

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

Monday, June 28, 1999

7:00 P.M. Regular Session

MINUTES

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

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

Absent: None

Presider: Chairman Black

Opening of Regular Session

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

Agenda Adjustments

Chairman Black added one item to the agenda relative to the Challenge for Children program that comes from the North Carolina Department of Health and Human Services.

Minutes

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the May 10, 1999 Regular Session and the May 24, 1999 Worksession Minutes of the Board as submitted.

The motion carried unanimously.

The May 24, 1999 Regular Session Minutes of the Board was not approved until the Clerk to the Board added additional narrative to the Four-Year Term agenda item.

June Anchor Award Winner – Linda Strickland

Linda Strickland, paralegal and tax foreclosure coordinator in the Collections Section of the Tax Administrator's Office, is the June 1999 Anchor Award winner. Ms. Strickland is recognized for processing more than 900 parcels through some phase of the foreclosure

process to net payment of delinquent taxes. During the period, only 80 remained unpaid and were actually scheduled for sale at public auction. Of those, 77 were sold at auction or redeemed by the owners prior to the sale date. This represented a 97% rate of success, and her efforts resulted in collections of more than \$2.6 million in delinquent tax revenue.

County Manager's Recommendation: Present the June Anchor Award to Linda Strickland, along with the sincere congratulations of the entire organization.

Charles A. Clark introduced Ms. Strickland to the Commissioners and he made remarks why she earned the June Anchor Award.

Chairman Black presented the Anchor Award and the \$200 check to Linda Strickland on behalf of the Durham County organization.

Ms. Strickland accepted the award and check and she made acceptance comments and expressed words of appreciation for the recognition.

A Proclamation Recognizing Armenian Martyrs Day

The Board has been requested to issue the proclamation recognizing Armenian Martyrs Day.

Chairman Black read the proclamation into the record.

PROCLAMATION

WHEREAS, the extermination of more than one and a half million Armenians took place between 1915 and 1923; and

WHEREAS, Armenians witnessed the slaughter of their families and the loss of their ancestral homeland; and

WHEREAS, the current Turkish government rejects the existence of the Armenian genocide and denies Armenians the right to their homeland and heritage; and

WHEREAS, ancestral Armenian lands taken have not been returned, nor have the Armenians received compensation for their losses; and

WHEREAS, April 24th has been designated Armenian Martyrs Day in recognition and remembrance of those who died during the Armenian genocide:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Board of County Commissioners, do hereby acknowledge the 84th anniversary of

ARMENIAN MARTYRS DAY

in Durham County and urge all citizens to remember the history of this tragedy so that mistakes of the past will not be repeated in future generations.

This the 28th day of June, 1999.

/s/ Five Commissioners
Durham County Commissioners

Consent Agenda

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

- * (b) FY 1998-1999 Budget Ordinance Amendment No. 99BCC000067 (to receive and appropriate \$3,000 Rhone-Poulence Donation for the EMS Bicycle Response Team);
- * (c) Approval of Contract for Purchase of Pathological Waste Incinerator for Durham County Animal Shelter (authorize execution of contract with Penram Diversified Manufacturing Corporation in the amount of \$36,800);
- (d) Request to New Curbside Recycling Contract with Tidewater Fibre Corp. (authorize execution of the contract with Tidewater Fibre Corporation in an amount not to exceed \$284,267.36);
- * (e) Property Tax Release and Refunds (accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report. These are normal recurring releases and refunds that are presented for your consent agenda);
- * (f) FY1998-99 Budget Ordinance Amendment No. 99BCC000070 (approve budget amendment to record defeasance of Hospital COP and Duke lease);
- * (h) Office Furniture—Department of Social Services (authorize County Manager to enter into a contract with Triangle Office Equipment for \$17,980 and \$1,725 with Thrifty Office, and reject all bids relative to file cabinets);

- (i) Cancellation of Board of County Commissioners' Meetings (take official action to cancel the following meetings:
 Monday, July 5 Worksession
 Monday, July 26, Regular Session
 Monday, August 2 Worksession
 and reschedule the August 2, 1999 Worksession for Wednesday, August 4, 1999 at 9:00 a.m.);
- *(j) FY1998-99 Budget Ordinance Amendment No. 99BCC000068 (approve request to transfer \$130,350 from contingency to cover expenses associated with the placement of juveniles in out-of-county facilities); and
- *(k) FY1998-99 Budget Ordinance Amendment No. 99BCC000069 (to recognize revenue [\$73,778] for Lebanon Fire District).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda 6(b). FY 1998-1999 Budget Ordinance Amendment No. 99BCC000067 (to receive and appropriate \$3,000 Rhone-Poulence Donation for the EMS Bicycle Response Team).

The budget ordinance follows:

DURHAM COUNTY, NORTH CAROLINA
 1998-99 Budget Ordinance
 Amendment Number 99BCC000067

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the 1998-99 budget ordinance is hereby amended to reflect budget adjustments for Emergency Medical Services.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Revenues</u>				
Ingovt'l	\$188,044,247	\$ 3,000		\$188,047,247
<u>Expenditures</u>				
Public Safety	\$ 28,513,262	\$ 3,000		\$ 28,516,262

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

This the 28th day of June, 1999.

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

Consent Agenda 6(c). Approval of Contract for Purchase of Pathological Waste Incinerator for Durham County Animal Shelter (authorize execution of contract with Pennram Diversified Manufacturing Corporation in the amount of \$36,800).

Durham County Bid Tabulation Sheet
 Bid No. 99-038/ Pathological Waste Incinerator System – Animal Shelter
 Sealed Bids Due: June 4, 1999 – 2:00 P.M.

BIDDER	TERMS & DELIVERY	<u>ITEM I</u> Pathological Waste Incinerator System Qty = 1	<u>ITEM II</u> <u>Loading Cart</u> Qty = 1	TOTAL BID AMOUNT	ADDEN. #1	5% BOND
B.I. Industries				No response		
Pennram Diversified Mfg		<u>\$36,500.00</u>	<u>\$ 300.00</u>	\$ 36,800.00	✓	✓
Vulcan Iron Works				No response		
Crawford Equipment & Engineering	90-Day Delivery	<u>\$43,226.00</u>	<u>\$1,449.00</u>	\$ 44,675.00	✓	✓

Consent Agenda 6(e). Property Tax Release and Refunds (accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report. These are normal recurring releases and refunds that are presented for your consent agenda).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details tax releases and refunds for the month of May 1999.

For FY 98-99, releases and refunds amounted to \$90,859.85 in taxes for real property, \$601.10 in taxes for personal property, \$42,574.89 in taxes for registered motor vehicles, \$1,270.00 in city vehicle fees, and \$110.00 in solid waste fees.

For prior years, releases and refunds amounted to \$31,703.05. Also, for FY 99-00, releases and refunds amounted to \$7,543.77.

County Manager's Recommendation: Accept the property tax release and refund report as presented and authorize the Tax Administrator to adjust the tax records as outlined by the report. These are normal recurring releases and refunds that are presented for your consent agenda.

(Recorded in Appendix A in the Permanent Supplement of the June 28, 1999 Minutes of the Board.)

Consent Agenda 6(f). FY1998-99 Budget Ordinance Amendment No. 99BCC000070 (approve budget amendment to record defeasance of Hospital COP and Duke lease).

The budget ordinance follows:

DURHAM COUNTY, NORTH CAROLINA
FY 1998-99 Budget Ordinance
Amendment No. 99BCC000070

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1998-99 Budget Ordinance is hereby amended to reflect budget adjustments for the Community Health Trust Fund and Debt Service Fund.

DEBT SERVICE FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Revenues</u>				
Other Financing Sources	\$26,964,234	\$27,535,000		\$54,499,234
<u>Expenditures</u>				
Debt Service	\$27,266,766	\$27,535,000		\$54,801,766

COMMUNITY HEALTH TRUST FUND

<u>Revenues</u>				
Miscellaneous Income		\$ 4,692,463		\$ 4,692,463
<u>Expenditures</u>				
Other Human Services		\$ 4,127,463		\$ 4,127,463
Other Financing Uses		\$ 565,000		\$ 565,000

BIDDER	ADDEN #1	TERMS & DELIVERY	ITEM I #4001 Allseating Chair Qty = 100	ITEM II Miller Bookcase (MIL-WVBC-30) Qty = 25	ITEM III 2-Drawer File Cabinet w/ Lock Qty = 50	ITEM IV 5-Drawer File Cabinet w/ Lock Qty = 40	ITEM V 4-Drawer File Cabinet w/ Lock Qty = 50	TOTAL BID AMOUNT
OFFICE DEPOT	---	NET 30 10-15 DAYS DELIVERY WORKING	\$ 226.11 \$22,611.00	\$ 93.43 \$ 2,336.00	\$ 89.39 \$ 4,469.00	\$ 175.72 \$ 7,029.00	\$ 119.66 \$ 5,983.00	\$ 42,428.00
OFFICE FURNITURE INNOVATIONS			\$ _____ \$ _____	\$ _____ \$ _____	\$ _____ \$ _____	\$ _____ \$ _____	\$ _____ \$ _____	NO RESPONSE
PRESTIGE OFFICE PRODUCTS	✓	NET 30 36 DAYS DELIVERY	\$ 194.00 \$19,400.00	\$ 132.40 \$ 3,300.00	\$ 189.00 \$ 9,450.00	\$ 389.00 \$ 15,560.00	\$ 241.00 \$ 12,050.00	\$ 59,760.00
SMEAD INTERNATIONAL			\$ _____ \$ _____	\$ _____ \$ _____	\$ _____ \$ _____	\$ _____ \$ _____	\$ _____ \$ _____	NO REPSONSE
STORR OFFICE FURNITURE	---	NET 30 30-42 DAYS DELIVERY	\$ 295.00 \$29,588.00	\$ 93.12 \$ 2,383.00	\$ 170.78 \$ 8,539.00	\$ 293.29 \$ 14,664.50	\$ 252.03 \$ 12,601.50	\$ 71,996.26
THRIFTY OFFICE	✓	NET 30 28 DAYS DELIVERY	\$ 185.00 \$18,500.00	\$ 69.00 \$ 1,725.00	\$ 78.00 \$ 3,900.00	\$ 228.00 \$ 9,120.00	\$ 119.00 \$ 5,950.00	\$ 39,195.00
TRIANGLE OFFICE EQUIPMENT	✓	NET 30 30 DAYS DELIVERY	\$ 179.80 \$17,980.00	\$ 156.50 \$ 3,912.50	\$ 115.00 \$ 5,750.00	\$ 264.00 \$ 10,560.00	\$ 181.00 \$ 5,950.00	\$47,252.00
US OFFICE PRODUCTS	✓	NET 30 8-10 DAYS DELIVERY	\$ 302.45 \$30,245.00	\$ 136.31 \$ 30,245.00	\$ 97.02 \$ 4,851.00	\$ 377.56 \$ 15,102.40	\$ 131.75 \$ 6,587.50	\$ 60,307.90

Consent Agenda 6(j). FY1998-99 Budget Ordinance Amendment No. 99BCC000068 (approve request to transfer \$130,350 from contingency to cover expenses associated with the placement of juveniles in out-of-county facilities).

DURHAM COUNTY, NORTH CAROLINA
 FY 1998-99 Budget Ordinance
 Amendment No. 99BCC000068

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1998-99 Budget Ordinance is hereby amended to reflect budget adjustments for Youth Home, therefore leaving a balance of Contingency of \$141,602.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Public Safety	\$28,516,262	\$130,350		\$28,646,612

Nondepartmental \$15,323,638 (\$130,350) \$15,193,288

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

This the 28th day of June, 1999.

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

Consent Agenda 6(k). FY1998-99 Budget Ordinance Amendment No. 99BCC000069 (to recognize revenue [\$73,778] for Lebanon Fire District).

The budget ordinance follows:

DURHAM COUNTY, NORTH CAROLINA
 FY 1998-99 Budget Ordinance
 Amendment No. 99BCC000069

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1998-99 Budget Ordinance is hereby amended to reflect budget adjustments for the Lebanon Fire District.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Revenues</u>				
Lebanon Fire District Fund	\$428,600	\$73,778		\$502,378
<u>Expenditures</u>				
Lebanon Fire District Fund	\$428,600	\$73,778		\$502,378

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

This the 28th day of June, 1999.

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

Consent Agenda Items Removed for Discussion

Approval of Construction Contract for the Judicial Building Chiller, Cooling Tower, and Boiler Replacement—Project IFB# 99-034:

FY 1998-1999 Capital Project Ordinance Amendment No. 99CPA000007 (request Board to appropriate funds in the amount of \$471,000 and authorize execution contracts with John J. Kirlin of North Carolina in the amount of \$395,000 and Applied Control Technology in the amount of \$33,131, thus totaling \$428,131, and authorize the County Manager to execute change orders if necessary, not to exceed \$42,869).

The Board is requested to authorize the County Manager to enter into contracts with John J. Kirlin of North Carolina in the amount of **\$395,000.00** and Applied Control Technology in the amount of **\$33,131.00** thus totaling **\$428,131.00** for replacement of the Chiller, Cooling Tower, Boiler and Direct Digital Control (DDC) at the Judicial Building and to execute change orders, if necessary, not to exceed a total project cost of **\$471,000.00**.

The Judicial Building was constructed in 1976 and the existing HVAC equipment and controls are the original. This project is part of a larger project that began in 1993 to bring all County owned facilities into compliance with the Clean Air Act of 1990. Following the completion of a chiller refrigerant study in September 1994, design and implementation of modifications for the Courthouse, Main Library and Social Services Building were completed. However, funding was not available for the Judicial Building. Funding is now available and completion of this project will bring the Judicial Building into compliance with the Clean Air Act by replacing equipment that has reached the end of its useful life. Several repairs have been done and more are expected unless the equipment is replaced. Utilizing more efficient cooling and heating equipment will reduce energy costs for this building.

The Judicial Building chiller, cooling tower, and boiler replacement project was advertised in local newspapers on April 11, 1999. A Pre-Bid Conference was held on April 29, 1999 at 10:00 A.M. Bids were received, publicly opened, and read on May 18, 1999 at 3:00 P.M. Six (6) bids were received for the Mechanical works and five (5) bids were received for DDC works. See 'attachment 1' for full description of work to be performed.

John J. Kirlin of North Carolina submitted the lowest price of **\$395,000.00** for the Mechanical works (base bid & alternate 1) and Applied Control Technology submitted the lowest price of **\$33,131.00** for the DDC base bid and Alternate 1 combined. (See 'attachment 2' bid tabulation form.) Presently, there is **\$537,875.00** available for construction of this project and included in the pay-as-you-go plan. The Engineering/General Services Department has reviewed the bid proposals with Ish Sud Ph.D., P.E. of Sud Associates P.A., the Project Engineers and recommends that the

County proceed with all the work described in attachment 2 with the exception of Alternate DDC-2. Completion of this project will bring the Judicial Building into compliance with the Clean Air Act, reduce energy costs and provide more reliable heating and cooling.

All bidders indicated their intention to perform all of the work without subcontracting, therefore no M/WBE utilization is proposed.

Resource persons: Mike Turner, Director, General Services Department
Glen Whisler, County Engineer, Engineering Department
Ademola Shobande, Project Manager, Engineering Department

County Manager's Recommendation: The County Manager recommends that the Board appropriate funds in the amount of **\$471,000.00** and authorize execution of contracts with John J. Kirlin of North Carolina in the amount of **\$395,000.00** and Applied Control Technology in the amount of **\$33,131.00** thus totaling **\$428,131.00** and authorize the County Manager to execute change orders, if necessary, not to exceed **\$42,869.00**.

Commissioner Bowser said he couldn't support this project when Social Services employees in the Carmichael Building on Duke Street have to be sent home due to the extreme heat due to air conditioning equipment problems. Commissioner Bowser removed the consent agenda item in order to vote against it since the air conditioning equipment in the Judicial Building is in working order.

Vice-Chairman Reckhow said the funding is in the pay-as-you-go funds to repair the air conditioning problems in the Carmichael Building. Proceeding with the Judicial Building project will not hinder the Carmichael Building work from being completed.

County Manager Thompson said Michael Turner, Director of General Services, can explain the various options available to repair the air conditioning equipment in the Carmichael Building. We need authority from the Commissioners to move forward in order to do the design and specification work for the Carmichael Building relative to the roof replacement and HVAC.

Chairman Black asked the County Manager if the County offices would stay in the Carmichael Building and spend approximately \$1 million dollars upfitting the building. The final decision about the Carmichael Building will be made in August.

Mr. Turner reviewed the options with the Commissioners relative to the air conditioning in the Carmichael Building.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, for the BOCC to give the Manager authority to proceed with plans and specifications for a roof

replacement and for the replacement of the \$60,000 rooftop air-conditioning units in the event of an emergency.

The motion carried unanimously.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve FY 1998-1999 Capital Projects Ordinance Amendment No. 99CPA000007 (request Board to appropriate funds in the amount of \$471,000 and authorize execution contracts with John J. Kirlin of North Carolina in the amount of \$395,000 and Applied Control Technology in the amount of \$33,131, thus totaling \$428,131, and authorize the County Manager to execute change orders if necessary, not to exceed \$42,869).

The motion carried unanimously.

The budget ordinance follows:

DURHAM COUNTY, NORTH CAROLINA
FY 1998-99 Capital Projects Budget Ordinance
Amendment No. 99CPA000007

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 1998-99 Capital Projects Budget Ordinance is hereby amended to reflect budget adjustments for the Judicial Building cooler, cooler tower, and boiler replacement pay-as-you-go project.

PAYG FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Revenues</u>				
Judicial Building Cooler	\$66,875	\$471,000		\$537,875

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

This the 28th day of June, 1999.

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

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	Tel: 919-772-7191 Fax: 919-772-1458												
13.00	Applied Control Technology 1017 Morrisville Parkway Morrisville, NC 27560 Tel: 919-467-0106 Fax: 919-467-7466	14384	Yes	Yes	Yes	Yes	Yes	\$30,242	\$ 2,889	\$ 99,588	N/A	Bids Received	
14.00	Acorn Industrial, Inc.*** 7424 ACC Blvd., Suite 103 Raleigh, NC 27613 Tel: 919-957-9777 Fax:											No Response	
15.00	Carolina Mechanical Cont. 7437 Strawberry Road Summerfield, NC 27358 Tel: Fax:											No Response	
16.00	Hill Enterprises Insulation 1060 Hillbilly Hollow Westfield, NC 27053 Tel: 910-351-6010 Fax: 910-351-4510											No Response	
17.00	John J. Kirlin, Inc. 8200 Brownleigh Drive Raleigh, NC 27612 Tel: 919-787-4862 Fax: 919-787-9091											No Bid	
18.00	Electric Express*** (Attended Prebid) P O Box 41256 Tel: 336-855-3300 Fax: 336-854-2359											No Response	
19.00	Enpuricon, Inc. (Attended Prebid) 2431 Schieffelin Road Apex, NC 27502 Tel: 919-387-9700 Fax: 919-387-9797											No Response	
20.00	Trane Controls (Attended Prebid) 3120 Brownleigh Drive Raleigh, NC 27612 Tel: 919-781-0458 Fax: 919-781-9195	13097	Yes	Yes	Yes	Yes	Yes	\$77,764	\$11,495	\$174,185	N/A	Bids Received	
21.00	Techtrol, Inc. 3301 Parkside Drive Charlotte, NC 28208 Tel: Fax:	20161-U	Yes	No	Yes	Yes	Yes	\$59,660	\$16,875	\$225,756	N/A	Bids Received	
22.00	Johnson Controls, Inc. 633-104 Hutton Street Raleigh, NC27606 Tel: 919-856-1101 Fax: 919-856-1174	19106 & 3487/01-U	Yes	No	Yes	Yes	Yes	\$71,316	\$29,641	\$152,678	N/A	Bids Received	

Remarks:

Award is recommended to Applied Control Technology based upon lowest price after thorough review of bid packages and the contractor's work experience.

DURHAM COUNTY GENERAL
 SERVICES DEPARTMENT.

PROJECT: CHILLER, COOLING
 TOWER & BOILER
 REPLACEMENT.

SUBJECT: BID SUMMARY – MECHANICAL
 CONTRACT

LOCATION: Durham County Judicial Building
 201 E. Main St., Durham, NC 27701

DATE: May 18, 1999

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ITEM NO.	DESCRIPTION	LICENSE #	5% BOND	M/WBE FORM	ADDEN #1	ADDEN #2	ADDEN #3	BASE BID	ALTER M-1	ALTER M-2	Valves Cost Allowances	Comments
1.00	Comfort Engineers 4008 Comfort Lane Durham, NC 27705 Tel: 919-383-2502 Fax: 919-383-2507	9342	Yes	Yes	Yes	Yes	Yes	\$495,750	\$591,500	\$(4,000)	Included	Bids Received
2.00	Jeff Hargett Mechanical*** 6845 Spencer Dixon Drive Greensboro, NC 27455 Tel: 336-580-5333 Fax: 336-643-8921											no response
3.00	Boiler Master P O Box 16105 Greensboro, NC 27416 Tel: 336-272-9044 Fax: 336-272-9051											no response
4.00	Bolton Corp. 919 West Morgan Street Raleigh, NC 27603 Tel: 919-828-9021 Fax:	1042	Yes	Yes	Yes	Yes	Yes	\$421,500	\$129,100	N/A	Included	Bids Received
5.00	Piedmont Maint. & Services P O Box 829 Roxboro, NC 27573 Tel: 366-599-1930 Fax: 366-599-0093											no response
6.00	Cooper Oil Company, Inc. 3041 Beechtree Drive Sanford, NC 27330 Tel: 919-776-7537 Fax:											no bid
7.00	Quate Mechanical Services 3511 Hwy 70 West Durham, NC 27703 Tel: 919-596-5963 Fax: 919-596-6041											no response
8.00	Burlington Mechanical Contractors 818 East Hanover Road Graham, NC 27253 Tel: 336-226-1685 Fax:											no response
9.00	Hockaday Mechanical Corporation 3717 Auburn Church Road Garner, NC 27529 Tel: 919-773-2008 Fax: 919-773-1337											no response
10.00	Envirocon, Inc. 3812-G Tarheel Drive Raleigh, NC 27658 Tel: 919-876-3470 Fax: 919-876-8535											No bid
11.00	Atlantic Coast Mechanical 5804 Lease Ln. Raleigh, NC 27613 Tel: 919-781-6945 Fax: 919-781-4362	10130	Yes	Yes	Yes	Yes	Yes	\$448,000	\$122,000	\$(3,600)	Included	Bids Received
12.00	Watco Corporation Mechanical 1431 Mechanical Blvd. Garner, NC 27529 Tel: 919-772-7191 Fax: 919-772-1458											no response
13.00	Applied Control Technology 1017 Morrisville Parkway Morrisville, NC 27560 Tel: 919-467-0106 Fax: 919-467-7466	14384	Yes	Yes	Yes	Yes	Yes	\$353,345	\$ 79,790	\$(1,000)	Included	Bids Received

14.00	Acorn Industrial, Inc.*** 7424 Acc Blvd., Suite 103 Raleigh, NC 27613 Tel: 919-957-9777 Fax:												No Response
15.00	Carolina Mechanical Cont. 7437 Strawberry Road Summerfield, NC 27358 Tel: Fax:												No Response
16.00	Hill Enterprises Insulation 1060 Hillbilly Hollow Westfield, NC 27053 Tel: 910-351-6010 Fax: 910-351-4510												No Response
17.00	John J. Kirlin, Inc. 8200 Brownleigh Drive Raleigh, NC 27612 Tel: 919-787-4862 Fax: 919-787-9091	17251	Yes	Yes	Yes	Yes	Yes	\$316,000	\$79,000	\$ 100	Included		Bids Received
18.00	Electric Express*** (Attended Prebid) P O Box 41256 Tel: 336-855-3300 Fax: 336-854-2359												No Response
19.00	Enpuricon, Inc. (Attended Prebid) 2431 Schieffelin Road Apex, NC 27502 Tel: 919-387-9700 Fax: 919-387-9797												No Response
20.00	Trane Controls (Attended Prebid) 3120 Brownleigh Drive Raleigh, NC 27612 Tel: 919-781-0458 Fax: 919-781-9195												No Bid
21.00	Techtrol, Inc.: 3301 Parkside Drive Charlotte, NC 28208 Tel: Fax:												No Bid
22.00	Johnson Controls, Inc. 633-104 Hutton Street Raleigh, NC 27606 Tel: 919-856-1101 Fax: 919-856-1174												No Bid

Remarks:

Award is recommended to John J. Kirlin Inc. based upon lowest price after thorough review of bid packages and the contractor's work experience.

Attachment 2

County of Durham
 Durham, North Carolina

Chiller, Cooling Tower, and Boiler Replacement
 Judicial Building

Summary of Bids

Mechanical— <i>John J. Kirlin of North Carolina</i>		
Base Bid	\$316,000	
Alternate M-1 (Boilers)	<u>79,000</u>	
Subtotal		\$395,000
DDC— <i>Applied Control Technology</i>		
Base Bid	30,242	
Alternate DDC-1 (Boilers)	<u>2,889</u>	
Subtotal		<u>33,131</u>
TOTAL		\$428,131*
Alternate DDC-2	99,588	
TOTAL (Including Alternate DDC-2)		\$527,719
Total Budget		\$606,375
Design:		
Base Bid	59,500	
Boilers	<u>9,000</u>	
Subtotal		68,500

Total Available for Construction and Contingency \$537,875

Consent Agenda 6(g). Purchase two (2) new 1999 mini passenger vans and one (1) new 1999 mid-size 4-door sedan—The Durham Center (authorize County Manager to enter into a contract with Bobby Murray Chevrolet Inc. for \$59,782.82).

The Board is requested to authorize the County Manager to enter into a contract for \$59,782.82 with Bobby Murray Chevrolet Inc. for the acquisition of two 1999 mini passenger vans and one 1999 mid-size 4-door sedan for Child, Youth, and Family Services. The funds for one van and one mid-size 4-door sedan to be used in operations by the Willie M. Program were made available in May 1999. These vehicles will replace two very old vehicles that have been sent to surplus based on the recommendation from McLamb's Auto Service Center Inc. The other van will be used in operations by the Majors Program. This program is funded totally by grant funds from the State. The funds for this van were also made available in May 1999.

Durham County's requirements were advertised in the local newspapers on May 28, 1999. Invitation for Bid No. 99-040 was mailed to 11 vendors. Attached is a tabulation of the bid opening. Bobby Murray Chevrolet Inc. was the only bid received. These vehicles are all on the dealer's lot and will not have to be factory ordered.

Sandra Phillips, Director of Purchasing, and Dwight Murray, Mental Health, will be present to discuss their recommendation to the Board.

County Manager's Recommendation: Authorize County Manager to enter into a contract with Bobby Murray Chevrolet Inc. for \$59,782.82.

Commissioner Bowser asked the date when the bids were mailed out.

Sandra Phillips, Purchasing Director, stated the bids were mailed out on May 28, 1999 with a one-week turn around as permitted by statute. The vehicles were to be purchased out of inventory. The grant funding was made available by the state in May 1999. This is new money from the state.

Commissioner Bowser moved, seconded by Commissioner Heron, to approve the purchase of two (2) new 1999 mini passenger vans and one (1) new 1999 mid-size 4-door sedan—The Durham Center (authorize County Manager to enter into a contract with Bobby Murray Chevrolet Inc. for \$59,782.82).

The motion carried unanimously.

The bid summary follows:

Durham County Bid Tabulation
 Bid No. 99-040
 Two (2) 1999 Mini Passenger Vans And One (1) 1999 Mid Size 4-Door Sedan for
 The Durham Center
 Bid Opening: June 3, 1999
 2:00 P.M.

SECTION I Two (2) 1999 Mini Passenger Vans			SECTION II One (1) 1999 Mid-size 4-Door Sedan			
BIDDER	MAKE/ MODEL	BID PRICE	MAKE/ MODEL	BID PRICE	TERMS/ DELIVERY	TOTAL BID PRICE
Bobby Murray Chevrolet 1820 Capital Blvd. Raleigh, NC 27616	1999 Chevrolet Astro Van	\$21,700.00 ea. \$43,400.00	1999 Lumina	\$16,382.82	Net 30 Delivery: 3 days	\$59,782.82
Capital Ford, Inc. 4900 Capital Blvd. Raleigh, NC 27616	No Response					
Cross Roads Ford 1101 Buck Jones Road Raleigh, NC 27606	No Response					
Don Lacefield Chevrolet Churton St. Extension Hillsborough, NC 27278	No Response					

Elkins Chrysler Plymouth 125 E. West Expressway Durham, NC 27701	No Response					
Morgan Dodge 3601 Hillsborough Rd. Durham, NC 27705	No Response					
Oxford Ford 314 Hillsborough Rd Oxford, NC 27565	No Response					
Performance Chevrolet P O Box 2287, Chapel Hill, NC 27515	No Response					
RPM Lincoln Mercury 3621 Chapel Hill Blvd. Durham, NC 27707	No Response					
Rick Hendrick Chevrolet 600 E Main St., Durham, NC 27701	No Response					
University Ford, Inc. 600 Carr Street Durham, NC 27702	No Response					

Challenge for Children

Chairman Black read from a letter the following paragraphs she received from the state in reference to the Challenge for Children program.

The portion of the letter read into the record follows:

“In January 1997, we issued the first Challenge for Children, asking every county Department of Social Services in North Carolina to make foster care backlog reduction a top priority for the child welfare system during 1997. The Challenge for Children was such a success in 1997, that we issued the second Challenge for Children in January 1998. This is a tremendous challenge, indeed, in light of the considerable effects of maltreatment on these children. Seventy-six county Departments of Social Services accepted that Challenge in 1998 with formal statements signed by all child welfare social work and supervisory staff. In addition, each of the 76 county DSS agencies developed an internal tracking system to closely monitor the length of time children spend in their respective foster care systems. Your county Department of Social Services demonstrated the commitment and resolve to accept the Challenge.

Over the past year, the child welfare staff in the participating county DSS agencies have worked diligently to achieve safe, permanent homes for all children in their foster care systems within one year. They have taken the Challenge for Children very seriously and have collectively reduced their foster care backlog by 0.3% in 1998 and by 5% over the two years in those

counties that accepted the Challenge in both 1997 and 1998. Many of the counties attribute their early success to a clear focus on “one year to permanence,” improved tracking, challenging agency staff to develop creative strategies, greater agency teamwork, greater inter-agency collaboration, and greater community involvement.

I am asking that you join me in commending the Durham County Department of Social Services for accepting the Challenge for Children in both 1997 and 1998 and for its commitment to ensuring safe, permanent homes on a timely basis for abused and neglected children. I also ask you to commend this agency for joining with 75 other counties in accepting the Challenge for Children again for 1999. As a leader in your community, I know that you will be interested in this important initiative benefiting your community’s most vulnerable children.”

Mr. Daniel Hudgins, Director of Social Services, said this recognition is due to the hard work of the staff. The number of children in foster care has dropped each of the last three years. We are proud of the work staff has done. I am pleased to receive this recognition tonight on behalf of the staff.

Chairman Black asked Mr. Hudgins to pass on to the staff congratulations from the County Commissioners.

Public Hearing—M. L. Shackelford (Rezoning Case P98-83)

M. L. Shackelford will present to the Board of County Commissioners a request to rezone 19.3 acres along Scheer Avenue and Abbott Lane, north of Sherron Road, southwest of Holder Road (TM 661, Block 1, Lots 4 through 14, including 5A, 7A, 9A; Block 2, all lots). Request: RD (F/J-B) (Rural District) to R-20 (F/J-B) (Residential 20). The 2020 Plan supports Suburban Neighborhood uses. The Southeast Durham Small Area Plan Future Land Use Map (FLUM) designates this site as low density residential. Staff recommends approval. The Zoning Committee of the Durham Planning Commission conducted public hearings on February 9, 1999 and April 13, 1999, and voted 7-0 to recommend approval.

The public hearing was advertised on June 11, 1999 and June 18, 1999.

Sheila Stains-Ramp, Senior Planner, Durham City-County Planning Department, will be present to answer any questions of staff regarding the request.

Sheila Stains-Ramp gave the Commissioners an overview of the rezoning case.

Chairman Black asked the Commissioners for any questions and comments.

Chairman Black opened the public hearing that was properly advertised.

Mr. M. L. Shackelford, 3714 Brockwell Road, partial developer of the property, gave a brief history of the property being considered for rezoning. He explained to the Commissioners his plans for the property.

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.

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, to approve Rezoning Case P98-83.

The motion carried unanimously.

(Legal description recorded in Ordinance Book _____, page _____.)

Vice-Chairman Reckhow requested that Dick Hails look into the matter of zoning a piece of property by government, group of individuals, or a person without the property owner knowing about it well enough in advance for him to take action if he wanted to.

Public Hearing—Synergy Financial Group, LLC (Rezoning Case P99-9)

Synergy Financial Group, LLC will present to the Board of County Commissioners a request to rezone a 119 acre site located on East Geer Street just south of Club Boulevard (Tax Map 680, Block 1, Lot 1). Request: RD (Rural District) to PDR 3.36 (F/J-B) (Planned Density Residential). The 2020 Plan supports Suburban Neighborhood uses. The Northeast Durham Small Area Plan is not complete; preliminary staff research has begun. Staff recommends approval. The Zoning Committee of the Durham Planning Commission conducted a public hearing on May 11, 1999, and voted 7-0 to recommend approval.

The public hearing was advertised on June 11, 1999 and June 18, 1999.

Vonda Frantz, Senior Planner, Durham City-County Planning Department, will be present to answer any questions of staff regarding the request.

Vonda Frantz presented the Commissioners an overview of Rezoning Case 99-9.

The Commissioners asked several questions about the rezoning case to which the staff responded.

Chairman Black opened the public hearing that was properly advertised.

Mr. Jack Markham Jr., attorney representing Synergy Financial Group, LLC, 1200 University Tower, presented the Commissioners an overview of the rezoning request. He gave a detailed description of the developer's plan for the proposed project. He urged the Commissioners to approve the rezoning request.

Patsy Woodard, 2612 Cone Avenue, expressed concerns that the neighbors want more information about. One concern was getting I-85 traffic off of Geer Street and the second concern was the school impact. We also want to be ensured about the quality of the homes. We are in agreement with the development.

Vice-Chairman Reckhow spoke to the school impact at the request of Chairman Black.

Sara Jo Berman, 2615 Cone Avenue, stated she is very concerned about the increased traffic. She asked that the number of homes in the development be reduced.

Mr. Jack Markham spoke about the traffic concerns. He stated a portion of Geer Street would be widened between the entryways into the development when construction begins. Ms. Berman was talking about the northbound left turn lane at Club Boulevard. We would like for the left turn lane on I-85 to be built when the 200 homes will be built in two or three years.

Vice-Chairman Reckhow responded to a comment that Dick Hails made concerning the length of time a contractor is given to complete a highway construction project.

The remainder of this agenda item is a verbatim of the comments and directives the Commissioners made concerning the time period a contractor has to complete a highway construction project. The verbatim follows:

Reckhow: Well, I guess--and maybe we can take this up afterwards or maybe at our next meeting. I have a concern about what the Planning Director just said. I appreciate him advising us of this. But it concerns me that they are going to let a contract with a range for the contractor of basically two to four years which means they are saying it could take double the amount of time than maybe it optimally should. I understand that in Wake County on their outer loop, I think the contractors actually have incentives to get the job done sooner rather than later. Now at the Cole Mill Road interchange, where the project was supposed to take two-and-a half to three years, it has taken five. And they finally just removed the orange barrels a few weeks ago. But I think this Board should ask DOT to look at ways to expedite the construction process of I-85. We don't need citizens with having to go around orange barrels for double the amount of time that they should. Maybe we could--I don't know if you want to put this on a future agenda or, but I think there is a way that they could lay out the contract with the contractor with certain penalties or whatever that would create an incentive to get the job done.

Black: I think that we should go on record stating that we will—exactly, that is exactly where I was going Becky--in terms of stating that we want priority and that we've got to start getting much more proactive and a little bit angry with that so that we get our fair share of projects coming in on time.

Reckhow: So could we just direct you and the Manager to work on such a letter?

Black: Okay.

Bowser: Thank you Commissioner Black.

Black: You're welcome.

Thompson: Could we not, Chairman Black, insist sending a letter stating concerns about the scheduling? We had an update, it's probably been a year and a half when we were talking about Cole Mill Road--that interchange in progress on 85. This a large enough project that it might be good to have them come and give you a briefing of each segment and the time frames in a worksession environment. I would suggest perhaps the first worksession would be when, would that be in August?

Black: The first Wednesday in August. I think it's maybe August 4th.

Heron: I think we have a little more advantage than we had before in that we do have somebody on the Board of Transportation from Durham County now that can speak up for us and his other responsibilities too, but he can speak up for us.

Black: Well, one of the things I think we can do is to go ahead and do a letter anyway, Mr. Manager, but invite them along with Mr. Michaux to come to our worksession on that first Wednesday in August. We changed it from Monday to Wednesday. And have that on the agenda.

Black: Okay. I would like for us to move along now please.

Heron: If you would send me a copy of that letter before our second Wednesday in this month, we'll put it on the TAC agenda.

Black: Okay. Thanks a lot. I'm going to run a motion for this item but the Manager--oh, I'm sorry. The Attorney rewrote some wording for us. Let him do that but let Ellen ask her question.

Reckhow: The citizens brought up one other issue and I think it's addressed in the staff report that asked whether the resource protection ordinance was being complied with and it appears as though it is.

Frantz: Yes, I think they have--they don't have steep slopes, I believe they have documentation. They have some possible wetlands indicated on the development plan but they have since had that confirmed. I believe that there are no wetlands on the site. They have their tree coverage itemized on the plan. The only thing that isn't there is the tree survey and I have it in hand. In fact, I could distribute it if you want a short paragraph that they have submitted about the tree coverage there for development plan where no buildings are proposed, there are no building locations proposed. They are allowed under the ordinance to submit something very general about the general nature of the vegetation. So they submitted something that sort of characterizes the forest there and so that's all they have to do now. They do have to do a more detailed one when they do the site plan.

Reckhow: And they will have to put in street trees?

Stains-Ramp: They will have to do that. They do comply with the new provisions.

Reckhow: Okay. Thank you.

Black: Okay, Mr. Attorney.

Kitchen: We have redone the note that was proposed to go on the plan. It reads now as follows: "Lot No. 20 shall be reserved for dedication as street right of way if and when the adjacent parcel is developed for single-family residential use. This dedication of the street right of way shall be without cost to the City or County of Durham. If the adjacent parcel is developed for any use other than single-family residential use or is not developed within ten years from the date of approval of this rezoning, the reservation expressed herein shall expire and be of no further force or effect."

Black: Okay. Attorney Markham?

Markham: We are comfortable with that.

Black: You are comfortable with that? All right. Then may I have a motion, please?

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, that we approve the rezoning request with the corrected note as read by the County Attorney.

The motion carried unanimously.

(Legal description recorded in Ordinance Book _____, page _____.)

Public Hearing--Development Ordinance Amendments for Natural Resource Protection (Text Amendment 84A-99)

Durham's elected officials have recently become concerned about the impact of new development on the community's natural resources. The Joint City-County Planning Committee worked for several months to identify appropriate public policies to address this issue. The Committee reviewed regulatory approaches to achieving those policies and directed the Planning Staff to prepare necessary amendments to City and County development ordinances. This past fall, the Committee convened a citizens advisory group to review the proposed amendments and to offer comments. In May, the Zoning Committee of the Durham Planning Commission unanimously recommended adoption of the proposed amendments. The proposed amendments are now before the City Council and Board of County Commissioners for their consideration and action.

The proposed amendments revise the Durham Zoning Ordinance and the Durham Merged Subdivision Ordinance. They set new standards for development in flood plains, prohibiting most new development. They define more broadly stream along which vegetated buffers are required. The proposed amendments require buffers to protect valuable wetland areas. They allow development on only a small portion of Durham's steepest slopes.

This public hearing was advertised on June 11 and June 18, 1999. Steve Medlin and Dick Hails from the Planning Department will make a presentation before the public hearing and respond to questions.

Conduct a public hearing and adopt the ordinances related to Natural Resource Protection, referred to as Public Review Draft 4 and dated June 9, 1999.

Dick Hails, Interim City-County Planning Director, presented the Commissioners a brief staff presentation on the text amendment. Steve Medlin assisted with the presentation.

Mr. Hails said the presentation will focus first on the policy basis or why the ordinance is being prepared, how we got here with the process involved, and then a brief overview of the actual standards in place or what the Commissioners are being asked to look at. The final changes will be highlighted and the staff recommendation will be explained.

Mr. Hails reviewed the major provisions of the ordinance such as flood plain protection, stream buffers, steep slopes, and wetland protection.

Staff recommendation is to conduct the public hearing tonight to consider the adoption of the natural resource protection amendments with the new requirements effective immediately upon adoption.

The Commissioners asked several questions and made comments to which the staff responded.

Chairman Black opened the public hearing that was properly advertised.

Milo Pyne, 806 Vickers Avenue, representing the Eno River Association, said the Eno River Association is very supportive of these ordinance provisions and we were pleased to have a representative on this panel. Mr. Pyne urged the Commissioners to approve the ordinance.

Mitch Barron, 5206 Longwood Drive, representing the Home Builders Association, supported the protective ordinances for our natural resources. He urged the Commissioners to adopt the ordinances tonight.

Edward Harrison, 58 Newton Drive, representing the Durham Soil and Water Conservation District Board of Governors, supported the ordinance and urged the Commissioners to adopt the ordinance.

Sharon Ryan urged the Commissioners to adopt Draft 4 of the natural resource protection amendments in order to protect the environment and economy of Durham. Ms. Ryan referred to four letters that the Commissioners received from the following organizations in support of the development ordinance amendments for natural resource protection. The four organizations were (for the record) as follows:

- (a) Episcopal Diocese of North Carolina;
- (b) Durham County Inventory of Natural and Cultural Resources;
- (c) New Hope Creek Corridor Advisory Committee; and
- (d) Duke Park Preservation Initiative.

Peter J. Schubert, 927 Blue Stone Road, representing C.A.U.S.E., the Carpenter-Fletcher Neighborhood Association, and himself, urged the Commissioners to adopt the ordinance amendments for Natural Resource Protection.

Patrick Byker, 2614 Stuart Drive, representing the Greater Durham Chamber of Commerce, urged the Commissioners to adopt the ordinance before you tonight.

John N. Kent, 394 Cub Creek Road, Chapel Hill 27514, representing the New Hope Audubon Chapter, recommended the Commissioners approve the ordinance.

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.

Commissioner Bell moved, seconded by Vice-Chairman Reckhow, to adopt the Development Ordinance Amendments for Natural Resource Protection (Text

Amendment 84A-99) including the revision to the proposed flood plain regulation that was explained in a memorandum dated June 24, 1999.

The motion carried unanimously.

The Commissioners thanked the City/County Planning Department staff for the hard work put in this ordinance.

The ordinance follows:

**Proposed Durham Development Ordinances
Amendments for Natural Resource Protection,
TC 84A-99**

Be It Ordained by the Durham County Board of Commissioners That:

Section 1. The Durham City-County Zoning Ordinance is hereby amended by moving the definitions of Stream Buffer and Land Disturbing Activity from Section 5.5.3, Definitions (in Section 5.5, Watershed Protection Districts Overlay) to Section 2.2, Definitions; by deleting the definitions of Intermittent Stream and Perennial Stream from Section 5.5.3, Definitions; and by adding in alphabetical order to Section 2.2, Definitions the following definitions:

“Development. Any human caused change to improved or unimproved real estate that requires a permit or approval from any agency of the City or County of Durham, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations and storage of materials.”

“Intermittent Stream. A watercourse that collects surface runoff and a) is shown as a dashed blue line on the most recent USGS seven and one-half (7 1/2) minute quadrangle topographic maps or is shown as an intermittent stream on maps in the most recent US Department of Agriculture Soil Survey of Durham County, North Carolina; and b) drains an area greater than twenty-five (25) acres. Where a USGS topographic map and the Soil Survey map show a difference in stream type for a particular reach of stream, the map that offers the greater stream protection shall apply.”

“Perennial Stream. A watercourse that collects surface runoff and is a) shown as a solid blue line on the most recent USGS seven and one-half (7 1/2) minute quadrangle topographic maps or is shown as a perennial stream on maps in the most recent US Department of Agriculture Soil Survey of Durham County, North Carolina, and b) drains an area greater than twenty-five (25) acres. Where a

USGS topographic map and the Soil Survey map show a difference in stream type for a particular reach of stream, the map that offers the greater stream protection shall apply.”

“**Steep Slope Areas.** Steep slope areas shall be defined as land areas that a) have a grade of twenty-five (25) percent or more, b) have an area of ten thousand (10,000) square feet or greater and c) are located within two hundred (200) feet of any floodway fringe and perennial stream or within one hundred (100) feet of an intermittent stream. Steep slope areas refer to natural grades and shall not include man-made grades.”

“**Durham Natural Inventory.** A survey of botanical habitat areas reported in the *Inventory of the Natural Areas and Rare Species of Durham County*, Robert D. Sutter, March, 1987 and a survey of zoological habitat areas reported in the *Inventory of the Wildlife Habitats, Movement Corridors, and Rare Animal Populations of Durham County, North Carolina*, by Steven P. Hall, August, 1995, both as amended.”

Section 2. The Durham City-County Zoning Ordinance, Section 11, (Reserved) is hereby amended by inserting the following:

“Section 11, Natural Resource Protection Standards”

11.1 Purpose

Durham County is endowed with an abundance of natural resources, including land, forests, streams and rivers, lakes, wildlife and natural beauty. The increasing urbanization of Durham County threatens the quality of the natural resources that make it a special place to live and work. Durham’s governing bodies recognize that establishing standards for the protection of Durham County’s natural resources represents prudent stewardship of the land and good business. The multiple purposes of Natural Resource Protection Standards are:

- To preserve and enhance the quality of the water in rivers, streams, ponds and lakes that flow into and out of Durham County;
- To minimize future flooding problems by guiding development away from flood prone areas;
- To preserve the water carrying capacity of watercourses and the natural water storage capacity of the floodplain;
- To protect land and watercourses from pollutants, sedimentation and erosion;
- To retain open spaces in order to protect their environmentally-sensitive character;
- To protect and conserve significant natural resources from degradation due to urbanization. Such natural resources include wildlife and plant life habitats, wetland areas and riparian areas;

- To minimize the impact of development by controlling the location, intensity, pattern and design of development and construction activities;
- To enhance the aesthetic appearance of Durham as a means of improving quality of life and attracting new businesses and residents; and
- To protect environmentally sensitive lands while recognizing the legitimate expectations of property owners and Durham's economic development goals.

11.2 Floodplain Protection Standards

The primary objective of floodplain protection standards is to preserve and maintain the natural floodplain in an undisturbed vjegetated state in order to maintain flood storage capacity, control stormwater, improve water quality and conserve plant and wildlife habitat.

11.2.1 Development Prohibited in the Floodway and Floodway Fringe

Development and land disturbing activity within the floodway and floodway fringe shall be prohibited, except as provided by Section 11.2.2, Development Allowed in the Floodway and Floodway Fringe or allowed pursuant to a variance approved by the Board of Adjustment in accordance with Section 16, Variances and Interpretations and Section 11.8, Variances.

11.2.2 Development Allowed in the Floodway and Floodway Fringe

- a. Land in the floodway and floodway fringe may be used for the following purposes, provided that such uses are designed and constructed to minimize clearing, grading, erosion and water quality degradation.
 - (i) Crossings by streets, driveways, culverts and railroads;
 - (ii) Active and passive recreational activities;
 - (iii) Intakes, docks, utilities (including water and wastewater treatment, stormwater control and sedimentation and erosion control facilities), bridges, other public facilities and water-dependent structures;
 - (iv) Wetlands constructed or restored for mitigation purposes; and

Land within the floodway and floodway fringe can serve to meet minimum lot size requirements if there is sufficient buildable area remaining on the tract.
- b. Land in the floodway fringe may be used for up to twenty-five (25) percent of the parking required for the development on the tract. However, no more than one-third (1/3) of the floodway fringe land on any development tract shall be used for parking. Parking in the floodway fringe shall require Major Site Plan approval from the governing board. In considering the Major Site Plan, the Development Review Board and the governing board shall consider whether the proposed parking on the site is designed and arranged to minimize adverse environmental impact from placement of parking in the floodway fringe; and

whether the proposed development would result in significant degradation of water quality, loss of significant wetlands, increase in sedimentation and erosion, increase in stormwater runoff, loss of significant plant and wildlife habitat or threats to public safety.

- c. Streets and driveways may run generally within and parallel to the stream in the floodway and floodway fringe only where no other access to the property is feasible.
- d. In order to allow design flexibility to achieve higher quality site design and better utilization of the land adjacent to the floodway fringe, a property owner or developer may fill and/or use for development up to ten (10) percent of the floodway fringe area contained within the boundaries of any development site provided that the Development Review Board finds that:
 - (i) The proposed fill and/or development provides for a higher quality site design and better utilization of land adjacent to the floodway fringe than would be possible without intrusion into the floodway fringe area; and
 - (ii) The proposed fill and/or development represents the minimum amount of floodway fringe intrusion to achieve the high quality design.

Public and private Roads and sidewalks shall not count toward the allowable ten (10) percent of the floodway fringe on a tract that can be filled and/or used for development in accordance with Section 11.2.2.d.

- e. Any uses, development or land disturbing activity allowed by Section 11.2, Floodplain Protection Standards shall be conducted in accordance with the requirements of the most recently updated Durham, NC City Flood Damage Protection Ordinance or the Durham, NC County Flood Damage Protection Ordinance, as applicable.

11.2.3 Density Credits

The amount of land in the floodway fringe may be credited for residential density on land adjacent to the floodplain at a rate of one hundred (100) percent of that allowed by the zoning. The amount of land in the floodway may be credited for residential density on land adjacent to the floodplain within the same project at a rate of seventy-five (75) percent of that allowed by the zoning. The approving authority shall determine the amount of land in the floodway and floodway fringe that may be credited for residential density on adjacent land and shall consider adopted land use plans, location in a transit corridor, environmental features, stormwater controls and other relevant features.

11.2.4 Coordination with Flood Damage Protection Ordinances

The Board of Adjustment may grant variances to the requirements of Section 11.2, Floodplain Protection Standards in accordance with the provisions of Section 11.8, Variances and Section 16, Variances and

Interpretations by the Board of Adjustment. However, the Board of Adjustment is not authorized to grant variances to the requirements of the Durham, NC City Flood Damage Protection Ordinance or the Durham, NC County Flood Damage Protection Ordinance. Exceptions to the provisions of the Durham, NC City Flood Damage Protection Ordinance shall be considered in accordance with the provisions of its Section 6-315, Procedures For Determining Exceptions to the Requirements. Exceptions to the provisions of the Durham, NC County Flood Damage Protection Ordinance shall be considered in accordance with the provisions of its Section 6-115, Procedures For Determining Exceptions to the Requirements

11.3 Stream Buffer Protection Standards

The primary objective of stream buffer protection standards is to maintain land adjacent to streams in an undisturbed vegetated state in order to enhance and maintain water quality, protect stream channel wetlands, minimize stormwater runoff, reduce sedimentation and erosion, conserve plant and wildlife habitat and protect wildlife movement corridors. Note that streams may have additional stream buffer requirements in accordance with a) the watershed protection provisions in Section 5.5.8, Stream Buffers and Reservoir Buffers; b) the Neuse River Basin Nutrient Sensitive Waters Management Strategy administered by the North Carolina Division of Water Quality; and/or c) Section 401 Water Quality Certification administered by the North Carolina Division of Water Quality.

11.3.1 Types of Stream Buffers

Stream buffer protection standards shall apply to intermittent streams and perennial streams. Stream buffers shall be clearly indicated on all site plans, development plans, preliminary plats, final plats, major special use permits and minor special use permits.

An intermittent stream is defined as a watercourse that collects surface runoff and a) is shown as a dashed blue line on the most recent United States Geologic Survey (USGS) seven and one-half (7 1/2) minute quadrangle topographic maps or is shown as an intermittent stream on the most recent US Department of Agriculture Soil Survey of Durham County, North Carolina; and b) drains an area twenty-five (25) acres or greater. A perennial stream is defined as a watercourse that collects surface runoff and a) is shown as a solid blue line on the most recent USGS seven and one-half (7 1/2) minute quadrangle topographic maps or is shown as a perennial stream on maps in the most recent US Department of Agriculture Soil Survey of Durham County, North Carolina and b) drains an area twenty-five (25) acres or greater.

Where a USGS topographic map and the Soil Survey map show a difference in stream type for a particular reach of stream, the map that shows the greater level of stream protection shall apply. When a property owner or developer believes that the appropriate USGS or Soil Survey map is in error, the Development Review Board shall have the authority to determine the location or presence of the stream in accordance with stream location criteria adopted by the Development Review Board for purposes of meeting the requirements of Section 11.3, Stream Buffer Protection Standards.

11.3.2 Ponds

If a property owner or developer proposes to remove a pond and the pond drains an area twenty-five (25) acres or greater, a stream buffer of the size required on the stream immediately downstream of the pond shall be maintained along the portion of the stream located where the pond is to be removed.

11.3.3 Stream Buffer Size

Stream buffers shall apply on each side of the stream and shall be measured from the top of the stream bank perpendicularly to the direction of stream flow.

Stream Buffer Size	
Type of Stream Buffer	Size of Stream Buffer
Intermittent Stream	30 Feet
Perennial Stream	50 Feet

11.3.4 Stream Buffer Use Limitations

To avoid a loss of effectiveness in protecting streams, the stream buffer shall remain in natural undisturbed vegetation, except as provided by this Section 11.3.4, Stream Buffer Use Limitations or allowed pursuant to a variance approved by the Board of Adjustment in accordance with Section 16, Variances and Interpretations and Section 11.8, Variances. Any use allowed by Section 11.3.4, Stream Buffer Use Limitations shall be designed and constructed to minimize the amount of intrusion into the stream buffer and to minimize clearing, grading, erosion and water quality degradation.

- a. Buildings and other features that require grading and construction shall be set back at least ten (10) feet from the edge of the stream buffer.
- b. Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be allowed provided that they are designed to minimize the amount of intrusion into the stream buffer. Land within the stream buffer can serve to meet minimum lot size requirements if there is sufficient buildable area remaining on the lot. Streets and driveways may

- run generally within and parallel to the stream buffer only where no other access to the property is feasible and when their design minimizes the amount of intrusion of the stream buffer.
- c. Stream buffers can be used for passive recreational activities, such as unpaved or paved trails, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside of the stream buffer. Water oriented recreational facilities, such as boat or fishing piers, shall require an approved use permit from the Board of Adjustment.
 - d. Clearing and re-vegetating the stream buffer for the purposes of improving its pollutant removal efficiency may be permitted based upon a conclusive finding by the Development Review Board that such efficiency will be improved.
 - e. Stormwater control structures and temporary erosion control structures shall be considered utilities for the purposes of this section and may be allowed in stream buffers, provided that:
 - (i) The property owner or applicant demonstrates to the satisfaction of the City Director of Public Works for stormwater control structures or County Engineer for erosion control structures that such facilities cannot be practicably located outside of the stream buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and stream buffer. Siting stormwater control structures away from the stream channel is preferable to siting such structures in the stream channel.
 - (ii) Alternate methods of stormwater and erosion control shall be considered prior to approval of such structures in the stream buffers;
 - (iii) A vegetated buffer of a width determined by the City Director of Public Works may be required around the stormwater control structures; and
 - (iv) Any land disturbed for these structures shall be re-vegetated in accordance with a re-vegetation plan approved by the Development Review Board.
 - f. For development on lots of record created prior to January 1, 1997, septic system drain field repair areas may be allowed in stream buffers, provided that:
 - (i) The intrusion into the stream buffer is the minimum necessary;
 - (ii) The intrusion shall not result in an undisturbed stream buffer less than twenty (20) feet; and
 - (iii) The property owner or applicant demonstrates to the satisfaction of the Durham County Health Department that

the repair area cannot be located outside of the stream buffer.

- g. Sanitary sewer lines, on an alignment generally parallel to the stream, may be allowed in stream buffers, provided that:
- (i) The property owner or applicant demonstrates to the satisfaction of the City Director of Public Works that the sanitary sewer lines cannot be practicably located outside of the stream buffer;
 - (ii) Design and construction specifications minimize damage to the stream and the possibility of line leakage;
 - (iii) The sewer line is generally located at least fifteen (15) feet from the top of the stream bank; and
 - (iv) The stream buffer intrusion and a plan for re-vegetating the stream buffer disturbance be approved by the Development Review Board.
- h. Inside the UGA, perennial streams may be piped, thereby exempting the piped section of the stream from stream buffer requirements, only when allowed by Section 11.3.4.b or when the Board of Adjustment issues a variance in accordance with the provisions of Section 16, Variances and Interpretations. Inside the UGA, intermittent streams may be piped, thereby exempting the piped section of the stream from stream buffer requirements, only when allowed by Section 11.3.4.b or when the Development Review Board determines that:
- (i) The site plan proposing intermittent stream piping includes features on the site, such as best management practices, that provide water quality benefits at least equal to those of the stream buffer; and
 - (ii) The proposed intermittent stream piping is not substantially in conflict with the other objectives of Section 11.3, Stream Buffer Protection Standards.

Where stream piping is approved by the Development Review Board or the Board of Adjustment, a vegetated buffer area or other device approved by the City Director of Public Works shall be provided at any intake structure. All buffers and physical improvements related to the stream piping are located entirely on the site or on easements adjacent to the site.

Site Plan approval by the Development Review Board shall be required for any of the stream buffer intrusions described in a. through h. above. When any of the activities described above involves land clearing, the cleared area shall be re-vegetated in a manner described on the site plan. However, where a site plan is not required by any other provision of the Zoning Ordinance, the City Director of Public Works is authorized to approve plans for stream piping and the County Engineer is authorized to approve plans for erosion control structures in stream buffers.

11.4 Steep Slope Protection Standards

The primary objectives for slope protection standards are to minimize grading, land instability and the removal of vegetation in order to a) protect the quality of wetlands and water courses below the slope from increased sedimentation; b) protect steep slope plant and animal habitat from disturbance and development and c) preserve the aesthetic quality of the natural terrain.

11.4.1 Steep Slope Areas

Slope is the relationship of vertical rise to horizontal run, expressed as a percentage. Steep slope areas shall be defined as land areas that a) have a grade of twenty-five (25) percent or more, b) have an area of ten thousand (10,000) square feet or greater and c) are located within two hundred (200) feet of any floodway fringe or perennial stream or within one hundred (100) feet of an intermittent stream. Steep slope areas refer to natural grades and shall not include man-made grades. Slope calculations shall use the smallest contour interval for which maps are available. Steep slope areas shall be determined irrespective of tract boundaries.

Steep slope areas shall be clearly indicated on all site plans, development plans, preliminary plats, final plats, major special use permits and minor special use permits. When a property owner or developer believes that the presence or location of a steep slope area is different than what is shown on the appropriate topographic map, the Development Review Board shall have the authority to determine the location or presence of the moderate or steep slope area for purposes of meeting the requirements of Section 11.4, Steep Slope Protection Standards.

11.4.2 Steep Slope Development Limitations

Development and land disturbing activity on steep slope areas shall be conducted only in accordance with the following requirements. Compliance with these requirements shall be determined by the approving authority.

- a. Development shall be designed and constructed in order to minimize disturbance to the natural landform as much as possible. Development shall demonstrate appropriate terrain-adaptive design and construction techniques. Extensive grading shall be avoided. An inability to design a particular development allowed by the underlying zone without significant disturbance to the natural landform indicates that the site should not accommodate the full amount of proposed development.. Alternate site design and construction measures are encouraged to mitigate the effects of development on steep slopes. Reconstructed slopes shall not exceed fifty (50) percent ("2H:1V"). Non-load bearing retaining walls shall be encouraged in order to reduce the amount of disturbance to the natural slope.

- b. In order to accommodate building placement on steep slope areas, front and side yard setbacks on lots on the interior of the development may be reduced by up to fifty (50) percent at the discretion of the Development Review Board.
- c. Sedimentation and erosion control shall be provided during and after construction consistent with the requirements of the Durham County and City of Durham Sedimentation and Erosion Control Ordinance, Section 14-57 Design and Performance Standards, Subsection (b).
- d. On any tract proposed for construction, no more than fifteen (15) percent of the steep slope area on the tract shall be graded. For purposes of this calculation, the land areas of individual steep slope areas on the tract shall be added together to establish the total steep slope area for the tract.
- e. Development shall be designed and arranged in order to minimize the impact of street construction on steep slope areas. Proposed rights-of-way for major thoroughfares, minor thoroughfares and collector streets shall be exempt from the steep slope area grading limits of Section 11.4.2.b. provided that the Development Review Board determines that proposed rights-of-way are designed and arranged in order to minimize the impact on steep slope areas.

11.5 Wetlands Protection Standards

The primary objective of wetlands protection standards is to conserve and maintain natural wetlands in an undisturbed vegetated state in order to provide storage of stormwater runoff, minimize degradation of preserved wetlands from the impacts of adjacent development, improve water quality and preserve plant and wildlife habitat.

11.5.1 Wetland Buffers Application

A wetland buffer shall apply to any wetland area that is within the jurisdiction of the US Army Corps of Engineers and identified on site plans, development plans, preliminary plats, final plats, major special use permits and minor special use permits. The wetland buffer shall not apply to any wetland approved for dredging or filling under a Section 404 Permit issued by the US Army Corps of Engineers or a Section 401 Water Quality Certification issued by the North Carolina Division of Water Quality. The wetland buffer shall not apply to wetland areas associated with man-made ponds or man-made drainage ditches. The wetland buffer shall not apply to any retained wetland area less than one (1) acre in size. The wetland buffer shall not apply to any wetland area associated with a Minor Subdivision as defined in Section 2.2, Durham Merged Subdivision Ordinance.

The wetland buffer shall be provided along the perimeter boundary of the wetland area and shall be at least (25) feet in width. The wetland buffer shall remain in natural undisturbed vegetation. However, the approving authority may reduce the wetland buffer to ten (10) feet in width provided it determines that the proposed development includes site features and/or will employ construction management techniques to provide at least a comparable level of

protection for the wetland area. Such site features and construction management techniques shall include but not be limited to additional grass or re-vegetated buffers, double silt fencing, diversion ditches with temporary slope drains and application of sod on any slope adjacent to wetlands.

11.5.2 Wetland Buffers Use Limitations

Wetland buffers shall remain in natural undisturbed vegetation, except as provided below.

- a. Any use allowed by Section 11.5.2, Wetland Buffer Use Limitations shall be designed and constructed to minimize the amount of intrusion into the wetland buffer and to minimize clearing, grading, erosion and water quality degradation.
- b. Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be allowed. Stormwater control facilities and wetlands constructed for mitigation purposes shall be allowed in wetland buffers.
- c. Wetland buffers can be used for passive recreational activities, such as walking and bicycling trails, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside of the wetland buffer. Water oriented recreational facilities, such as boat or fishing piers, shall require an approved use permit from the Board of Adjustment.
- d. Land within the wetland buffer can serve to meet minimum lot size requirements if there is sufficient buildable area remaining on the lot.

11.6 Durham Inventory Site Protection Standards (Reserved)

11.7 Application in Compact Neighborhoods and Urban Corridors

Some or all of the requirements of Section 11, Natural Resource Protection Standards may be waived on a case-by-case basis by the governing board for development and land disturbing activity in:

- Transit-Oriented Developments-Compact Neighborhoods (TOD-CN) Overlay Districts;
- Transit-Oriented Developments-Urban Corridors (TOD-UC) Overlay Districts; and
- Interim Transit-Oriented Development-Compact Neighborhood (ITOD-CN) Overlay Districts.

This waiver shall be approved only upon a finding that the proposed development cannot be reasonably designed and constructed in accordance with Section 11, Natural Resource Protection Standards and still meet the goals and objectives of Compact Neighborhoods and Urban Corridors identified in the *Durham 2020 Comprehensive Plan*.

11.8 Variances

At the request of a property owner, the Board of Adjustment may vary the requirements of Section 11, Natural Resource Protection Standards in accordance with the procedures of Section 16, Variances and Interpretations by the Board of Adjustment. In addition to the findings required in Section 16.4.1, General Findings of Fact, the Board of Adjustment in granting any variance shall also make the following findings.

- a. That failure to grant the variance would result in exceptional hardship to the property owner;
- b. That the applicant has presented proof that alternatives to the variance have been thoroughly examined and are not practicable;
- c. That the variance represents the minimum amount necessary to provide relief from the hardship in making reasonable use of the property;
- d. That the variance would not result in significant degradation of water quality, loss of significant wetlands, increase in sedimentation and erosion, increase in stormwater runoff, loss of significant plant and wildlife habitat or threats to public safety.

Reasonable conditions may be attached to any variation from the requirements of Section 11, Natural Resource Protection Standards in order to accomplish the purposes and objectives of the Section.

11.9 Application of Natural Resource Protection Standards

After *[the effective date of these amendments]*, all development and land disturbing activity shall be conducted in accordance with Section 11, Natural Resource Protection Standards, except as provided below.

11.9.1 Lots of Record

New construction on single-family residential lots of record recorded prior to *[the effective date of these amendments]* shall be exempt from the provisions of Section 11, Natural Resource Protection Standards. Additions to existing residential buildings on single-family residential lots of record recorded prior to *[the effective date of these amendments]* shall be exempt from the provisions of Section 11, Natural Resource Protection Standards.

11.9.2 Approved Plans

Development and land disturbing activity shown on approved and continuously valid site plans, preliminary plats, final plats, development plans, minor special use permits and major special use permits may be constructed in accordance with those approved plans. However, any significant additions, expansions or phases that deviate from the approved plans indicated above shall be constructed in accordance with Section 11, Natural Resource Protection Standards. The Planning Director shall make the determination as to whether any deviation from one of these previously approved plans shall be considered to be significant.

11.9.3 Valid Building Permit

Development for which a building permit has been issued and remains continuously valid may be constructed in accordance with the standards in effect at the time of issuance.

11.9.4 Vested Right

Development having an established vested right in accordance with the Durham Zoning Ordinance, Section 18, Vested Rights may be constructed in accordance with the approved vested right site plan.

11.9.5 Public Water Supply Facilities

Public water supply reservoirs and facilities, public wastewater treatment facilities and associated structures necessary for the operation of such facilities shall be exempt from the requirements of Section 11, Natural Resource Protection Standards.”

Section 3. The Durham Zoning Ordinance, Section 5, Overlay Districts is hereby amended by replacing all of the wording under Section 5.4, Stream Buffers with the following:

“Section 5.4 (Reserved).”

Section 4. The Durham Zoning Ordinance, Section 17.3.B.4, Major Site Plans is hereby amended by adding at the end the following:

- “d. Proposes more than one-third (1/3) of the floodway fringe land on the tract to be used for parking.

Section 5. The Durham City-County Zoning Ordinance, Section 17.5, Criteria for Approval is hereby amended by changing the first paragraph, as indicated below and by adding criteria 9. and 10, as follows:

“The following evaluations shall be made during site plan review. Site plans that in the opinion of the approving authority do not meet the criteria identified below shall not be approved.”

- “9. The site plan complies with the requirements of Section 11, Natural Resources Protection Standards.
- 10. The site plan displays a site design and development intensity appropriate for and tailored to the unique natural characteristics of the site, such as significant wooded areas, specimen trees, wetlands, steep slopes, Durham Natural Inventory sites and floodplains.”

Section 6. The Durham Zoning Ordinance, Section 17.6.2.2, Existing Conditions [for Major and Minor Site Plans], paragraph b. is hereby amended as follows:

- “b. Topographic contours at two (2) foot intervals for all property within one hundred (100) feet of a proposed development area and topographic contours at five (5) foot contour intervals for the remainder of the property including a source reference; locations and names of water features including shorelines, water bodies, intermittent and perennial streams; a tree survey in accordance with the requirements of Section 10.13.1, Specimen Tree Survey; locations of drainage ways, stream buffers, floodways, floodway fringes, wetlands; locations of vegetation, rock outcrops, steep slope areas, Durham Natural Inventory sites and Durham Historic Inventory Sites.”

Section 7. The Durham Merged Subdivision Ordinance, Section 3A, Definitions is hereby amended by modifying the definition of “Durham Inventory” as indicated below; by deleting the definition of Steep Slopes; and adding the following definitions in alphabetical order:

“**Durham Historic Inventory.** Surveys of historically significant sites in Durham County as reported in the Durham Architectural and Historic Inventory and Durham County and Durham ETA Inventories of Historic Sites.”

“**Durham Natural Inventory.** A survey of botanical habitat areas reported in the *Inventory of the Natural Areas and Rare Species of Durham County*, Robert D. Sutter, March, 1987 and a survey of zoological habitat areas reported in the *Inventory of the Wildlife Habitats, Movement Corridors, and Rare Animal Populations of Durham County, North Carolina*, by Steven P. Hall, August, 1995, both as amended.”

“**Steep Slope Areas.** Steep slope areas shall be defined as land areas that a) have a grade of twenty-five (25) percent or more, b) have an area of ten thousand (10,000) square feet or greater and c) are located within two hundred (200) feet of any floodway fringe and perennial stream or within one hundred (100) feet of an intermittent stream. Steep slope areas refer to natural grades and shall not include man-made grades.”

“**Root Zone Protection Areas.** The land area around the base of a tree in which disturbances are prohibited in order to protect the roots of the tree and aid the tree’s survival. Root zone protection areas shall be the greater of a) a six (6) foot radius around the tree or b) one (1) foot for every inch of tree diameter measured at a point four and one half (4½) feet above the ground.”

Section 8. The Durham Merged Subdivision Ordinance, Section 4C.2, Existing Conditions, paragraph b. [for Section 4C, Preliminary Plats (and Site Plans Subject to this Ordinance)] is hereby amended as follows:

- “b. Locations of water bodies, streams (intermittent and perennial), drainage ways, stream buffers (with widths shown and the required ten (10) foot grading and construction set back); floodway, floodway fringe and alluvial soils area, shaded and labeled; a tree survey in accordance with the requirements of Section 10.13, Tree Survey; other site features, including wetlands, wetland buffers, rock outcrops, steep slope areas, and established Durham Inventory (historic and cultural resources) sites, and Durham Natural Inventory sites;”

Section 9. The Durham, NC County Flood Damage Protection Ordinance, Section 6-116, General Standards and the Durham, NC City Flood Damage Protection Ordinance, Section 6-316, General Standards are hereby amended by modifying the first sentence to read as follows:

“Development and land disturbing activity in floodway and floodway fringe are regulated by the Durham Zoning Ordinance, Section 11, Natural Resource Protection Standards in addition to the Durham, NC Flood Damage Protection Ordinance. Where development is allowed by the Durham Zoning Ordinance, the following provisions are required in all areas of special flood hazard:...”

Section 10. The Durham City-County Zoning Ordinance is hereby amended by adding the following wording at the end of Section 2.1, Rules of Construction, immediately before 1. Definitions:

“For the purposes of this ordinance, horizontal dimensions such as setbacks and buffer widths shall be measured in plan view, rather than following the natural terrain of the land.”

Section 11. This ordinance become effective upon adoption.

This 21st day of June, 1999.

Public Hearing--Proposed Durham Zoning Ordinance Amendments for Street Trees (Text Amendment 84D-99)

On May 10, 1999 the Board adopted Zoning Ordinance text amendments to require street trees in new developments. At that time, the Board requested that the Staff prepare additional Zoning Ordinance text amendments to make street tree requirements apply to un-built platted residential lots. The amendment would require that street trees be provided for any single-family house on a lot of record for which no building permit has

been previously issued. The trees may be provided by preserving trees on the site or by planting new trees. The amendment would also address concerns raised by the County Attorney about the burden of street trees on large rural lots outside the Urban Growth Area. The Planning Department recommends that the Board of County Commissioners conduct a public hearing and consider adoption of the proposed amendment.

This public hearing was advertised on June 11 and June 18, 1999. Steve Medlin and Dick Hails from the Planning Department will make a presentation before the public hearing and respond to questions.

County Manager's Recommendation: Conduct a public hearing and adopt the proposed ordinance amendment for Street Trees, dated June 14, 1999.

Mr. Dick Hails, Interim City-County Planning Director, made brief remarks about the street trees ordinance for the Commissioners' consideration.

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.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the Durham Zoning Ordinance Amendments for Street Trees (Text Amendment 84D-99).

The motion carried unanimously.

The Ordinance Amendments for Street Trees follows:

**Proposed Durham Zoning Ordinance
Amendments for Street Trees
TC 84D-99**

Be It Ordained by the Durham County Board of Commissioners That:

Section 1. The Durham City-County Zoning Ordinance, Section 10.11.5, Application of Street Tree Standards is amended to replace the present wording with the following:

“10.5.5 Application of Street Tree Standards

After *[the effective date of these amendments]*, all development and land disturbing activity shall be conducted in accordance with Section 10.5, Street Tree Standards, except as follows:

- a. Single family residential development inside the Urban Growth Area on lots platted prior to *[the effective date of these*

amendments] for which a continuously valid building permit has not been issued shall be required to retain or plant least one (1) street tree for every thirty (30) feet of street frontage. (Examples: 60 feet of street frontage would require 2 street trees; 80 feet of street frontage would require 2 street trees.) Existing trees to be retained to meet this requirement shall be protected in accordance with Section 10.10, Protection of Existing Vegetation. New street trees shall be planted in accordance with Section 10.5.4, Street Tree Installation.

- b. Single family residential development on lots platted prior to *[the effective date of these amendments]* for which a continuously valid building permit has been issued as of *[the effective date of these amendments]* shall be exempt from the requirements to Section 10.5, Street Tree Standards.
- c. Additions to existing residential buildings on single family residential lots of record recorded prior to *[the effective date of these amendments]* shall be exempt from the provisions of Section 10.5, Street Tree Standards.”

Section 2. The Durham City-County Zoning Ordinance, Section 10.5.2, Street Trees for Residential Development is amended to replace the present wording of the first sentence with the following:

“In all residential developments inside the Urban Growth Area, along both sides of all existing and proposed rights-of-way, the developer shall either retain or plant trees such that there is an average of at least one (1) street tree for every thirty (30) feet of street frontage; street trees shall not be required for residential developments outside the Urban Growth Area.”

Section 3. This ordinance become effective upon adoption.

This 28th day of June, 1999.

FY 1999-00 Budget Adoption

The Durham County Manager will formally present the adopted budget for FY 1999-00 to the Durham County Board of Commissioners. This submission is in accordance with the Local Government Budget and Fiscal Control Act, which requires adoption of the budget no later than July 1.

County Manager David F. Thompson said the FY 1999-00 Budget Ordinance does not expand or diminish the Manager’s or Commissioners’ authority as to the budget. It is basically the exact same budget ordinance that you adopted last fiscal year.

County Manager Thompson asked to comment on some misperceptions that still exist about this budget.

Chairman Black said the compensation package needs to be explained more to the employees. The employees need to know that we did not get a one-cent tax deduction by cutting the money from the employees. We are giving the employees more this year. I want the County Manager to explain the compensation package slowly so the press can carefully write the story.

County Manager David F. Thompson reviewed the financial trends analysis for the General Fund Balance as of June 30, 1999 and June 30, 2000. The projected fund balance for June 30, 1999 is \$33,000,000 and for June 30, 2000 is \$35,000,000. The Local Government Commission requires a fund balance minimum of 8 percent. The fund balance percentage projected for FY ending June 30, 1999 is 15 percent and for FY ending June 30, 2000 is 15.5%. The proposed budget for FY 1999-2000 with a penny tax reduction is still a conservative budget. The County is in good shape financially. I cannot support a 2-cent tax rate reduction.

County Manager Thompson reviewed the compensation plan summary. The Manager reviewed the proposed enhancements to the existing pay plan.

The enhancements follow that are in the proposed pay plan for FY 1999-2000.

- July 1, 1999 Expansion of the Range by two (2) steps (J1-K are added)
- July 1, 1999 Movement through the Range CONTINUES
 Elimination of Incentive Stage
 Proficiency Stage expands to C1-J1 (2½% increase at
 meets expectation level)
- July 12, 1999 Benchmark Adjustment CONTINUES
- January 2000 Bonus Program
 - Designed to reward employees who exceed expectations
- February 2000 Internal Equity Adjustments
 - Designed to adjust salaries for employees who are paid less but have more education and/or experience than co-workers in the same job

The Commissioners asked questions and made comments about the proposed compensation plan.

Jackye Knight, Human Resources Director, responded to the questions and comments.

County Manager Thompson also responded to the questions.

The Commissioners concurred to give the County Manager the opportunity to maybe start the equity adjustment payments before February 2000 if lapse salaries are available.

A lengthy discussion followed about the compensation plan.

The Commissioners decided to combine the bonus program and the internal equity adjustment funds into one fund. The Manager was asked to develop a plan to implement the bonus and equity money payments to the employees.

Commissioner Heron moved, seconded by Commissioner Bowser, to adopt the budget ordinance for FY 1999-00 with the understanding the bonus and equity funds will be combined into one fund and additional funds will be added to the combined funds from lapse salaries.

Commissioner Bell asked to amend the motion to add the Yearly Schedule for Informational Reports from the school system and add to the new Memorandum of Understanding that adds item No. 4 that has to do with dropout prevention.

Commissioners Heron and Bowser accepted Commissioner Bell's amendment to the motion.

Vice-Chairman Reckhow hopes the Board of Education will accept the Memorandum of Understanding. It sets a focus for this year that we would be developing alternative education programs for long-term suspended students and to set a target goal to reduce the dropout rate for FY 2000-2001. I hope the schools will give this very serious consideration. It is important.

The motion carried unanimously.

The Commissioners thanked the County Manager and staff members for their budget work.

The FY 1999-2000 Budget Ordinance follows:

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

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and entered into this the 28th day of June, 1999 by and between the Durham County Board of Commissioners and the Durham Public Schools Board of Education.

Whereas, the Durham Public Schools has presented its proposed Fiscal Year 1999-2000 Budget; and

Whereas, the Board of County Commissioners and the Board of Education mutually desire to improve the educational achievements of Durham school children; and

Whereas, members of the Board of County Commissioners and the Board of Education understand the importance of regular communications during the budget process and throughout the school year:

IT IS NOW THEREFORE AGREED THAT:

1. The Durham Public Schools will follow the budget process and format developed for the 1999-2000 budget for Fiscal Year 2000-2001. In addition, where appropriate, an effort will be made to incorporate key accomplishments and measurable objectives.
2. The Durham Public Schools Board of Education shall provide the Board of County Commissioners with periodic reports, including test scores, suspension rates, dropout rates, and graduation rates for each public school in Durham County as well as an annual evaluation of the reading recovery program. All information in these reports should be disaggregated to show performance of subgroups in the school population. The information shall be provided consistent with the attached Yearly Schedule for Informational Reports dated June 25, 1999.
3. The Durham Public Schools shall work with Durham County to develop alternative educational programs for long-term suspended students during Fiscal Year 1999-2000.
4. By November 1, 1999, the County Manager and the School Superintendent, in collaboration with the liaison to the schools, shall develop a proposed target goal to reduce the dropout rate for FY 2000-2001.

COUNTY OF DURHAM

DURHAM PUBLIC SCHOOL
BOARD OF EDUCATION

/s/ MaryAnn Black
Chair, Board of Commissioners

/s/ Kathryn Meyers
Chair, Durham Public Schools
Board of Education

Attest: /s/ Garry Umstead
Clerk to the Board

Possible Orange County Application to Operate a Landfill

Staff is in the process of collecting information regarding the possibility that Orange County may apply to the North Carolina Department of Environment Health and Natural Resources for a permit to operate a landfill.

The information will be presented at the meeting.

County Manager's Recommendation: To receive and discuss the information and give directions to staff.

Chairman Black introduced the subject.

Chairman Black asked County Attorney Chuck Kitchen to make remarks about the possible application to operate a landfill by Orange County. His remarks dealt with the pros and cons of the C & D landfill.

Dick Hails, Interim City/County Planning Director, discussed the potential environmental problems with the proposed site relative to aquatic habitat.

Chuck Kitchen suggested that Chairman Black write a letter to Orange County expressing these environmental concerns that are outlined in the report. The administration should monitor the application and have it reviewed internally when it is submitted. If there are problems, we would come back to the Board and request that our expert be employed to do a full evaluation on the proposed site.

Vice-Chairman Reckhow agrees in general with the County Attorney's suggestions. The letter from Chairman Black should make reference to the fact that the Little River Reservoir is a WS2 drinking water supply lake and that, as a result, we are required by the state to afford it the highest level of protection. I would suggest that we follow the letter up with some type of report from the Planning Department that would include this key environmental information. The information should be sent to all the Orange County Commissioners.

Chairman Black said the letter should be sent to the Environmental Affairs Board and ask them to get involved with this process along with our staff.

Announcement

Commissioner Bell announced that the Governmental Structure Committee of the Merger Steering Committee would meet on Wednesday, July 14, 1999 from 7:00 p.m. to 8:30 p.m. in the third floor Conference Room at the Main Library.

Appointment to Board of Directors of Downtown Durham Inc.

On behalf of the Board of Directors of Downtown Durham Inc., we would like to invite the Durham County Commission to make an appointment to our Board of Directors for 1999-2000. As you are aware, Bill Bell is at the end of his two-year term.

The appointment would be for July 1, 1999 to June 30, 2000. The Board member would serve in an ex-officio capacity with full voting privileges.

The Commissioners appointed Commissioner Bowser to the Board of Directors of Downtown Durham Inc. to represent the Board of County Commissioners.

Board and Commission Appointments

Garry E. Umstead, CMC, Clerk to the Board, will distribute ballots to make appointments to the following boards and commissions:

Area Mental Health Board
Board of Adjustment
Durham Planning Commission
Durham Technical Community College Board of Trustees
Environmental Affairs Board
Industrial Facilities and Pollution Control Financing Authority
Women's Commission

The following votes were cast to make appointments to the following boards and commissions. The asterisk designates the appointee.

Area Mental Health Board: One at-large position (term expires July 2003).

Iowana C. Hagler--Heron
Corleen H. Kilsheimer—no votes
*John E. Kraus, MD, Ph.D.—Bell, Black, Bowser, and Reckhow

Board of Adjustment: One expired regular position and one expired alternate position (terms expire June 30, 2002).

*David A. Smith—Bell, Black, Bowser, Heron, and Reckhow

Durham Planning Commission: One expired Triangle Township position, one expired Oak Grove/Carr Township position, and one expired at-large position (must be a City resident). Terms expire June 2002.

- *Steve Bocckino—Bell, Black, Bowser, Heron, and Reckhow
- *Jackie S. Brown—Bell, Black, Bowser, Heron, and Reckhow
- George H. Conklin—no votes
- Jerry Emison—Heron and Reckhow
- Janice Mack Guess—no votes
- Robert W. Jentsch—no votes
- Alyse R. Rives—no votes
- *Floyd W. Wicker Sr.—Bell, Black, and Bowser
- John M. Wildey—no votes

Durham Technical Community College Board of Trustees: One position; term expires June 2003.

- James Randall—no votes
- *Thomas J. White—Bell, Black, Bowser, Heron, and Reckhow

Environmental Affairs Board: One expired term for the public health position and one expired term for the public policy position; terms expire June 2002.

- *Dr. Marian C. Johnson-Thompson—Bell, Black, Bowser, Heron, and Reckhow

Industrial Facilities and Pollution Control Financing Authority: One unexpired term (expires September 2000) and two expired terms (expire September 30, 2004).

- *Edward F. Conner—Bell, Black, Heron, and Reckhow
- *James T. Daly—Bell, Black, Heron, and Reckhow
- *Tracy Sanders—Bell, Black, Bowser, Heron, and Reckhow
- *John F. Wily III—Black, Heron and Reckhow

Women's Commission: Six expired terms (one term expires June 2001 and five terms expire 2002).

- *Rebecca Bach—Bell, Black, Bowser, Heron, and Reckhow
- *Sarah Verbiest—Bell, Black, Bowser, Heron, and Reckhow

Adjournment

Chairman Black adjourned the meeting at approximately 10:50 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board