

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

Monday, December 9, 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 Ellen W. Reckhow, Vice-Chairman Joe W. Bowser, and Commissioners Philip R. Cousin Jr., Becky M. Heron, and Mary D. Jacobs

Absent: None

Presider: Chairman Reckhow

**Opening of Regular Session**

Chairman Reckhow opened the meeting with the Pledge of Allegiance.

**Agenda Adjustments**

Chairman Reckhow added the following three items to the agenda:

- Report on the restoration of services after the ice storm and update on community efforts to meet the needs of citizens
- Early Action Compact with and Compliance with the 8-Hour Ozone Standard
- Board Appointment Process

The first item was placed on the agenda following the minutes. The second item was placed on the agenda as number 13(a); the third item was designated 13(b).

Vice-Chairman Bowser and Commissioner Heron requested an item be placed on the agenda concerning the ice storm.

**Storm Restoration Report**

Chairman Reckhow made a comment that a State of Emergency was declared during the storm, and a curfew was placed on the community that ended yesterday.

Chairman Reckhow commended the County Staff beginning with the County Manager. Many staff members put in 14- and 15-hour days for the citizens of the County. The Public Health Director said that over 100 of the Public Health staff have been involved at the shelters working with people that needed assistance. The County's top priority,

consistent with our mission, was the health and safety of our citizens. A yeoman's job was done in opening up shelters around the community. Workers made an effort to serve the elderly and special needs population. The Public Health Director said that the medical staff worked with 65 citizens at Jordan High School that needed special medical care. That required a large number of nurses.

Chairman Reckhow made a formal request that the County Manager set up a debriefing session to involve all of the appropriate City and County staff. The debriefing session should be held after the storm crisis is over and life is back to near normal. Focus should be placed on special population groups such as the elderly and Hispanic.

Chairman Reckhow said the Board should receive an assessment report to be prepared by staff.

The Chairman said that the North Carolina Department of Transportation has agreed to send in 12 teams to help with debris removal on the state-maintained roads.

Chairman Reckhow called on County Manager Mike Ruffin to present his report on the recent ice storm.

County Manager Ruffin reported that, over the last five days, hundreds of City and County employees have been involved in the storm management effort. He stated he was very proud of what he personally saw in terms of the caring attitudes that these people have shown. At the January 13, 2003 Regular Session, some of the all stars will be present to share some of their experiences. At one time, there were six shelters open for the citizens to use.

County Manager Ruffin said that Governor Easley held a press conference today to announce his request for a federal disaster declaration as a result of the ice storm of December 4-6. The Governor's federal disaster declaration includes 35 counties. That will allow Durham County to seek some reimbursement for services and the extra services the County had to provide during this tight budget year. The declaration could provide additional public assistance for people who continue to be in distress at this time.

The County Manager presented the County Commissioners an update on Duke Power Company's power situation concerning customers in its service area. He reported on the number of customers that were without power and the number of electrical crews working to restore electricity. He stated that the County must consider "best practices" and that much is being learned in the process. The plan in place, adopted by the Board, is working splendidly. During the process, there were no boundaries between City and County employees. Everyone worked together wherever they were needed in the city and in the county.

Deputy County Manager Carolyn Titus briefed the County Commissioners on the shelter effort and other matters. She spoke of the abundance of community spirit present and

about the work of all the service agencies in the community that came together to help the citizens in need.

Deputy County Manager Titus spoke about the shelters that continued in operation throughout the ice storm and about the shelter activities that were carried on.

Daniel C. Hudgins, Social Services Director, spoke about the public assistance initiative ongoing at the Department of Social Services (DSS). He said that when the department opened at 10:00 a.m. this morning, there were several hundred people waiting outside primarily because of food lost due to the electricity outage. Mr. Hudgins said that, in his opinion, there was an expectation that DSS would have the ability to issue food stamps to people because the ice storm was a natural disaster, and some of the food stamp rules would be waived. However, that was not the case. Mr. Hudgins said he had talked to the state director of the food stamp program and the Social Services Director to make a request on behalf of citizens who had lost food. As a result, DSS was able to replace the amount of food stamp benefits lost for the month of December to those individuals who are current food stamp recipients. Mr. Hudgins stated that DSS took over 300 applications today, two-thirds of which were to replace food lost. About 100 new food stamp applications were completed. Any household that currently receives food stamps can receive replacement food stamp benefits by applying at DSS by next Monday.

County Manager Ruffin asked Jeff Batten, Fire Marshal and Director of Emergency Management, to present the Commissioners an update on the Emergency Operations Center, and the efforts of the National Guard.

Mr. Batten said he met this morning with state and federal officials regarding obtaining preliminary damage assessments. He said that he would meet with state and federal officials on Wednesday. This is the key part to get the federal dollars needed to help with the recovery efforts.

Mr. Batten said this had been a total community effort. There have been no city and county boundaries. The National Guard sent 32 individuals on Saturday and Sunday in order to contact residents that may need assistance. Over 3,000 residents were reached. The forestry crews came in today to assist with debris removal. The Department of Correction crews came to cut trees and remove debris.

Chairman Reckhow called on the Commissioners for questions and remarks. The staff responded to the Commissioners.

Commissioner Heron discussed electrical outage during the ice storm. She stated that citizens who phoned her were of the opinion that Duke Power Company was not adequately prepared to respond to the storm. This was a major ice storm, and they should have been prepared for it. This incident should be evaluated, and Duke Power should be prepared to handle the next such situation.

Commissioner Heron asked to place a motion on the table for the Commissioners' discussion. The motion follows:

Commissioner Heron moved that the County Manager be directed to send a letter to the North Carolina Utilities Commission requesting that a public hearing be held in Durham by the Utilities Commission on the apparent lack of preparation and response by Duke Power Company to the electrical outages in Durham County caused by the recent ice storm.

Vice-Chairman Bowser seconded the motion.

Vice-Chairman Bowser made a friendly amendment to Commissioner's Heron motion to ask our federal elected representatives to come in and be a part of these hearings also.

Commissioner Heron said that this was no criticism of the lineman working on the poles trying to fix these lines. It is criticism toward the upper echelon of Duke Power Company.

Vice-Chairman Bowser suggested that the motion should include City government.

Chairman Reckhow said this could be sent to the City to see if City Council wants to take similar action and be a part of the process.

The Chairman asked if it would be agreeable to add to the motion that the Board requests a full assessment from Duke Power Company.

The motion carried unanimously.

Chairman Reckhow called on Vice-Chairman Bowser for his remarks.

Vice-Chairman Bowser said that he applauded the County staff and everyone who helped provide good service to the citizens in distress in Durham County. He said that his criticism was focused toward management at Duke Power Company and not the company's line staff. Vice-Chairman Bowser said he attended a meeting with the Governor and others on Saturday. The Duke Power Company representative at the meeting said that he had only 25 people to put on the project in the Durham area with 110,000 homes without electrical service. The problem lies with the management of Duke Power Company. The Company was working their employees on 12-hour shifts. Duke Power Company should have been working the line personnel on a 24-hour shift. More personal should have been in Durham

Commissioner Cousin said that he wanted to go on record to commend the staff and the County Manager for the job done during the ice storm. He said he was glad that the

people using food stamps could be reimbursed. He said his heart goes out to the people that have lost so much due to the ice storm.

Chairman Reckhow thanked the Commissioners and stated that the Board had given the staff direction. She thanked everyone again for his or her efforts.

### **Minutes**

Commissioner Heron moved, seconded by Commissioner Cousin, to approve the September 17, 2002 Special Session Minutes as submitted.

The motion carried unanimously.

### **Proclamation for “Durham Community Day” for Local Red Cross**

A proclamation has been prepared for the American Red Cross in observance of “Durham Community Day” and to encourage citizens to give blood and join the National Bone Marrow Registry on December 28 at the Red Cross Building at 4737 University Drive from 8:00 a.m. until 2:00 p.m. Kirsten Kruhm will make brief remarks about the event and receive the proclamation.

Resource Person(s): Kirsten Kruhm, CNNC Blood Services Director, American Red Cross

County Manager’s Recommendation: Present the proclamation to Ms. Kirsten Kruhm, along with the sincere congratulations of the entire organization.

Chairman Reckhow read the proclamation into the record and thanked the Red Cross for staffing some of the storm shelters.

The resolution follows:

#### PROCLAMATION

WHEREAS, in the Durham community there is a need for 23,489 units of blood per year for the protection of patients; and

WHEREAS, there is a great and growing need for additional, healthy, regular volunteer blood donors to join the ranks of those who already give of themselves so generously; and

WHEREAS, across our nation there is a particular need for African-American blood donors and bone marrow donors; and

WHEREAS, the American Red Cross is sponsoring the 3<sup>rd</sup> Annual Durham Community Day as an effort to promote the recognition of City and County Departments, not-for-profit groups, and agencies concerned with the safety and well being of our citizens; and

WHEREAS, the goal of the Durham Community Day is to collect 150 pints to meet the local blood needs in the holiday season, and to remind the community about the importance of giving the “gift of life”:

NOW, THEREFORE BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim December 28, 2002 as

### DURHAM COMMUNITY DAY

in Durham, North Carolina and urge all citizens in good health to donate blood and join the National Bone Marrow Registry at the Red Cross building at 4737 University Drive between 8:00 a.m. and 2:00 p.m. We further urge all civic and service organizations and businesses to organize blood donor groups to provide blood for others through the American Red Cross.

This the 9th day of December, 2002

/s/ Five Commissioners  
Durham County Commissioners

Ms. Kirsten Kruhm accepted the proclamation and thanked the County for its wonderful support during the storm crisis and for all the volunteers and food vendors that have helped in this humanitarian effort.

### **Presentation of Property Tax Check by Durham County Habitat for Humanity**

Durham County Habitat for Humanity builds affordable housing for qualifying Durham County residents who make less than 60% of the Median Family Income. The average income for the last 45 homebuyers is \$20,864. Each house is sold at 0% interest. Currently, 120 houses have been built, and over 102 mortgages are held by the organization. Of that number, nine closings are scheduled for this month. The total taxes paid to Durham County on Durham Habitat-built homes will be \$105,447.

Bill Wismer of Habitat for Humanity and Homeowner Hilda Stephens, who lives at Jubilee Lane, will make a presentation of a symbolic check for \$105,447 and make brief remarks about the program.

Resource Person(s): Bill Wismer, Fiscal Director, Durham County Habitat for Humanity

County Manager’s Recommendation: Receive the check and congratulate Durham County Habitat for Humanity for providing affordable homes in the Durham community.

Ms. Hilda Stephens presented a symbolic check to the County for \$105,447—the amount paid in taxes for Habitat homeowners. She thanked the Habitat for Humanity organization for making it possible for her to have her own home.

**Presentation of Golden Level Achievement Award, The Golden Sneaker, and the Juvenile Diabetes Foundation (JDF) Sneaker Awards for the 2002 Walk to Cure Diabetes Campaign**

The JDF annually hosts the Walk to Cure Diabetes Campaign for the Triangle region. For the second year, Deputy County Manager Wendell M. Davis chaired the fundraising campaign. The Walk was held on September 14, 2002 at Nortel Networks. The “Durham County Pacesetters,” representing approximately 50 of the 4,000 walkers who participated in the event, raised approximately \$8,000. Durham County Government employees participated in the important community event because:

- 120 million people are afflicted worldwide by diabetes;
- a new case of diabetes is diagnosed every 40 seconds;
- 16 million Americans suffer from the disease;
- 5.4 million Americans remain undiagnosed; and
- Diabetes kills one American every three minutes.

As a result of the fundraising efforts of County employees, the County received the Golden Level Achievement Award from JDF International, and five team captains received either the Golden Sneaker Award or the JDF Sneaker Squad Award. The award winners are:

Golden Sneaker Award  
Ronnie Butler—General Services  
David Skaggs—Tax Office

JDF Sneaker Squad Award  
Captain Manual Davidson—Durham Co.  
Sheriff’s Dept.  
John Ervin – Mental Health

Resource Person(s): Wendell M. Davis, Deputy County Manager and Chairman of the 2002 Walk to Cure Diabetes Campaign

County Manager’s Recommendation: The County Manager recommended that the Board accept the award and congratulate the County staff on a job well done.

Deputy County Manager Wendell M. Davis presented the Golden Level Achievement Award to the County and recognized Ronnie Butler, David Skaggs, Manual Davidson, and John Ervin and presented their awards.

### **2002 Durham County Government United Way Campaign Report**

Mike Turner, Chairman of the 2002 Durham County United Way Campaign, provided the Board with a report on the successes of the 2002 campaign. The 2002 United Way Campaign Slogan was "Together, We Can Do The Most Good."

According to the Triangle United Way (TUW), "Durham County Government was the first local government to finish [its] 2002 United Way Campaign and the only local government to run a Model Campaign," according to Kim Shaw, TUW Loan Executive.

Twenty-four County departments collectively exceeded the 2002 goal of \$81,500 by \$3,543.24, with pledges totaling \$85,043.24. In addition, Leadership Participation increased by 36.89% and Per Capita employee giving increased by 3.7 %.

A detailed report by department was provided the Commissioners.

Resource Person(s): Mike Turner, Chairman of the 2002 Durham County United Way Campaign

County Manager's Recommendation: The County Manager recommended that the Board receive the 2002 Durham County Government United Way Report, along with the sincere congratulations to the entire organization for a successful campaign.

Michael Turner reported on the County's contributions to the 2002 campaign. The County's employees exceeded last years' contribution by 4.35%. The winners of the trophies in each category (small, medium, and large) were Budget & Management Services, General Services, and The Durham Center.

Mike Turner thanked all or the Durham County employees for their support of the United Way Campaign.

Commissioner Jacobs requested that a United Way category be established for the County Commissioners in the next campaign.

### **Cooperative Extension Receives County Performance Award**

The Board was requested to recognize the Durham County Center of Cooperative Extension as the recipient of the Epsilon Sigma Phi 2002 County Performance Award. Epsilon Sigma Phi, the national Fraternity of Cooperative Extension Professionals, recognizes seven counties annually with Performance Awards. These awards honor a total Extension program concept by the county staff in resource utilization. These efforts should result in significant changes in the lives and actions of county residents. The Durham staff was recognized for its commitment to working as a team, building partnerships and innovative programming. Outcomes highlighted in the award included the Family Resource Center at Eastway Elementary School, the Master Gardener Volunteer Program, community capacity building projects, food service employee



training, emergency preparedness resources, and the extensive number of partnerships with public and nonprofit agencies for the delivery of educational programs throughout the county. The extension staff was presented this award at the North Carolina (Xi Chapter) of Epsilon Sigma Phi Annual Meeting on December 4, 2002.

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

County Manager's Recommendation: Recognize the Durham County staff of Cooperative Extension for their commitment to teamwork and innovative program delivery; congratulate the Center's paid and volunteer staff on this accomplishment.

Carolyn P. Titus, Deputy County Manager, reported on the efforts of the local Cooperative Extension Center and the award presented it. The Commissioners congratulated Ms. Cheryl Lloyd, Cooperative Extension Director, and staff members for its accomplishment.

The Board of County Commissioners congratulated Cheryl Lloyd, Cooperative Extension Director, and the staff members.

Commissioner Jacobs made special remarks about the recognition to Cheryl Lloyd and her staff since the Commissioner was a former Cooperative Extension Director in Durham County.

### **Consent Agenda**

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to approve the following Consent Agenda items:

- (a) Cancellation of the December 23, 2002 Board of County Commissioners' Regular Session;
- (b) Designation of Voting Delegate to the Legislative Goals Conference (appoint Chairman Reckhow as the voting delegate and Vice-Chairman Bowser as the alternate delegate);
- \* (e) Community Development Block Grant—2002 Scattered Site Housing Received Grant and Capital Project Ordinance Amendment No. 03CPA000006—Establishing The Scattered Site Housing Program Project (receive the grant for \$400,000 and approve creation of a capital project for the purposes of administering the Community Development Block Grant Scattered Site Housing Program grant;
- \* (f) Budget Ordinance Amendment No. 03BCC000025—DSS—Request to Accept New DSS Energy Administration Revenue (approve this

- amendment recognizing additional energy administration funding);
- \* (h) Budget Ordinance Amendment No. 03BCC000027—Public Health—to Recognize Revenue for the Nursing Division (approve this amendment to recognize \$1,500 from Holy Infant Catholic Church for the Maternity Care Coordination project);
  - \* (i) Budget Ordinance Amendment No. 03BCC000028—Public Health—to recognize revenue for the General Health Clinic (approve this amendment to recognize funds in the amount of \$3,000 for the General Health Clinic);
  - \* (j) Budget Ordinance Amendment No. 03BCC000029—Public Health—to recognize revenue for the General Health Clinic (approve this amendment to recognize funding of \$23,512 from Duke University Medical Center for the General Health Clinic for Latino testing);
  - \* (k) Budget Ordinance Amendment No. 03BCC000030—Public Health—to recognize revenue for the Environmental Health Division (approve this amendment to recognize \$55,000 from the Department of Health and Human Services for the childhood lead poisoning prevention program);
  - \* (l) Budget Ordinance Amendment No. 03BCC000031—Public Health—to recognize revenue for the General Health Clinic (approve this amendment to recognize \$5,000 from the Department of Health and Human Services for the TB clinic);
  - \* (n) Budget Ordinance Amendment No. 03BCC000033—Public Health—to recognize revenue for the Division of Health Education (approve this amendment to recognize a one-time funding of \$28,000 from the Department of Health and Human Services for the Syphilis Elimination Project);
  - \* (o) Budget Ordinance Amendment No. 03BCC000034 Public Health Budget Amendment to Recognize Revenue for the Nursing Division (approve this amendment to recognize funds in the amount of \$86,133 for the Maternal Health Clinic);
  - (r) Cultural Master Plan Executive Committee Appointment (approve the addition of Connie

- Campanero to the Executive Committee of the Cultural Master Plan); and
- \*(t) Approval of Major Special Use Permit Order—AW North Carolina—M02-08 (approval of this item).

The motion carried unanimously.

\*Documents related to these items follow:

Consent Agenda Item 9(e). Community Development Block Grant—2002 Scattered Site Housing Received Grant and Capital Project Ordinance Amendment No.03CPA000006—Establishing The Scattered Site Housing Program Project (receive the grant for \$400,000 and approve creation of a capital project for the purposes of administering the Community Development Block Grant Scattered Site Housing Program grant.

The Capital Project Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Capital Projects Ordinance  
Amendment No. 03CPA000006

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2002-03 Capital Projects Budget Ordinance is hereby amended to reflect budget adjustments for the Scattered Site Housing Program Project.

CDBG Scattered Site Housing Fund

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Scattered Site Housing Program Project	\$0	\$400,000		\$400,000

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(f). Budget Ordinance Amendment No. 03BCC000025—DSS—Request to Accept New DSS Energy Administration Revenue (approve this amendment recognizing additional energy administration funding).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000025

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

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$316,573,331	\$23,439		\$316,596,770
<u>Revenues</u>				
Intergovernmental Revenues	\$260,207,881	\$23,439		\$260,231,320

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(h). Budget Ordinance Amendment No. 03BCC000027—Public Health—to recognize revenue for the Nursing Division (approve this amendment to recognize \$1,500 from Holy Infant Catholic Church for the Maternity Care Coordination project).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000027

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

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$316,596,770	\$1,500		\$316,598,270

Revenues

Intergovernmental Revenues	\$260,231,320	\$1,500	\$260,232,820
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(i). Budget Ordinance Amendment No. 03BCC000028—Public Health—to recognize revenue for the General Health Clinic (approve this amendment to recognize funds in the amount of \$3,000 for the General Health Clinic).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000028

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

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$316,598,270	\$3,000		\$316,601,270
<u>Revenues</u>				
Intergovernmental Revenues	\$260,232,820	\$3,000		\$260,235,820

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(j). Budget Ordinance Amendment No. 03BCC000029—Public Health—to recognize revenue for the General Health Clinic (approve this amendment to recognize funding of \$23,512 from Duke University Medical Center for the General Health Clinic for Latino testing).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000029

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

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$316,601,270	\$23,512		\$316,624,782
<u>Revenues</u>				
Intergovernmental Revenues	\$260,235,820	\$23,512		\$260,259,332

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(k). Budget Ordinance Amendment No. 03BCC000030—Public Health—to recognize revenue for the Environmental Health Division (approve this amendment to recognize \$55,000 from the Department of Health and Human Services for the childhood lead poisoning prevention program).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000030

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

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$316,624,782	\$55,000		\$316,679,782

Revenues

Intergovernmental Revenues	\$260,259,332	\$55,000	\$260,314,332
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(l). Budget Ordinance Amendment No. 03BCC000031—Public Health—to recognize revenue for the General Health Clinic (approve this amendment to recognize \$5,000 from the Department of Health and Human Services for the TB clinic).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000031

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

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$316,679,782	\$5,000		\$316,684,782
<u>Revenues</u>				
Intergovernmental Revenues	\$260,314,332	\$5,000		\$260,319,332

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(n). Budget Ordinance Amendment No. 03BCC000033—Public Health—to recognize revenue for the Division of Health Education (approve this amendment to recognize a one-time funding of \$28,000 from the Department of Health and Human Services for the Syphilis Elimination Project).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
 FY 2002-03 Budget Ordinance  
 Amendment No. 03BCC000033

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

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$316,722,882	\$28,000		\$316,750,882
<u>Revenues</u>				
Intergovernmental Revenues	\$260,357,432	\$28,000		\$260,385,432

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(o). Budget Ordinance Amendment No. 03BCC000034 Public Health Budget Amendment to Recognize Revenue for the Nursing Division (approve this amendment to recognize funds in the amount of \$86,133 for the Maternal Health Clinic).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
 FY 2002-03 Budget Ordinance  
 Amendment No. 03BCC000034

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

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$316,750,882	\$86,133		\$316,837,015



Revenues

Intergovernmental	\$260,385,432	\$86,133	\$260,471,565
Revenues			

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(t). Approval of Major Special Use Permit Order—AW North Carolina—M02-08 (approval of this item).

The order granting a Major Special Use Permit for AW North Carolina, Case M02-08 follows:

ORDER GRANTING  
A MAJOR SPECIAL USE PERMIT FOR  
AW NORTH CAROLINA  
CASE M02-08

In the matter of Case M02-08, being a request from AW North Carolina to increase the impervious surface in the F/J-A Watershed District from 34% at a manufacturing facility located at 4112 Old Oxford Highway, Durham, NC, the Board of County Commissioners of the County of Durham, having conducted hearings on November 11, 2002 and November 25, 2002, and having considered all evidence presented at such hearings, hereby determines that the Ordinance requirements for the granting of a Major Special Use Permit in this case have been met, and that the Use Permit should be granted.

THE BOARD OF COUNTY COMMISSIONERS HEREBY FINDS that the use meets the requirements of 13.2.3 of the Durham Zoning Ordinance, and that it is

1. In harmony with the area and not substantially injurious to the value of properties in the general vicinity;
2. In conformance with all special requirements applicable to the use and in conformance with the Supplementary Requirements Section of this Ordinance;
3. Will not adversely affect the health or safety of the public.

THE BOARD OF COUNTY COMMISSIONERS ALSO FINDS that considerations listed in 13.2.4 of the Ordinance have been addressed.

THEREFORE, the Major Special Use Permit in this matter is hereby granted.

This determination and Order is effective upon its adoption.

**Consent Agenda Items Removed for Discussion**

Consent Agenda items 9(c), (d), (g), (m), (p), (q), (s), and (u) were pulled for discussion. The action taken follows discussion of each item.

Consent Agenda Item 9(c). Capital Project Ordinance Amendment No. 03CPA000004—Close Durham Public School Projects (close the following Durham Capital School Projects: Burton Elementary, Pearson Elementary, Fayetteville Street Elementary, Morehead Elementary, and RN Harris Elementary, for a total Budget decrease of \$73,625.51).

Commissioner Heron asked what would happen to the Budget decrease of \$73,625.51.

Pam Meyer, Budget and Management Services Director, told Commissioner Heron that the money would remain in the school system for other school maintenance and capital projects.

Commissioner Heron asked why the school system spent \$10,000 for planning a driveway at the R.N. Harris Elementary School.

Mr. Hugh Osteen, Assistant Superintendent for Facilities, Durham Public Schools, responded to the question. He said that expenditure was well within the guidelines and the industry norm.

Commissioner Cousin asked questions about the reallocation of funds to Fayetteville Street Elementary and W.G. Pearson Elementary Schools.

Mr. Osteen said recommendations and suggestions would be made to the Board of Education for approval of construction projects. Then the Commissioners must approve the projects.

Vice-Chairman Bowser asked Ms. Meyer, Budget and Management Services Director, questions about the designation of money as state and local money.

Ms. Meyer responded to the questions.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve Consent Agenda Item 9(c).

The motion carried unanimously.

The 2002-2003 Capital Project Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Capital Projects Ordinance  
Amendment No. 03CPA000004

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2002-03 Capital Projects Budget Ordinance is hereby amended to reflect budget adjustments for Durham Public Schools.

GENERAL FUND

State Public Schools Capital Building Fund

<u>Expenditures</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
Burton Elementary	\$ 60,000.00		\$ 8,092.50	\$0
Pearson Elementary	\$ 40,000.00		\$ 4,553.25	\$0
Fayetteville St. Elem.	\$ 52,500.00		\$ 2,992.50	\$0
Morehead Elementary	\$ 37,500.00		\$ 8,351.25	\$0
R.N. Harris Elementary	\$198,750.00		\$49,636.01	\$0

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

This the 9<sup>th</sup> day of December, 2002.

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

Commissioner Cousin asked a question for point of order or clarification. He wanted to know if community people could speak about consent agenda items.

Chairman Reckhow said if a Commissioner wanted someone to speak on a Consent Agenda item, the Commissioner could request it.

Commissioner Cousin requested to permit Dr. Lavonia I. Allison to speak to a Consent Agenda item.

Dr. Allison spoke in reference to the budget decrease of \$73,625.51 that was turned back to the Board of Education when several school projects were closed. She wanted to use the money to correct the violations that exist at W.G. Pearson and Fayetteville Street Elementary Schools.

Chairman Reckhow and Mr. Osteen spoke to the request from Dr. Allison.

Chairman Reckhow stated that the Commissioners and the Board of Education should have a joint meeting after the first of the year to discuss construction projects.

Commissioner Heron asked Mr. Osteen to give her a list of the violations at W.G. Pearson Elementary School and Fayetteville Street Elementary School referred to by Dr. Allison in her comments.

Mr. Osteen said he would provide the Commissioners a list of violations.

Consent Agenda Item 9(d). Contract Award for Sanitary Sewer System Evaluation and Capital Project Ordinance Amendment No. 03CPA000005—Establishing Collection Systems Rehabilitation Capital Project (approve this amendment establishing a new project named “Collection Systems Rehabilitation” with a budget of \$500,000, and authorize County Manager to execute the County’s standard Engineering Services Contract with Stearns & Wheler for the Sanitary Sewer System Evaluation with a not-to-exceed amount of \$303,189).

Vice-Chairman Bowser pulled this Consent Agenda item for a question. He said that when he read this contract he noticed the MWBE portion. He said that the County is doing well in getting money to the women-owned businesses but he was concerned about getting funds out to the minority-owned businesses.

He asked that staff address this concern. He wanted to know from staff what efforts have been made through the prime contractor to get some of this money out to minority contractors.

Mr. Glen Whisler, County Engineer, responded to Commissioner Bowser’s request. A lengthy discussion was held on the contract and project.

Commissioner Cousin said he wanted to go on record again that he requested a few meetings ago that the Board receive an analysis of a good-faith effort of this MWBE part of contracts. “I hope that it is forthcoming.”

County Manager Ruffin said that it was in progress.

Chairman Reckhow, to help with Vice-Chairman Bowser’s issues, suggested it might be helpful for the staff to provide some rationale of why the firm being requested is the best firm to do the work. If a Commissioner wants to see the background material on a contract, the staff should have that information available.

Commissioner Bowser said he wanted clarification of a firm’s business address and whether that firm is a minority firm.

Chairman Reckhow wanted to know why a \$500,000 budget is being established if the contract is \$303,000.

County Engineer Glen Whisler responded to Chairman Reckhow’s question.

Mr. Whisler answered questions for Commissioner Heron about rehabilitating manholes.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve Consent Agenda item 9(d).

The motion carried unanimously.

The 2002-03 Capital Project Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Capital Projects Ordinance  
Amendment No. 03CPA000005

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2002-03 Capital Projects Budget Ordinance is hereby amended to reflect budget adjustments for the Collection Systems Rehabilitation project.

COLLECTION SYSTEMS REHABILITATION FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Collection Systems Rehabilitation Project	\$0	\$500,000		\$500,000

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(g). Budget Ordinance Amendment No. 03BCC00026—Library—Institute of Museum and Library Services Grant to N. C. Museum of Life and Science/Durham County Library Partnership (approve this amendment).

Commissioner Heron asked questions about this library grant. The questions dealt with the definition of disadvantaged and minority populations as relates to the grant.

Mr. Philip Cherry, Library Director, responded to the questions and comments.

Commissioner Heron was of the opinion that all children should be eligible to participate in the grant program.

Vice-Chairman Bowser said for the record that he agreed with Commissioner Heron that all children should be able to benefit from this grant.

All of the Commissioners agreed that all children should be eligible to participate in the grant.

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to approve Consent Agenda item 9(g).

The motion carried unanimously.

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000026

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 Library.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Cultural and Recreation	\$7,847,962	\$9,750		\$7,857,712
<u>Revenues</u>				
Miscellaneous Income	\$3,901,088	\$9,750		\$3,910,838

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(m). Budget Ordinance Amendment No. 03BCC000032—Public Health—To Recognize Revenue for The Nursing Division (approve this amendment to recognize \$38,100 from Operation Breakthrough for a Public Health Nurse I for the Nursing Division).

Commissioner Heron removed this agenda item for discussion. She asked if Durham County would be responsible for the salary after the ten months.

Mr. Brian Letourneau, Public Health Director, said that the County would not be responsible for the salary after the ten months.

Commissioner Heron also asked if this nurse would be considered a regular employee with all the fringe benefits.

Mr. Letourneau replied that she would be considered a regular employee.

Commissioner Jacobs asked if the person had already been hired.

Mr. Letourneau replied that the person has not yet been employed.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve Consent Agenda item 9(m).

The motion carried unanimously

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA  
FY 2002-03 Budget Ordinance  
Amendment No. 03BCC000032

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

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Human Services	\$316,684,782	\$38,100		\$316,722,882
<u>Revenues</u>				
Intergovernmental Revenues	\$260,319,332	\$38,100		\$260,357,432

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

This the 9<sup>th</sup> day of December, 2002.

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

Consent Agenda Item 9(p). Purchase of Vehicles for the Sheriff's Office (authorize County Manager to enter into a contract with the lowest bidder, University Ford, Inc., for \$137,475.00 [Specification 1]).

Commissioner Bowser removed this agenda item for discussion. He wanted to know if the five vehicles being purchased would be used in the administrative division or the patrol division.

Chief Deputy Wes Crabtree said the vehicles would be used in the patrol division. The four-wheel drive vehicles are needed for snow and ice conditions.

Commissioner Bowser moved, seconded By Commissioner Jacobs, to approve the purchase of the five four-wheel drive vehicles for the Sheriff's Department.

Commissioner Heron requested to know about the number of vehicles that have been wrecked in the last two years, whether a thorough investigation is done of all wrecks involving Sheriff's Department vehicles, and if the vehicles were under a regular maintenance schedule.

Chief Deputy Wes Crabtree responded to all the questions raised by Commissioner Heron. He commented that all vehicles in the Sheriff's Department were under a maintenance schedule.

The motion carried unanimously.

Consent Agenda Item 9(q). Execution of Architectural Design Service Contract with The Freelon Group, P.A., for the Proposed Durham County East and North Regional Branch Libraries—RFQ 02-033—Project No.: DC073-48 (authorize the execution of an architectural design contract with The Freelon Group, P.A. in the amount of \$966,593.00).

In answer to Commissioner Heron's questions, County Engineer Glen Whisler answered that the 25,000 square-foot refers to one library, and that the cost to build a library is estimated to be \$175 per square foot. That cost includes all expenditures.

Commissioner Bowser wanted to know if there would be any female participation in this contract.

Mr. Whisler responded that the female participation would be 17.5% through MEP Engineering. The firm that will do the mechanical, electrical, and plumbing engineering services is Engineered Designs, Inc.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to approve Consent Agenda item 9(q).

Chairman Reckhow wanted the Board to see the site plan and architectural design before the project is put out for bid. "We want a quality product that will stand the test of



time.” She stated that the Appearance Commission should review civic building designs before they are presented to the Commissioners.

Commissioner Heron said that building two libraries at the same time under one contract should be a cost saving to Durham County.

The motion carried unanimously.

Consent Agenda Item 9(s). City-County Joint Water and Sewer Billing Agreed-Upon Procedures Contract Extension (approve the amendment of the contract extending the date of completion for the joint water and sewer agreed-upon procedures to December 31, 2002 for Phase I and to March 11, 2003 for Phase II; both the City and County Manager were authorized under the original contract to grant a two-month extension).

Vice-Chairman Bowser asked the County Manager when this contract would be completed and whether it would require another extension.

County Manager Ruffin responded that the County had obtained assurances at the last City-County Committee meeting. The first phase of that contract would be presented to the Joint City-County Committee at its next meeting on January 14, 2003. The second phase would be presented at the March 11, 2003 Joint City-County Committee meeting.

Commissioner Heron suggested that the Commissioners be provided monthly updates on this project in order to know its status and to be aware of any holdups.

Susan Fox-Kirk, Assistant Finance Director, explained to the Commissioners the background of this project and the many problems that the project team has encountered.

Chairman Reckhow suggested that the Finance Department communicate with the Board at the end of December 2002 to advise whether the work has been completed. That would respond to Commissioner Heron’s issue. At the end of January, Finance should track to ensure that their schedule is met for March 11, 2003.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve Consent Agenda item 9(s).

The motion carried unanimously.

Consent Agenda Item 9(u). The Durham Center—Sublease a Portion of the Property at 705 South Mangum Street to the Orange-Person-Chatham Area Mental Health Authority (OPC) (approve the sublease between the County and Orange-Person-Chatham Area Mental Health Authority for two (2) buildings located at 705 South Mangum Street).

Vice-Chairman Bowser wanted to know if the Orange-Person-Chatham Area Mental Health Authority would pay the portion of the rent that Durham County now pays.

Assistant County Attorney Carol Hammett said that Durham County would continue to pay rent to the landlord and that the Orange-Person-Chatham Area Mental Health Authority would have use of the property.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to approve Consent Agenda item 9(u).

The motion carried unanimously.

### **Durham Bicycle and Pedestrian Advisory Commission Annual Report.**

The Durham Bicycle and Pedestrian Advisory Commission (BPAC) was established by the Board of County Commissioners and the City Council through an interlocal agreement in 2001. The new BPAC was charged with various tasks, each leading to the ultimate goal of integrating bicycling and walking fully into Durham's transportation policies and practices. A memo and report were provided in conformance with the interlocal agreement, which specifies that BPAC should make an annual report of its year's work to elected officials.

Staff recommended that the Board of County Commissioners receive the annual report from BPAC and allow a representative of the Commission to make a brief presentation to the Board.

Resource Person(s): Frank Duke, AICP Director, City-County Planning; Beth Timson, AICP Planner, City-County Planning

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

Chairman Reckhow called on Robert Glenn, member of the Durham Bicycle and Pedestrian Advisory Commission (BPAC), to present the Annual Report to the Board of County Commissioners.

Mr. Glenn presented the annual report, as set by the BPAC charter, to the Board of County Commissioners for its consideration.

Mr. Glenn talked briefly about the BPAC's plans for 2003. The projects are as follows:

1. In the process of developing Bicycle and Pedestrian maps for the City and County
2. Developing a Website for community information and the maps and routes
3. Pursuing grants and other sources of funding for the projects

4. Pursuing grants and other sources of funding such as The Robert Wood Johnson Foundation
5. Continuing to plan for bike and pedestrian activities
6. Planning "Bike at Work Activities"
7. Bike to Work Month activities are being planned.
8. Provide services for community events such as valet service
9. Apply for the Bicycle Friendly Community designation
10. Provide advice and counsel to the Commissioners about bicycle and pedestrian issues
11. Working with the C-C Planning Department to incorporate in the UDO bicycle and pedestrian issues and access for our community

Mr. Glenn presented several statistics related to bicycles and pedestrians.

Mr. Glenn discussed four reasons why the Commission and the Commissioners promote biking and walking in Durham.

Mr. Glenn named three ways the Board of County Commissioners could support efforts of the Advisory Commission:

1. Funding
2. This administration acknowledges and is very supportive of bicycle and pedestrian issues
3. Employ bicycle and pedestrian coordinators for staff support

Mr. Glenn ended his comments and asked if there were any questions.

Chairman Reckhow asked the County Manager if there would be a way for the Board to work with the Durham Bicycle and Pedestrian Advisory Commission to provide money for funding to assist with the projects Mr. Glenn mentioned.

Commissioner Jacobs made comments about health and exercise to make young people more conscious of having good health.

Commissioner Jacobs moved, seconded by Commissioner Heron, to accept the Durham Bicycle and Pedestrian Advisory Commission Annual Report.

The motion carried unanimously.

Commissioner Heron said she hoped to get more information from the BPAC when the Transportation Improvement Program is reviewed. Then the Board can push for more bikeways and pedestrian ways with the funding provided.

**Quasi-Judicial Public Hearing: Major Special Use Permit—New Elementary School “A”, Phase I—Ephesus Church Road (Case M02-04)**

This quasi-judicial public hearing was set:

- To consider a Major Special Use Permit for a public school in the R-20 District, and
- To direct the Planning Director to prepare an order for adoption for either 1)approval, 2)approval with conditions, or 3)denial—or to continue the hearing to a specified later meeting.

A draft order for approval with staff-recommended conditions was available at the meeting.

Coulter Jewell Thames, PA, on behalf of Durham Public Schools, had submitted a Major Special Use Permit for an 81,385 square-foot, two-story elementary school for 609 students, with 138 motor vehicle and nine bicycle parking spaces on a ±17.48-acre portion of a ±37.46-acre site. The property is located at the southeastern corner of the intersection of Ephesus Church Road and George King Road (PIN 0709-03-12-9503; tax reference 485-2-8; County Atlas Page 85, Blocks A-3, A-4). Governing Body approval of the Major Special Use Permit is required for public schools in the R-20 District. Notice of the governing board consideration of this Major Special Use Permit will be published in the newspaper in accordance with the requirements of the Durham Zoning Ordinance Section 13.2.2.3 Major Special Use Permits.

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

County Manager’s Recommendation: The County Manager recommended that the Board receive public comments on this application.

Chairman Ellen Reckhow stated that the quasi-judicial hearing was judicial in nature and would be conducted in accordance with special due process safeguards. The hearing addressed the request for a major special use permit for New Elementary School “A” located on Ephesus Church Road (Case M02-04).

Chairman Reckhow directed all persons who had signed to testify in this case to go to the Clerk’s station to be sworn in or to give affirmation. Those persons who had not signed earlier on the special sheet and wished to speak were directed to sign and participate in the swearing-in. After being sworn in, persons were to return to their seats.

Before opening the hearing, Chairman Reckhow gave the Board members a chance to reveal possible conflicts and to withdraw from this proceeding if necessary. Conflicts are not limited to financial ones.

None of the Commissioners revealed any conflicts.

Chairman Reckhow asked the Board members who had any special knowledge about the case that might not come out at the hearing tonight to please describe that information for the record so that interested parties would know and could respond.

The Commissioners did not have any prior exposure to evidence.

Chairman Reckhow stated that the Board would first hear from the Planning staff and other County witnesses, then from the applicants and their witnesses, and then from the opponents to the request. Parties may cross-examine witnesses after the witness testifies or when questions are called for. If a witness wants the Board to see written evidence, such as reports, maps, or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his or her testimony. The Board cannot accept reports from persons who are not here to testify. Attorneys who speak should not give factual testimony but may summarize their client's case. She asked that witnesses identify themselves for the record before beginning testimony.

Chairman Reckhow opened the hearing on Case M02-04. She asked for testimony from the County staff. She recognized the City-County Planning Director, Frank Duke, for his testimony.

Planning Director Frank Duke provided the staff report and asked that the report be introduced into the record along with attachments and exhibits. He stated that page two of that staff report was inadvertently left out when it was being copied. Page two was distributed so it could become a part of the record.

Mr. Duke made a detailed presentation on the Major Special Use Permit request. The staff report and all attachments had been introduced as a part of the record.

Mr. Duke said that the project shown on the site plan and attached to the staff report does meet all of the technical requirements of the Durham Zoning Ordinance as well as other development-relative regulations. However, because this is a Major Special Use Permit, it is not sufficient to simply meet all of the technical requirements of the Ordinance. The Board must specially make findings under Section 13.2.3 of the Durham Zoning Ordinance based on information provided by the applicant: 1)that the proposed use will be in harmony with the area and not substantially injurious to the value of property in the general vicinity, 2)that the proposed use will be in conformance with all special requirements applicable to the use to the Supplementary Requirements Section of the Zoning Ordinance and to any other considerations identified on the Zoning Ordinance, and 3)that the proposed use will not adversely affect the health or safety of the public. The Board of County Commissioners may impose conditions on the permit if the Board determines that such conditions are necessary to ensure the compatibility of this project with the surrounding neighborhood. The staff has reviewed the proposal before the Board.

Chairman Reckhow asked if the Board members had any questions for the Planning Director.

The Commissioners asked several questions about the major special use permit concerning traffic safety, water and sewer annexation, and the detention pond on the site plan.

Commissioner Heron wanted to appeal to the City Council and Board of Education not to request annexation of the school property.

Chairman Reckhow said that the Board would proceed and decide how to handle the annexation issue latter.

Chairman Reckhow entered the staff report as evidence and labeled it as Exhibit A.

The Commissioners asked several questions about the annexation issue. A lengthy discussion was held.

Chairman Reckhow entered the Chapel Hill staff comments report as Exhibit B.

Chairman Reckhow asked if the opponents and proponents had any questions for the Planning staff.

Dr. Lavonia I. Allison, Opponent, said that she had a question about the transportation corridor on the school property. Planning Department staff responded to the question.

Chairman Reckhow recognized the applicant for testimony.

Hugh Osteen, Assistant Superintendent for Operational Services, Durham Public Schools, presented his testimony. His presentation gave the Commissioners an overview of the total project.

Dan Jewell, Coulter Jewell Thames, PA, requested that two updated documents be added into the records. The documents were a colored landscape plan and off-site improvement plan maps.

Mr. Jewell addressed some of the specifics of the project included in the findings of facts that are listed in the Order.

He commented that George King Road would be paved down to the entrance of the bus driveway. Left turn lanes would be built at the intersection of George King Road and Ephesus Church Road. Left turn lanes would be constructed at Ephesus Church Road and Farrington Road.

Mr. Jewell said that a sewer line was being extended north underneath Ephesus Church Road and roughly 1,200 feet to the north to an existing line at Bakers Mill Road. There is an existing water line that comes up to the site at the intersection of George King

Road and Ephesus Church Road that dead ends at that point connecting to the existing system at Trenton Road.

Mr. Jewell said that a bicycle lane would be constructed along Ephesus Church Road. Approximately three acres of the school site property is in the transportation corridor.

Mr. Jewell reviewed the site plan details, annexation requirements, and the detention pond requirements for the County Commissioners.

The Commissioners asked questions and made remarks to which Mr. Osteen responded.

### **Extending Time of Regular Session**

Commissioner Cousin moved, seconded by Commissioner Bowser, to extend the length of the meeting until 12:00 midnight.

The motion carried unanimously.

### **Continuation—Quasi-Judicial Public Hearing: Major Special Use Permit—New Elementary School “A”, Phase I—Ephesus Church Road (Case M02-04)**

The question and answer session continued with the Commissioners asking questions.

Mr. Jewell and Mr. Osteen responded to the questions and comments.

Chairman Reckhow stated that she would like to recognize the petitioner’s exhibits that have been submitted. There were two site plans and the petitioner’s exhibits A and B.

Chairman Reckhow asked if there were other parties that had questions of the applicant.

Chairman Reckhow asked Mr. Osteen if he thought it would be appropriate for the Durham City-County Appearance Commission to review these plans.

Mr. Osteen said that the school administration would certainly be willing to entertain any opinions and questions.

Chairman Reckhow recognized the opponent for any questions of the applicant. Dr. Lavonia I. Allison responded with a question.

Dr. Allison wanted to know the cost of the transportation improvements necessitated by the school.

Mr. Osteen said he believed that the previous figure stated was \$450,000 for off-site improvements. That would include the roads, water, and sewer. At this time DPS is still close to that figure. The exact figure would not be known until the bids are received.

Vice-Chairman Bowser asked for clarification on Mr. Osteen's quote on the projected cost of the off-site improvements. The Vice-Chairman stated he did not believe the off-site improvements could be completed for a cost of \$450,000.

Chairman Reckhow asked Mr. Osteen if he was confident that he would not have to come back to this Board and ask for more money. Mr. Osteen replied, "That is correct."

Dr. Lavonia I. Allison was asked by Chairman Reckhow to give her testimony.

Dr. Allison began her testimony by saying, "It is a sad night for me to be here. All of the questions being raised tonight started months ago. There is something wrong when the Board of County Commissioners has reached a point and you have to deal with a buffer, setbacks, and other things. Mr. Duke has done an excellent (job) as a member of the Planning Department to meet the guidelines on a Major Special Use Permit. The County Commissioners have failed in fact as stewards of our moneys to provide equal opportunities for all of our children in the Durham Public Schools since we merged ten years ago." She asked the Commissioners to look at a report prepared in 1993 that was required by the State Department of Public Instruction. She stated that the report gave an analysis of all the schools and what needed to be done. She expressed the opinion that this present school system administration developed long- and short-range plans for the system without looking at the state report. She said that all the inner-city schools mentioned had been County schools. In her opinion, there is a racial gap in terms of who pays, who spends, and who benefits. She questioned what population would be served by placing a library near the Orange County line. The voluntary annexation should never occur. She stated that those who live in the inner city would pay double. If there is a voluntary annexation, citizens must pay for the water, sewer, library facilities, and fire protection. She chastised the Commissioners for talking about spending for roads and sidewalks when there are inner city schools in need of repair, saying they were left off the bond referendum. She expressed the opinion that the \$450,000 would not complete the roads and the site plan improvements as claimed by Mr. Osteen.

Dr. Allison asked the Board of County Commissioners to delay the decision until after the public hearing of (December?) 16. That would give the public an opportunity to ask questions and get answers. She asked the Commissioners to continue the Quasi-Judicial Public Hearing to a specific later meeting.

She said it was wrong and unfair to use funds for a new school on the edge of Orange County as it would deny children in the inner-city schools an opportunity to have quality buildings. She said that our school system has allowed it to happen, and the Commissioners have participated.

Chairman Reckhow asked if there were any questions for Dr. Allison from any of the parties involved.



Chairman Reckhow asked the Planning Department staff to give the Commissioners a recommendation based on the testimony that was heard.

Mr. Duke said this particular major special use permit does comply with the requirements of the ordinance, as Dr. Allison noted. Based on the testimony heard tonight, City-County Planning would recommend approval of this Major Special Use Permit, subject to the condition that the project be completed in accordance with the approved site plan and any approved provisions.

Chairman Reckhow placed the matter before the Board of Commissioners for discussion. She called on County Attorney Chuck Kitchen for remarks.

The County Attorney made an observation for the Board from a legal point of view. He told the Board that its adoption of a special use permit such as this one, with special conditions attached to its approval, is essentially approving zoning. In this zoning, the Board is placing these conditions on this particular use in order to be compatible with the surrounding property. When the Board places these conditions on the special use permit and adopts the permit, it is the Board of Commissioners putting the conditions there. It is not the City Transportation Department making the requirement. These are the Board's requirements, not some department on the city or state level. The Commissioners sit as the judge on this type of hearing.

The Commissioners asked questions and made remarks to which the County Attorney responded.

The Commissioners had a lengthy discussion about this agenda item.

Commissioner Jacobs moved that the Commissioners delay the decision on this matter for one cycle, which would be the second Monday night in January 2003.

Commissioner Heron moved that the Commissioners approve this Special Use Permit and that every effort be made to communicate with City Council that they not annex the property. It is not in the best interest of the people in Durham County for annexation to take place on this piece of property.

Commissioner Heron said she made this move because the Board owes the people of this County because they approved the bond issue for a new elementary school, and \$500,000 of bond money is invested in this site. If this site is not to be utilized for a school, it should not have been bought.

Chairman Reckhow seconded Commissioner Heron's motion which included the granting of the order that was distributed.

The motion failed with a 3 to 2 vote as follows:

Ayes: Heron and Reckhow

Noes: Bowser, Cousin, and Jacobs

**Order Granting, Under Certain Conditions, A Major Special Use Permit for Durham Public Schools**

Attorney Chuck Kitchen said since the order has been denied it would be appropriate to adopt an order stating with which of the grounds the Board does not believe the proposed special use permit is in compliance.

Vice-Chairman Bowser said that he had already mentioned the health and safety of the public in the area simply because of the additional traffic and the additional pollution that it would create.

**Extending Time of Regular Session**

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to extend the length of the meeting until 12:30 a.m.

The motion carried unanimously.

**Continuation—Order Granting, Under Certain Conditions, A Major Special Use Permit for Durham Public Schools**

Vice-Chairman Bowser moved that the Board not approve this special use permit on Case M02-04 because of his concerns on the findings of facts in 1, 2, and 3.

Commissioner Jacobs said her primary reason for coming back and asking again that the Board delay this was because she did not want to see it fail. She stated that this item could likely move forward if answers could be found for Commissioner Bowser's questions.

Commissioner Jacobs offered a substitute motion that the item be delayed until the next Commissioners' Meeting which would be the second Monday in January.

Chairman Reckhow seconded the motion to keep it alive.

The substitute motion was the primary motion at this point. Chairman Reckhow called for a vote.

The motion to delay until the next Commissioners' meeting was approved with the following vote:

Ayes: Heron, Jacobs, and Reckhow  
Noes: Bowser and Cousin

Commissioner Heron said that it was a mistake to delay the project.

Commissioner Heron said that she wanted to clarify one thing that Vice-Chairman Bowser said. She said that at the Durham-Chapel Hill-Orange Workgroup this site has been discussed with the Chapel Hill and Orange County representatives. She referenced a call from a Chapel Hill City Council member. The only concern expressed was the width of the bikeways. There was no objection from the City Council member about this site. Chapel Hill does not have a problem.

**Major Site Plan—New Elementary School “A”, Phase I—Ephesus Church (Case DO2-4211)**

This item was not appropriate to consider at this time because the Board did not pass the item preceding it.

**Early Action Compact and Compliance with the 8-Hour Ozone Standard**

The Triangle Area has been measuring ground ozone for several years and has recorded a series of exceedances of the Federal 8-hour standard. As a result, the Triangle Area may be designated as a non-attainment area for ozone. This designation means a series of more restrictive regulations and penalties may be imposed on the Triangle. In order to come into compliance with the 8-hour ozone standard, the State and local air pollution control agencies are advocating a new voluntary program offered by the U.S. EPA called the Early Action Compact (EAC). The EAC is a process that allows state and local areas to achieve clean air earlier than the Clean Air Act schedule and defer—and hopefully avoid—designation as a non-attainment area for ozone.

It is recommended that the Board of County Commissioners adopt the attached Resolution of Intent to be Part of the Early Action Compact for the Triangle Area of North Carolina.

Resource Person(s): Mark D. Ahrendsen, City of Durham Transportation Manager and Chair of the Technical Coordinating Committee (TCC) of the Durham-Chapel Hill-Carrboro MPO; Beth Timson, Durham City-County Planning Department, Durham County TCC member.

Chairman Reckhow called on Frank Duke, City-County Planning Director, to make a presentation on this agenda item.

Chairman Reckhow asked if there were any questions about the presentation and agenda item.

There were no questions or comments about the agenda item.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to adopt the Resolution.

The motion carried unanimously.

The resolution follows:

RESOLUTION  
OF INTENT TO BE PART OF THE EARLY ACTION  
COMPACT FOR THE TRIANGLE AREA OF NORTH CAROLINA

WHEREAS, the federal Clean Air Act, through the Environmental Protection Agency (EPA), establishes air quality standards to protect public health and welfare; and

WHEREAS, North Carolina has acknowledged the importance of these standards in promoting quality of life, economic development, and future healthy development; and

WHEREAS, the Triangle J region, along with other metropolitan areas in the state, could not initially attain the 1977 federal ozone standard, known as the “one-hour standard”, but now has met this standard and is designated as “maintenance” for the one-hour standard; and

WHEREAS, EPA’s more stringent eight-hour ozone standard has been in effect since 1997, and the North Carolina Department of Environment and Natural Resources (DENR), Division of Air Quality has preliminarily determined through monitoring and analysis that Orange, Durham, Wake, Chatham, Lee, Moore, and Johnston Counties (in the Triangle J Council of Governments region) currently exceed the eight-hour standard; and

WHEREAS, DENR will conduct public meetings in the spring of 2003; will engage in further analysis of monitoring data, commuting patterns, current and projected population, and current and projected daily driving distances per vehicle; and will finally recommend to EPA in the summer of 2003 which North Carolina counties and parts of counties qualify as non-attainment for the eight-hour ozone standard; and

WHEREAS, EPA, in the absence of other initiatives by affected areas, will in 2004 designate areas as non-attainment for the eight-hour standard; and

WHEREAS, designation as non-attainment is widely acknowledged to have extremely negative consequences for an area’s economic development, transportation planning and construction, and quality of life; and

WHEREAS, EPA, in conjunction with state governments, business, industry, and environmental interests, has developed an option known as an “Early Action Compact” (EAC) through with an area, in partnership with the state and EPA, can defer the

effective date of designation as non-attainment (from 2004 to 2007) by voluntarily development and implementing a plan to attain the eight-hour standard by the end of 2007; and

WHEREAS, the benefits of participating in an Early Action Compact include: clear air sooner, delaying (potentially even avoiding) non-attainment designation, minimizing the impact of air quality standards on new industrial construction, minimizing the impact of air quality standards on transportation planning and construction; less complicated conformity plans; flexibility to achieve standards in cost effective ways; development of local standards in partnership with stakeholders and the state, and other benefits; and

WHEREAS, any local government participating in an Early Action Compact may withdraw at any time with no penalty until a jointly developed State Implementation Plan is adopted for that area:

NOW, THEREFORE, BE IT RESOLVED that Durham County affirms its support for development and implementation of an Early Action Plan (EAP) for the Triangle J Region that will reduce ground-level ozone concentrations to comply with the 8-hour ozone standard by December 31 ,2007, and maintain the standard beyond that date; and

FURTHER THAT signatory parties to the Early Action Compact commit to develop, implement, and maintain the Early Action Plan according to EPA Protocol for Early Action Compacts issued June 19, 2002, Designed to Achieve and Maintain the 8-Hour Ozone Standard; and

FURTHER THAT participating local governments will develop this plan in coordination with the DENR, EPA, stakeholders, and the public; and

FURTHER THAT the Early Action Plan will include a process to monitor and maintain long-term compliance with the standard; and

FURTHER THAT the Early Action Plan will be submitted to DENR and EPA for review by January 31, 2004 and finalized by March 31, 2004 for inclusion in the Statewide Implementation Plan by December 31, 2004.

FURTHER THAT participating local governments will observe the following protocol and milestones in completing the Early Action Plan.

Early Action Compact	
December 31, 2002	Signed Early Action Compact (DENR and EPA with local government resolutions attached)
May 31, 2003	Initial modeling emissions inventory completed (state Division of Air Quality-DAQ)
	Conceptual modeling completed (DAQ)
	Base case modeling completed (DAQ)

June 16, 2003	Identify and describe local strategies being considered for inclusion in local clean air plans (local governments, stakeholders, DAQ)
June 30, 2003	Biannual status reports to begin (local governments and DAQ)
October 31, 2003	Future year emissions inventory modeling completed (DAQ)
	Emissions inventory comparison and analysis completed (DAQ)
	Future case modeling completed (DAQ)
January 31, 2004	Attainment maintenance analysis completed (DAQ)
	One or more modeled control cases completed (DAQ)
	Local emission reduction strategies selected (local governments, stakeholders, DAQ)
	Submission of preliminary Early Action Plan to DENR and EPA
March 31, 2004	Final revisions to modeled control cases completed (DAQ)
	Final revisions to local emission reduction strategies completed (local governments, stakeholders, and DAQ)
	Final revisions to attainment maintenance analysis completed (DAQ)
	Submission of final Early Action Plan to DENR and EPA
December 31, 2004	Early Action Plan adopted and incorporated into the State Implementation Plan (SIP); SIP submitted to EPA
December 31, 2005	Local emission reduction strategies implemented no later than this date
June 30, 2006	Biannual status reports on implementation of measures begin on this date
December 31, 2007	Attainment of the 8-hour standard no later than this date

FURTHER THAT, if participating local governments do not meet all the terms of the Early Action Compact including meeting agreed-upon milestones, then the area will forfeit its participation and will revert to the standard EPA non-attainment process according to EPA's 8-hour ozone implementation rules; and

FUTHER THAT, before any formal adoption into the State Implementation Plan (December 31, 2004), the Early Action Compact may be modified or terminated by mutual consent of all participating parties, and any party may withdraw from the agreement without penalty.

Adopted by the Durham County Board of Commissioners, this the 9<sup>th</sup> day of December, 2002.

ATTEST:

/s/ Garry E. Umstead, CMC  
 Clerk to the Board

/s/ Ellen W. Reckhow  
 County Commission Chair

**Major Site Plan—NC 98 & Sherron Road Development (Case D02-446)**

RL Horvath Associates, Inc., on behalf of RDSK, LLC, has submitted a site plan for 1)an 83,375-square-foot shopping center with five out-parcels, and with 437 motor vehicle and 21 bicycle parking spaces on a  $\pm$ 14.41-acre site; 2)29,700 square feet of retail shops and 7,200 square feet of offices, with 183 motor vehicle and 12 bicycle parking spaces on a  $\pm$ 6.47-acre site; and 3)82 single-family lots on  $\pm$ 35.24 acres. The proposed development will be located on the southeastern and southwestern corners of the intersection of NC 98 and Sherron Road (Multiple PIN & tax references; Durham County Street Atlas Page 71, Blocks A-2 & A-3). Governing Body approval is required for proposed shopping centers larger than 75,000 square feet and for subdivisions of more than 50 lots. A Traffic Impact Analysis has been reviewed for this development as part of the rezoning process. This site plan conforms to the zoning development plan adopted by the Board of County Commissioners on January 28, 2002.

The applicant is also requesting a reduction in the landscape buffer in the SC(D) portion of the site. The requested buffer reduction, from 50 feet to 35 feet with a six-foot solid fence, may be approved if the Board finds that the proposed fence and buffer provide the same level of separation as a standard buffer with no fence. Alternatively, the Board may require redesign of the site plan to incorporate a different buffer design or the full 50-foot buffer width. Specific action on this item should be included in any motion by the Board.

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

County Manager's Recommendation: The Planning Staff recommended approval with the landscape buffer reduction in the SC(D) District from 50 feet to 35 feet, based on the provision of a new fence within the buffer. The County Manager recommended that the Board approve the site plan.

Chairman Reckhow made introductory remarks about the major site plan.

Chairman Reckhow requested that Teri Danner, City-County Planning Department, make a presentation to the Board of County Commissioners.

Chairman Reckhow asked if there were any questions for the staff from the County Commissioners. The Commissioners asked questions and made comments to which staff responded.

Mr. Horvath, RL Horvath Associates, Inc., assisted with the questions and comments.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve the major site plan (Case D02-446) with the landscape buffer reduction in the SC(D) District from 50 feet to 35 feet based on the provision of a new fence within the buffer.

The motion carried unanimously.

(Tax Map number \_\_\_\_\_, recorded in Ordinance Book \_\_\_\_\_, page, \_\_\_\_\_.)

**Boards and Commissions on Which the Commissioners Serve**

Chairman Reckhow asked the Commissioners to select the boards and commissions on which they would like to serve. She asked for a response within the next two weeks so that the slots could be filled at the next worksession. She invited the Commissioners contact her for discussion. She stated she wanted each Commissioner to be on the committees of their choosing.

**Closed Session**

Commissioner Heron moved, seconded by Commissioner Jacobs, to adjourn to Closed Session pursuant to N.C.G.S. § 143-318.11(a)(5) to instruct the County staff concerning the position to be taken on negotiating a proposed contract for the acquisition of real property owned by Crown of Righteousness Community at 6122 Barbee Road and the adjacent lot.

The motion carried unanimously.

**Reconvene Into Public Session**

Chairman Reckhow said that the Board of County Commissioners, in Closed Session, heard a report on the possible acquisition of a library site on Barbee Road. The Board directed the staff to move on and to look at alternate sites.

**Adjournment**

Chairman Reckhow adjourned the meeting at 12:30 a.m.

Respectfully submitted,

Garry E. Umstead, CMC  
Clerk to the Board

GEU:SBP