

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

Monday, May 8, 2000

7:30 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 said the proposed minutes approving the sale of 2/3 bonds was placed at the Commissioners' stations prior to the meeting.

Commissioner Bell asked to put the American Tobacco Project on the agenda for discussion and consideration.

Chairman Black said the American Tobacco Project would follow agenda item No. 5, "Update from the Board of Elections of Precinct Changes.

Commissioner Heron expressed concern regarding the addition of the item. She was totally unaware of this item being added.

Commissioner Bell asked that the Board hear and discuss this item and act accordingly.

Chairman Black added a proclamation concerning "Information and Referral Awareness Week" to be read after approval of the minutes.

**Minutes**

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Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the February 28, 2000 Closed Session/Regular Session Minutes of the Board as submitted, and the March 27, 2000 Regular Session and April 3, 2000 Worksession Minutes of the Board as corrected.

The motion carried unanimously.

**Proclamation Recognizing “Information and Referral Awareness Week”**

A proclamation naming the week of May 14-20, 2000 as “Information and Referral Week” was prepared for the Board’s approval.

County Manager's Recommendation: Approve the proclamation and forward to the appropriate staff.

Chairman Black read the following proclamation into the record:

PROCLAMATION

Whereas, across the nation information and referral professionals work with agencies and individuals to link programs and services efficiently and positively with those who need them; and

Whereas, information and referral agencies operate as a point of entry, enabling individuals to help themselves and each other, and offering service or access to community services as needed; and

Whereas, special appreciation should be given to information and referral agencies and the important role information and referral professionals fill in serving individuals throughout Durham County:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim May 14-20 as

“INFORMATION AND REFERRAL AWARENESS WEEK”

and urge the total community to recognize the tremendous efforts of information and referral professionals in the Durham community.

This the 8<sup>th</sup> day of May, 2000.

/s/ Five Commissioners  
Durham County Commissioners

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Consent Agenda

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

- \* (a) Library Budget Amendment No. 00BCC000048 to Recognize and Expend Unbudgeted Contribution (approve budget amendment in the amount of \$9,000 to recognize and expend unbudgeted contributions to the Durham County Library);
- (b) Approval of Sublease to Kaiser Permanente (approve the sublease and direct the County Attorney to send the lease to the Durham County Hospital Corporation Board for its consideration);
- \* (c) Budget Amendment to Recognize \$212,000 of additional Governor's Crime Commission Grant Revenue (approve the budget amendment to recognize \$212,000 of additional revenue this fiscal year from the Governor's Crime Commission (No. 00BCC000049));
- \* (d) Durham Technical Community College Pay-As-You-Go Project Allocation (recommend that the Board of County Commissioners approve Capital Budget Amendment No. 00CPA000015 to establish the Durham Technical Community College pay-as-you-go project);
- (e) Bridges Housing Corporation FY 2000-01 Budget Request (support the Bridges Housing Corporation HUD 811 application through the commitment of a \$4,000 allocation in FY 2000-01. This commitment is contingent upon the receipt of the HUD 811 grant for the Bridges Pointe Project. The County Manager also recommends that the Board convey this commitment through a letter to Bridges Housing Corporation);
- (f) 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);
- \* (g) Resolution Approving Sale of 2/3 Bonds (approve the necessary resolution to effectuate sale of the bonds);
- (h) Offer to Purchase County Property (612 Bingham Street) (pursue the upset bid process and approve the resolution to offer the property in an "upset bid" sale.

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The Board will have the authority to accept or reject any offer at the conclusion of the upset bid process if it so desires); and

- (i) Appointment—Animal Control Advisory Committee (appoint James E. Hardin Jr. to the Animal Control Advisory Committee to represent the District Attorney’s Office).

The motion carried unanimously.

\*The documents related to these items follow:

Consent Agenda 4(a). Library Budget Amendment No. 00BCC000048 to Recognize and Expend Unbudgeted Contribution (approve budget amendment in the amount of \$9,000 to recognize and expend unbudgeted contributions to the Durham County Library) follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 1999-2000 Budget Ordinance  
Amendment No. 00BCC000048

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 Library.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Culture and Recreation	\$7,013,374	\$9,000		\$7,022,374
<u>Revenues</u>				
Miscellaneous Income	\$6,433,021	\$9,000		\$6,442,021

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

This the 8<sup>th</sup> day of May, 2000.

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

Consent Agenda 4(c). Budget Amendment to Recognize \$212,000 of additional Governor’s Crime Commission Grant Revenue (approve the budget amendment to recognize \$212,000 of additional revenue this fiscal year from the Governor’s Crime Commission (No. 00BCC000049) follows:

DURHAM COUNTY, NORTH CAROLINA

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FY 1999-2000 Budget Ordinance  
Amendment No. 00BCC000049

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 Youth Coordinating Board.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$210,884,108	\$212,000		\$211,096,108
<u>Revenues</u>				
Intergovernmental	\$180,046,443	\$212,000		\$180,258,443

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

This the 8<sup>th</sup> day of May, 2000.

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

Consent Agenda 4(d). Durham Technical Community College Pay-As-You-Go Project Allocation (recommend that the Board of County Commissioners approve Capital Budget Amendment No. 00CPA000015 to establish the Durham Technical Community College pay-as-you-go project) follows:

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DURHAM COUNTY, NORTH CAROLINA  
FY 1999-2000 Capital Projects Budget Ordinance  
Amendment No. 00CPA0000015

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 Durham Technical Community College Roof Replacement.

PAYG FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
DTCC Roof Replacement	\$-0-	\$400,000		\$400,000

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

This the 8<sup>th</sup> day of May, 2000.

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

Consent Agenda 4(g). Resolution Approving Sale of 2/3 Bonds (approve the necessary resolution to effectuate sale of the bonds).

The resolution follows:

A regular meeting of the Board of Commissioners for the County of Durham, North Carolina, was held in the County Commissioners Meeting Room in the Durham County Administrative Complex at 200 East Main Street, in Durham, North Carolina, the regular place of meeting, on May 8, 2000 at 7:00 P.M.

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

Absent: None

\* \* \* \* \*

The following resolution, a copy of which had been provided to each Commissioner, was introduced:

RESOLUTION PROVIDING FOR THE ISSUANCE OF

May 8, 2000

\$8,880,000 PUBLIC IMPROVEMENT BONDS, SERIES 2000

BE IT RESOLVED by the Board of Commissioners for the County of Durham, North Carolina:

Section 1. Said Board of Commissioners (the "Board of Commissioners") has determined and does hereby find and declare:

(a) That an order authorizing not exceeding \$1,700,000 School Bonds was adopted by the Board of Commissioners on March 27, 2000, which order has taken effect.

(b) That none of said School Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said School Bonds and that it is necessary to issue at this time all of said School Bonds.

(c) That an order authorizing \$7,180,000 Wastewater Treatment Bonds was adopted by the Board of Commissioners on March 27, 2000, which order has taken effect.

(d) That none of said Wastewater Treatment Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said Wastewater Treatment Bonds and that it is necessary to issue at this time all of said Wastewater Treatment Bonds.

(e) That it is convenient to consolidate for the purpose of their issuance said \$1,700,000 School Bonds and said \$7,180,000 Wastewater Treatment Bonds into a single issue of \$8,880,000 Public Improvement Bonds, Series 2000 as hereinafter provided.

(f) That the weighted average of the maximum periods of usefulness of the improvements to be financed with the proceeds of said School Bonds and said

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Wastewater Treatment Bonds to be issued is estimated as a period of 40 years and that the date of expiration of said period computed from June 1, 2000, the date of said School Bonds and said Wastewater Treatment Bonds to be issued as provided in Section 2 of this resolution, is June 1, 2040.

Section 2. Pursuant to said order, there shall be issued bonds of the County of Durham, North Carolina (the "Issuer") in the aggregate principal amount of \$8,880,000, designated "Public Improvement Bonds, Series 2000" and dated June 1, 2000 (the "Bonds"). The Bonds shall be stated to mature annually, May 1, \$400,000 2001 to 2011, inclusive, \$900,000 2012 to 2015, inclusive, \$780,000 2016 and \$100,000 2017, and shall bear interest at a rate or rates to be determined by the Local Government Commission of North Carolina at the time the Bonds are sold, which interest to the respective maturities thereof shall be payable on November 1, 2000 and semiannually thereafter on May 1 and December 1 of each year until payment of such principal sum. The following amounts of Bonds stated to mature in the respective years shall be considered to constitute said \$7,180,000 Wastewater Treatment Bonds: \$300,000 2001 to 2011, inclusive, \$800,000 2012 to 2015, inclusive, and \$680,000 2016. Each of the Bonds stated to mature in a particular year shall be considered to represent said \$7,180,000 Wastewater Treatment Bonds in proportion to the amount of said \$7,180,000 Wastewater Treatment Bonds so considered to constitute Bonds stated to mature in such year over the amount of all of the Bonds stated to mature in such year.

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated upon an interest payment date in which event it shall bear interest from such interest payment date or



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(b) authenticated prior to the first interest payment date in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest and any redemption premium on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

The Bonds will be issued by means of a book-entry system with no physical distribution of Bond certificates to be made except as hereinafter provided. One fully-registered Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., a nominee of The Depository Trust Company, New York, New York ("DTC"), will be issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of and any redemption premium on each Bond shall be payable to Cede & Co. or any other person appearing on the registration books of the Issuer hereinafter provided for as the registered owner of such Bond or his registered assigns or legal representative at such office of the Bond Registrar mentioned hereinafter or such other place as the Issuer may determine upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each Bond shall be made by the Bond Registrar on each interest payment date to the registered owner of such Bond (or the previous Bond or

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Bonds evidencing the same debt as that evidenced by such Bond) at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on such registration books. Transfer of principal, interest and any redemption premium payments to participants of DTC will be the responsibility of DTC, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Finance Director of the Issuer determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the Issuer will discontinue the book-entry system with DTC. If the Issuer identifies another qualified securities depository to replace DTC, the Issuer will make arrangements with DTC and such other depository to effect such replacement and deliver replacement Bonds registered in the name of such other depository or its nominee in exchange for the outstanding Bonds, and the references to DTC or Cede & Co. in this resolution shall thereupon be deemed to mean such other depository or its nominee. If the Issuer fails to identify another qualified securities depository to replace DTC, the Issuer will deliver replacement Bonds in the form of fully registered certificates in the denomination of \$5,000 or any multiple thereof

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("Certificated Bonds") in exchange for the outstanding Bonds as required by DTC and others. Upon the request of DTC, the Issuer may also deliver one or more Certificated Bonds to any participant of DTC in exchange for Bonds credited to its account with DTC.

Unless indicated otherwise, the provisions of this resolution that follow shall apply to all Bonds issued or issuable hereunder, whether initially or in replacement thereof.

Section 3. The Bonds shall bear the manual or facsimile signatures of the Chairman of the Board of Commissioners and the Clerk to said Board and the corporate seal or a facsimile of the corporate seal of the Issuer shall be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary of said Commission and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as provided hereinafter.

In case any officer of the Issuer or the Local Government Commission of North Carolina whose manual or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

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No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The Bonds to be registered in the name of Cede & Co. and the endorsements thereon shall be in substantially the following forms:

No. R- ..... \$.....

United States of America  
State of North Carolina

COUNTY OF DURHAM

PUBLIC IMPROVEMENT BOND, SERIES 2000

<u>Maturity</u>	<u>Interest Rate</u>	<u>Cusip</u>
.....	.....	.....

The County of Durham, in the State of North Carolina, is justly indebted and for value received hereby promises to pay to

CEDE & CO.

or registered assigns or legal representative on the date specified above, upon the presentation and surrender hereof, at the office of the Finance Director of said County (the "Bond Registrar"), the principal sum of

..... DOLLARS

and to pay interest on such principal sum from the date hereof or from the May 1 or November 1 next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is a May 1 or a November 1 to which interest shall have been paid, in which case from such date, such interest to the maturity hereof

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being payable on November 1, 2000 and semiannually thereafter on May 1 and November 1 in each year, at the rate per annum specified above, until payment of such principal sum. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on the bond registration books of said County. Both the principal of and the interest on this bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both principal and interest as the same shall become due, the faith and credit of said County of Durham are hereby irrevocably pledged.

This bond is one of an issue of bonds designated "Public Improvement Bonds, Series 2000" (the "Bonds") and issued by said County for the purpose of providing funds, with any other available funds, for constructing and improving school facilities in said County and enlarging and improving wastewater treatment facilities of said County, and this bond is issued under and pursuant to The Local Government Bond Act, as amended, Article 7, as amended, of Chapter 159 of the General Statutes of North Carolina, two orders adopted by the Board of Commissioners for said County, each of which has taken effect, and a resolution duly passed by said Board of Commissioners (the "Resolution").

The Bonds maturing prior to May 1, 2011 are not subject to redemption prior to maturity. The Bonds maturing on May 1, 2011 and thereafter may be redeemed, at the

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option of said County, from any moneys that may be made available for such purpose, either in whole or in part on any date not earlier than May 1, 2010, at the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption, plus a redemption premium of 1/2 of 1% of the principal amount of each Bond to be redeemed for each period of 12 months or part thereof between the redemption date and the maturity date of such Bond, such premium not to exceed 2% of such principal amount.

If less than all of the Bonds of any one maturity shall be called for redemption, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot in such manner as said County in its discretion may determine; provided, however, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000 and, further, that The Depository Trust Company, New York, New York ("DTC") will determine by lot the amount of interest of each direct participant of DTC in such Bonds to be redeemed so long as a book-entry system with DTC is continued.

If less than all of the Bonds stated to mature on different dates shall be called for redemption, the particular Bonds or portions of Bonds to be redeemed shall be called in the inverse order of their maturities.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any Bonds to be redeemed, whether such redemption be in whole or in part, said County shall cause a notice of such redemption to be filed with the Bond Registrar and

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given by certified or registered mail to Cede & Co. at its address appearing upon the registration books of said County. On the date fixed for redemption, notice having been given as aforesaid, the Bonds or portions thereof so called for redemption shall be due and payable at the redemption price provided for the redemption of such Bonds or portions thereof on such date plus accrued interest to such date and, if moneys for payment of such redemption price and the accrued interest have been deposited by said County as provided in the Resolution, interest on the Bonds or the portions thereof so called for redemption shall cease to accrue. If a portion of this Bond shall be called for redemption, a new Bond or Bonds in principal amount equal to the unredeemed portion hereof will be issued to Cede & Co. or its legal representative upon the surrender hereof.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One fully-registered Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., a nominee of DTC, is being issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal, interest and any redemption premium payments to participants of DTC will be the responsibility of DTC, and transfer of principal, interest and any redemption premium payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial

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owners. Said County will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In certain events, said County will be authorized to deliver replacement Bonds in the form of fully-registered certificates in the denomination of \$5,000 or any multiple thereof in exchange for the outstanding Bonds as provided in the Resolution.

At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at his or her office the books of said County for the registration of transfer of Bonds. The transfer of this bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this bond, of the same maturity and bearing interest at the same rate.

The Bond Registrar shall not be required to exchange or register the transfer of any Bond during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and



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ending at the close of business on the day of such mailing or of any Bond called for redemption in whole or in part pursuant to the Resolution.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and in the issuance of this bond have happened, exist and have been performed in regular and due form and time as so required; that provision has been made for the levy and collection of a direct annual tax upon all taxable property within said County sufficient to pay the principal of and the interest on this bond as the same shall become due; and that the total indebtedness of said County, including this bond, does not exceed any constitutional or statutory limitation thereon.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until this bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, said County of Durham, by resolution duly passed by its Board of Commissioners, has caused this bond [to be manually signed by] [to bear the facsimile signatures of] the Chairman of said Board and the Clerk to said Board and [a facsimile of] its corporate seal to be [printed] [impressed] hereon, all as of the 1st day of June 2000.

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Chairman of the Board of Commissioners

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Clerk to the Board of Commissioners

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CERTIFICATE OF LOCAL GOVERNMENT COMMISSION

The issuance of the within bond has been approved under the provisions of The Local Government Bond Act of North Carolina.

\_\_\_\_\_  
Secretary, Local Government Commission

CERTIFICATE OF AUTHENTICATION

This bond is one of the Bonds of the series designated herein and issued under the provisions of the within-mentioned Resolution.

Finance Director of the County of Durham,  
North Carolina, as Bond Registrar

By: \_\_\_\_\_  
Authorized Signatory

Date of authentication: \_\_\_\_\_

ASSIGNMENT

FOR VALUE RECEIVED the undersigned registered owner thereof hereby sells, assigns and transfers unto \_\_\_\_\_

\_\_\_\_\_ the within bond and all rights thereunder and hereby irrevocably constitutes and appoints

\_\_\_\_\_ attorney to register the transfer of said bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed: \_\_\_\_\_

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NOTICE: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

Certificated Bonds issuable hereunder shall be in substantially the form of the Bonds registered in the name of Cede & Co. with such changes as are necessary to reflect the provisions of this resolution that are applicable to Certificated Bonds.

Section 4. The Bonds maturing prior to May 1, 2011 will not be subject to redemption prior to maturity. The Bonds maturing on May 1, 2011 and thereafter will be redeemable, at the option of the Issuer, from any moneys that may be made available for such purpose, either in whole or in part on any date not earlier than May 1, 2010, at the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption, plus a redemption premium of 1/2 of 1% of the principal amount of each Bond to be redeemed for each period of 12 months or part thereof between the redemption date and the maturity date of such Bond, such premium not to exceed 2% of such principal amount.

If less than all of the Bonds of any one maturity shall be called for redemption, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot in such manner as the Issuer in its discretion may determine; provided, however, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds which is obtained by dividing

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the principal amount of such Bond by \$5,000, and, further, that DTC will determine by lot the amount of interest of each direct participant of DTC in such Bonds to be redeemed so long as a book-entry system with DTC is continued. If less than all of the Bonds stated to mature on different dates shall be called for redemption, the particular Bonds or portions thereof to be redeemed shall be called in the inverse order of their maturities.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any Bonds to be redeemed, whether such redemption be in whole or in part, the Issuer shall cause a notice of such redemption to be filed with the Bond Registrar and to be mailed, postage prepaid, to the registered owner of each Bond to be redeemed in whole or in part at his address appearing upon the registration books of the Issuer, provided that such notice to Cede & Co. shall be given by certified or registered mail. Failure to mail such notice or any defect therein shall not affect the validity of the redemption as regards registered owners to whom such notice was given as required hereby. Each such notice shall set forth the date designated for redemption, the redemption price to be paid and the maturities of the Bonds to be redeemed. In the event that Certificated Bonds are outstanding, each such notice to the registered owners thereof shall also set forth, if less than all of the Bonds of any maturity then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed and, in the case of any Bond to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any Bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds in principal amount equal to the unredeemed portion of such Bond will be issued.

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On or before the date fixed for redemption, moneys shall be deposited with the Bond Registrar to pay the principal of and the redemption premium, if any, on the Bonds or portions thereof called for redemption as well as the interest accruing thereon to the redemption date thereof.

On the date fixed for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or portions thereof called for redemption shall be due and payable at the redemption price provided therefor, plus accrued interest to such date. If moneys sufficient to pay the redemption price of the Bonds or portions thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, have been deposited by the Issuer to be held in trust for the registered owners of Bonds or portions thereof to be redeemed, interest on the Bonds or portions thereof called for redemption shall cease to accrue, such Bonds or portions thereof shall cease to be entitled to any benefits or security under this resolution or to be deemed outstanding, and the registered owners of such Bonds or portions thereof shall have no rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest to the date of redemption.

If a portion of a Bond shall be selected for redemption, the registered owner thereof or his attorney or legal representative shall present and surrender such Bond to the Bond Registrar for payment of the principal amount thereof so called for redemption and the redemption premium, if any, on such principal amount, and the Bond Registrar shall authenticate and deliver to or upon the order of such registered owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond or Bonds of the same maturity, of any

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denomination or denominations authorized by this resolution and bearing interest at the same rate.

Section 5. Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any Bond may be registered only upon the registration books of the Issuer upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such Bond so surrendered, of the same maturity and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this resolution. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be canceled by the Bond Registrar. The Issuer or the Bond Registrar may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of Bonds

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sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made by the Issuer or the Bond Registrar for exchanging or registering the transfer of Bonds under this resolution. The Bond Registrar shall not be required to exchange or register the transfer of any Bond during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or of any Bond called for redemption in whole or in part pursuant to Section 4 of this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such Bond and the interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the redemption premium, if any, and interest thereon, to the extent of the sum or sums so paid.

The Issuer shall appoint such registrars, transfer agents, depositories or other agents as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to then current commercial standards and for the timely payment of principal, interest and any redemption premium with respect to the Bonds. The Finance Director of the Issuer is hereby appointed the registrar, transfer agent and paying agent for the Bonds (collectively the "Bond Registrar"), subject to the right of the governing body of the Issuer to appoint another Bond Registrar, and as such

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shall keep at his or her office the books of the Issuer for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution.

Section 6. The Issuer covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended, as are applicable to the Bonds, except to the extent that the Issuer obtains an opinion of bond counsel to the effect that noncompliance would not result in interest on the Bonds being includable in the gross income of the owners of the Bonds for purposes of federal income taxation.

Section 7. The Issuer hereby undertakes, for the benefit of the beneficial owners of the Bonds, to provide:

(a) by not later than seven months from the end of each fiscal year of the Issuer, to each nationally recognized municipal securities information repository (“NRMSIR”) and to the state information depository for the State of North Carolina (“SID”), if any, audited financial statements of the Issuer for such fiscal year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or, if such audited financial statements of the Issuer are not available by seven months from the end of such fiscal year, unaudited financial statements of the Issuer for such fiscal year to be replaced subsequently by audited financial statements of the Issuer to be delivered within 15 days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each fiscal year of the Issuer, to each NRMSIR, and to the SID, if any, (i) the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under heading “The County - Debt Information and - Tax Information” in the



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Official Statement relating to the Bonds (excluding any information on overlapping or underlying units) and (ii) the combined budget of the Issuer for the current fiscal year, to the extent such items are not included in the audited financial statements referred to in (a) above;

(c) in a timely manner, to each NRMSIR or to the Municipal Securities Rulemaking Board (“MSRB”), and to the SID, if any, notice of any of the following events with respect to the Bonds, if material:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (7) modification to the rights of the beneficial owners of the Bonds;
- (8) call of any of the Bonds for redemption;
- (9) defeasance of any of the Bonds;
- (10) release, substitution, or sale of property securing repayment of the Bonds; and
- (11) rating changes; and

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(b) in a timely manner, to each NRMSIR or to the MSRB, and to the SID, if any, notice of a failure of the Issuer to provide required annual financial information described in (a) or (b) above on or before the date specified.

If the Issuer fails to comply with the undertaking described above, any beneficial owner of the Bonds then outstanding may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Bonds.

The Issuer reserves the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the Issuer, provided that:

(a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the Issuer;

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 (“Rule 15c2-12”) as of the date of the Official Statement relating to the Bonds, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interests of the beneficial owners, as determined either by parties unaffiliated with the Issuer (such as

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bond counsel), or by approving vote of the registered owners of a majority in principal amount of the Bonds then outstanding pursuant to the terms of this resolution, as it may be amended from time to time, at the time of the amendment.

The Issuer agrees that the annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Bonds.

Section 8. The actions of the Interim County Manager and the Finance Director of the Issuer in applying to the Local Government Commission of North Carolina to advertise and sell the Bonds are hereby approved and ratified and the Local Government Commission of North Carolina is hereby requested to ask for sealed bids for the Bonds by publishing notices and printing and distributing an Official Statement and a Supplement to such Official Statement relating to the sale of the Bonds. Such Official Statement, dated May 5, 2000, and substantially in the form of the draft thereof presented to the Board of Commissioners, is hereby approved, and the Chairman of the Board of Commissioners, the Interim County Manager and the Finance Director of the Issuer are each hereby authorized to approve changes in such Official Statement, to approve such Supplement and to execute such Official Statement and such Supplement for and on behalf of the Issuer.

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Section 9. The Letter of Representations, as requested by DTC in connection with the issuance of the Bonds and in the form presented at this meeting, is hereby approved, and the Finance Director of the Issuer is hereby authorized to complete and execute such Letter of Representations and to deliver the same to DTC for and on behalf of the Issuer.

Section 10. The Interim County Manager and the Finance Director of the Issuer and their designees are hereby authorized and directed to take such other actions and to execute and deliver such other documents, certificates, undertakings, agreements or other instruments as they, with the advice of counsel, may deem necessary or appropriate to effectuate the issuance of the Bonds.

Section 11. This resolution shall take effect upon its passage.

Upon motion of Commissioner Becky H. Heron, seconded by Commissioner Ellen W. Reckhow, the foregoing resolution entitled: "RESOLUTION PROVIDING FOR THE ISSUANCE OF \$8,880,000 PUBLIC IMPROVEMENT BONDS, SERIES 2000" was passed by the following vote:

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

Noes: None

\* \* \* \* \*

I, Garry E. Umstead, Clerk to the Board of Commissioners for the County of Durham, North Carolina, DO HEREBY CERTIFY that the foregoing has been carefully copied from the actually recorded minutes of said Board at a regular meeting held on May 8, 2000, the record having been made in Minute Book \_\_\_\_\_ of the minutes of

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said Board, beginning at page \_\_\_\_\_ and ending at page \_\_\_\_\_, and is a true copy of so much of said minutes as relates in any way to the passage of a resolution providing for the issuance of \$8,880,000 Public Improvement Bonds, Series 2000 of said County.

I HEREBY FURTHER CERTIFY that a schedule of regular meetings of said Board, stating that regular meetings of said Board are held in the County Commissioners Meeting Room in the Durham County Administrative Complex at 200 East Main Street, in Durham, North Carolina on the second and fourth Mondays of each month at 7:00 P.M., has been on file in my office pursuant to G.S. §143-318.12 as of a date not less than seven days before the date of said meeting.

WITNESS my hand and the corporate seal of said County, this 10<sup>th</sup> day of May 2000.

/s/ Garry E. Umstead  
Clerk to the Board of Commissioners

Consent Agenda 4(h). Offer to Purchase County Property (612 Bingham Street) (pursue the upset bid process and approve the resolution to offer the property in an “upset bid” sale. The Board will have the authority to accept or reject any offer at the conclusion of the upset bid process if it so desires).

The resolution follows:

#### 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:

612 Bingham Street  
154-03-006

WHEREAS, Mr. Dale Williams has made an offer to the County to purchase the above property for \$14,723.75 and has made a bid deposit in the amount of \$736.98 which is no less than 5 percent of the bid; and

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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 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 May 8, 2000.

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

### **Update from the Board of Elections on Precinct Changes**

On May 2, 2000, the County held its Primary Elections. During Primary Election day, numerous citizens raised concerns about the changing of voting precincts since the last election. The Board of Elections Director was present to brief the Board on recent precinct changes and to discuss the process for those changes along with the notification procedures.

Resource Person(s): Carol Booth, Director of Board Elections

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County Manager's Recommendation: The Manager's recommendation is that the Board accept the presentation as information.

Ms. Booth, at the request of Chairman Black, made a presentation to the Board of County Commissioners.

Ms. Booth briefed the Board on recent precinct changes and discussed the process for those changes along with the notification procedures.

The following citizens spoke about the recent precinct changes and the notification procedures:

Mary S. Brinkley, 2805 East Geer Street

Lavonia Allison, 1315 Mclaurin Avenue

Deborah Giles, 1015 Benning Street

The Commissioners asked questions and made comments about the precinct changes and notification procedures to which Ms. Booth responded.

Chairman Black directed Board of Elections Director Carol Booth to look at the changes made in the last election and to correct the errors as soon as possible. Everyone affected is to be notified, preferably with a colored card or letter, so notification will not be overlooked and will get the attention of the voter. All advertisings are to be made 45 days prior to the election. Interim County Manager Carolyn P. Titus will direct our Public Information Officer, Deborah Craig-Ray, to work with the Board of Elections in getting this information out to the citizens. The Board of Elections is to follow the directives from tonight's three speakers as well. Clerk to the Board Garry E. Umstead is to write tonight's minutes on a timely basis with an outline of the suggestions made to Ms. Booth. Ms. Booth is to come back to the Board of County Commissioners in a Regular Session in September with a status report.

The Board accepted the presentation as information. No official action was taken on this agenda item.

(NOTE: The complete verbatim of this agenda item is an integral part of these minutes. The verbatim is recorded in Appendix A to the May 8, 2000 Minutes of the Board in the supplement record.)

### **American Tobacco Historic District**

Chairman Black asked Interim County Manager Carolyn P. Titus and Commissioner Bell to be the lead persons on this agenda item.

Ms. Titus made opening remarks. At the April 3 Worksession, the Board unanimously approved the resolution in support of the American Tobacco Historic District project.

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The resolution resolved that the Commissioners enthusiastically supported the collaborative efforts to bring the project to fruition and that the Board authorized me to continue to work with the City of Durham and Capital Broadcasting Corporation to develop a final proposal. The proposal has been successfully negotiated and is being brought before the Board for consideration at this meeting.

On April 10, 2000, the Commissioners approved a set of project goals to serve as guiding principles for the development of a proposal. Those principles have been included in the development of the options to be presented to the Board.

Two plans are proposed for Board consideration for the development of the American Tobacco Historic District project: One plan allows the Board to participate at a level of 38 percent participation in the project, while the other allows the Board to participate at 49 percent participation.

The Interim County Manager's recommendation was that the Board adopt the plan to participate at the 49 percent level with the City providing 51 percent of the support. This is a total County investment of \$18,437,300. It is based on a total public contribution amount of \$37,423,438. The recommended option allows the Board to participate in a meaningful way while remaining fiscally conservative. This proposal would mean an annual debt service amount of \$471,900.33. This is a maximum of 1/3 of a penny on the tax rate over a period of time. Ms. Titus explained to the Commissioners that structured parking in the 49 percent level consists of 1,870 parking spaces.

The Commissioners asked questions and made comments about the project to which the Ms. Titus responded.

Ms. Titus asked County Attorney Chuck Kitchen to discuss the legal issues involved and what the Board must do before finalizing its position on this proposal.

Ms. Titus recommended that the Board follow the directive of the County Attorney and proceed to the next phase--set the public hearing based upon the plan the Board desires to go forward with.

Attorney Kitchen talked about the reasons a public hearing is required. In 1954, the Supreme Court considered whether municipalities could build parking spaces and decks. To determine if there is a public purpose, the court decided that a public hearing is required. The first decision is to determine if a need exists for public parking. A record must be built by holding a public hearing, at which time evidence must be presented to show whether public parking is needed. The resolution before the Commissioners is a resolution of intent to construct public parking and set a public hearing to determine if public parking is necessary. The next step is to determine cost figures and how the project would be financed.



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Chairman Black directed County Attorney Chuck Kitchen to advertise for the public hearing concerning the need for a new parking deck. The public hearing would be held at the May 22, 2000 Regular Session. Deborah Craig-Ray was directed to announce the public hearing on the cable TV channel.

Commissioner Bell stated that the 1/3 of a penny over a period of time does not necessarily translate into a property tax increase. It simply means the amount of debt that has to be amortized is equivalent to 1/3 of a cent. That does not mean it translates into a property tax increase. The proposal the Interim County Manager has put together at the 49 percent level for the County is a reasonable amount. The project at the 49/51 percent level is a two-phase project. The 49/51 percent represents the total phase. This simply sets the template for further negotiations with the City and the developers. It sets the upper limit in terms of what the County is willing to do. I feel very comfortable with what is being proposed.

Commissioner Bowser said the project should be a 50/50 percent participation with the City and County. We do not want anyone to say the County got out cheap with the 49 percent participation. This should be a 50/50 project. I want the County to be a full partner in this project.

Commissioner Bell responded to Commissioner Bowser's comments by saying that the percentage of County participation could very easily change to 51 percent. The numbers can change in one way or another. The County's participation could be 50 percent or 51 percent very easily.

Commissioner Heron said the Board would be making more commitments in the near future relative to CIP bond financing. We should be mindful of that. I would have preferred the 38/62 percent level of participation.

Vice-Chairman Reckhow stated she is comfortable with the 49/51 percent scenario. She asked a question about land for parking structures. I don't think we should pay more than appraised value for land to build parking facilities. We should have a footnote inserted that the amount paid is not to exceed a certified appraisal.

Deputy County Manager Wendell Davis said the numbers would be adjusted accordingly as it relates to the tax value.

Vice-Chairman Reckhow said the same thing would apply to the purchase of land under the west deck relative to foot print price. She also asked the footprint cost of the DATA site the City would charge the County. We need to solidify that this plan is a parking facility for Diamond View II and the courthouse.

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, that the Board adopts the resolution of intent to construct public parking and set a public hearing for

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May 22, 2000 as presented to the Board. The Interim County Manager's recommendation should be considered-- 49 percent for the County and 51 percent for the City, with the understanding that it could very easily be 50/50 percent including the changes and suggestions of Vice-Chairman Reckhow (listed above).

The motion carried unanimously.

The resolution follows:

RESOLUTION OF INTENT TO CONSTRUCT  
PUBLIC PARKING AND SETTING  
A PUBLIC HEARING THEREON

WHEREAS, there appears to be a need for public parking due to the construction and renovation of the American Tobacco Historic District project; and

WHEREAS, there will be a need to provide for public parking for a proposed new justice center located south of the existing jail facility; and

WHEREAS, the Board of Commissioners hereby expresses its intent to construct a parking deck on the east side of the property currently owned by the City of Durham and referred to as the DATA site; and

WHEREAS, the Board of Commissioners additionally expresses its intent to participate with the City of Durham in constructing a parking deck on the west side of the American Tobacco property, known as the Washington Building, and to construct an additional parking deck on the north side of the American Tobacco property; and

WHEREAS, the construction of the aforementioned parking decks is all contingent on there being a need, either existing or in the near future, by the public for additional parking in downtown Durham.

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

1. A public hearing will be held on May 22, 2000 at 7:00 p.m. at the County Commissioners regular meeting to consider the need for additional public parking as aforesaid.
2. The Clerk to the Board is directed to publish a notice of this public hearing in a newspaper of general circulation in Durham County.

This the 8<sup>th</sup> day of May, 2000.

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**Public Hearing--NRP Group--Alston Village (Rezoning Case P00-03)**

At the April 3, 2000 meeting, the Board heard a presentation from County Attorney Chuck Kitchen, Mary Nash Rusher of Hunton & Williams, and Brad Parker of NRP Alston Village, L.P. The purpose of the discussion was to receive information from bond counsel as to the purpose and process of issuance of Housing Revenue Bonds for Alston Village. The proposed project will be located in the Research Triangle Park at 5400 South Alston Avenue and will consist of 312 apartments. The intent of the tax-exempt issue is to provide affordable housing for the residents of Durham County.

At the April 10, 2000 meeting, the Board adopted a resolution supporting Multi-Family Revenue Bonds for Alston Village to provide additional affordable housing units for working people who cannot otherwise afford to pay market rates for housing in Durham County.

NRP Group presented to the Board of County Commissioners a request to rezone 41.84 acres located on the east side of Alston Avenue, north of T. W. Alexander Drive. (Tax Map 542B-1-11 & 12; 543-3-5A; PIN #0737-36-1996; 0737-37-7399; 0737-36-1054.) The specific request is to rezone I-2 (Light Industrial District), NC (Neighborhood Commercial) & RD (Rural District) to RM-12 (D) (Multifamily Residential District with Development Plan).

The proposal is in conformance with the adopted small area plan and the 2020 Plan. Staff recommended approval. The Zoning Committee of the Durham Planning Commission conducted a public hearing on April 11, 2000 and voted 3-4 to recommend denial, principally because of concerns with the ability of the school infrastructure to accommodate additional students.

Case Planner: Dwight Yarborough

The public hearing for this request was advertised on April 21 and 28, 2000 in the Durham Herald-Sun.

Resource Person(s): Dick Hails and Norman Standerfer, Planning Department

County Manager's Recommendation: The Manager recommends that the Board hold the public hearing and approve, if appropriate, based upon public comment.

Mr. Standerfer presented the Commissioners an overview of rezoning case P00-03.

Vice-Chairman Reckhow opened the public hearing that was properly advertised.

Mr. Steve Whitesell, 4819 Emperor Boulevard, representing the NRP Group, LLC, presented the Commissioners a detailed report and explanation of all aspects of the

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rezoning case. All issues were reviewed and presented. He urged the Commissioners to approve the rezoning request.

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

The Commissioners asked questions and made comments about the rezoning request to which the applicant's resource people responded. Planning staff also responded.

Vice-Chairman Reckhow moved, seconded by Chairman Black, to approve the rezoning request (P00-03) with the addendum concerning the placement of a traffic light at the corner of T.W. Alexander Drive and Alston Avenue.

The motion carried with the following vote:

Ayes: Black, Bowser, Heron, and Reckhow

Noes: Bell

Absent: None

(Legal description recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

### **Ellerbee Creek-Falls Reservoir Survey**

The Gorman Community Association discovered that the methodology used by the Corps for locating the extent of the normal pool on Ellerbee Creek was different than that used for the other Falls Reservoir tributaries. The Durham County Board of Commissioners authorized \$6,500 to have a professional survey firm conduct a survey of Ellerbee Creek. On November 18, 1999, representatives from the Corps, the Gorman Community Association, and Planning staff met at the Red Mill Road over Ellerbee Creek to observe the survey work.

The survey indicates that the Falls Reservoir extends up the Ellerbee Creek tributary to a point approximately 1,800 feet eastward (or downstream) of the point identified in 1992 by the Corps as the extent of the normal pool. Using this delineation would result in the arcs that identify the boundary of the Critical and Protected Areas moving toward the reservoir by the same amount. However, Durham's change of delineation of the normal pool based on better technical information would require a change in the NC Administrative Code in order to maintain compliance with State rules.

Planning staff recommended that Durham City and County accept the survey as more accurate and better information about the location of the Falls Reservoir normal pool on the Ellerbee Creek tributary. Planning staff also recommended that Durham City and County petition the NC Environmental Management Commission to amend the NC Administrative Code to acknowledge this more accurate and better technical information about the location of the Falls Reservoir normal pool on the Ellerbee Creek tributary.

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Resource Person(s): Keith Luck, Senior Planner, Durham City-County Planning Department

County Manager's Recommendation: The Manager's recommendation is that the Board accept the survey as more accurate and better information about the location of the Falls Reservoir normal pool on the Ellerbee Creek tributary. The Manager further recommends that the County join with the City to petition the NC Environmental Management Commission to amend the NC Administrative Code to acknowledge this more accurate and better technical information about the location of the Falls Reservoir normal pool on the Ellerbee Creek tributary.

Mr. Luck presented the Commissioners an overview of the Ellerbee Creek-Falls Reservoir survey.

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

Vice-Chairman Reckhow moved, seconded by Commissioner Bell, to move forward with the County Manager's recommendation asking the state to make the changes, which will take two years.

Vivian Harris, 1527 Glenn School Road, representing the Gorman Community Association, urged the Commissioners to change the maps to better reflect the critical area. She asked staff to research the need to go through this two-year process with the Environmental Management Commission. She urged the Commissioners to adopt the survey.

The motion carried unanimously.

Chairman Black asked County Attorney Chuck Kitchen and Senior Planner Keith Luck to proceed with the issues raised by Ms. Harris and to bring the findings back to the Commissioners.

### **Presentation on Safe Schools/Healthy Students Initiative**

On June 1, 1999, Durham Public Schools submitted an application for \$2,835,881 to the US Department of Education for a Safe Schools/Healthy Students Initiative. Recently, notification was received that Durham is one of 23 communities across the country that was awarded a grant in the amount of \$2.6 million.

The Youth Coordinating Board facilitated the first meetings between the required participant agencies (Public Schools, Sheriff, Police, and Mental Health) to determine their interest in pursuing the grant. Ms. Donna Smith, Assistant Superintendent for Durham Public Schools (the required applicant agency), and Anita Daniels-Kenney

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coordinated future meetings and expanded the group to include Durham's Partnership for Children, Duke University, and Durham Health Department. This group developed a comprehensive plan for Safe Schools/Healthy Students. Three general levels of service were identified as needed to create this comprehensive system. They are: **Universal:** Programs/services (chiefly preventive in nature) to be available to all youth or schools. **At-risk:** Prevention and early intervention programs/services that are provided to students considered at-risk for academic failure, substance abuse, mental health problems, or involvement in violence (offender, victim, or witness). **Involved:** Intervention programs/services for youth who have already become involved in the justice system, who are abusing substances, who have been suspended from school, or have demonstrated serious mental health problems.

The six categories of the Safe Schools/Healthy Students Initiative are: Safe School Environment, Alcohol and Other Drugs and Violence Prevention/Early Intervention, School & Community Mental Health Prevention/Treatment Services, Early Childhood Psychosocial/Emotional Development, Educational Reform, and Safe Schools Policies. YouthLink, a unified database to link agencies that serve the same children (similar to Winston-Salem's Jason Network) is included in the grant and will be managed by the Youth Coordinating Board. Also, as a part of this grant, Mental Health will provide substance abuse treatment and prevention staff to be housed in the schools. Additionally, Mental Health will expand MST (intensive in-home counseling services) to high-risk children and families. The Health Department will expand its Teen Outreach Program to more schools.

The Youth Coordinating Board, in its role of providing coordination on grant proposals and oversight on the implementation of funded programs, will serve as the advisory/oversight board to the Safe Schools/Healthy Students Leadership Team.

Resource Person(s): Anita A. Daniels, MSW, Youth Coordinating Board Director

County Manager's Recommendation: Accept the Youth Coordinating Board's report and congratulate the participating county departments, Durham Public Schools, and other community agencies for working collaboratively to receive the grant.

Ms. Daniels-Kenny presented the Safe Schools/Healthy Students Initiative.

No official action was taken on this agenda item.

**Resolution Supporting House Bill 1396--An Amendment to the Constitution of North Carolina to Recognize Health Care as a Fundamental Right of all Residents**

A resolution supporting the right of North Carolinians to receive basic health care was proposed to be adopted by the Board of County Commissioners. The proposed bill would amend the Constitution of North Carolina to establish health care as a fundamental

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right, and additionally would require the General Assembly to develop a plan by May 31, 2004 to implement this provision.

The resolution further recognizes the hardships created by unfunded mandates. Any program developed by the General Assembly should provide funding for any mandates imposed on counties to implement the program.

County Manager's Recommendation: Adopt the Resolution supporting HR 1396, which if passed, would place an Amendment to the North Carolina Constitution on the ballot during the general election of November 2000 to recognize health care as a fundamental right of all residents of North Carolina.

Chairman Bell moved, seconded by Commissioner Bowser, to adopt the Resolution supporting HR 1396 with the changes.

The motion carried unanimously.

The resolution follows:

A RESOLUTION SUPPORTING HOUSE BILL 1396, AN AMENDMENT TO THE  
CONSTITUTION OF NORTH CAROLINA TO RECOGNIZE HEALTH CARE AS A  
FUNDAMENTAL RIGHT OF ALL RESIDENTS

WHEREAS, House Bill 1396 was introduced in the General Assembly of North Carolina, Session 1999-2000, by Representative Verla Inscoc, to amend the Constitution of North Carolina as follows:

Sec. 38 Health Care

(1) Basic right.

Health care is an essential safeguard of human life, and there is an obligation for the state to ensure that every resident is able to obtain this fundamental right. No later than May 31, 2004, the General Assembly shall provide by law a plan that enables every resident of the State to obtain appropriate health care on a regular basis.

(2) No money damages, other enforcement.

Nothing in this section shall be construed as creating a claim for monetary damages against the State, a county, a municipality, or any of the agencies, instrumentalities, or employees thereof. The General Assembly may provide for other remedies to ensure adequate enforcement of this section.

WHEREAS, 15% of North Carolina's population, or over a million people, are without health insurance, and this number has increased 57% over the last seven years in which is a growth rate two to three times greater than the national average; and

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WHEREAS, 74% of uninsured adults in North Carolina are employed, and the majority of these lack coverage because their employer does not offer a health benefit, or if they do, it is too costly; and

WHEREAS, research has demonstrated that the uninsured, even those who are sick, chronically ill, or have special health care needs, get less health care than those who have insurance and are more likely to delay getting the care they need and less likely to use preventative services; and

WHEREAS, Medicare does not currently cover prescription medications, and the average out-of-pocket spending for health care of a typical elderly person is 23% of their income; and

WHEREAS, 30% of those financially eligible for Medicaid are not covered because of other restrictions; and

WHEREAS, the United States is the only industrialized nation in the world that does not provide health care for all its citizens; and

WHEREAS, European countries, including the countries that have a multi-payer system, spend less than 10% of their Gross Domestic Product on health care, compared to 14% spent by United States citizens; and

WHEREAS, a majority of citizens in the United States and in North Carolina believe that every citizen should have access to health care on a regular basis; and

WHEREAS, the findings of the 1994 NC Health Care Study Commission found that insuring all North Carolinians was financially feasible; and

WHEREAS, unfunded mandates by the state and federal governments have created a substantial burden on property tax revenues of counties in North Carolina; and

WHEREAS, HR 1396:

- Would not require that the state become a health care provider or insurer,
- Would not prescribe any particular mechanism to meet the obligation of providing access to health care for all,
- Would not expose health care providers to lawsuits just because they refused to provide care for a specific individual that demands it, and
- Would not require that the state provide health care to illegal aliens; and

WHEREAS, HR 1396 would put the proposed constitutional amendment on the ballot giving the citizens of North Carolina the chance to express their will on this issue in November, and if passed require that the General Assembly provide a plan to ensure access to appropriate health care on a regular basis for all residents of North Carolina.



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NOW, THEREFORE, BE IT RESOLVED BY THE DURHAM COUNTY BOARD OF COMMISSIONERS THAT:

1. We publicly endorse HR 1396 and support its passage by both houses of the North Carolina General Assembly during the 1999-2000 session so that the question of a constitutional amendment may be posed to the people of North Carolina during the general election in November 2000.
2. Any plan to enable every resident of the State to obtain regular health care should include funding by the State rather than relying on local support.
3. A copy of this resolution will be forwarded to Governor Hunt; Senator Marc Basnight, President Pro Tempore; Rep. Jim Black, Speaker of the House; Rep. Bill Culpepper, Chairman of the House Rules Committee, and to the members of the North Carolina General Assembly who represent Durham County.

This the 8th of May, 2000.

/s/ Five Commissioners  
Durham County Commissioners

**Extension of Meeting**

Vice-Chairman Reckhow moved, seconded by  
Commissioner Heron, to extend the meeting to 11:15 p.m.

The motion carried unanimously.

**To Consider a Resolution Adopted by the Durham Chapel Hill Carrboro Metropolitan Planning Organization [DCHC MPO] Concerning Land Use Changes Within the MPO**

On March 8, 2000, the Durham Chapel Hill Carrboro Metropolitan Planning Organization Transportation Advisory Committee passed the resolution concerning landuse changes throughout the MPO area. The Transportation Advisory Committee has forwarded the resolution to the Board of Commissioners for consideration.

Resource Person(s): Ellen W. Reckhow and Becky M. Heron

County Manager's Recommendation: The Manager's recommendation is that the Board accept the presentation of the resolution, approve if appropriate, and refer the item to staff to determine if there are staffing or other procedural implications.

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Commissioner Bowser moved, seconded by Commissioner Bell, to approve the County Manager's recommendation.

The motion carried unanimously.

The resolution follows:

Resolution to Coordinate Regionally Significant Land Use Plan Changes  
With the DCHC MPO Long Range Transportation Plan

The following resolution was offered by Erick Larson and seconded by Alex Zaffron and upon being put to a vote, was duly adopted.

Whereas, Federal Legislation gives transportation planning responsibility within urbanized areas of over 50,000 in population to the Metropolitan Planning Organization. The Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) has been designated by the City of Durham, the Town of Chapel Hill, the Town of Carrboro, the Town of Hillsborough, Orange County, Durham County, Chatham County, and the NC Department of Transportation by a "Memorandum of Understanding" dated September 10, 1993, as the agency responsible for carrying-out the federally required coordinated, comprehensive, and continuing transportation planning process for the urbanized area; and

Whereas, the MPO transportation planning process requires the development, maintenance, and approval of a fiscally constrained 20-year long-range transportation plan. The long-range transportation plan is based upon locally approved comprehensive land use plans, which contain land use projections that are developed in cooperation with local member governments; and

Whereas, the local jurisdictions and the MPO have prepared housing and employment projections and these projections are used by the MPO to develop a long-range transportation plan. The MPO and local jurisdictions have organized the urbanized area into traffic analysis zones (TAZs) in order to recognize similar trip making characteristics of a small geographic area; and

Whereas, the MPO, in cooperation with all units of local government, must review and update the employment and housing projections in each TAZ at least once every three years; and

Whereas, the long range transpiration plan must conform with the Clean Air Act; and changes to locally approved land use plan directly affect the long-range transportation plan and has a significant impact to long-rang transportation planning, air quality forecasts, and maintaining regional local mobility; and

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Whereas, in order to fulfill its responsibility to meet all federal transportation planning requirements and best serve the local member governments, the MPO depends on the cooperation and support of its member agencies:

NOW, THEREFORE, BE IT RESOLVED BY THE DURHAM-CHAPEL HILL-CARRBORO METROPOLITAN PLANNING ORGANIZATION (DCHC MPO) THAT:

1. The local member jurisdictions of the DCHC MPO advise the MPO, through its designated representatives, of land use plan changes that would exceed their total 2025 employment of housing projections for any TAZ; and
2. The MPO requests that it be afforded an opportunity to comment on any land use change that exceeds the approved 2025 housing and employment projection for any TAZ.
3. A member jurisdiction may request that the TAC review and comment on any of its land use changes prior to the jurisdiction taking action.

I, Rosemary Waldorf, Transportation Advisory Committee Chair, do hereby certify that the above is a true and correct copy of the excerpt from the minutes of a meeting of the Durham-Chapel Hill-Carrboro Transportation Advisory Committee, duly held on the 8<sup>th</sup> day of March 2000.

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/s/ Rosemary I. Waldorf

TAC Chair

Durham-Chapel Hill-Carrboro Transportation Advisory Committee

**Manager's Update on Board Directives**

Staff has been instructed to continue to bring the updated BOCC directives forward at the first regular meeting of the Board each month.

County Manager's Recommendation: Receive for informational purposes.

**Durham Public Schools—CIP Request**

Vice-Chairman Reckhow requested that the school system be asked to accelerate its process relative to the CIP and if necessary, hold a special school board meeting so the CIP could be submitted to the Commissioners by the third week in May.

Commissioner Bell recommended that the Commissioners “plug” a number into the CIP program for the schools if the CIP is not submitted on a timely basis.

Chairman Black requested that a letter be prepared for her signature tomorrow to Superintendent Denlinger.

**Memorandum of Understanding—Durham Public Schools**

Chairman Black recommended that staff begin working on the Memorandum of Understanding for the school system for the upcoming year.

**Nursing Home Community Advisory Committee—Charles Rogers**

Commissioner Heron announced that Mr. Rogers, who has been working on transportation services with DATA for northern Durham County, has made progress. DATA will begin bus service to Treyburn Nursing Home and northern Durham County schools in the near future.

Chairman Black asked Deborah Craig-Ray to get notices out about the new bus services to northern Durham County.

The Commissioners thanked Mr. Rogers, school administrators, the City Administration, and Commissioners for their work on the project.

Respectfully submitted,

**May 8, 2000**

Garry E. Umstead, CMC  
Clerk to the Board