary organizations serving municipal and county governments, have established productive working relationships with the cities and counties across the state; and

Whereas, the General Assembly continued to recognize this need through the appropriation of \$990,000 to help the Lead Regional Organizations assist local governments with grant applications, economic development, community development, and to support local industrial development activities and other activities as deemed appropriate by their local governments; and

Whereas, these funds are not intended to be used for payment of members' dues or assessments to Lead Regional Organizations or to supplant funds appropriated by the member governments; and

Whereas, in the event that a request is not made by a unit of government for release of these funds to our Regional Council, the available funds will revert to the State's General Funds; and

Whereas, in Region J funds in the amount of \$55,000 will be used to carry out the economic development plan approved by the COG Board of Delegates and especially to improve the economy of the counties and towns of the Region by strengthening ties to, and consequently, the benefits of the Research Triangle Park:

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NOW, THEREFORE, BE IT RESOLVED that Durham County requests the release of its \$2730.34 share of these funds to the Triangle J Council of Governments at the earliest possible time in accordance with the provisions of Section 16.27 of House Bill 168, the 1999 ratified budget bill. Adopted this 28th day of February, 2000 at 7:30 p.m.

/s/ MaryAnn E. Black, Chairman
Durham County Board of Commissioners

/s/ Garry E. Umstead
Clerk to the Board

Consent Agenda 9(h). Budget Amendment No. 00BCC000038 to Accept New DSS Revenues for Unified Child Care Subsidy System (approve Budget Amendment #00BCC000038 for DSS to accept new revenues in the amount of \$150,000 from the Durham Partnership for Children [Smart Start] for the Unified Child Care Subsidy System).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 1999-2000 Budget Ordinance
Amendment No. 00BCC000038

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1999-2000 Budget Ordinance is hereby amended to reflect budget adjustments for the Department of Social Services.

GENERAL FUND

	<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
<u>Expenditures</u>				
Human Services	\$207,980,230	\$150,000		\$208,130,230
<u>Revenues</u>				
Intergovernmental	\$175,020,412	\$150,000		\$175,170,412

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

This the 28th day of February, 2000.

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

Consent Agenda Items Removed for Discussion

Consent Agenda 9(c). Establish Pay As You Go Project and Approve the Architectural Design Services Contract With DTW Architects and Planners, Ltd. for the Expansion and Renovation of the Shelter for H.O.P.E. (establish the Homeless Shelter pay as you go project in the amount of \$140,000 [00CPA000011] and authorize the execution of an architectural services contract with DTW Architects and Planners, Ltd., in the amount of \$108,000).

Chairman Black removed this consent agenda item for discussion. She commented that Dr. Barnes and others with the Holloway Street Historic District Neighborhood Association would meet with the Shelter for H.O.P.E. Board of Directors to discuss the renovation plan and to talk about problems the neighbors are having with the homeless people.

Wendell Davis, Deputy County Manager, talked about the discussions he had with the Executive Committee concerning issues raised about the expansion and renovation of the shelter.

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Consent Agenda 9(j). New Hope Creek Open Space Acquisition (approve the 37.5-acre acquisition [PIN #0800-01-25-0443] as an important addition to the County's New Hope Creek Corridor open space project).

Commissioner Bowser pulled this item to ask a question about the transition cost incurred to get the land in the County's name.

Jane Korest, Senior Planner, and County Manager Thompson responded to the questions and comments.

Commissioner Bowser moved, seconded by Commissioner Bell, to approve consent agenda items 9(c) and 9(j).

The motion carried unanimously.

Consent Agenda 9(c). The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 1999-2000 Capital Projects Budget Ordinance
Amendment No. 00CPA0000011

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1999-00 Capital Projects Budget Ordinance is hereby amended to reflect budget adjustments for the Homeless Shelter pay-as-you-go project.

PAYG FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
Homeless Shelter	\$ -0-	\$140,000		\$140,000

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

This the 28th day of February, 2000.

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

Public Hearing on Commute Trip Reduction Program

The Board was requested to hold a public hearing and receive comments on the proposed Commute Trip Reduction Program. The proposed Program was modified slightly since the February Worksession when it was presented to the Board. The modifications are primarily to clarify the first goal in the community goals section. The first change makes it clear that the goal is to measure the use of other than single occupancy vehicles during peak commute hours. The second minor change reflects the desirability and possibility that additional communities will join in this program. To accommodate this, the advisory board membership may grow to 20 members with the inclusion of additional communities. The remainder of the program remains unchanged as a primarily voluntary program.

Resource Person(s): Ellen Reckhow, Vice-Chairman, BOCC; Kennon Borden, Co-Chair of the TDM Committee; Mary Clayton, Parsons Brinckerhoff; and Chuck Kitchen, County Attorney.

County Manager's Recommendation: Hold the public hearing and adopt the program if the Board feels it is justified based on the information received.

Vice-Chairman Reckhow began by recognizing members and staff of the TDM Committee. She thanked the members and staff for their work on this project. She talked about the necessity of the TDM program.

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Vice-Chairman Reckhow asked Mary Clayton, consultant, to give a brief overview of the plan, and Mark Ahrendsen, City of Durham Transportation Department, to give a brief overview of the Trip Reduction Program.

Janet D'Ignazio, representing the North Carolina Department of Transportation, talked about transportation in North Carolina. She encouraged the Commissioners to continue on this path and reach out to the partners in this region including the North Carolina Department of Transportation.

Chairman Black opened the public hearing that was properly advertised.

The following citizens spoke at the public hearing in strong support of the TDM plan and the Trip Reduction Program. They urged the Commissioners to adopt the plan.

Thad Howard, 1422 Vanguard Place, Durham, NC 27713 (Sierra Club)

Stacy Shelp Peck, 5307 Greyfield Blvd., Durham, NC 27713 (Be Active North Carolina)

Daniel Mulvihill, 8212 Hob House Circle, Raleigh, NC (DHHS, Public Health Employee)

Mark Gorman, 4001 Chapel Hill, NC (Research Triangle Owners & Tenants Assoc.)

Pat Bocckino, 7340 Abron Drive, Durham, NC 27713

Patrick Byker, 2614 Stuart Drive, Durham, NC (Chamber of Commerce)

Brian J. Morton, 4417 Sunny Court, Durham, NC 27705 (Environmental Affairs Board)

James Emery, 1305 Glendale Ave., Durham, NC 27701 (UNC School of Public Health)

Mike Shiflett, 1111 Oakland Ave., Durham, NC 27705 (Neighborhood Council)

Elizabeth (Libby) Puckett, 3935 Northampton Road, Durham, NC 27707 (NC Public Health)

Edward Harrison, 58 Newton Drive, Durham, NC (Southern Durham)

Kennon Borden, 613 Constitution Drive, Durham, NC 27705 (Business Development)

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

Comments were received from the Commissioners.

Vice-Chairman Reckhow said she hopes the County can access new funding from the state in the next year or two. We are developing several new plans that will probably require new resources. That will be very important to move the alternative efforts forward. The remarks are for the public record.

Vice-Chairman Reckhow said County Manager Thompson is working on a TDM plan for Durham County. We want to set the pace for the rest of the community and lead the way with a strong effort with our own employees.

Chairman Black said for the record that the UNC School of Public Health is willing to help with the TDM plan.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to adopt the TDM plan and the Trip Reduction Program.

The motion carried unanimously.

The Commute Trip Reduction Program Ordinance follows:

COMMUTE TRIP
REDUCTION PROGRAM

WHEREAS, traffic congestion in Durham County has created, and will continue to create highways that are overcrowded and present a danger to the health, safety, and welfare of citizens; and

WHEREAS, ozone levels in Durham County have reached increasingly unhealthy levels, especially during the summer months, leading to the probable violation of federal air quality standards; and

WHEREAS, Session Law 1999-328 sets a goal for the State of North Carolina to reduce emissions of nitrogen oxides from all sources by at least 25 percent by July 1, 2009 and to reduce the growth of vehicle miles traveled in the State of North Carolina by at least 25 percent of that growth that would otherwise occur by July 1, 2009; and

WHEREAS, pursuant to N.C.G.S. §§ 153A-121 and 153A-134, the Board of Commissioners has the authority to regulate businesses and employers located in the County of Durham; and

WHEREAS, the Board of Commissioners has determined that it is necessary to mitigate the impact of traffic by regulating businesses which produce significant levels of traffic and congestion due to the number of employees working for the businesses; and

WHEREAS, in order to provide for an orderly process, and due to limited resources to operate the program, it is necessary for the implementation of this program to cover more than one fiscal year:

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOETH ORDAIN:

1) That the Durham County Code of Ordinances is hereby amended by adding an article, to be numbered Article V. of Chapter 24, which article reads as follows:

Article V. Commute Trip Reduction Program

Sec. 24-116. Creation of Commute Trip Reduction Program.

1. There is hereby created a program to address the issue of traffic congestion in Durham County. In implementing this program, the County may contract with another governmental or quasi-governmental agency to provide for the efficient and effective provision of services and reviews as set out hereafter.

2. The purpose of the program shall be to provide education and consultative services to businesses, industries, and the general public on alternatives to the use of single-occupied vehicles to commute to and from work; to provide information on travel demand reduction strategies which are designed to reduce congestion on the roadways of Durham County; to gather statistical data on transportation usage; to set goals on reduction of peak-period, single occupancy vehicle use and average commute trip reduction in vehicle miles traveled; and to provide, to the extent practicable, a program of incentives, including yearly recognition, for businesses and industries which excel in reducing traffic congestion by implementing exceptional travel demand management programs.

Sec. 24-117. Community Goals.

It is recognized that the reduction of single occupancy vehicle use, especially during peak hours, is an important goal for the entire Durham County community in order to reduce congestion on the highways, and to reduce the levels of ozone in the air. The following community-wide goals are therefore adopted:

<u>Year</u>	<u>Percent of Alternate Mode or Non-Peak Commute Trips</u>	<u>Average Commute Trip VMT Reduction (%)</u>
2001	3	2
2002	6	4
2003	9	6
2004	12	8
2005	15	10

Sec. 24-118. Requirements for Major Employers.

In each year, each Major Employer shall:

1. Provide each full-time, part-time, contract, or other employee with information on Alternate Mode options and required travel reduction measures and related incentives. This may include, but is not limited to: any bus routes and schedules, information on any ride share programs, and any bicycle routes. This information shall also be provided to new employees, as described above, at the time of hiring.
2. Participate in a survey and reporting effort, as directed and scheduled by the Lead Agency staff. All surveys or other reporting efforts as approved by the Lead Agency shall represent at least 65 percent of the total number of employees of the Major Employer. The results of the survey or other reporting efforts which are accurate, verifiable, and comparable to a survey for determining single-occupancy vehicle use during peak periods and vehicle miles traveled, and as approved by the Lead Agency, shall be used to determine if the traffic congestion and reduction targets have been achieved. Employee participation and trip reduction shall be based on the total number of employees. If a 65 percent response rate is achieved in the employee survey, then the employer may extrapolate survey results to represent the non-responders.
3. Prepare and submit a travel reduction plan to Lead Agency staff. The Lead Agency staff will assist in preparing the required plans when requested to do so by the employer. Major Employers shall submit plans according to a schedule set by the Lead Agency. If not notified earlier by the Lead Agency, Major Employers shall submit plans by December 31 of each year. One plan may be submitted for each Major Employer which addresses the travel reduction measures for all of the facilities located in Durham County. Each Major Employer shall set its own good faith goals and shall work toward achieving the community goals set forth herein. The plan shall contain the following elements:
 - A. The name, address, e-mail address, phone, and fax number of the formally designated Transportation Coordinator.
 - B. A description of employee information programs designed to achieve the designated transportation reduction goals and other travel reduction measures which have been completed to date or during the previous year.
 - C. A description of travel reduction measures to be undertaken by the Major Employer in the upcoming year of the plan. The following measures may be included:
 - a. Participate in a commuter matching service to facilitate employee Ridesharing for work trips.
 - b. Provision of vans for Vanpooling.
 - c. Subsidized Carpooling or Vanpooling which may include payment for fuel, insurance, or parking.
 - d. Use of company vehicles for Carpooling.
 - e. Provision of preferential parking for Carpool or Vanpool users which may include close-in parking or covered parking facilities.

- f. Reduction of on-site employees parking or redesignation of existing parking for pooling employees.
- g. Subsidized bus fares.
- h. Construction of special loading and unloading facilities for transit, Carpool, and Vanpool users.
- i. Cooperation with the City or County of Durham in construction of sidewalks or bicycle routes for the work site.
- j. Provision of bicycle racks, lockers, and showers for employees who walk or bicycle to and from work.
- k. Provision of a special information center, including a web page on the company's Internet site, where information on Alternate Modes and other travel reduction measures will be available.
- l. Establishment of a work-at-home program, including telecommuting, for employees.
- m. Establishment of a program of adjustable work hours which may include compressed workweeks and employee-selected starting and stopping hours. Work hour adjustments should not interfere with or discourage use of ridesharing and transit.
- n. Establishment of a program of parking incentives and disincentives; such as a fee for parking and/or a "rebate" for employees who do not use the parking facility.
- o. Implementation of other measures designed to reduce Commute Trips such as provision of day-care facilities, restaurant, or emergency ride-home services.

D. A Travel Reduction Plan shall meet all the following criteria:

- 1. The plan shall designate a Transportation Coordinator.
- 2. The plan shall describe a mechanism for routine distribution of Alternate Mode transportation information to employees.
- 3. The plan shall accurately and completely describe current and planned travel reduction measures.
- 4. The plan shall state the travel reduction goals adopted by the Major Employer, including both Alternate Mode or Non-Peak Commute Trips and Average Commute Trip VMT Reduction.

Sec. 24-119. Approval Process.

1. After the Major Employer's proposed travel reduction plan is received, the lead agency shall have 60 days to object to any component of the plan, otherwise the plan is automatically approved. Any such objection shall be based solely on a failure to include a required component in the plan or an obvious mistake in the plan. If the lead agency objects, the plan is not approved and shall be returned to the employer with appropriate comments for review and revision. The employer will then have 15 work days to re-submit the required plan. Any Major Employer who fails to submit a travel reduction plan or pay the processing fee shall be referred to the County Manager by the Lead Agency for possible enforcement action.

2. A processing fee in the amount of two hundred dollars (\$200) shall be submitted annually with the travel reduction plan.

Sec. 24-120. Multi-jurisdictional Advisory Board.

- A. There is hereby created a Multi-jurisdictional Advisory Board. The Board shall be composed of up to twenty members, one-half of whom shall be representatives of Major Employers, which shall be appointed by the Board of County Commissioners and by each of the City or Town Councils which have allowed this ordinance to be enforced in its jurisdiction or enacted a substantially similar ordinance and have entered into an interlocal government cooperation agreement with the County of Durham, other approving jurisdictions, and the Lead Agency for the administration of this or a substantially similar ordinance. The Board of Commissioners shall appoint the initial four members of the Advisory Board with each additional municipality or political subdivision appointing four members each. Each member shall serve a three-year term with two of the four members from each appointing body serving an initial two-year term in order to provide for staggered terms.
- B. The Multi-jurisdictional Advisory Board shall provide guidance to the Lead Agency in implementing and managing the Congestion Management Program. The Advisory Board shall further provide information on congestion management to the County Manager and the Board of County Commissioners, and shall make recommendations to the Board of County Commissioners as to the performance of the Lead Agency.
- C. The Multi-jurisdictional Advisory Board shall make an annual report to the Board of County Commissioners and to each of the City or Town Councils which have allowed this ordinance to be enforced in its jurisdiction or enacted a substantially similar ordinance and have entered into an interlocal government cooperation agreement with the County of Durham for the administration of this or a substantially similar ordinance.

Sec. 24-121. Civil penalties.

Any Major Employer who fails to conduct the survey, or other reports as approved by the Lead Agency, of employees as provided herein or who fails to submit a Travel Reduction Plan as provided herein shall be subject to a civil penalty in the amount of one hundred dollars (\$100.00) per week for each week in which the Major Employer fails to comply with this provision up to a maximum of one thousand dollars (\$1,000.00). The County Manager or his designee shall have authority to assess the civil penalty as provided herein. If the Major Employer fails to pay the civil penalty within a reasonable time as determined by the County Manager or his designee, the County Attorney shall have authority to file a suit for the collection of the civil penalty.

Sec. 24-122. Review of Effectiveness of Ordinance.

The Multi-jurisdictional Advisory Board, after consultation with the Lead Agency, if other than the County, shall report to the Board of Commissioners, the Durham City Council and Chapel Hill Town Council, if the two municipalities have allowed this ordinance to be enforced in their jurisdictions or enacted a substantially similar ordinance and have entered into an interlocal government cooperation agreement with the County of Durham for the administration of this or a substantially similar ordinance, and to other jurisdictions which have enacted a substantially similar ordinance and have entered into an interlocal government cooperation agreement as set forth in Sec. 24-120, by December 31, 2002 on the effectiveness of this Ordinance, and shall, as part of this report, make recommendations for changes in the Ordinance or implementing program as deemed appropriate.

Sec. 24-123. Definitions.

1. "Alternate Mode" means any mode of commute and transportation other than the single-occupancy motor vehicle, including telecommuting.
2. "Travel Reduction Plan" means a plan submitted by a Major Employer that meets the requirements as set forth in this article.
3. "Carpool" or "Vanpool" means two or more persons traveling in a light duty vehicle (car, truck, or van) to or from work.
4. "Peak Commute Trip" means a trip taken by an employee to or from work during peak hours.
5. "Commute Trip" means a trip taken by an employee to or from work.
6. "Commuter Matching Service" means any system, whether it uses computer or manual methods, which assists in matching employees for the purpose of sharing rides to reduce drive-alone travel.
7. "Employer" means a sole proprietor, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, either public or private, that employs workers. However, the term "employer" shall not include the State of North Carolina, the United States of America, or any agency thereof.
8. "Full-time equivalent (FTE) employees" means the number of employees the employer would have if the employer's work needs were satisfied by employees working 40 hours per workweek. The number of full-time equivalent employees for any employer is calculated by dividing the total number of annual work hours paid by the employer, including work hours paid to contract or other workers whether or not considered employees of the major employer, by 2080 work hours in a year.
9. "Lead Agency" means a governmental or quasi-governmental agency shall evaluate Major Employer's travel reduction plans and the results achieved by the Major Employers due to the implementation of the plans, and shall provide consultative and educational programs for businesses, industries, and the general public.
10. "Major Employer" means an employer who employs, during a 24-hour period, 100 or more full-time equivalent employees with at least 50 employees at a work site for at least six months during the year. Not included in this calculation shall be any employee who is required by the nature of his work to daily use a personal owned vehicle in his work or is required to commute using a vehicle owned by the employer.
11. "Mode" means the type of conveyance used in transportation including single-occupancy motor vehicle, ride share vehicle (Carpool or Vanpool), transit, bicycle, and walking.
12. "Non-Peak Commute Trip" means a trip taken by an employee to or from work during hours which are not Peak Hours.
13. "Motor Vehicle" means every device in, upon or by which any property is or may be transported or drawn upon a highway by mechanical means including car, van, bus, motorcycle, and all other motorized vehicles.
14. "Peak Hours" mean the hours between 7:00 AM and 9:00 AM or 4:30 PM and 6:30 PM.

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15. "Ridesharing" means transportation of more than one person for commute purposes, in a motor vehicle, with or without the assistance of a commuter matching service.

16. "Transit" means a bus or other public conveyance system.

17. "Transportation Coordinator" means a person designated by employer as the lead person in developing and implementing a travel reduction plan. The Transportation Coordinator shall act as the agent for the Major Employer for purposes of this ordinance.

18. "Travel Reduction Plan" means a written report outlining travel reduction measures which will be submitted annually by each Major Employer.

19. "Travel Reduction Program" means a program, implementing a travel reduction plan by an employer, designed to achieve predetermined reductions in commute trips and vehicle miles traveled through various incentives and disincentives.

20. "Vehicle Occupancy" means the number of occupants in a motor vehicle including the driver.

21. "Vehicle Miles Traveled" (VMT) means the average (mean) number of miles traveled by a motor vehicle for commute trips.

22. "Work Site" means a building or any grouping of buildings located within Durham County which are physically contiguous parcels of land or on parcels separated solely by private or public roadways or rights-of-way, and which are owned or operated by the same employer.

2) The provisions of this ordinance are severable, and should any section or part hereof be declared unconstitutional or void, the rest and remainder of the ordinance shall remain in full force and effect.

3) The effective date of this ordinance shall be July 1, 2000, except for Sec. 24-118 which shall be effective only as to Major Employers with 400 or more employees on July 1, 2000, shall be effective as to Major Employers with 200 or more employees on July 1, 2001, and shall be effective as to the remaining Major Employers on July 1, 2002.

This the 28th day of February, 2000.

(Recorded in Ordinance Book _____, page _____.)

To Conduct Public Hearings to Consider Amendments to Improve the Efficiency of the Zoning Ordinance

To adopt the amendments to: a] revise Section 4A.8 [multi-family residential] regarding accessory dwellings and building frontages (TC90-99); b] revise Section 8 [Performance Standards] regarding buffers on Interstate 540 (TC91-99); c] revise Section 4C.1 [Office and Institutional -1] regarding personal service establishments as a permitted use in certain circumstances (TC92-99); d] revise Section 4D.5.2 [Commercial Trade] district to allow artist studios and artist galleries (TC-93-99); e] revise Section 9 [Parking] and Section 17 [Site Plans] to encourage TDM measures (TC 94-00); f] revise Section 4B.2 [Mixed Use] regarding parking standards (TC95-00); g] revise Section 12.9 [Signs] and Section 8.1 [Performance Standards] regarding obsolete signs and junk cars/manufactured homes in residential areas (TC 96-00); and g] revise Section 20.2 regarding notices of violations (TC97-00).

Resource Person(s): Bonnie Estes and Norm Standerfer presented the item.

County Manager's Recommendation: Adoption of the amendments.

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Ms. Estes gave the Commissioners a brief overview of each amendment which will improve the efficiency of the zoning ordinance. The amendments follow:

TC 90-99	TC 94-00
TC 91-99	TC 95-00
TC 92-99	TC 96-00
TC 93-99	TC 97-00

Staff and the Zoning Committee recommended approval of these amendments.

The Commissioners asked questions and made comments about the ordinance amendments to which Ms. Estes responded.

Chairman Black opened the public hearing that was properly advertised.

The following person spoke about amendment TC 96-00.

John Roberts, 2610 Duke Homestead Road, car collector, expressed concern about the amendment because his hobby is restoring old cars. In many cases, you have to purchase a "parts car" that would be stored outside in the yard. If this ordinance amendment were adopted, I would not be able to store the car in the yard.

Mr. Roberts asked the Commissioners to change the ordinance amendment to allow "parts cars" to be stored outside the building in a screened area as the ordinance requires now.

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

The Commissioners had a lengthy discussion about the ordinance amendment.

County Attorney Chuck Kitchen suggested the ordinance amendment be sent back to the City-County Planning Department so staff could determine whether the concern could be addressed.

The Commissioners concurred with County Attorney Kitchen to send the amendment back to the Planning Department for a rewrite to address the concern expressed by Mr. Roberts.

Vice-Chairman Reckhow moved, seconded by
Commissioner Bowser, to approve the eight ordinance
amendments with the exception of Section 3 of amendment
TC 96-00.

The motion carried unanimously.

The ordinance amendments follow:

TC 90-99

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO
PROVIDE ADDITIONAL STANDARDS FOR ACCESSORY DWELLINGS AND
CONTINUOUS TOWNHOUSE SETBACKS WITHIN THE MULTI-FAMILY
RESIDENTIAL [RM] DISTRICT

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

WHEREAS, these amendments will allow greater flexibility in the development of sites within existing neighborhoods, and

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WHEREAS, there is a need to allow Durham residents to have a choice of housing types which will provide the opportunity for a higher quality of life for Durham citizens, and

WHEREAS, a mixture of housing styles within existing neighborhoods contributes to the vitality of the community, and

WHEREAS, the proposed amendments allow for attractive infill development which contributes to the needs of the community,

NOW, THEREFORE, BE IT ORDAINED,
[Proposed additions to the ordinance are shown in *Italics*]

Section 1

That Section 4A.8.2 be rewritten to read as follows:

4A.8.2 Permitted Uses

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1. Accessory buildings
2. *Accessory dwellings in association with detached single family dwellings [subject to the additional requirements of Section 7 for all Accessory Dwellings.]*
3. Cemeteries, mausoleums, columbariums, and memorial gardens
4. Convalescent center
5. Detached single family dwelling
6. Duplex and triplex dwellings (or 2 unit and 3 unit attached dwellings)
7. Family care homes
8. Golf courses and related activities; driving ranges when associated with the golf course
9. Home occupations
10. Multifamily dwellings
11. Public parks and playgrounds
12. Retirement centers and life care communities

Section 2

That Section 4A.8.1 [Additional Requirements] be rewritten to read as follows:

“In order to provide visual diversity, no more than 6 contiguous townhouse units shall be allowed with the same setback and the same facade treatment. Variations in setback must be at least 2 feet. *In a Historic District, with the approval of the Historic Preservation Commission, townhouse units in excess of 6 units shall be allowed with the same setback and the same facade treatment. Architectural features and facades should provide sufficient architectural variations and scale, and should be compatible with nearby structures by utilizing authentic or historic details.*”

Section 3

That the Zoning ordinance be renumbered if necessary to accommodate these changes.

Section 4

That this ordinance become effective upon adoption.

TC 91-99

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE
TO PROVIDE STANDARDS FOR THE
DEVELOPMENT OF PROPERTY ALONG INTERSTATE 540

WHEREAS, the Durham Board of County Commissioners wishes to amend the zoning ordinance, and

WHEREAS, the views from Interstate Highway 40 in Durham contribute to the image of Durham and give it an attractiveness which is not seen in many other communities along Interstate 40, and

WHEREAS, it is desired that Interstate 540 in Durham provide this same positive image for the community, and

WHEREAS, this positive image serves as an indicator of the quality of life found here, provides a competitive advantage over other communities and enhances the Durham economy.

NOW THEREFORE, BE IT ORDAINED,

Section 1

That Section 8 [PERFORMANCE STANDARDS] of the Durham Zoning Ordinance be amended to add:

“Section 8.1.28

Standards for the Development of Property Adjacent to Interstate 540

1. Purpose: The following standards are imposed in order to enhance the economic and aesthetic appeal of properties adjacent to Durham’s transportation corridors.
2. Application: The standards shall apply to all new development approvals and subdivisions which are adjacent to Interstate 540 and adjacent to I-540 interchanges back to the established point where controlled access begins.
3. Requirement: All new development and subdivisions shall provide a buffer strip of natural vegetation at least 50 feet wide measured perpendicular to the right of way. No development shall be allowed within the buffer strip and all existing vegetation shall be maintained in a natural and undisturbed state. Where the existing vegetation is not adequate to meet the “Landscape Screen Standards” of Section 10 of this ordinance, the applicant shall install adequate vegetation to meet these standards.
4. Adjustments to the Buffer Width: The buffer width and amount of landscape materials may be reduced by the Governing Body, taking into consideration the topography of the area, traffic volumes, surrounding land uses, and the size of the parcel of record. The Governing Body may allow areas covered by water or wetlands, to be credited toward meeting these requirements. Vistas created by expansive lawns, which are permanently restricted from development, may also be credited toward meeting these requirements by the Governing Body. The Board of Adjustment shall not grant a variance which modifies the width of the buffer. Streets and easements through the buffer may be allowed by the approving body at the time of site plan or subdivision approval upon the finding that such a crossing is necessary for safe ingress or for utility service to the property. Any crossings should be designed to minimize clear views through the buffer.
5. Coordination with the MTC Overlay District - Properties located within the MTC Overlay District shall be exempt from these standards but shall conform to the standards of the MTC Overlay Zone.
6. Nonconforming Structures and Uses: Structures and uses located within the buffer at the time of the adoption of this ordinance [date] may remain. Any changes shall be in conformance with the Nonconformity requirements found elsewhere in the Zoning Ordinance.”

SECTION 2

That the ordinance be renumbered if necessary to accommodate this change.

SECTION 3

That this ordinance become effective upon adoption.

TC 92-99

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE
TO MODIFY ALLOWED USES IN THE OFFICE & INSTITUTIONAL 1
[O&I-1] ZONING DISTRICT

WHEREAS, the Durham Board of County Commissioners wishes to amend the zoning ordinance, and

WHEREAS, the Office and Institutional 1 district is designed to provide nonresidential services in close proximity to residential districts without disruption to the residential districts, and

WHEREAS, certain small personal service establishments may be found to serve the neighborhood which would not be harmful to the stability residences.

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NOW, THEREFORE, BE IT ORDAINED,

SECTION 1

That Section 4C.1.3 [Minor Uses Subject to Approval by the Board of Adjustment] be amended to add the following:

7. Personal service establishments of less than 1,200 square feet gross floor area.

Section 2

That the items in this subsection be renumbered to accommodate this change.

Section 3

That this ordinance become effective upon adoption.

TC93-99

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO ALLOW
ARTIST STUDIOS AND ARTIST GALLERIES IN THE CT ZONE

WHEREAS, the Durham Board of County Commissioners wishes to amend the zoning ordinance, and

WHEREAS, it is the intent of the Governing Bodies to maintain a viable arts community in Durham, and

WHEREAS, artist studios and artist galleries are not currently allowed in the Commercial Trade [CT] district, and

WHEREAS, the provision of these uses in the CT district would enhance the quality of life in Durham by creating more opportunities for the arts,

NOW THEREFORE, BE IT ORDAINED THAT:

Section 1

That Section 4D.5.2 [Permitted Uses in the CT District] be amended to add the following:

- Artist Galleries
- Artist Studios

Section 2

That the items in this subsection be renumbered to accommodate this change.

Section 3

That this ordinance become effective upon adoption.

TC 94-00

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE
REGARDING STANDARDS TO IMPROVE TRAVEL DEMAND MANAGEMENT
[TDM] INITIATIVES

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

WHEREAS, the air quality of Durham is affected by automobile emissions, and

WHEREAS, the reduction of individual automobile trips can improve air quality and reduce traffic congestion, and

WHEREAS, the following standards will facilitate the reduction of vehicle trips to new development, and

WHEREAS, the reduction of trips is a goal of the Travel Demand Management initiatives sponsored by the elected bodies of Durham City and County.

NOW THEREFORE, BE IT ORDAINED THAT: [changes shown in *italic*]

SECTION 1

That Section 9.2 [General Requirements for Parking] be amended to add the following new subparagraphs to read as follows:

6. Shopping Centers which provide 400 or more parking spaces shall designate at least 5% of the required spaces as "Park and Ride" spaces. However, no more than 100 spaces shall be required. A sign or signs shall be used to designate that the spaces are reserved for park and ride use during non-holiday weekdays between 6 a.m. and 6 p.m. Park and ride spaces, for the purpose of this section, shall be defined as spaces to be occupied by vehicles left by individuals who transferred to other modes of transportation for the remainder of their trip to an off site location. For example, a driver who transferred from a car to a bus or carpool for the remainder of the trip to work or school. Bus shelters may be required in the vicinity of the Park and Ride area if the DRB determines that DATA, the Triangle Transit Authority, or another publicly sponsored transit provider would benefit from the improvements.

7. A building with at least 10,000 square feet of space devoted to office uses shall provide carpool parking spaces. At least 1% of parking spaces shall be designated as reserved for carpool parking. The designated spaces shall be among the spaces located closest to the building entrance [other than the handicapped parking spaces.]. This requirement shall only apply if carpooling standards and administrative requirements are defined by an ordinance adopted by the Governing Body.

8. Buildings or projects which provide 400 or more parking spaces shall provide parking facilities for bicycles equal to 1% of the number of required parking spaces.

SECTION 2

That the following additions be made to Section 17.6.2 (3) [Required Contents for Site Plans]:

a. Revise subparagraph titled: "*Internal Vehicular Circulation and Parking*" to read:

"Internal Vehicular Circulation and Parking location of drives and driveways [with radii] aisles, and parking spaces, including number of spaces required, and number provided, a justification for the number of spaces exceeding the minimum requirement however any overage reserved for carpool parking shall not require justification, the number of handicapped spaces required and number provided, the location and number of spaces devoted to carpools if required, the number of spaces devoted to bicycle parking if required by Section 9, identification of park and ride facilities if required by Section 9 the area in parking in square feet, a description of the pavement structure, a lighting plan if lighting is proposed."

b. Revise subparagraph titled: "*Pedestrian Circulation*" to read:

Pedestrian Circulation: location of sidewalks and other pedestrian ways including dimensions and surfacing, along streets and other locations; provision of crosswalks meeting the approval of DRB when the site is adjacent to an intersection which has a previously approved sidewalk on any other side of the intersection. Crosswalk improvements may include painting, pavement changes, pedestrian related traffic signals, curb extensions which narrow the crossing distance, or other measures which may be warranted to improve pedestrian safety.

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c. Add new subparagraph at the end of 17.6.2 (3) to read:

Traffic Demand Management: Construction of bus pullouts and bus shelters shall be mandatory when the DRB determines that DATA, the Triangle Transit Authority, or another publicly sponsored transit provider would benefit from the improvements. Construction of greenways or bike trails may be required by the DRB when the site includes trails which have been identified on a previously adopted Greenway Plan or Bikeway Plan. Additional trail and sidewalk segments not shown on adopted plans may be required when the DRB provides justification that the trail or sidewalk will create a public benefit by reducing vehicular traffic. If determined to be appropriate, the site plan shall show location and improvements for bus shelters and bus pullouts; as well as the location and trail and sidewalk improvements.

SECTION 3

That the ordinance be renumbered if necessary to accommodate these changes.

SECTION 4

That this ordinance become effective upon adoption.

TC95-00

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO PROVIDE FOR ADDITIONAL PARKING IN THE MIXED USE [MU] ZONING DISTRICT IN CERTAIN CIRCUMSTANCES

WHEREAS, the Durham Board of County Commissioners wishes to amend the zoning ordinance, and

WHEREAS, the Mixed Use [MU] zoning district is established to encourage multiple uses in a single project, and

WHEREAS, the number of parking spaces are limited in the district which establish maximum limits, and

WHEREAS, in certain situations, additional parking spaces may be needed due to lack of transit, mix of uses, or other circumstances, and

WHEREAS, the ordinance does not have a provision to allow for increases in the number of spaces, and

WHEREAS, the addition of such a provision will improve the opportunities to use the Mixed Use Zoning District and contribute to better development within the jurisdiction.

NOW THEREFORE, BE IT ORDAINED THAT:

SECTION 1

That Section 4B.2.4A be rewritten to read as follows:

“ In order to encourage shared parking and transit support, the minimum parking requirements of Section 9 are held to be the maximum number of parking spaces allowed in the project. In order to exceed the parking requirements, the applicant shall demonstrate to the satisfaction of the Development Review Board [DRB] that each of the following conditions are met: 1] that the additional parking shall not be more than 25% above the minimum parking requirements of Section 9. The Governing Body may allow the number of spaces to exceed the 25% limit if it is determined that additional spaces are required and that the project includes measures to facilitate transit use to and within the site. 2] that the number of parking spaces exceeding the minimum requirements are located in structured parking facilities such as parking decks or garages under a building, in order to minimize the impervious surfaces on the site; 3] that specific evidence is presented by the applicant about how the need for parking beyond the minimum is

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justified by similar projects in other locations; 4] that evidence is also presented that the site design will accommodate, as much as possible, Travel Demand Management [TDM] programs and transit use to and within the project; and 5] that the applicant demonstrates that shared parking and on-street parking will be provided.”

SECTION 2

That the Zoning Ordinance may be renumbered if necessary to accommodate this change.

SECTION 3

That this Ordinance shall become effective upon adoption.

TC 96-00

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE
REGARDING STANDARDS FOR OBSOLETE SIGNS AND THE REPAIR AND
STORAGE OF JUNKED VEHICLES

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

WHEREAS, the following amendments will improve the efficiency of the Zoning Enforcement process, and

WHEREAS, recent court decisions have identified the need for modifications in the definitions of obsolete signs, and

WHEREAS, clarification is needed regarding the maintenance standards for signs, and

WHEREAS, additional standards are needed to reduce the negative effects of vehicle repair and storage on the value and appearance of residential neighborhoods.

NOW THEREFORE, BE IT ORDAINED, THAT

SECTION 1

That the “ Obsolete Sign” definition of Section 12.2 [Sign definitions] be amended to read as follows:

“Obsolete Sign: A sign relating to or identifying a business or activity which has not been conducted on the premises for 6 months, or to a transpired election or event, or to a political party or non-profit organization that no longer exists; in addition, the structure for a sign that is not allowed under this ordinance if such structure cannot be used for a legal use or does not comply with the height, size, or other physical requirements of the ordinance, or a sign which has missing or broken panels, broken or damaged supports or frame, or otherwise displays inadequate maintenance, dilapidation, obsolescence or abandonment.”

SECTION 2

That Section 12.9.2 [Sign Design, Construction, and Maintenance] be amended to add a subparagraph 3 to read:

3. Permanent signs shall be maintained in good condition at all times and shall be kept free of cracked or peeling paint, missing or damaged sign panels or supports, and weeds, grass or vegetation which obscures the view of the sign message.

SECTION 3

That Section 8.1.12 be removed and replaced with the following:

Section 8.1.12 Vehicle Storage and Repair and Manufactured Home Storage:

“The following accessory uses shall be prohibited within a residential zone or on property devoted to a residential use:

1. Vehicle repair as a business. Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

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2. Storage of one or more junk vehicles. For the purpose of this section, the term junk vehicle is defined as a vehicle which does not lawfully display a current license plate and which is partially dismantled or wrecked, or cannot operate under its own power. Vehicles owned by an occupant of the dwelling and stored within an enclosed building and which are not visible outside the building are exempt from this provision.
3. Vehicle sales. The sale of a private vehicle registered to the occupant(s) of the residence shall be exempt from this provision. No more than one such vehicle shall be displayed at a time.
4. Storage of a manufactured home unless the manufactured home is lawfully permitted under provisions found elsewhere in this ordinance.
5. Use of a travel trailer or recreational vehicle [RV] as a temporary residence or accessory dwelling. Excluded from this provision is the use of a travel trailer or RV during temporary visits of 2 weeks or less.

SECTION 4

That the Zoning Ordinance be renumbered if necessary to accommodate this amendment.

SECTION 5

That this ordinance become effective upon adoption.

TC97-00

AN ORDINANCE TO AMEND THE DURHAM ZONING ORDINANCE TO ALLOW
NOTICES OF ZONING VIOLATIONS TO BE SENT BY FIRST CLASS MAIL

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

WHEREAS, sending notices by first class mail in addition to certified mail will improve zoning enforcement actions, and

WHEREAS, procedures which allow for public notification but which can be processed more efficiently will improve zoning enforcement activities in Durham, and

WHEREAS, enforcement of the zoning ordinance will protect the health and welfare of the citizens, improve community aesthetics and protect property values.

NOW THEREFORE, BE IT ORDAINED:

New wording is in *bold italics* - deleted wording is in ~~strike through~~)

SECTION 1

That SECTION 20.2.1 Notice of Violation be rewritten to read:

“When a violation is discovered, and is not remedied through informal means, written notice of the violation shall be given. This notice shall be delivered by hand delivery or certified mail to the violator's last known address, or by certified mail or hand delivery to or posting the notice at the property in violation. *When service is made by certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after mailing, provided that a notice of violation is posted in a conspicuous place on the premises affected.*”

SECTION 2

That the Zoning Ordinance be renumbered if needed to accommodate this change.

SECTION 3

That this ordinance become effective upon adoption.

(Zoning Ordinance amendments recorded in Ordinance Book _____, pages _____.)

Wastewater Treatment Plant Design Contract – Phase 2

The Board was requested to authorize the County Manager to enter into a contract with McKim & Creed for Phase 2 of the Wastewater Treatment Plant Upgrade and Expansion Project. The Phase 2 Scope of Services provides engineering services to design and construct Nitrogen removal facilities and increase capacity from 6 MGD to 12 MGD at the County's wastewater treatment plant on Highway 55 in southern Durham County.

This project was discussed at the May 3, 1999 Worksession. Phase 1 was approved on May 10, 1999 to design a new influent pump station, a new effluent pump station, a new ultraviolet disinfection system, and also included an evaluation of three options to pump some or all flows to the City plant on Farrington Road. The City evaluation was presented to the Board on December 6, 1999 and design work is proceeding on Phase I.

The cost of the services for Phase 2 is not to exceed \$1,375,600. These funds are currently budgeted in the Enterprise Fund for Treatment Plant improvements.

The Board requested that staff initiate further discussion with the City to determine if the City was amenable to negotiating the cost of pumping the County's flow to the City's Wastewater Treatment Facility on Farrington Road. City and County Staff met to discuss this issue on February 18, 2000. The results of those discussions implied that the County should move forward with the design of Phase I and Phase II. The Phase I design can incorporate the capability to pump flows to the City using the same structural facilities. Phase II can be phased to provide improvements at 6 MGD, and expansion to 12 MGD. The improvements proposed in Phase 1 and in the 6-MGD portion of Phase II will be needed even if some flows are ultimately pumped to the City.

Resource Person(s): Wendell Davis, Deputy County Manager; Glen Whisler, County Engineer; Sandra Phillips, Purchasing Director; Chuck Hill, Utility Division Manager; and Patty Gravinese, Finance Director

County Manager's Recommendation: Authorize the County Manager to enter into a contract with McKim and Creed for the Phase 2 improvements at a cost not to exceed \$1,375,600.

Phase 2 addresses two major issues related to the County's wastewater treatment plant--permit compliance and additional capacity for future customers. Based on regulatory requirements mandating more stringent treatment requirements and increasing flows approaching the plant capacity, it is imperative that the County proceed with the design of Phase 2.

Mr. Whisler, County Engineer, presented the Commissioners an overview of the Wastewater Treatment Plant Design Contract—Phase 2.

The Commissioners asked questions and made comments about the contract for Phase 2 to which the County Engineer and McKim & Creed staff responded.

Vice-Chairman Reckhow requested that staff continue to pursue the discussion with the City of Durham to determine if the City is amenable to negotiating the cost of pumping the County's flow to the City's Wastewater Treatment Facility on Farrington Road.

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, to authorize the County Manager to enter into a contract with McKim and Creed for the Phase 2 improvements at a cost not to exceed \$1,375,600.

The motion carried unanimously.

Lease for the Youth Coordinating Board

February 28, 2000

The Board was requested to authorize the execution of a lease between the County of Durham and TeerMark Associates, LLC for 1,645 square feet of space located at 212 West Main Street, Durham, NC Suite #104. This is a five-year lease at a cost of \$10.50/square foot held constant over the term of the lease, an annualized cost of \$17,268.00. The term of the lease is June 1, 2000 through May 31, 2005. This space is needed for the daily operations of the Youth Coordinating Board (YCB) and appropriate funds have been budgeted in the YCB's FY '99-00 budget.

From its inception in August 1998 until July 1999, the YCB was housed with the Durham Community Prevention Partnership (DCPP) at 115 Market Street, Suite 400. The City of Durham provided this space at no charge to the County. Due to decisions by the City and County to transfer the DCPP staff to The Durham Center, the City terminated the lease of this space. Since July 1999, the YCB has been located at 117 Market Street. When presented with a five-year, \$12.00/square foot lease at 121 Market Street in August 1999, the Board expressed concerns about the term and rate, and asked staff to seek a more affordable location. A four-month lease was approved in the interim. All three Market Street locations are a part of the Bull City Business Center.

Under the TeerMark lease, the Landlord shall be responsible for electricity, water, sewer, heating and air conditioning and the maintenance of such systems, roof and exterior structural walls, elevators and associated maintenance, stairs, common area maintenance, and all real estate taxes and assessments. The County shall be responsible for telephone and related equipment/services, janitorial services for the primary lease space, maintaining the space in neat, clean, safe and sanitary condition, and repair of damage due to any act or negligence on the part of the County or its guests.

While it is recognized that the Board's preference is for a three-year lease, the Landlord would not negotiate on this point, as any term less than five years would not allow the Landlord to satisfactorily recoup investments made for facility renovations.

With the exception of one clause, the County Attorney has approved the lease as to legal form. The County Attorney can not agree to the Exculpation Clause as a legal matter, and TeerMark can not agree to removal of this Clause. In the event of default, the Exculpation Clause allows the County to only look to the Landlord's equity in the premises for satisfaction of remedies and does not allow for personal liability in such an event.

Resource Person(s): Sandra W. Phillips, Director of Purchasing, and Anita Daniels-Kenney, Director of the Youth Coordinating Board.

County Manager's Recommendation:

The County Manager recommends that the Board approve the lease at the rate and term noted, and inclusive of the Exculpation Clause. Upon examination of the County's potential exposure, it was determined that worst case scenario in the event of Landlord default and inadequate Landlord equity in the premises is approximately three months of lease payments (~\$5,000.00). The County Manager believes that it is operationally in the best interest of the County to proceed with the lease as proposed. Funds have been budgeted in YCB's FY'99-00 budget to cover the cost of the lease.

Ms. Phillips and Ms. Daniels-Kenny presented the proposed lease to the Commissioners.

Commissioner Heron commented she could not support a five-year lease.

Commissioner Bowser stated he could not support the five-year lease.

Deputy County Manager Carolyn P. Titus requested suggestions from the Commissioners related to space needs that could explore further.

Vice-Chairman Reckhow requested that the Commissioners defer action on this lease proposal. I have no solutions to solve the space needs.

February 28, 2000

Ms. Daniels-Kenny provided information to the Commissioners concerning the work program of the Youth Coordinating Board.

Chairman Black deferred action on the agenda item. The space will be leased on a month-to-month basis.

A lengthy discussion followed about the proposed lease agreement. Staff was asked to come back in 30 days with another lease agreement.

Contract for a Consultant to Conduct a Disparity Study for the County of Durham

The Board was requested to authorize the County Manager to negotiate and enter into a contract with Mason Tillman Associates, Ltd. to conduct a second-generation disparity study for the County at a cost not to exceed \$164,500.00. The County is seeking to determine whether race and gender discrimination continue to affect prime contractor and subcontractor participation in the public contracting activities of the County. This study will be used as a basis for developing policies regarding the practices of public contracting. The disparity study must be conducted to meet the legal requirements set forth in Croson and any other decisions that bear on the rights and responsibilities of governments to implement minority and women business programs. If it is ascertained that discrimination is a cause of disparate participation, the study will recommend remedial policies that may include race and gender neutral non-discrimination programs, as well as narrowly tailored race and gender conscious programs, within the Croson principles. The County's original study enacted into ordinance in November 1994 has now sunset. It is the position of the County Manager, County Attorney, and Director of Purchasing that a second-generation study is essential to ensure a legally defensible position for the County in whatever type of program the County establishes in ensuring an equitable field for the County's procurement dollars. The memo to the County Manager dated February 18, 2000 explains the process used and the rationale for the recommendation of this firm. Board approval of transfer funds from the contingency fund to the Purchasing Department was requested (BCC000037).

A Request for Qualifications process was employed. The RFQ was advertised in six publications and mailed to 12 firms on September 2, 1999. An Evaluation Team was established to analyze the responses and make a recommendation to the Board. Responses were received from four (4) firms: Mason Tillman Associates, Ltd., D. J. Miller and Associates, MGT of America, and Griffin & Strong PC.

Mason Tillman offered the lowest responsible proposal. In conducting the analysis, it was determined the firm's written response, demonstrated capability during the interview, and reference responses established this firm as well qualified to conduct the Second Generation Disparity Study for the County of Durham.

Cora Cole-McFadden, City of Durham Equal Opportunity/Equity Assurance Director, participated in the interview portion of the County's review. It is our understanding that the City is currently exploring the opportunity of conducting a second-generation disparity study as well. The County should be able to realize approximately \$8,000 in savings should we be able to coordinate the work with the City.

Resource Person(s): Chuck Kitchen, County Attorney; Sandra W. Phillips, Director of Purchasing; Jackye Knight, Director of Human Resources; and Jan Bryant-Berry, Business Development Manager

County Manager's Recommendation:

Authorize the County Manager to negotiate and enter into a contract with Mason Tillman Associates, Ltd. in an amount not to exceed \$164,500.00 to conduct a second-generation disparity study for the County of Durham, and approve transfer of funds from the contingency fund to the Purchasing Department as requested (BCC000037).

Ms. Phillips, Director of Purchasing, presented the agenda item to the Commissioners for their information, consideration, and resolution.

February 28, 2000

The Commissioners asked questions and made comments about the proposed contract to which Ms. Phillips, County Attorney Kitchen, Ms. Bryant-Berry, and Ms. Knight responded.

Commissioner Bell said he was pleased the County has received a recommendation on the disparity study. He wants the study to be completed within budget by December 2000 before his term as a County Commissioner expires. He raised several concerns in order to get staff feedback. The staff responded to Commissioner Bell's concerns.

Ms. Phillips stated the Purchasing Department will be able to meet all deadlines in order to meet the scheduled completion date.

Commissioner Bell asked Ms. Phillips and Ms. Berry questions about Mason Tillman Associates—about the references checked and specific areas of the proposal. He wanted updates on a schedule basis (monthly) regarding the progress of the project.

Commissioner Bell moved, seconded by Commissioner Bowser, to negotiate and enter into a contract with Mason Tillman Associates Ltd. in an amount not to exceed \$164,500.00 to conduct a second-generation disparity study for the County of Durham, and approve transfer of funds from the contingency fund to the Purchasing Department as requested (BCC000037).

The motion carried unanimously.

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 1999-2000 Budget Ordinance
Amendment No. 00BCC000037

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1999-2000 Budget Ordinance is hereby amended to reflect budget adjustments to the Purchasing Department. This will bring the contingency fund balance to \$138,550.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Nondepartmental	\$18,661,942		\$164,500	\$18,826,442
General Governmental	\$19,432,438	\$164,500		\$19,596,938

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

This the 28th day of February, 2000.

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

Ordinance Extending M/WBE Provisions

Pending the disparity study, the current M/WBE ordinance is proposed to remain in effect. This will keep the status quo until the results of the study are available. It is anticipated that the results will be available around the end of the calendar year. Once the results are in, the Board will then have the information available to determine the appropriate action to take regarding the ordinance.

Resource Person(s): S. C. Kitchen, County Attorney

February 28, 2000

County Manager's Recommendation: Approve the ordinance so that the current program can continue pending the results of the disparity study. Without the study results, an informed decision about the future of the M/WBE ordinance cannot be made.

The ordinance follows:

February 28, 2000

ORDINANCE EXTENDING M/WBE PROVISIONS

Whereas, the County of Durham has undertaken a disparity study to determine whether or not an M/WBE ordinance such as previously enacted by the Board of Commissioners is necessary to remedy current discrimination or the effects of past discrimination through the use of the County's contracting and purchasing powers; and

Whereas, the study is anticipated to be completed on or about the end of the current calendar year; and

Whereas, it is desirable to have the current M/WBE ordinance remain in effect pending the results of the disparity study:

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOETH ORDAIN:

1. That section 8-143 of the Durham County Code of ordinances is hereby amended to read as follows:

Sec. 8-143. Effective date.

This article shall continue in effect until 12:59 p.m. on December 31, 2000 at which time it shall be deemed repealed without further action by the county commissioners. Unless otherwise provided by an ordinance enacted by the county commissioners or by a contract between the county and the other party to the contract, if a legal action is commenced before the repeal of this article to enforce any contractual provision which incorporates by reference any of this article, the rights of the parties with respect to such contractual provision shall, for purposes of the legal action, continue in effect notwithstanding the repeal.

2. This ordinance shall be effective upon adoption.

This the 28th day of February, 2000.

(Recorded in Ordinance Book _____, page _____.)

Adjournment

Chairman Black adjourned the meeting at 10:15 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board