

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

Monday, August 26, 2002

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 Joe W. Bowser, Philip R. Cousin Jr., and Becky M. Heron

Absent: None

Presider: Chairman Black

Opening of Regular Session

Chairman Black called the meeting to order with the Pledge of Allegiance.

Agenda Adjustments

Chairman Black wished to add an agenda item concerning the Barbee Road/Fayetteville Road walking path. She received an email over the weekend in reference to the dangers associated with walking on that path.

Chairman Black also added an item to discuss ways the Board can help clean up some of the areas around the City.

Minutes

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the June 10 and June 19, 2002 Budget Worksession Minutes of the Board as submitted.

The motion carried unanimously.

Boy Scout Troop No. 48

Chairman Black recognized Scoutmaster Joe Kilsheimer and Boy Scout Troop No. 48. The troop is working on the Citizenship Merit Badge. The Commissioners were pleased to have them attend the Board meeting.

August/September Anchor Award Winners—Jason Gainey and Eric Carpenter

Jason Gainey and Eric Carpenter, Durham County Deputy Sheriffs, were winners of August and September Anchor Awards, respectively. In the nomination letter, Major Mike Andrews detailed their persistence in locating and rescuing a three-year-old child who was an innocent victim of an assault case. Without the two deputies and others, the child might have suffocated or died from the extreme heat in the attic of the home where she was eventually located. Their actions reflected their extraordinary professionalism and strong commitment to serving the citizens of Durham County.

County Manager's Recommendation: Present the Anchor Awards to Deputies Jason Gainey and Eric Carpenter, along with the sincere congratulations of the entire organization.

Chairman Black was delighted to recognize Deputies Gainey and Carpenter as the August and September Anchor Award winners. She commended them for their quick thinking and persistence in locating the three-year-old child.

Deputy Gainey introduced his wife, Tracey, and expressed his delight in having found the little girl. Success was accomplished through a team effort.

Deputy Carpenter reiterated the comments made by Deputy Gainey and expressed appreciation for being recognized. He introduced his wife, Pam, and his two daughters, Natalie and Nicole.

Chairman Black presented an Anchor Award and a \$200 check to each deputy.

Proclamation for National Family Day—A Day to Eat Dinner With Your Children

Chairman Black was asked to proclaim Monday, September 23, 2002 as “National Family Day—A Day to Eat Dinner With Your Children.” Communities throughout the nation will observe this day as a way to reaffirm the importance of the family in reducing the likelihood of young people becoming involved in illegal drug use, underage drinking, and smoking. A local committee is planning several activities.

Resource Person(s): Paul Savery, The Durham Center

County Manager's Recommendation: The County Manager recommended that the Board approve the proclamation.

Chairman Black read the following proclamation into the record:

PROCLAMATION

WHEREAS, "Family Day—A Day to Eat Dinner With Your Children" is a national effort to promote parental engagement as a simple, effective way to reduce youth substance abuse risk and raise healthier children; and

WHEREAS, Family Day is meant to emphasize the importance of regular family activities as a way to facilitate parent-child communication and encourage Americans to make family dinners a regular feature of their lives; and

WHEREAS, in 2001, The National Center on Addiction and Substance Abuse (CASA) at Columbia University launched Family Day as an annual event, which takes place on the fourth Monday of each September; and

WHEREAS, celebrating Family Day is as simple as eating dinner with your children and engaging in other family activities; and

WHEREAS, since 1996, CASA research has consistently shown that the more often a child eats dinner with his family, the less likely that child is to smoke, drink, or use illegal drugs; and

WHEREAS, frequent family dining is linked with doing well in school and developing healthy eating habits, and this pattern holds true regardless of a teen's gender, family structure, and family socioeconomic level:

NOW, THEREFORE, I, MaryAnn E. Black, Chairman of the Durham Board of County Commissioners, do hereby proclaim Monday, September 23, 2002 as

FAMILY DAY—A DAY TO EAT DINNER WITH YOUR CHILDREN

in Durham County. I urge all people in Durham County to make an effort to eat dinner together. I invite all citizens to spend quality time with their families by engaging in other wholesome activities that help unite and strengthen the bonds between parents and children.

This the 26th day of August, 2002.

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

Chairman Black encouraged all families to eat dinner together on September 23 and to eat dinner with your children regularly (especially your teens).

Proclamation to Memorialize the Men, Women, and Children who lost Their Lives on September 11, 2001

Mr. Les Dasche requested that the Durham Board of County Commissioners adopt a proclamation to memorialize the men, women, and children who lost their lives in the September 11, 2001 tragedy.

Resource Person(s): Les Dasche, Commander, American Legion Post No. 7

County Manager's Recommendation: The Manager's recommendation was that the Board adopt the proclamation.

Chairman Black asked Deborah Craig-Ray, Public Information and Governmental Affairs Director, to speak to this item.

Ms. Craig-Ray announced a community-wide memorial service planned for Wednesday, September 11, 2002 at the Durham Bulls Ballpark. The purpose of the event is to commemorate persons involved in law enforcement, fire fighting, and emergency medical services and the important role they play in our community. The doors will open at 7:30 a.m.; the program will begin at 8:15 a.m. Everyone in the community is invited. City Government, County Government, and American Legion Post No. 7 will jointly sponsor the event.

Chairman Black asked Vice-Chairman Reckhow to read the following proclamation into the record:

PROCLAMATION

WHEREAS, the unprovoked attacks of September 11, 2001 upon America by foreign terrorists have thrust the United States and other countries into a war it never envisioned, militarily or diplomatically; and

WHEREAS, America is fully committed through the Operation Enduring Freedom campaign to ensure our freedoms remain unfettered and sovereign for all generations, now and forever; and

WHEREAS, for world opinion to remain focused upon the eradication of these inhuman acts perpetrated around the globe, people must NEVER FORGET that those innocent victims did not die in vain; and

WHEREAS, America can fight back by reminding the world that the deaths of these people will always be remembered and that they will be forever loved; and

WHEREAS, a noble and appropriate way to accomplish this is through the annual

celebration of their living; and

WHEREAS, this commemoration should be held each September 11 throughout the land with a tribute to include:

- The promotion of global peace and goodwill;
- The demonstration of America's resolve and perseverance to win the war on terrorism;
- The advancement of responsible citizenship and encouragement of patriotism and love of country; and
- The poignant remembrance of those innocent victims that needlessly died on September 11 as heroes, one and all:

NOW THEREFORE BE IT RESOLVED that the Board of County Commissioners of Durham, North Carolina, is issuing this proclamation to memorialize those men, women, and children who lost their lives; and

BE IT FURTHER RESOLVED that this proclamation be publicized for all to see and know that the citizens of Durham County remember with eternal respect those whose lives were suddenly, without cause, pointlessly taken from them on Sept 11, 2001.

MAY THEY FOREVER REST IN PEACE AND ABIDE IN OUR MEMORIES

This the 26th day of August, 2002.

/s/ Five Commissioners
Durham County Commissioners

Mr. Dasche thanked the Board of County Commissioners for presenting this proclamation and added that the veterans who lost their lives in Afghanistan were also being honored. A Blue Star Banner would be presented to family members of active-duty military personnel serving in Afghanistan to commemorate their service to our country. At the September 11 ceremony, a Blue Star Banner would be presented to Chairman Black.

Chairman Black encouraged all citizens to attend the ceremony and to continue to pray for our country and family members of loved ones that lost their lives on September 11, 2001.

Consent Agenda

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

- * (a) Budget Ordinance Amendment No. 03BCC000002— Department of Social Services (DSS) Request to Accept Additional Revenue (approve Budget Ordinance Amendment No. 03BCC000002 accepting additional revenue in the current budget for Social Services);
- * (b) Property Tax Releases and Refunds for Fiscal Year 02-03 (accept the property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report. These are normal recurring releases and refunds that are presented for the consent agenda.);
- * (c) Offer to Purchase County Property (1015 Fairview Street) (pursue the upset bid process at this time. A resolution to offer the property in an “upset bid” sale is included in this package. The Board has the authority to accept or reject any offer at the conclusion of the upset bid process);
- (d) Final Offer to Purchase County Property (2705 Crest Street, Unit #4—Building #2) (approve the offer of \$13,002 submitted by Ms. Lynn Stover for the above-referenced condominium unit, and prepare a non-warranty deed for the Chairman’s signature. This action is consistent with the Board’s policy of recovering the County’s investment and returns the property to the tax rolls);
- (e) Lease Agreement (508 Gordon Street) (authorize the execution of this lease in accordance with the agreement);
- (f) Benefit Renewal (enter into contracts with the following vendors recommended by Human Resources: Health Insurance—CIGNA and Wellpath; Dental Insurance—CIGNA; Life Insurance—Unum Provident Corporation; Short- and Long-Term Disability Insurance—Unum Provident Corporation; Supplemental Insurance—Colonial Insurance; Long-Term Care Insurance—Unum Provident Corporation; and PrePaid Legal—ARAG Group);
- (g) Resolution Designating Jeffrey L. Batten as Agent for Grant (adopt the resolution to appoint Jeffrey L. Batten as the Governor’s authorized representative); and
- * (h) Personnel Ordinance Amendment (adopt the ordinance amendment in order for the redrafting of the Interlocal to continue).

Commissioner Heron wished to ask a question about consent agenda item No. 7(b), property tax releases and refunds. She wanted to know whether the out-of-business properties were out of business at the first of the year or were the taxes prorated for the length of time the businesses were in operation during the year.

Gene Hodges, Collection Division Manager, Tax Administration Department, and County Attorney Chuck Kitchen answered Commissioner Heron's question.

Commissioner Heron expressed concern that the Tax Administration office has to deal with this issue and that the taxes are not prorated if a business is in operation for a portion of the year. She questioned whether the Taxation and Finance Committee of the North Carolina Association of Counties could better handle this situation. Much revenue appears to be lost by the huge number of businesses that are released due to going out of business.

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda 7(a). Budget Ordinance Amendment No. 03BCC000002—Department of Social Services (DSS) Request to Accept Additional Revenue (approve Budget Ordinance Amendment No. 03BCC000002 accepting additional revenue in the current budget for Social Services).

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2002-03 Budget Ordinance
Amendment No. 03BCC000002

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2002-03 Budget Ordinance is hereby amended to reflect budget adjustments for the Department of Social Services.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$313,219,225	\$128,169		\$313,347,394
<u>Revenues</u>				
Intergovernmental	\$258,856,932	\$128,169		\$258,985,101

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

This the 26th day of August, 2002.

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

Consent Agenda 7(b). Property Tax Releases and Refunds for Fiscal Year 02-03 (accept the property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report. These are normal recurring releases and refunds that are presented for the consent agenda.)

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the attached report details releases and refunds for the month of July 2002.

Releases & Refunds for 2002 Taxes:

Real	\$ 114,863.14
Personal	\$ 23,868.33
Registered Vehicles	\$ 30,815.94
Vehicle Fees	\$ 810.00
Total for 2002 Taxes and Fees	170,357.41

Prior Years (1981-2001) releases and refunds for July 2002 are in the amount of \$114,365.73.

Total Current Year and Prior Year Releases and Refunds \$284,723.14

(Recorded in Appendix A in the Permanent Supplement of the August 26, 2002 Regular Session Minutes of the Board.)

Consent Agenda 7(c). Offer to Purchase County Property (1015 Fairview Street) (pursue the upset bid process at this time. A resolution to offer the property in an “upset bid” sale is included in this package. The Board has the authority to accept or reject any offer at the conclusion of the upset bid process).

The resolution follows:

RESOLUTION

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

1015 Fairview Street
Parcel ID# 158-03-007
PIN 0821-10-45-3524

WHEREAS, Ms. Deborah B. Roberts has made an offer to the County to purchase the above property for \$16,100 and has made a bid deposit in the amount of \$805 which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the 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 August 26, 2002.

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

Consent Agenda 7(h). Personnel Ordinance Amendment (adopt the ordinance amendment in order for the redrafting of the Interlocal to continue).

The ordinance amendment follows:

ORDINANCE AMENDING
DURHAM COUNTY PERSONNEL ORDINANCE

WHEREAS, the City and County of Durham are in the process of redrafting an interlocal cooperation agreement for the provision of planning and zoning services; and

WHEREAS, as part of this process, it is desirable for the employees of that department to be joint City-County employees; and

WHEREAS, those employees will be under the administrative provisions of the City; and

WHEREAS, changes have been made as to the organization of the departments of County government since the adoption of the Personnel Ordinance which changes need to be reflected in the Ordinance:

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

1. That section 18-2 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 18-2. Applicability.

- (a) All rules and regulations adopted pursuant to this chapter shall be binding on all County departments and the employees thereof except as specifically exempted herein.
 - (b) The following departments or offices or employees shall be exempted from and excluded from the coverage of this ordinance: all joint City-County departments which are administered by the City of Durham, including without limitation the City-County Planning Department and the City-County Inspections Department; Cooperative Extension; Elections; Mental Health; Public Health; Register of Deeds; Sheriff; Social Services; the County Manager; the Clerk to the Board; the County Attorney; and the Tax Administrator.
 - (c) Notwithstanding the foregoing, the departments or offices and the employees thereof listed in paragraph "b" or this section may utilize some or all of the provisions of this Chapter by resolution of the Board of Commissioners or by a memorandum of understanding between the Board of Commissioners and the policy-making board or chief official of the department or office.
2. This ordinance shall be effective upon passage.

This the 26th day of August, 2002.

(Personnel Ordinance amendment recorded in Ordinance Book _____, page _____.)

Communication Tower Consultant Status Report

The Board was requested to receive the report on the status of the consultant work being done on the Communication Tower Siting Study.

Resource Person(s): Frank M. Duke, Planning Director

County Manager's Recommendation: The Manager's recommendation was that the Board receive the report.

Chairman Black called on Mr. Duke for his presentation.

Mr. Duke gave the following presentation:

Background: The City and County received five responses to an RFP for professional services related to wireless communication issues. The RFP identified different areas of services being sought, with separate cost estimates requested for each area, with the City and County agreeing, through the budget process, to fund the following three areas:

- 1) Reviewing technology related to new cell towers and antennae, recommending ordinance revisions, and coordinating ordinance revisions;
- 2) Reviewing the potential for Durham to increase its revenues from leases for towers and antennas through better utilization of publicly-owned properties and improved contracts; and,
- 3) Providing expert consultation to the Board of Adjustment and the Governing Bodies on applications for communication tower sites (an ongoing service).

A committee representing both City and County departments did the initial evaluations of the five submittals, narrowing the list of respondents to invite for interviews and presentations on their proposals to three firms—Atlantic Group, CityScape, and Monroe. On June 20, 2002, staff representing the City Attorney's Office, County Attorney's Office, City/County Planning, and City Property and Facilities Management interviewed these firms. Each interview began with the firm making a presentation, followed by a round of fixed questions from the interview panel, and ending with follow-up discussion. Each interview panel member was then asked to rate the firms using a standardized rating form and to supply any supplemental comments that they wished.

The criteria were structured to evaluate each firm generally in the following three RFP categories: a) consultant qualifications and related experience, b) understanding of RFP

scope of services, and c) quality of response to the RFP, both in written response and interview setting. Each firm was also evaluated for each individual task component.

Issues/Analysis: Each member of the committee was asked to rank the respondents in each category on a score from 1 to 10. Each task was then evaluated separately, based upon a weighted scoring system. Forty-five percent (45%) of the score given to each firm was based upon their qualifications and experience, 10% on their understanding of the scope of the RFP, with the remaining 45% of the score reflecting the response to the individual components. (Because all respondents scored equally in the area of quality of the RFP, the third component in the general area, it was dropped in the final scoring.)

The results of the committee's scoring is shown below:

	Qualifications and Experience	Understanding Scope of RFP	Technology and Ordinance Revisions	Revenue Potential	Review of Applications
Atlantic Group	30	32	30	30	30
CityScape	32	32	26	28	32
Monroe	34	30	22	26	30
Weighting	45%	10%	45% each, with each component scored discretely		
Weighted Score by Component (Adding the weighted scores for Qualifications and Understanding to each discrete component)					
Atlantic Group			30.2	30.2	30.2
CityScape			29.3	30.2	32.0
Monroe			28.2	30.0	31.8

The committee felt that the Atlantic Group was the clear choice for handling Component 1, primarily because of its strong background in similar ordinance and management issues. This firm has performed similar types of services for a representative group including Rockingham County, King George County (VA), Fauquier County (VA), and the Town of Blacksburg. The committee noted that this group has a documented history of employing a methodology of seeking input from government officials, citizens, and the industry when evaluating and developing ordinances which results in an ordinance that reflects the values and objectives of the community, is tailored to the communities needs, and adheres to a balanced and rational approach.

The committee's weighted scores indicated that either Atlantic Group or CityScape would be equally competent of performing Component 2. Both respondents were felt to be capable of providing the requested services within the defined parameters of the RFP. Each firm has a history of working with local governments on revenue generation and leasing issues related to the wireless industry. The Atlantic Group proposed staffing for this component by a generalist staff with additional technical staff available if needed. Most of the work performed by Atlantic has been in Virginia and has been with small- to moderate-sized communities. CityScape proposed staffing by a broader technical team, composed of a project manager, lawyer, and engineer. This firm has worked in larger, moderate-sized communities. Given the committee's acknowledgement that either Atlantic or CityScape are equally competent to perform this component of the work, the

City Manager recommended this component be given to CityScape because of its history in working with the City/County Planning Department on communication tower siting issues over the past year.

The committee recommended CityScape for Component 3 because of its strong background in the technical review area and its performance of similar type of work. CityScape has successfully performed this task over the past year in Durham and has established a working relationship with the Planning Department that should be continued.

Staff also recommended that the City Manager be authorized to negotiate and enter into contracts with the firms identified above for each of the respective components of the RFP for the work associated with each component as described in the RFP in a cumulative amount not to exceed \$60,000. This amount is consistent with the total committed by the City and County for the actual work to be performed.

Alternatives: The City and County could elect not to fund the study, in which case the moratorium recently re-imposed would no longer be justified.

Financial Impact: Funds for the work associated with Components 1 and 2 in the amount of \$60,000 were included in the recently adopted 2002-03 City and County budgets. These funds should be sufficient for the work proposed, though actual costs will be dependent upon contract negotiations.

Component 3, the ongoing review of applications, would be funded through fees paid by the applicants for the communication towers. Minimal administrative costs are associated with this component.

Recommendation: That the Board of County Commissioners receive this report on the status of the consultant work being done on the Communication Tower Siting Study.

City Council declined to approve staff's recommendation (5-2 vote) and recommended instead that all three components be given to CityScape. The reason for City Council's recommendation was that CityScape had been working with staff for the past year and the established working relationship with CityScape would be appropriate and should continue. A similar presentation was given to the Joint City-County Planning Committee. Commissioner Heron had asked that Planning staff come before the Board and give a status report of the consultant work being done on the study. Planning staff has alerted both the Atlantic Group and CityScape of the City Council's action and is in the process of negotiating the contracts.

The Commissioners questioned why City Council deviated from staff's recommendation and determined that CityScape should complete all components of the study.

Mr. Duke responded that City Council's stated reason was because CityScape had been working with staff for the past year and was familiar with the process.

Commissioner Bowser questioned the composition of staff who participated in the evaluation. Why was the representation of City and County staff not equal?

Mr. Duke responded that many County departments had been invited to be a part of the process but chose not to participate.

Deputy County Attorney Lowell Siler was called to the podium to speak since he had represented the County on the evaluation committee.

Mr. Siler stated that he believed both firms were equally competent.

After considerable discussion, Chairman Black suggested that the County Manager, along with the City Manager, be authorized to negotiate and enter into the contracts.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, approval of City Council's recommendation that all three components be given to CityScape provided that the County Manager, as well as the City Manager, be authorized to negotiate and enter into the contracts.

The motion carried unanimously.

Public Hearing—Re-Enacting a Six-Month Moratorium on New Telecommunication Tower Applications

The Board was requested to adopt an ordinance to re-enact a six-month moratorium on consideration of applications on all new towers allowed by right or by use permit, and all towers replacing nonconforming towers. Applications received prior to the start of the re-enactment of the moratorium can be processed provided the applicant can show to the satisfaction of staff that no interference with emergency communications or governmental dispatch capabilities will result.

Planning staff recommended approval.

Resource Person(s): Frank M. Duke, Planning Director

County Manager's Recommendation: The Manager's recommendation was that the Board hold the public hearing and adopt the ordinance, if appropriate, based on public comment.

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, adoption of the ordinance.

The motion carried unanimously.

The ordinance amendment follows:

AN ORDINANCE AMENDING THE ZONING CODE OF DURHAM COUNTY TO
RE-ENACT A MORATORIUM ON CONSIDERATION OF NEW
COMMUNICATION TRANSMISSION TOWERS

WHEREAS, the County is concerned with the ongoing proliferation of towers for transmission and receipt of electronic signals; and

WHEREAS, the County has, as a result, identified a need for master planning to guide future tower placement; and

WHEREAS, the County has also identified a need for revision of its zoning ordinance to take into account newer technologies and problems that have arisen with tower placements; and

WHEREAS, the County is concerned with the potential for interference by communication towers, antenna and equipment with police, fire and rescue emergency communications and with radio dispatch required for municipal services; and

WHEREAS, the Board of County Commissioners has adopted a zoning ordinance amendment providing for the hiring of an independent consultant to evaluate the technical documentation submitted by applicants for communication towers (Section 7.39, or same section as renumbered); and

WHEREAS, the consideration of applications for new communications towers (either by use permit or by right) and for towers replacing nonconforming communications towers is to await this independent technical expertise; and

WHEREAS, proposals for such professional technical expertise have been received and are being reviewed; and

WHEREAS, the development of new regulations is anticipated to require approximately six months once the contract is approved; and

WHEREAS, re-adoption of a formal moratorium on such consideration is in the best interests of the County and its citizens:

BE IT ORDAINED BY THE DURHAM COUNTY BOARD OF COUNTY COMMISSIONERS THAT:

Section 1. For the time period August 26, 2002 through February 26, 2003, the following language is added at the beginning of Section 7.39 Towers for transmitting and receiving electronic signals (or same section as renumbered) of the Zoning Ordinance:

“Moratorium on approvals for communication towers: Notwithstanding any other provision in this zoning code allowing the construction or placement of communication towers, no application for a building permit, site plan, use permit or any other permit or approval for a tower for transmitting or receiving electronic signals shall be accepted, processed, or granted from August 26, 2002 through February 26, 2003. This moratorium does not apply to antenna co-location, or antenna on existing buildings or structures. It does apply to all new towers and proposed replacements for nonconforming towers.

Section 2. Notwithstanding the above moratorium, applications received prior to November 1, 2001 may be processed for approval and granted, where appropriate if the applicant can show to the satisfaction of the County that the tower and its equipment, including antennae, will not cause any interference with emergency communications and municipal, county, state, or federal radio dispatch capabilities.

Section 3. This ordinance shall become effective upon adoption.

Adopted this 26th day of August, 2002.

(Zoning Ordinance amendment recorded in Ordinance Book _____, page _____.)

Public Hearing—Mental Health Governance

The Board of Commissioners was requested to hold a public hearing to consider the future governance of mental health, developmental disabilities, and substance abuse services in Durham County. An area authority is currently providing these services. The Board received comments on the services continuing to be provided by an area authority or the provision of these services by a county program.

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

County Manager's Recommendation: Receive the information from the public hearing for action at a future meeting.

Ellen Holliman, Interim Area Director of The Durham Center, stated that the entire mental health system is undergoing some major changes. This includes our state division, our institutions, as well as our local programs. In this environment, the real challenge is to provide quality services today while planning for major system reforms for tomorrow. She expressed how proud she is to work with the many professionals at The Durham Center, on the Area Board, and with the 100-plus contracted agencies. These are truly challenging times for all of us.

As Commissioners, you have a very important decision to make regarding the governance model for the Durham area program. In my opinion, you will be choosing between two models: area authority or county program. The major plus for the area authority model is the citizen board—volunteers who agree to give of their time and energy to oversee this \$28 million program. The second plus for the independent area authority is flexibility in managing the changing service needs of our citizens. Any additional layer of bureaucracy always adds time. Now, on the other hand, the pros for the county model: The infrastructure is already in place and this should reduce the LME administrative cost. The other thing to consider is liability. As a County department, you would definitely be closer to the total operation, as the director would report directly to the county manager. You would also have more control of the designation of local funds.

There are two major themes in House Bill 381 and our state plan. The first—separate the management of the public mental health dollars from the provider of services. The intent is to provide choice for our consumers and quality services. The second area has to do with target populations—the state will only pay for persons who meet certain criteria.

Regardless of the governance choice you make, it is clear to me that the Durham Commissioners are concerned about all of our citizens, not just the ones identified in the state target population.

County Attorney Chuck Kitchen stated that the state has adopted new statutes relating to mental health. The changes have been discussed at previous Commissioner worksessions. This public hearing is about governance, not about the plan. There are two big pieces in the reorganization effort. First, is the governance. Who will actually govern the provision of mental health services in the county? Will it be a county department or will it be an area authority? That's what we are looking at tonight. The second part is the plan. How will the services actually be provided? This is not the issue tonight. Regardless of the governance, the planning component is separate.

The Commissioners asked questions of County Attorney Kitchen about the two governance models. Attorney Kitchen responded.

County Attorney Kitchen stated that the troubling thing is that we must make a decision on the governance before a plan is in place. This Board has voted to ask the legislature to

postpone that decision. Unfortunately, that has not been possible. You've got to make a decision by October 1, 2002 and send a letter to the state indicating which model you prefer. The deadline for plan submission is January 1, 2003.

Chairman Black opened the public hearing that was properly advertised.

Vice-Chairman Reckhow asked that the following letter received from Mr. Jack Steer, 2416 Dawn Trail, Durham 27712 be included in the record:

August 13, 2002

Commissioner Reckhow
Board of County Commissioners
200 E. Main Street
Durham, NC 27701

Dear Commissioner:

A public hearing will be coming up in the near future on the subject of options for dealing with the new approach to Mental Health being adopted by the state. I will be out of the country at that time and wanted to share with you a couple of thoughts on the subject.

Although I have not studied the issue in depth, I have had a few discussions with those who are involved. My conclusions are that the use of a board as defined by the state will make mental health care one of the most expensive departmental budgets in the county. With 50 percent of the board to be made up of family members of patients, it is natural that they will ask for the best possible care irrespective of cost. In addition, there are many service providers already circling like vultures to get in on the fresh money that will become available through this board.

If I understand correctly, one option is for the county to run the mental health department without an intervening board. **THIS SHOULD BE THE OBVIOUS CHOICE TO PREVENT THE COUNTY TAXES FROM EXPLODING.**

The Board of Commissioners will have much, much better control of both operations and costs if it opts for a plan that allows the director of mental health to report to the County Manager, and thus to the Board of Commissioners. Please choose this option in setting up for the new regulations.

Sincerely yours,

/s/ Jack Steer

cc: Mike Ruffin, Patrick Byker

The following persons spoke at the public hearing:

Dr. Pat Roos, head of screening and triage at Adult Services for The Durham Center, 15 Lansgate Court, Durham 27713, was pleased by the evenhandedness of the Board's discussions. She encouraged the Commissioners to continue considering what will best benefit the citizens of Durham County.

Victoria Peterson, PO Box 101, Durham 27702, asked for an investigation of the seven recent deaths (six having taken place in the County jail). She was concerned that 11,000 of the 13,000 inmates in our jail are people of color. She expressed concern that the handicap inmates had missed court hearings because the County did not provide adequate means of transportation for these individuals.

Commissioner Heron asked Ms. Peterson to send to the Commissioners the information she quoted in her remarks.

Ms. Peterson asked that a special meeting be held regarding her matters of concern relative to the jail.

Chairman Black asked that the County Manager discuss these issues with Ms. Peterson; subsequently, some decisions can be made about her comments and concerns.

Matt Epstein, Director for the Center for Child and Family Health, expressed that the mental health issues before the Board are complex and difficult. In the last year, some wonderful things have happened, including the partnership between the County and private providers. He felt confident that whatever choice the County makes, some really topnotch services will be provided. He has had lots of experience with this issue in his previous position in another state where similar issues had to be made in designing overall mental health and developmental disability services. He is of the opinion that a public/private partnership works best.

Joseph Kilsheimer, 9 Kimberly Drive, Durham 27707, preferred county program as the governance model. Eventually we must go to a multi-county model to accomplish all that must be done.

Nancye Bryan, Area Board member, President of the local NAMI (National Alliance of the Mentally Ill), and President of the Board of Directors of Next-Step Housing, 3408 Dover Road, Durham 27707 prefers the area authority of governance to the county department. The County Manager and staff have too many responsibilities without the addition of The Durham Center.

Dr. Lavonia I. Allison, DCABP, spoke to the statistics referred to by Ms. Peterson concerning the large percentage (71 percent) of African-Americans comprising the jail population. She felt the County Commissioners are being asked to do something without sufficient information. Additional information is needed before the governance can be determined.

Commissioner Heron asked that Dr. Allison contact the legislators, request more time to work toward an answer, and ask the legislators what is expected of the County Commissioners.

Dr. Allison expressed that she would be happy to follow through on that request.

Karen Crumliss, Area Board member and long-time community advocate, 2820 DeKalb Street, Durham 27705, felt that the area authority would be a more flexible system to meet the needs of the people and would also be more accountable. The model area authority would be more responsible than it is now.

Melvin Whitley, 2614 Harvard Avenue, Durham 27703, brought good news from Northeast Central Durham: It is one of the fastest growing populations in the City. The bad news is that Police District One, the smallest population of the four districts, has the largest crime problem. Northeast Durham leads in statistical reporting of all eight categories of crime in the City including murder, rape, robbery, and assault. East Durham also contributes the greatest number of referrals to mental health for substance abuse. We want strong coordinated prevention programs with more case managers, a residential inpatient treatment facility, an independent authority to serve as the LME (local management entity), and direct mental health services that are absorbed into county government.

Terry McCabe, Area Board member, 112 Weathersfield Drive, Durham 27713, asked that the Board not let history weigh heavily on the Commissioners' governance decision because things have changed—new law, new ways to establish the board, the County Manager will be involved in hiring the new area director (providing we have an area authority), etc. He recommended an area authority—taking advantage of the new law to appoint new board members, appointing a county financial person on the board for accountability, and some control with the County Manager in terms of hiring. Within three years we should have a much clearer picture. The area authority can function and can function well.

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.

County Attorney Kitchen recommended that a discussion regarding mental health governance be added to the Commissioners' August 29, 2002 Worksession.

Vice-Chairman Reckhow agreed that further discussion should take place at the worksession and that the issues should be identified and questions should be raised before the decision is made. The Board has only a month before the October 1, 2002 deadline. She also asked that the County Manager request a review from the Sheriff regarding the jail deaths so the Board will have a better understanding of the causes.

Commissioner Heron wanted to make sure someone would outline the issues prior to the worksession.

Commissioner Bowser wanted to know if the jail deaths were isolated to this county or are the deaths a statewide problem?

Chairman Black instructed the County Attorney to give the Commissioners a copy of the legislation, outline some of the issues, and send any additional information he might have to the Commissioners prior to the worksession.

Representative Miller's Legislation

Chairman Black stated that the Board received an email from Representative Paul Miller in response to the Board sending him a letter about the budget and the monies for the eastend connector. He suggested that the Board contact Representatives Michaux and Luebke and Senators Gulley and Lucas. Chairman Black asked for a consensus from the Board to direct the suggestion.

The Board agreed.

Chairman Black directed County Manager Ruffin to make sure that staff contacts our representatives asking them to support Mr. Miller's legislation.

Barbee Road/Fayetteville Road Trails and Walking Path

Chairman Black decided that she would hold this item for discussion until the Thursday, August 29, 2002 Worksession.

American Tobacco Business Deal Points Signing Ceremony

Representatives from the City of Durham and Capitol Broadcasting Corporation (CBC) joined the Durham County Board of Commissioners in the Commissioners' Chambers at to formally sign the recently approved "Business Deal Points" for the American Tobacco Project. CBC plans to broadcast the ceremony on Time Warner's Digital Channel 256 and planned some special effects over at the American Tobacco Project to highlight the event.

Resource Person(s): Mike Ruffin, County Manager, and Mike Hill, Capitol Broadcasting Corporation

City Council members who were present were asked to come and sit on the front row to be acknowledged.

City Manager Marcia Connor, Mayor Bill Bell, Mr. Jim Goodman, and County Manager Mike Ruffin were asked to sit at the front table with Chairman Black to sign the documents.

Dr. Lavonia Allison wished to congratulate both the City and the County in terms of this commitment to make a difference in our City. She also reminded everyone of the serious need for looking at the impact of the new census. We have to look at whether or not we are going to deal with the term minority or look at what has happened to the black community in terms of job opportunities. She spoke about unemployment in the black community, wanted this project to provide job opportunities, and hoped the vision would become a reality for all of Durham, not for those who generally benefit.

Chairman Black recognized the great opportunity to sign the Deal Points for the American Tobacco Project. This is a private/public partnership. It is an investment in the future of Durham and in its present and future citizens. The Durham Bulls Ballpark has brought to Durham many, many people in the surrounding counties and from other places in the United States and the world. The ballpark had its problems, but now we are all very proud of it and lifted up when we talk about downtown Durham. We will do the same when we talk about the American Tobacco Project. This project will continue to provide opportunities for others to visit our county, to live in our county, and to bring additional jobs to the county. This \$145 million (projected) in private investment with the \$43 million in public investment has a projected tax value of \$127 million, plus more than 3,600 jobs. In talking about the jobs, I can assure you that the County Commissioners talked about providing jobs to give opportunities for the least of our citizens. Chairman Black had spoken with Mr. Peter Anlyan about opportunities for Northeast Central Durham. Tom White and the Chamber of Commerce will begin to look at opportunities for other people as well—citizens who need an opportunity to take care of their families and do well in this community. In addition, Capital Broadcasting Company will comply with the City and County's goals for MWBE participation. They have consented to give a report about MWBE presence when the project is being built. If anyone is interested in doing business with Capital Broadcasting Company, Mr. Goodman will assign a person who will be responsible for helping to bring business to people who may not always have an opportunity to do business with CBC. Let me hasten to say that in talking about building the Ballpark and Diamond View, I talked with Mr. Hill about MWBE participation with Capital Broadcasting Company in the past. There are other opportunities. The City will be building one of the garages and the County will be building the east deck. There is an opportunity to do business with the County as well. The private investment will come before the public investment. This is a

good thing for Durham County and Durham City. The target date of completion is June 30, 2008; the mandatory date of completion is June 30, 2010. In addition, the performing arts center will be built and the City will be responsible for that. I have asked Mayor Bell to keep me abreast of that. It will be an opportunity to partner with Haiti, the Carolina Theatre, and with the performing arts center to make sure we are addressing the issues and taking care of the arts already in Durham. It will also be an opportunity to bring additional arts to this community so that we can make more money to provide for our citizens. I think this will be a wonderful public/private partnership. In a few years we are going to be even prouder of Durham. More jobs will come, more people will come, and I hope we are going to have a very viable, livable downtown. Thank you very much, Jim Goodman.

Chairman Black asked that the County Commissioners come and stand behind her while she signed the documents. This was a 5-0 vote and she couldn't have done it by herself.

Mayor Bell stated that as a past County Commissioner, he has had the opportunity to serve on this project from its inception. He is convinced that this project will be good for all of Durham. He was anxious to get it started. He invited his colleagues to join him at the appropriate time when the public documents are signed. It is certainly a team effort.

Mr. Goodman believes that Durham can become the center of activity in the Triangle and expressed gratitude for all the work the City Council, Mayor, County Commissioners, County Manager, and staff have done. He wanted to make sure everyone felt good about the partnership and wanted to always keep his eyes focused on the goal. This is going to be a great project. We are very excited about this.

County Manager Ruffin expressed that this has been an extraordinarily challenging project. He sees great gain in this project. It has not always been easy; we have not always agreed. I have a staff led by Carolyn Titus, Pam Meyer, and George Quick who have devoted hundreds of hours to this project. We are very delighted to be at this point. We don't think this project will cost our taxpayers that much. In fact, we forecast that when it's built, it won't cost anything on the Durham County side. Thank you, Mr. Goodman, for your vision and Mr. Hill for your diligence in helping us come to the table and put this together. We have very much enjoyed being a part of this and working with you to make it happen.

City Manager Connor stated that good things are happening in Durham. She said many, many hours have been put into developing this agreement. She recognized all those who worked together to make it possible. She also thanked the former City Council for its foresight and for passing a dedicated revenue for downtown. She believes this is the beginning of a great revitalization of downtown; some exciting things will occur over the next couple of years. She thanked Mr. Goodman for believing in Durham and for continuing to be a partner with us.

The parties signed the documents.

After lights were turned on to illuminate the American Tobacco smokestack and a magnificent fireworks display, the meeting was adjourned to the lobby for refreshments.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board