

April 10, 2000

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

Monday, April 10, 2000

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman 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

Vice-Chairman Reckhow said she wished to make an announcement regarding two meetings.

Chairman Black announced the addition of an agenda item (No. 15) regarding the search for a permanent county manager.

Vice-Chairman Reckhow announced that the Adequate Facilities Task Force is meeting on Wednesday, April 12, 2000 at 3:30 p.m.

Vice-Chairman Reckhow said that on Thursday, April 13, 2000 from 10:00 a.m. to 12:00 noon, a press tour would be held at the Little River site to be purchased by the County.

Commissioner Heron announced that she would be attending a state Taxation and Finance Committee meeting for the North Carolina County Commissioners Association. The meeting would be held tomorrow.

Commissioner Heron asked that staff provide information on the sales tax paid on Internet purchases in North Carolina and Durham County.

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Interim County Manager Carolyn P. Titus said staff would take a look at that and also consult with the County Attorney as to the current laws in North Carolina.

Vice-Chairman Reckhow said all Public Health Departments are required by the state to give Pap smear tests.

Commissioner Heron wished to commend the Public Health Department for providing the tests.

Chairman Black announced public contracting community meetings hosted by the County and City of Durham on Tuesday, April 11, 2000 at 6:30 p.m. to 8:30 p.m. at the Hayti Heritage Center, 804 Old Fayetteville Road and on Thursday, April, 13, 2000 at 6:30 p.m. to 8:30 p.m. at the Durham Public Schools Staff Development Center, 2107 Hillandale Road.

Minutes

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the February 7, 2000 BOCC/Durham City Council Minutes as corrected and the February 28, 2000 BOCC/Social Services Board Minutes as submitted.

The motion carried unanimously.

Proclamation Recognizing “National County Government Week”

A proclamation naming the week of April 9-15 as “National County Government Week” was prepared for the Board’s approval. Public Information/Governmental Affairs Director Deborah Craig-Ray briefly discussed the County’s plans for the observance of County Government Week.

Chairman Black read the proclamation into the record as follows:

PROCLAMATION

WHEREAS, we find ourselves at the dawn of a new millennium, it is important to review our past as we look to the future; and

WHEREAS, county governments began as a response to the needs of the early settlers of our country, tracing their roots to the Anglo-Saxon local government 1,000 years ago. Counties first appeared in colonial America, making them older than the Republic itself; and

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WHEREAS, our country grew westward, so, too did the number of counties. The primary functions of county governments during the 1800s and early 1900s involved judicial, road, law enforcement, and other responsibilities in which the county acted mainly as an arm of the state; and

WHEREAS, over the last century, the responsibilities of county governments have grown enormously. County governments employ more than two million people and spend billions of dollars providing services to the people of the United States; and

WHEREAS, counties, today, are an important link within the nation's governmental structure with duties ranging from public safety to preserving the environment. They run housing and community development programs. They maintain parks, airports, and transit systems. They work to solve area-wide problems, such as air pollution, solid waste disposal, and drug trafficking. And, when the sick, the aged, or the poor have nowhere else to go, it is the county that cares for them; and

WHEREAS, counties realize that volunteers play a vital role in providing services to citizens and saving tax dollars and appreciate the work that volunteers do; and

WHEREAS, county governments truly support the nation's citizenry, serving as their voice in town squares, state houses, Congress, and the White House. Counties are providing solutions to meet many of the most challenging needs and ensuring a high quality of life for all.

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham Board of County Commissioners, do hereby proclaim APRIL 9-15, 2000 as

“NATIONAL COUNTY GOVERNMENT WEEK”

in Durham County. We further urge all citizens to be involved in and more aware of issues facing our county.

This the 10th day of April, 2000.

Census Participation

Ms. Deborah Craig-Ray said the Census response rate for Durham County was 55 percent last week. The response rate this morning was 60 percent. The response rate nationwide is 60 percent. The City of Durham's response is 59 percent.

Consent Agenda

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

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- * (a) Street Closing—Belle Meade Down (SC99-3): Set a Public Hearing (adopt resolution declaring the intent to close .82± acres of Bell Meade Down and set public hearing for April 24, 2000 to consider permanent closing);
- (b) Setting the Date for the Durham Consortium Draft 5-Year Consolidated Plan and the Annual Action Plan Public Hearing (set April 24, 2000 as the date to hold Durham's Consortium Draft 5-Year Consolidated Plan and Annual Action Plan Public Hearing);
- (c) Contract for Design Services to Reconfigure the Tax Office in Order to Enhance Workflow and Customer Service (authorize the County Manager to enter into a contract with OBrien Atkins Architectural Firm in an amount not to exceed \$22,000 for design services. Funding is appropriated in the current budget to pay for these services);
- (d) Standard Non-Reimbursable Utility Contract for Extension of the County Sanitary Sewer System (authorize the County Manager to execute the utility contract for this addition to the County sanitary sewer system) as follows: Ramsey Salman—Contract with Salman Builders and Developers Inc. to extend the County sewer system by 176 linear feet of 8" sewer line to serve the Scott King Road Community Center);
- * (e) Multi-Family Housing Revenue Bonds for Alston Village, L.P. (approve the resolution in order to provide additional affordable housing units for working people who cannot otherwise afford to pay market rates for housing in Durham County).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda 5(a). The Manager recommended that the Board adopt a resolution declaring the intent to close .82± acres of Bell Meade Down west of Quarterhouse Run and set a public hearing for April 24, 2000 to consider permanent closing).

The resolution follows:

RESOLUTION DECLARING THE INTENT OF THE BOARD OF
COUNTY COMMISSIONERS OF DURHAM COUNTY TO
CONSIDER PERMANENTLY CLOSING
.82± Acres of Belle Meade Down

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AND CALLING A PUBLIC HEARING THEREON.

WHEREAS, the Clerk to the Board of County Commissioners of the County of Durham has received a petition to close .82± acres of Belle Meade Down:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Durham that:

1. The Board of County Commissioners proposes to consider permanently closing .82± acres of Belle Meade Down.
2. A public hearing is hereby called on the question of permanently closing the street named in Paragraph 1 above. Said public hearing shall be on the 24th of April, 2000 in the Board of County Commissioners' Chambers, Durham, North Carolina.
3. The City-County Planning Department shall notify all owners of property adjoining the street named in Paragraph 1 above as their interests may appear on the County Tax Records.
4. Notice of the closing and public hearing shall be prominently posted in at least two places along the street named in Paragraph 1 above.
5. Any person may be heard at the public hearing on the question of whether or not the proposed closing would be detrimental to the public interest or to the property rights of any individual.
6. If it appears to the satisfaction of the Board of County Commissioners after said public hearing that the closing of said street is not contrary to the public interest, and that no property owner would thereby be deprived of reasonable means of ingress and egress to his property, the Board of County Commissioners may adopt an Order permanently closing the street named in Paragraph 1 above.
7. BE IT FURTHER RESOLVED that notice of such hearing shall be published in the Durham Herald Sun once a week for two successive weeks, the first publication to be not less than ten days nor more than 25 days before the date fixed for the hearing.

This the 10th day of April, 2000.

Consent Agenda 5(e). Multi-Family Housing Revenue Bonds for Alston Village, L.P. (approve the resolution in order to provide additional affordable housing units for working people who cannot otherwise afford to pay market rates for housing in Durham County).

Chairman Black introduced the following resolution, the title of which was read:

RESOLUTION GIVING PRELIMINARY APPROVAL TO
ISSUANCE OF MULTI-FAMILY HOUSING REVENUE BONDS

Whereas, the Board of Commissioners of the County of Durham (the "County") met in the Commissioners' Meeting Room, Durham, North Carolina at 7:20 p.m. on the 10th day of April, 2000; and

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Whereas, pursuant to N.C.G.S. § 153A-376, the Board of Commissioners has the power to exercise directly those powers granted by law to county housing authorities created under Chapter 157 of the North Carolina (the "Act"); and

Whereas, pursuant to the Act, the County has the power to issue its bonds to finance the cost of providing multifamily housing for low and moderate income persons; and

Whereas, NRP Alston Village, L.P., or an affiliated limited partnership or limited liability company (the "Company"), intends to provide affordable housing in the County; and

Whereas, the Company has requested that the County assist it in financing the acquisition, construction and equipping of a multi-family residential rental development, consisting of 312 units to be known as Alston Village Apartments located at 5400 South Alston Avenue, Durham County, North Carolina (the "Development"); and

Whereas, the Company has described to the County the benefits of the Development to the County and the State of North Carolina and has requested the County to agree to issue its multi-family housing revenue bonds in such amounts as may be necessary to finance the costs of acquiring, constructing, and equipping the Development; and

Whereas, the County is of the opinion that the Development is a facility that can be financed under the Act and that the financing of the same will be in furtherance of the purposes of the Act:

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

1. It is hereby found and determined that the Development will involve the acquisition, construction, and equipping of multi-family housing facilities, and that therefore, pursuant to the terms and subject to the conditions hereinafter stated and the Act, the County agrees to assist the Company in every reasonable way to issue bonds to finance the construction and equipping of the Development, and, in particular, to undertake the issuance of the County's multi-family housing revenue bonds (the "Bonds") in an amount now estimated not to exceed Twenty-Two Million Dollars (\$22,000,000) to provide all or part of the cost of the Development.
2. The County intends that the adoption of this resolution be considered as "official action" toward the issuance of the Bonds within the meaning of the regulations issued by the Internal Revenue Service pursuant to Section 141 of the Internal Revenue Code of 1986, as amended (the "Code").
3. The Bonds shall be issued in such series and amounts and upon such terms and conditions as are mutually agreed upon among the County and the Company. The County and the Company shall enter into a "financing agreement" pursuant to the Act for a term and upon payments sufficient to pay the principal of, premium if any, and interest on the Bonds and to pay all of the expenses of the County in connection with

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the Bonds and the Development. The Bonds will be issued pursuant to an indenture or security agreement between the County and a trustee (the "Trustee") or the bondholder which will set forth the form and terms of the Bonds and will assign to the Trustee for the benefit of the holders of the Bonds, or directly to the bondholder, the County's rights to payments under the financing agreement, except the County's right to payment of fees and expenses and indemnification. The Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit of the State of North Carolina or any political subdivision or agency thereof, including the County and the County, but shall be payable solely from the revenues and other funds provided under the proposed agreements with the Company.

4. The County hereby authorizes the Company to proceed, upon the prior advice, consent and approval of bond counsel and the County's counsel, to obtain approvals in connection with the issuance and sale of the Bonds and to obtain an allocation of a sufficient amount of the State of North Carolina's "private activity bond limit," as required by Section 141 of the Code and as defined in Section 146 of the Code, for the Bonds.
5. It having been represented to the County that it is desirable to proceed with the acquisition, construction and equipping of the Development, the County agrees that the Company may proceed with plans for such acquisition, construction and equipping, enter into contracts for the same, and take such other steps as it may deem appropriate in connection therewith, provided that nothing herein shall be deemed to authorize the Company to obligate the County without its written consent in each instance to the payment of any monies or the performance of any act in connection with the Development and no such consent shall be implied from the County's adoption of this resolution. The County agrees that the Company may be reimbursed from the proceeds of the Bonds, if and when issued, for all qualifying costs so incurred by it.
6. All obligations hereunder of the County are subject to the further agreement of the County and the Company to terms for the issuance, sale and delivery of the Bonds and the execution of a financing agreement, indenture or security agreement and other documents and agreements necessary or desirable for the issuance of the Bonds, and the approval of the Development and the bonds by the North Carolina Volume Cap Allocation Committee and the North Carolina Local Government Commission, as required by North Carolina law. The County has not authorized and does not authorize the expenditure of any funds or monies of the County from any source other than the proceeds of the Bonds. All costs and expenses in connection with the financing and the acquisition, construction and equipping of the Development, including the reasonable fees and expenses of the County's counsel, bond counsel and the agent or underwriter for the sale of the Bonds, shall be paid from the proceeds of the Bonds or by the Company, but if for any reason the Bonds are not issued, all such expenses shall be paid by the Company and the County shall have no responsibility therefor. It is understood and agreed by the County and the Company that nothing contained in this resolution shall be construed or interpreted to create any personal liability of the officers or commissioners from time to time of the County.

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7. The officers of the County are hereby authorized and directed to take all actions in furtherance of the resolution and the issuance of the Bonds.
8. The County hereby approves Hunton & Williams, Raleigh, North Carolina, to act as bond counsel for the Bonds.
9. This resolution shall take effect immediately.

* * * * *

Commissioner Bowser moved the passage of the foregoing resolution and Commissioner Heron seconded the motion and the resolution was passed by the following vote:

Ayes: Commissioners Bell, Black, Bowser, Heron,
and Reckhow
Nays: None
Not Voting: None

I, Garry E. Umstead, Secretary of the Board of Commissioners of the County of Durham, DO HEREBY CERTIFY that the foregoing is a true and complete copy of a resolution adopted by the Board of Commissioners of the County at a regular meeting duly called and held on April 10, 2000, and that the proceedings of such meeting are recorded in the Minutes of said Board.

WITNESS my hand and the official seal of the County this 13th day of April, 2000.

(SEAL)

/s/ Garry E. Umstead
Clerk to the Board

Consent Agenda Items Removed for Discussion

Consent Agenda 5(f). Rejection of Offer to Purchase County Property (118 & 110 Plantation Drive) (reject the bid submitted by Mr. Caldwell).

Vice-Chairman Reckhow asked what would be the approach in terms of getting parcels like these back on the market.

In response to Vice-Chairman Reckhow, Deputy County Manager Wendell Davis said that several options are being explored to determine the best way to get the parcels back on the tax roll.

Vice-Chairman Reckhow suggested that a process be developed. The Commissioners should be advised at a later date.

Interim County Manager Carolyn P. Titus said an update would go to the Commissioners this week to explain the process in place now.

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Several questions were asked about the two parcels (118 & 110 Plantation Drive). Mr. Davis responded to the questions.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve consent agenda item No. 5(f).

The motion carried unanimously.

Public Hearing--Transfer of Control of Cable Television of Cable Television Franchise From Time Warner Inc. to AOL Time Warner, Inc.

On January 10, 2000, America Online Inc. and Time Warner Inc. entered into an Agreement and Plan of Merger. Pursuant to the Agreement, America Online Inc. and Time Warner Inc. will each merge into wholly owned subsidiaries of a new Delaware Corporation, AOL Time Warner Inc. Thus, as a result of this merger, AOL Time Warner Inc. will become the new ultimate parent of both America Online Inc. and Time Warner Inc.

Pursuant to the Durham County Cable Television Franchise Ordinance, Section 12.03 Sale or Transfer of Franchise, the County must approve the transfer of control from Time Warner Inc. to AOL Time Warner Inc.

The Ordinance provides that the County may approve the transfer without a public hearing, or that the County may require that a public hearing is necessary due to potential adverse effect on Grantee subsidiaries. In reviewing a request for sale or transfer, the County may inquire into the technical, legal, and financial qualifications of the prospective controlling party. The County may condition said transfer upon such terms and conditions not inconsistent with this franchise or applicable law as are reasonably necessary to ensure compliance with the franchise. The Ordinance further provides that the County shall not unreasonably withhold its approval.

On March 27, 2000, the Board decided to conduct a public hearing to consider the transfer.

Resource Person(s): Brad Phillips, Division Vice President, Time Warner Cable
Lowell L. Siler, Deputy County Attorney

County Manager's Recommendation:

Conduct the public hearing, and approve the transfer, if warranted, based on the information received.

Mr. Siler presented the Commissioners a brief overview of the agenda item. He introduced Mr. Phillips to answer questions from the Commissioners.

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Chairman Black opened the public hearing that was properly advertised.

As no one signed to speak at this public hearing, Chairman Black closed the public hearing and referred the item back to the Commissioners.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to adopt the resolution to approve the transfer.

The motion carried unanimously.

The resolution follows:

A RESOLUTION PROVIDING FOR THE CHANGE IN CONTROL
OF A CABLE TELEVISION FRANCHISEE

Whereas, the County of Durham ("Franchising Authority") has granted a franchise to a subsidiary (the "Franchisee") of Time Warner Inc. ("TWI") to provide cable television service:

Whereas, TWI and America Online Inc. ("AOL") have entered into an Agreement and Plan of Merger (the "Merger Agreement") dated as of January 10, 2000;

Whereas, the Merger Agreement will result in a stock-for-stock merger (the "Transaction") in which TWI and AOL will merge with subsidiaries of a newly formed holding company; and

Whereas, as a result of the Transaction both TWI and AOL will become wholly owned subsidiaries of the new company, AOL Time Warner Inc.; and

Whereas, the Franchising Authority has concluded the Transaction will result in a change of control of the Franchisee.

NOW, THEREFORE, BE IT RESOLVED BY FRANCHISING AUTHORITY:

1. To the extent required under the terms of the Franchise, the Franchising Authority authorizes and consents to any change in control of the Franchisee resulting from the Transaction.
2. The Franchisee shall remain responsible for all obligations under the Franchise.
3. The foregoing consent shall be effective upon the closing of the Transaction.

PASSED, ADOPTED, AND APPROVED this 10th day of April, 2000.

By: /s/ MaryAnn E. Black

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Title: Chairman, Board of County Commissioners

ATTESTATION AND CERTIFICATION:

By: /s/ Garry E. Umstead

Title: Clerk to the Board of County Commissioners

Public Hearing to Consider Allocating Economic Development Investment Funds to Freudenberg Nonwovens

Freudenberg Nonwovens is considering expanding local operations by constructing a 52,000-square-foot addition to an existing manufacturing facility. The plant is located in Eno Industrial Park located in the northern part of Durham County. The value of this facility will be at least \$35,292,000. Upon completion, the addition to the facility will manufacture polyester spunbond nonwovens. With this expansion, Freudenberg expects to create 29 new manufacturing jobs.

Freudenberg is in the process of making the final decision where to locate this proposed facility. Staff is aware of a backup site in South Carolina, which is being considered for this investment. Freudenberg has communicated to the County Manager and staff that Durham County's financial support for this project will be a key consideration in the final decision. Freudenberg is requesting that the County participate in the costs of site preparation activities, such as site clearing and grading, and the extension of utilities to the new facility.

Staff is recommending that the County participate in this economic development project by reimbursing Freudenberg up to \$450,000 for the costs of site preparation activities, extending utilities to the site, and associated County development fees.

Resource Person(s): Interim County Manager Carolyn P. Titus

County Manager's Recommendation: Hold the public hearing; and if warranted, based upon the information received, approve the contract between Durham County and Freudenberg Nonwovens to allow for the reimbursement of costs associated with site preparation, such as site clearing and grading, and the extension of utilities to the proposed facility.

Interim County Manager Carolyn P. Titus presented the Commissioners an overview of the proposal.

Commissioner Bowser asked Mr. Melt Williams, CEO and President of Freudenberg Nonwovens, several questions about employment issues.

Chairman Black opened the public hearing that was properly advertised.

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The following people spoke in strong support of the proposal to allocate economic development investment funds to Freudenberg Nonwovens.

Bert Collins, 2404 Vintage Hill Drive, representing Durham Chamber of Commerce

Tom White, 2729 Sevier Street, representing Durham Chamber of Commerce

Jerry O’Keeffe, 2302 Strawberry Lane, Durham, NC, Director—External Relations, PSNC Energy

Ted Conner, 3305 Parkover Look Drive, representing Durham Chamber of Commerce.

All speakers urged the Commissioners to approve the incentives.

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.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the amended agreement.

The motion carried unanimously.

Discussion of Proposed Items for the 2000 Durham County Legislative Agenda

Deborah Craig-Ray, Governmental Affairs Director, led a discussion of proposed legislative items which were suggested by the County Commissioners for possible inclusion in the 2000 Durham County Legislative Agenda. Once items have gone through this discussion period, a final list will be prepared for Board approval and subsequent submission to the members of the Durham delegation. The General Assembly will convene at noon on May 8th in a so-called short session. A breakfast meeting with members of the Durham delegation is proposed for Thursday, April 20 at 8:00 a.m. pending the availability of the majority of the delegation.

Resource Person(s): Deborah Craig-Ray, Chuck Kitchen, and Angela Geadelmann

County Manager's Recommendation: Discuss legislative items, direct staff, and schedule possible breakfast meeting with Durham delegation.

The legislative agenda items are:

- 1) AN ACT TO FACILITATE CITY-COUNTY CONSOLIDATION IN NORTH CAROLINA

OBJECTIVE: Legislation authorizing the City and the County of Durham to legally consolidate two local governments into one new government structure.

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RATIONALE: Enabling legislation will be required to facilitate the consolidation if the issue is put before the voters in a referendum in November, as expected, and if the issue is successful.

BACKGROUND INFORMATION: The City and County of Durham are in a process of examining a possible consolidation of the two local governments. A Charter Commission is currently working on a recommendation regarding critical components associated with a possible consolidation. The commission's final report is scheduled to be brought back to the City Council and the County Commissioners in July.

County Attorney Kitchen discussed the two options he received from Mr. David Lawrence with the Institute of Government. Bond Counsel has looked at the General Statute which was written in 1975. Bond Counsel is of the opinion that additional changes are needed. A second action may be needed by the legislature in order to have the merger vote. Attorney Kitchen asked Bond Counsel to work with Mr. Lawrence to decide how the legislation should be written to preserve the integrity of the existing bond issues and other debt financing.

This legislative agenda item will be carried forward.

The Commissioners discussed the agenda item relative to assuming debt.

2) AN ACT TO AMEND THE LAW WHICH PROHIBITS THE TAKING OF DEER WITH DOGS IN DURHAM COUNTY

OBJECTIVE: Legislation that amends Chapter 669 (1994) to provide (1) that both the taking and hunt of deer with dogs are prohibited without exception in Durham County, and (2) that deer hunting in Durham County is unlawful except from a stationary and elevated stand.

RATIONALE: There are concerns that have been raised by citizens and business owners about the number of hunters throughout the community who are hunting deer with dogs. Citizens and business owners are concerned that a grave accident could occur since hunters often disregard posted "NO HUNTING" signs. Even without the signs, current legislation provides that it is illegal to hunt deer with dogs inside Durham County, unless the hunter has the written permission of the landowner. Violation of the law is a Class 3 misdemeanor.

However, the problem is not a lack of an enforceable law, but the enforcement of the law. Agencies who are charged with enforcement are the Sheriff's Department (for areas outside the City limits), the Police Department (for areas inside the City limits), and the Wildlife Commission. Durham County Animal Control has, on occasion, picked up some hunting dogs and taken them to the shelter where the owners redeemed the dogs. However, Animal Control can't always be there to catch the dogs. Furthermore, Animal Control does not have the authority to enforce the law; Animal Control may only catch

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the dogs running at large in violation of the Animal Control Ordinance. As to the hunters themselves, apparently they either do not know the law, or disregard the law while hunting.

BACKGROUND INFORMATION: The County received legislation in 1994 which allows the taking of deer with dogs if the hunter has written permission of the landowners to take deer with dogs.

Assistant County Attorney Angela Gadelmann spoke about the legislation that the Commissioners requested at their January 3, 2000 Board meeting. The proposed legislation provides that both the taking and hunt of deer with dogs are prohibited without exception in Durham County, and (2) that deer hunting in Durham County is unlawful except from a stationary and elevated stand.

Commissioner Bowser said because he is a former hunter, he would not be in support of the proposed legislation.

The following citizens spoke in support of the proposed legislation:

Elizabeth Rooks, Vice President, Planning and Development, PO Box 12255, RTP, NC 27709, Research Triangle Foundation, Orange County resident

James Hinkle, President, Treyburn Corporate Park, Wake County resident

The following citizens spoke in opposition to the proposed legislation:

Genaves John Rigsbee, 503 Broach Road, Durham County

David Perkins, 5720 Willow Drive, Top Dog Hunting Club, Durham County

Kevin Young, 7403 Blalock Road, Bahama, NC 27503; Durham County Hunter Rights

Raymond Pennell, 3006 Burton Road, Durham, NC 27704

Roy R. Dean, 4031 Redwood Road, Durham, NC 27704

Steve Rolland, 507 Bill Poole, Rougemont, NC 27572, Durham County Hunters Association

Ricky Woodrow Fletcher, 1211 Stone Road, Durham, NC 27703, Bethesda Hunting Club

Charlie E. Moore, Route 13, Eastern Durham County

Commissioner Bowser said the problem should be handled differently instead of taking the hunting privilege from everyone. This Board should develop an alternative to solve the concerns and problems.

The Commissioners discussed the proposed legislation after the speakers finished their remarks.

Vice-Chairman Reckhow suggested another "round table" discussion be held before the Board meets with the Durham Delegation on May 1, 2000.

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This agenda item will not be moved to the short session of the General Assembly; however, the item will be moved to the long session next year.

3) AN ACT TO ESTABLISH A LOCAL OFFICE TO OVERSEE COMPLIANCE WITH NURSING HOME REGULATIONS

OBJECTIVE: Legislation authorizing the County of Durham to establish a new department to oversee the administration of nursing homes and with the ability to levy fines for violations.

County Attorney Chuck Kitchen spoke about his research on this proposed legislation. He discussed the subject with the North Carolina Association of County Commissioners' representatives. It is probably not possible for local government to get involved since the state has a contract with a federal agency to provide for the inspections and enforcement of the state regulations.

The Commissioners had a lengthy discussion about the proposed legislation.

County Attorney Chuck Kitchen suggested the Commissioners could go on record supporting legislation resulting from the study committee. In the long session, penalty increases could be reviewed.

Commissioner Bowser said nursing home employees' salaries must be addressed.

Commissioner Heron said several studies and reports are forthcoming that will address issues relative to nursing homes. Major problems exist relative to long-term care.

Vice-Chairman Reckhow stated the Board must promote greater regulations and provide leadership in this matter.

Chairman Black suggested the proposed legislation be put on the agenda for the legislative breakfast meeting on May 1, 2000. We can have a worksession in the fall to talk about this issue.

Chairman Black asked Ms. Craig-Ray to discuss briefly the support initiatives. The items follow:

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Durham County Support Initiatives:

1) GRASSROOTS SCIENCE PROGRAM

The Museum of Life and Science is seeking support for the continuation of its appropriation of \$465,240 which is a part of the \$3.42 million total continuation budget appropriation to be divided between the 16 members of the museum consortium.

Durham County Future Initiatives:

1) PREPARED MEALS TAX

Several North Carolina counties, including Wake and Mecklenburg, have this authority. Funds could be used to support public-private partnerships such as the American Tobacco Project.

The Commissioners already approved the resolution on Senate Bill 368.

Attorney Chuck Kitchen discussed briefly the legislation relative to “public duty doctrine” that will be discussed in the long session of the legislature.

Commissioner Heron said the Commissioners must discuss with the legislators the need for options other than property taxes to raise additional revenue.

Commissioner Bowser wished to talk about impact fees with the legislators.

The Commissioners concurred to place impact fees on the legislative agenda.

Chairman Black requested a list of the items to be placed on the legislative breakfast agenda on May 1, 2000.

American Tobacco Historic District Project Goals

The Durham County Board of Commissioners unanimously approved a resolution in support of the American Tobacco Historic District and charged the County Manager to continue to work with the City of Durham and the Capitol Broadcasting Company to negotiate a final proposal. To develop a framework for those negotiations, it was recommended that the Board adopt a set of project goals to serve as guiding principles for the negotiations.

Resource Person(s): Interim County Manager Carolyn P. Titus

County Manager's Recommendation: Review and approve the project goals for the American Tobacco Historic District Project.

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Ms. Titus reviewed the project goals for the Commissioners and read the following project summary into the record:

The American Tobacco Historic District is a private-public downtown development project that involves the renovation of the former American Tobacco Factory, new construction on the DATA site, public parking, and planning for the construction of a future entertainment venue.

Upon completion, the project will encompass:

- Approximately 1.0 million square feet (669,000 office, 222,000 retail, 150,000 hotel)
- Approximately \$161 million in private investment
- Approximately \$37 million investment in public parking
- Approximately 4,479 new jobs in downtown
- Approximately \$1.5 to \$2.0 million in new annual City and County tax revenue (real property, personal property, and sales)
- 4182 new parking spaces
- Consideration of the development of a 5,000 seat entertainment venue

The project goals considered at the last Commissioner meeting, which were finalized for Board consideration follow:

Public Project Goals

1. . . . to provide sufficient incentives and assistance to promote downtown revitalization in order to facilitate completion of all phases of the mixed use, American Tobacco project and to do so in a manner that allows the development of a public entertainment venue as a future phase.
2. . . . to strive for a financial deal that produces public revenue, in all forms, that minimizes annual public costs and maximizes the public financial return over the life of the project.
3. . . . to recognize that significant indirect positive impacts will be generated by the investment.
4. . . . to have no speculative investment by the public sector. Private commitments must be contractually secured prior to public involvement.
5. . . . to work cooperatively and structure a package where the public support and investment is shared between the County and City.
6. . . . to recognize the value of the DATA site.
7. . . . to work with the developer to create a strategy for providing Durham residents with information and training to secure jobs in the project.
8. . . . to ensure that the development plan takes advantage of its proximity to the future multimodal facility and accommodates carpooling and other Transportation Demand Management (TDM) strategies including mass transit use.
9. . . . to ensure any new performance venue complements the Carolina Theater and the Durham Bulls Athletic Park.

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10. . . . to be flexible in the methods used to achieve the goals while structuring the transaction in a manner consistent with the legal constraints applicable to the County's participation in the project.
11. . . . to assure that any public parking that is developed as a part of this project is available nights and weekends to serve other public venues such as the Durham Bulls Ball Park, as well as a possible entertainment complex.

Chairman Black said the Board could approve the 11 project goals with the understanding that future project goals will be forthcoming.

Vice-Chairman Reckhow moved, seconded by Commissioner Bell, to approve the 11 Public Project Goals with the amendment in item No. 1 with the understanding that more goals will be coming forward.

The motion carried unanimously.

NOTE: Amendment to No. 1—Remove “through” and add, “in order to facilitate.”

Lebanon Township Plan

The Planning Department periodically produces Small Area plans; Durham is subdivided into 15 Small Areas and Downtown. The Lebanon Township Plan is the 12th such plan done. The Lebanon Township Plan planning process incorporates citizen and staff input. During the development of the Plan, five community meetings were held and significant staff research has been performed to complete the document.

The Lebanon Plan contains a summary of existing conditions and a set of policies to guide future growth in the Township and champions concepts outlined in the Durham 2020 Comprehensive Plan. While maintaining the area's rural and suburban character, the Plan proposes several limited areas of more intensive development in an Urban or Regional Corridor and a new concept of “Neighborhood Services Areas.” Any new development must be sensitive to environmental and compatibility concerns.

The Lebanon Township Plan is generally compatible with and supportive of adopted plans. The Planning Committee of the Durham Planning Commission recommended adoption of the draft Plan at its meeting on May 12, 1999. The draft has been presented to both the Board of County Commissioners and City Council and discussed by Joint City-County Planning Committee in July, August, and September of 1999. Planning staff recommended adoption of the Lebanon Township Plan, with minor text changes, which has been updated and republished. Updates are outlined in the document “Changes To Draft Lebanon Township Plan.”

Resource Person(s): T.E. Austin, Durham City/County Planning Department

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County Manager's Recommendation: The Manager recommends that the Board adopt the updated Lebanon Township Plan subject to corrections and revisions that are highlighted during the presentation of the Plan.

Mr. Austin presented the Lebanon Township Plan to the Commissioners for their consideration.

The Commissioners asked questions and made comments about the plan to which Mr. Austin responded. A lengthy discussion followed.

Chairman Black suggested that the Board move this item with the changes and then bring back any necessary changes.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, that the Board approve this with the designation of 1 to 4 under low density residential and the clarifying language. Moving north toward the UGA line, the density should decrease to one.

The motion carried unanimously.

Financial Administrative Procedures to Provide Grants to Successful SBA Loan Applicants

The Small Business Administration (SBA), a federal agency, authorized federal grants to the North Carolina State Department of Commerce. These grants are to be provided to homeowners who have qualified for a SBA loan as a result of damages to their primary residence from Hurricane Floyd. The Department of Commerce has designated the Consumer Credit Counseling Services (CCCS) office in Durham as the contact agency for local citizens seeking assistance from the SBA. CCCS will take the applications and determine eligibility. The application package will then be forwarded to the County Finance Office where a check will be prepared for the citizen. The County will maintain files on these distributions for audit purposes and will file for reimbursement for all funds distributed from the State Department of Commerce. This program will result in no cost to the County other than minor administration and processing of the checks.

Resource Person(s): Patricia J. Gravinese, Finance Director

County Manager's Recommendation: Approve the item and direct staff to set up the necessary procedures to distribute funds to qualifying residents and small business owners in Durham County that were affected by Hurricane Floyd.

Ms. Gravinese explained the agenda item to the Commissioners. She requested the Commissioners designate Durham County as the "pass-through" agency for distribution of the funds. There are less than one dozen citizens who have qualified.

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Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve the item and direct staff to set up the necessary procedures to distribute funds to qualifying residents and small business owners in Durham County that were affected by Hurricane Floyd.

The motion carried unanimously.

County Participation in the Cost of Sidewalks for the Mineral Springs Road/S. Miami Boulevard/US 70 Intersection Improvement Project

The N. C. Department of Transportation (NCDOT) would be constructing a safety and capacity improvement project at the intersection of US 70, S. Miami Boulevard, and Mineral Springs Road, including a realignment of a portion Sherron Road. The project is scheduled for construction early this summer at a total estimated cost of \$8.778 million. The Board of County Commissioners and the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) have jointly requested that NCDOT construct wide outside lanes for bicycles and sidewalks as part of the project. Wide outside lanes would be constructed at no extra cost to local governments.

The sidewalks are estimated to cost \$132,330. Under NCDOT policy, it is suggested that local government participate in the cost and maintenance of new sidewalks. The DCHC MPO has allocated \$84,461 in federal Surface Transportation Program--Direct Attributable (STP-DA) funds to defray most of the sidewalk costs, and may allocate up to a maximum of 80 percent of the total. The City of Durham is currently negotiating a Municipal Agreement with NCDOT to pay the non-federal share of the STP-DA funds and assume maintenance responsibility for the portion of the project within the City limits, or about 10 percent of the total project.

The remainder of the project is in the unincorporated area of Durham County. If sidewalks are to be constructed outside the City limits, the County will need to agree to share in the sidewalk cost and maintenance. The estimated County construction cost would range from \$23,900 (assuming additional MPO participation) up to \$43,100.

Resource Person(s): Norm Standerfer, Director, Durham City/County Planning
Mark Ahrendsen, City Transportation

County Manager's Recommendation: The Board of County Commissioners should discuss the concept of Durham County sharing in the costs of new sidewalks constructed outside the Durham City limits for which the State and/or the DCHC MPO will provide a federal match. If the Board agrees to the concept, direct the County Manager and the County Attorney to negotiate a draft reimbursement and maintenance agreement with NCDOT for the US 70/S. Miami Boulevard/Mineral Springs project for subsequent review and approval by the BOCC.

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Mr. Standerfer introduced the agenda item to the Commissioners for their consideration.

Wesley Parham, City Transportation Department, presented an overview of the agenda item.

The Commissioners asked questions and made comments about the agenda item to which Mr. Parham responded.

Vice-Chairman Reckhow suggested the Board give direction to staff to proceed with the project and to find the money to fund the project.

No official action was taken on this agenda item.

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Lease Agreement for the North Branch Library at Riverview Shopping Center

The Board was requested to authorize the execution of a lease between the County and IRT Properties for the North Branch Library located in Riverview Shopping Center. The cost of the lease for the first year is \$59,800.00 or \$6.50 per square foot. This is a five-year lease with a term from July 1, 1999 through June 30, 2004. The County has an option to terminate the lease at the end of the third year with a six-month prior notice. The existing lease was entered into in 1987 with renewals of the same terms and conditions since that time until June 30, 1999. The Library has been located in this facility since 1979.

County Manager's Recommendation: The County's North Durham Library Branch has occupied this facility for the past 21 years. Thirteen of those years have been under essentially the same terms as currently proposed. In response to the concerns of the County Attorney, Library staff conducted an exhaustive search for a new north Durham site. The only adequate space identified was at North Duke Crossing with a substantially higher per-square-foot cost and similar proposed lease provisions to those under objection by the County Attorney (e.g. liability insurance, CAM, taxes and insurance, and responsibilities of the County). A move to new space would also involve architectural, up-fit, and moving expenses. Based on calculations of terms, conditions and other associated costs, it is estimated that a move to North Duke Crossing would result in additional costs in excess of \$150,000 over the term of the contract.

In conclusion, given that the County has occupied this site for such an extensive period of time under similar provisions as proposed, that citizens are familiar with this location, that there is a lack of an appropriate alternative site available with reasonable costs and terms, I am recommending that the Board authorize the execution of this lease in accordance with the agreement.

Vice-Chairman Reckhow moved, seconded by
Commissioner Bell, to approve this item.

The motion carried unanimously.

Durham County Government Commute Trip Reduction Program

The Durham County Board of Commissioners has recognized that the reduction of single-occupancy vehicle use, especially during peak hours, is an important goal for the Research Triangle Region. This goal will reduce congestion on our highways and the resultant levels of ozone in our air, which in turn will help us to maintain the high quality of life that we currently enjoy. At its February 28, 2000 meeting, the Board adopted a Commute Trip Reduction Program that outlines community goals. These annual goals are intended to increase the percentage of alternate mode or non-peak commute trips and increase the percentage of the reduction of vehicle miles traveled for the average commute trip. Included in the ordinance are the requirements for major employers to

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educate their employees about Transportation Demand Management (TDM), to participate in surveys designed to measure the impact of TDM initiatives, and to prepare and submit a Travel Reduction Plan.

It is expected, as a leader in the community, that Durham County Government begin to make preparations to comply with the newly adopted ordinance.

Resource Person(s): Interim County Manager Carolyn Titus

County Manager's Recommendation: Charge the County Manager with establishing a staff committee to begin implementing the goals of the Commute Trip Reduction Program.

Vice-Chairman Reckhow moved, seconded by Commissioner Bell, to charge the County Manager with establishing a staff committee to begin implementing the goals of the Commute Trip Reduction Program.

The motion carried unanimously.

Search for a Permanent County Manager

Former County Manager David F. Thompson resigned effective March 3, 2000. Carolyn P. Titus was appointed Interim County Manager effective March 6, 2000. The Board discussed the appointment of a permanent County Manager and outlined the search process.

Chairman Black stated she would prepare a schedule for the Commissioners to consider in terms of beginning the process to search for a County Manager.

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, to begin the search for a permanent County Manager.

The motion carried unanimously.

Nursing Home Inspections

Commissioner Bowser asked each Commissioner to go with a Nursing Home Community Advisory Committee member on an inspection tour to a nursing home.

Closed Session

To adjourn into Closed Session pursuant to G.S. 143-318.11(a)(6) to consider a personnel matter.

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Commissioner Bell moved, seconded by Vice-Chairman Reckhow, to adjourn into Closed Session to discuss a personnel matter.

The motion carried unanimously.

Reconvene Into Public Session

Chairman Black said that during the Closed Session staff was given direction regarding a personnel item.

Adjournment

Chairman Black adjourned the meeting at approximately 10:30 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board