

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

Monday, August 11, 2003

7:00 P.M. Regular Session

MINUTES

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

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

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

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

Agenda Adjustments

Vice-Chairman Bowser added items designated as 12(b) and 12(c):

- Continuing discussion about four-year terms for Commissioners
- A personnel matter regarding inability to contact supervisors.

Chairman Reckhow switched the order of items 11 and 10.

Chairman Reckhow recognized the efforts of NCCU Chancellor Ammons and his staff, and the Chamber of Commerce for efforts to expand the Biotechnology Center at NCCU. She had received a phone call from Chancellor Ammons thanking the Board for its support of the project from its beginning.

Minutes

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the Minutes of the May 22, 2003 Budget Worksession, June 17, 2003 Budget Worksession, July 28, 2003 Closed Session, and the June 3, 2003 Budget Worksession as submitted and the Minutes of the May 21, 2003 Budget Worksession with one correction.

The motion carried unanimously.

Presentation of LEO Advanced Certification for Sheriff's Deputies

The Sheriff of Durham County would like to recognize the following deputies for completing their Law Enforcement Advanced Certification:

Sgt. G. L. Wiggins
Lt. D. O'Mary
Sgt. A. Clayton
Lt. P. Hornbuckle
Sgt. J. Naillon
Deputy D. Trudell
Sgt. T. Deck
Deputy W. A. Clark

Resource Person(s): Sheriff Worth L. Hill

County Manager's Recommendation: The Manager's recommendation is that the Board allow Sheriff Hill to present the Advanced Certificates and to congratulate the officers on their commitment to service for the citizens of Durham.

Sheriff Worth Hill and the County Commissioners recognized the officers for having completed their Advanced Certificates in law enforcement. This is the highest of three levels of certification. The certificates are a culmination of education, training, and years of experience. The certification also adds points toward the promotion process.

Sheriff Hill presented each officer with a framed certification.

Recognition of Sheriff Worth Hill on his Election as President of the North Carolina Sheriff's Association

Durham County Sheriff Worth L. Hill was recently installed as the 81st President of the North Carolina Sheriff's Association. The association is the statewide organization that represents North Carolina's sheriffs on legislative issues and assists local sheriffs in improving the professional law enforcement services that their offices provide. Sheriff Hill is the first Durham County Sheriff to lead the organization in 54 years.

Resource Person(s): Worth L. Hill, Sheriff

County Manager's Recommendation: The County Manager recommends that the Board congratulate Sheriff Hill on election as President of the North Carolina Sheriff's Association.

The Commissioners and County Manager congratulated Sheriff Hill on this prestigious appointment. Vice-Chairman Joe W. Bowser and Commissioner Becky M. Heron represented the Board of County Commissioners at Sheriff Hill's installation banquet at Wrightsville Beach, NC on July 29, 2003. Vice-Chairman Bowser and Commissioner

Heron spoke regarding their enjoyment of Sheriff Hill's acceptance speech and the evening's activities. All wished him well for his term in office and for bringing this honor to Durham County.

Commissioner Heron presented Sheriff Hill with pictures taken at the installation banquet.

Sheriff Hill expressed his appreciation for the Commissioners' support at this occasion and always. He spoke of his enjoyment in holding the position of Sheriff of Durham County.

Consent Agenda

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

- * (a) Budget Ordinance Amendment No. 04BCC000002— Sheriff's Office—Purchase of GangNet™ Software in Partnership with City of Durham Police Department (support the Sheriff's gang initiative with the Durham Police Department by accepting the Governor's Crime Commission grant and amending the FY 2003-04 Budget as requested. In addition, authorize the Sheriff to enter into a license agreement and purchase contract with Orion Scientific Inc. as a sole source provider of the licensed software);
- (b) Contract with Tax Management and Associates (renew the contract with Tax Management and Associates to conduct audits. The contract amount is not to exceed \$75,000.);
- (c) Contract with County Tax Services Inc. (approve the contract with County Tax Services Inc. to conduct business personal property audits. The contract is not to exceed \$25,000.00);
- (d) Reschedule September 1 and October 6, 2003 Worksessions (Hold the September 1, 2003 Worksession on Tuesday, September 2, 2003 due to Labor Day. Hold the October 6, 2003 Worksession on Tuesday, October 7, 2003 due to Yom Kippur.);
- (e) US Department of Homeland Security/State Homeland Security Grant Program (agree to Emergency Management participation in the Homeland Security Grant Program and appoint Jeffrey L. Batten, Durham County Emergency Management Director, as the designated agent/point of contact for the program);

- (g) Lease Agreement—119 Orange Street—Adult Probation and Parole (approve the one-year lease agreement with two, one-year optional renewal periods and authorize the Manager to execute the lease);
- (i) Yearly Claims Report (receive the report of claims paid on behalf of County employees);
- * (j) Budget Ordinance Amendment No. 04BCC000003—Funding Request for Historical Monument—Lincoln Hospital School of Nursing (approve the location of the monument on the site and adopt Budget Ordinance Amendment No. 04BCC000003 appropriating \$20,000 from the Contingency Fund);
- (k) Accept Donation from the Durham County Bar Association (receive the \$40,000 offer for a fully-equipped, electronic law library and associated furniture in the new judicial building and authorize a letter of appreciation to the 14th Judicial District Bar Association); and
- (l) Permission to Enter Negotiations for Courthouse and Parking Deck Site (grant staff permission to begin pursuing negotiations with Scarborough & Hargett Funeral Home and U-Haul Real Estate Company for the purpose of acquiring land to construct a courthouse and a parking deck);

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda 6(a). Budget Ordinance Amendment No. 04BCC000002—Sheriff's Office—Purchase of GangNet™ Software in Partnership with City of Durham Police Department (support the Sheriff's gang initiative with the Durham Police Department by accepting the Governor's Crime Commission grant and amending the FY 2003-04 Budget as requested. In addition, authorize the Sheriff to enter into a license agreement and purchase contract with Orion Scientific Inc. as a sole source provider of the licensed software).

At Commissioner Heron's request, Sheriff Worth Hill and Chief Deputy Wes Crabtree addressed the question of protecting the information gathered during this initiative.

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000002

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2003-04 Budget Ordinance is hereby amended to reflect budget adjustments for the Office of the Sheriff.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Public Safety	\$35,300,382	\$79,366		\$35,379,748
<u>Revenues</u>				
Intergovernmental	\$294,511,080	\$79,366		\$294,590,446

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

This the 11th day of August, 2003.

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

Consent Agenda 6(j): Budget Ordinance Amendment No. 04BCC000003—Funding Request for Historical Monument—Lincoln Hospital School of Nursing (approve the location of the monument on the site and adopt Budget Ordinance Amendment No.04BCC000003 appropriating \$20,000 from the Contingency Fund.

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000003

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2003-04 Budget Ordinance is hereby amended to reflect budget adjustments for Lincoln Hospital School of Nursing.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
General Government	\$22,606,954	\$20,000		\$22,626,954
Other	\$18,870,959		\$20,000	\$18,850,959

The motion carried unanimously.

Consent Agenda 6(h). Temporary Construction Easement Related to the Construction of Adam's Park Subdivision (approve the temporary construction easement).

The construction easement was requested by Billsco Inc. for the purpose of grading related to the construction of Blue Iris Lane and the necessary stub-out to County property in the Adam's Park subdivision.

Vice-Chairman Bowser pulled the item to inquire whether the \$1,500 temporary easement charge to Billsco Inc. was fair and whether the land would be returned to its original condition upon completion of the subdivision.

County Attorney Chuck Kitchen answered that his office set the easement charge after some consideration. The easement would be in full force and not expire until completion of the grading and re-seeding of the County's property, to the satisfaction of the County.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to approve Consent Agenda item 6(h) to approve the temporary construction easement.

The motion carried unanimously.

Consent Agenda 6(m). Approve Agreement with Raleigh-Durham Airport Authority Celebrating 100 Years of Powered Flight (approve the agreement to make \$50,000 payments in FYs 2003-2004 and 2004-2005. The initial payment of \$50,000 was approved by the Board in its Fiscal Year 2003-2004 Budget.)

Vice-Chairman Bowser asked if the taxi cab complaint from Durham drivers had been settled with the Raleigh-Durham Airport Authority.

Chairman Reckhow and County Manager Ruffin answered that an agreement had been reached and that Durham taxi cab drivers were now more fairly represented.

Vice-Chairman Bowser commented that he had asked the County Manager to look into the payment of taxes to local jurisdictions by the RDU Airport Authority. Airport Director John C. Brantley, had not responded to the County Manager's request.

Vice-Chairman Bowser stated that he heard that other local jurisdictions had received tax payment.

Chairman Reckhow and Vice-Chairman Bowser suggested that the \$50,000 be held until the Airport Authority is responsive to Durham County's requests.

The County Commissioners concurred to withhold the \$50,000 and to continue discussion on this subject at the August 25, 2003 Regular Session. County Manager

Mike Ruffin was asked to communicate with the Airport Authority that Durham County would like a response to a request in a timely manner and that the Board would withhold action until it receives a response to its inquiry.

Public Hearing—Summer Meadows Additions (Rezoning Case P03-12)

Crossman Communities of North Carolina Inc. will present to the Board of County Commissioners a request to rezone a 20.09-acre site (in two separate tracts) located on the north side of Hebron Road between West Avenue and Danube Lane, and the west side of Denfield Street between Hebron Road and Communications Drive. PIN 08334-03-11-6522 (partial), 03-31-5464, 03-31-7450. Request: R-20; F/J-B & E-B to PDR-4.69. The proposal is in conformance with the small area plan. Staff recommends approval citing adopted plan conformance. The Zoning Committee of the Durham Planning Commission conducted a public hearing June 11, 2003 and voted 6-0 to recommend denial, citing mass grading and the lot size.

The public hearing for this request was advertised on July 25 and August 1, 2003 in the Durham Herald-Sun.

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

County Manager's Recommendation: The Manager's recommendation is that the Board hold the public hearing on the proposed rezoning and approve, if appropriate, based on public comment.

Mr. Frank Duke, City-County Planning Director, presented the agenda item. In June 2002, the Board of County Commissioners denied the rezoning request, citing the drainage impacts. The applicant has worked on the request. The development would include a stormwater detention pond. The developer had agreed to commit to more than the required 10 percent of open space. The number of units was reduced by 26 percent. The development plan meets all ordinance requirements and is consistent with the adopted North Durham Small Area Plan which designates this area for medium density residential development—a density of between four and eight units per acre. The County's stormwater staff has determined that the addition of the stormwater facilities would improve the stormwater issue, which was of concern to the Commissioners last June.

Commissioner Cousin asked Mr. Duke about the conflicting opinions of Planning staff and the Zoning Committee regarding the drainage problems.

Mr. Duke stated that, based on the latest information, the proposal would actually improve the drainage.

Chairman Reckhow opened the public hearing. The following persons spoke on the item: Julius Bartell 4911 Denfield Street, Durham 27704, requested a right-turn lane off Denfield Street. He stated that a resolution had been made regarding connecting water to his property.

James A. Covington Sr., 715 Felicia Street, Durham 27704, spoke of the continuing problem of the road and the water in the back yards. He spoke of the agreement by the applicant to pay \$20,000 toward the road improvements.

Dr. E. Lavonia Allison, PO Box 428, Durham 27702, Durham Committee for the Affairs of Black People, urged denial of the request. She expressed the opinion that the promises made by the applicant would not be honored. She spoke against the small lot sizes proposed.

Tony Tate, landscape architect and land planner, representing Crossman Communities of North Carolina, 5011 Southpark Drive, Durham, addressed issues of concern for the Commissioners and citizen speakers. The developer, several Commissioners, the County Manager, Planning Director, and NCDOT representatives have met to discuss what could be done for the neighbors. A plan has been drawn which should address their concerns and lend pride to the neighborhood. He reported that since the first request for rezoning last year, the stormwater drainage has been addressed in excess of the County's requirements, the number of lots has been reduced, and a left-turn lane has been added to Hebron Road.

Mitch Huff, the developer representing Crossman Communities, addressed the concerns of residents of Felicia Street. The developer commented that the houses on Felicia Street were built in a floodplain and that subsequent stormwater drainage problems had been ongoing before Summer Meadows was proposed. He stated that, although unobligated to correct the existing drainage problems on Felicia Street, the developer has structured an agreement with NCDOT. By this, the developer would be willing to pay \$20,000 under the Property Owner Participation Program toward improving Felicia Street to bring it under the NCDOT maintenance system. The developer would be paying in place of the property owners. A letter, dated January 20, 2003 and addressed to NCDOT lays out the agreement. The NCDOT would accept the \$20,000 (about 60% of the cost) and add Felicia Street to its schedule for work when NCDOT's portion of the money is available.

In answer to County Attorney Chuck Kitchen's question, Mr. Huff stated that the \$20,000 voluntary agreement would be included in a note on the plan. The County Attorney advised the Commissioners that this should not be a consideration in their decision on the rezoning. While it may be enforceable, it should not be a consideration because it is not directly related to the rezoning or the purposes of rezoning.

Mr. Duke added that the area requested for rezoning has no access to Felicia Street.

There being no further comments, Chairman Reckhow closed the public hearing and returned the item for Commissioner discussion.

Commissioner Cousin moved to deny the rezoning request.

The motion failed for lack of a second.

Commissioner Heron commented that these houses on Felicia Street should never have been allowed to be built on this floodplain. Improvements to Felicia Street, as promised by the developer, would give the neighborhood some relief from continuing street erosion. Further up Felicia Street and closer to the development, area ditches have

restricted flow due to being filled with tree debris. Commissioner Heron stated there had been a promise to clear them. The debris must be manually cut and removed because of State environmental restrictions on heavy machinery in the area. She urged a joint effort. She questioned the width and depth of the detention ponds.

David Dunn, civil engineer for the project from Bass Nixon and Kennedy, 1416 Chapel Hill Road, Raleigh, advised that his firm would be doing the utilities and the storm drainage design. He addressed the question of building detention basins for stormwater runoff. The County regulations require that the post-development runoff must not exceed the pre-development runoff by more than 10 percent. The stormwater runoff basin is being oversized and the number of lots is being reduced. This would reduce the runoff by about 40 percent less than the 10-year storm calculation.

Commissioner Cousin requested the record to reflect that, if a vote were taken this evening, he would vote to deny the rezoning request based on the small lot sizes, drainage problems, the mass grading, and the impact on schools.

In answer to Chairman Reckhow's question of the need for mass grading, the developer replied that mass grading allowed the cost of the homes to remain affordable and the creation of the common areas. The lot sizes are consistent with the adjoining neighborhood.

Chairman Reckhow stated her concern over the need for mass grading and the lack of a note on the plan to volunteer to cover \$20,000 of the road improvement cost to Felicia Street.

After more discussion between the Commissioners, the Planning Director, and the applicant, the following motion was made:

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to defer action on this item for up to two Regular Sessions. The County Attorney was directed to work with the Applicant on this issue.

The motion carried unanimously.

Major Site Plan—Cardinal Self Storage—Old Oxford Highway (Case D03-146)

Duane K. Stewart and Associates Inc., on behalf of Cardinal Self Storage Ltd., has submitted a site plan on a ±4.0-acre portion of a ±68.603-acre site for seven one-story mini-warehouse buildings, totaling 40,150 square feet. A two-story 750-square-foot office and a 1,200-square-foot caretaker apartment will be located in the corner of one building with four motor vehicle parking spaces. The parcel is zoned I-2 and F/J-B. The proposed project will be located west of Old Oxford Highway, north of Hamlin Road and south of Wolfpack Drive. (PIN 0833-02-67-9973 [part]; old tax ID 783A-01-001 [part]; County Atlas Page 42, Block D-2). Governing Body approval is required for proposed buildings larger than 25,000 square feet and for projects in the F/J-B watershed overlay

district proposed with greater than 24% impervious surfaces. A Traffic Impact Analysis was not required for this development.

Planning staff recommends approval.

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

County Manager's Recommendation: The County Manager's recommendation is that the Board hear the merits of the site plan and approve.

City-County Planning Director Frank Duke introduced the agenda item. He advised that the use requested was a permitted use within that zoning district. The site plan satisfied all Ordinance requirements. It was before the Board as a Major Site Plan due to the amount of impervious surface being proposed. The Stormwater section of the County Engineering Department has reviewed the project and indicated its approval for the stormwater controls proposed for the site. Staff recommended approval.

In answer to Commissioner Heron's question, Mr. Duke responded that the site is not impacted by the dedication for the proposed Northern Durham Parkway.

Fritz Brunssen of Brunssen Engineering Services P.A., located at 3600 Churchill Court, Durham, stated that he was requested to give additional right-of-way on Old Oxford Highway to satisfy the NCDOT and state requirements for the right-of-way required in that area.

Commissioner Heron thanked Planning Department for the extra page of site data for this item. In this larger format, it is easier to read.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the major site plan (Case D03-146).

The motion carried unanimously.

(Tax Map number: 0833-02-67-9973 [partial] and 783A-01-001 [partial]; recorded in Ordinance Book 4, page _____.)

Major Site Plan—Jim's Old Oxford Highway Site (Case D02-780)

Brunssen Engineering Services P.A., on behalf of Jim and Stacy Carrington, has submitted a site plan in two phases for a one-story, 22,800-square-foot office and warehouse flex building with 35 motor vehicle parking spaces and two bicycle spaces on a ± 2.00 -acre site zoned I-2 and F/J-B. The proposed project will be located east of Old Oxford Highway, north of Hamlin Road, and across from Wolfpack Drive. (PIN 0833-02-88-2770; old tax ID 783-01-006F; County Atlas Page 42, Block D-2.) Governing Body approval is required for projects in the F/J-B watershed overlay district proposed with greater than 24% impervious surfaces. A Traffic Impact Analysis was not required for this development.

The Planning Staff recommends approval.

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

County Manager's Recommendation: The County Manager's recommendation is that the Board hear the merits of site plan and approve.

Frank Duke, City-County Planning Director, presented the agenda item. He stated that the site plan had been reviewed by Planning staff. It meets all ordinance requirements and is designated I2. The use is a permitted use by right in the district. The site plan was brought before the Commissioners for approval due to the amount of impervious surface proposed (46.5%). Staff can permit up to 24% administratively. The maximum allowable is 70%.

The County Stormwater staff have reviewed the request and approved the stormwater controls proposed. It will meet County standards.

Chairman Reckhow pointed out that the three development proposals presented at this Regular Session are all for locations in northeast Durham County. She expressed her concern that the area road connectivity plan had not been developed. This would act as a guide for connecting these areas of vacant land prior to development.

Mr. Duke advised that, by NC law, he had no Transportation staff in the Planning department. All transportation planning is done through the Transportation division of the City offices. A connectivity plan exists for southeastern Durham County. Through the Comprehensive Plan, there will be a proposal for Planning to work with Transportation to develop connectivity plans for other areas of the County.

Chairman Reckhow suggested that this concern be added for discussion at the next Joint City-County Committee Meeting.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the major site plan (Case D02-780).

The motion carried unanimously.

(Tax Map number: 0833-02-88-2770 [783-01-006F]; recorded in Ordinance Book 4, page _____.)

Animal Shelter Addition Update and Request for Project Modifications
(Project #DC067)

The Department of General Services provided the Board with an update on the Animal Shelter addition and requested approval for project modifications in an amount not to exceed \$106,495.

The Animal Shelter project includes two additions to the existing Animal Shelter located at 2117 East Club Boulevard. Included in the additions are: 50 additional kennels, office space, restrooms, training room, food storage area, and a two-vehicle garage area for unloading impounded animals. Additions to the Animal Shelter were approved by the Board of County Commissioners in the revised Ten-Year CIP in the amount of \$1,633,402, of which \$968,034 has been encumbered or expended with a remaining unobligated project balance of \$665,368.

George Smart and Lucien Roughton Architects were selected to design and supervise the project. A \$806,750 construction contract was awarded to Patriot Building Company Inc., and a "Notice to Proceed" was communicated to the company effective December 9, 2002, allowing 365 days for project completion. The project is currently on schedule and is scheduled for completion in December 2003.

In addition to the above project update, an additional \$106,495 is requested for project modifications. Modifications include: (i) laundry room, (ii) resurfacing the existing kennel floor, (iii) door modification, (iv) painting the existing kennel walls and ceilings (v) wiring for an emergency generator, and (vi) additional design services outside of the original scope for this project.

(i) Laundry Room: With the addition of 50 new kennels and an increase in washing requirements, the reconfiguration of a proposed storage room to a laundry room is requested. The additional plumbing, electrical, natural gas, and HVAC rough-in by Patriot Building Company has been completed and funded through the project's contingency fund. An additional \$14,547 is requested to purchase a heavy-duty commercial washer, dryer, drain trough, and wash sink.

(ii) Resurfacing the Existing Kennel Floor: \$18,600 was originally included in this project budget for the patching and repairs of approximately 4,650 square feet of the existing epoxy floor covering at \$4.00 per square foot. During the project, it was discovered that large amounts of water from daily kennel washdowns were penetrating cracks, seams, and joints in the existing concrete kennel slab. The architect has recommended that the appropriate floor preparation is made to seal and patch these cracks to stop the penetration of water and to install the same Tnemec flooring system in the existing kennel as is scheduled for the new kennel flooring. The two systems being considered are: a 3/16-1/4 inch trowel Solid Colored flooring system for \$31,221 or a 3/16-1/4 inch trowel Colored Quartz flooring system for \$42,985. The Solid Colored flooring system is being recommended at \$31,221, plus \$2,653 for floor repair to cracks, seams, and joints and preparation, totaling \$33,874, minus \$18,600 for flooring allowance. The total request for resurfacing the existing kennel flooring is \$15,274.

(iii) Revised Door Changes: A change to the door and door frame schedule is requested for public safety and security reasons by adding glass panels in eight (8) doors and door frame side-panels. This change will allow for more visibility by Animal Shelter staff during daily operations and provide additional security by allowing staff to monitor the activity and movement of visitors. The cost for the changes in hollow metal frames (\$1,951) and finish hardware allowance (\$4,905) totals \$6,856.

(iv) Painting the Existing Kennel Walls and Ceilings: Painting approximately 1,780 linear feet of walls and approximately 8,000 square feet of ceilings in the existing kennel area is requested. The original paint on the existing kennel walls and ceilings was installed in 1993. Wear and tear over the past ten years reflects exposed block walls, cracks, and peeling paint. This is especially important because of the need to control disease. The cost for painting these walls and ceiling is \$38,368.

(v) Transfer Switch and Wiring for an Emergency Generator: \$27,000 is requested to install the necessary conduit, electrical panels, wiring, transfer switch, concrete pad, etc. to house an emergency generator in the event of a disaster or state of emergency to care for the impounded animals.

(vi) Additional Architect Design Services: The firm of Lucien Roughton Architects is requesting an increase for services outside of the original scope of the project. The architect has prepared detailed drawings and specifications for the laundry room and door and frame changes in the amount of \$4,450.

Approval of this request to use \$106,495 of unobligated Animal Shelter project funds will leave a remaining unobligated project balance of \$558,873.

Resource Person(s): Mike Turner, Director of General Services; Lucien Roughton, Lucien Roughton Architects; and Cindy Bailey, Animal Control Administrator. Susan Teer and Patty Croom, representing the Animal Protection Society (APS) of Durham Inc., will also be available for questions.

County Manager's Recommendation: The County Manager recommended that the Board receive the Animal Shelter construction update and approve the request for modifications to include a laundry room, resurfacing the existing kennel floor, door modifications, painting the existing kennel walls and ceilings, wiring for an emergency generator, and additional architectural design services, not to exceed \$106,495.

Mr. Turner introduced the item. The item presentation was made in two parts: an update on the current animal shelter renovation, and the request for additional funding.

Mr. Lucien Roughton, architect, explained the three change orders to the project, some of which resulted in cost savings. The greatest additional cost was nearly \$50,000 for bad soil removal at the north end of the site, under what was to be the parking lot. The three change orders totaled \$64,938. This leaves a remaining \$6,712 contingency fund for the rest of the project.

Mr. Turner recounted where the additional \$106,000 requested would go.

Commissioner Jacobs asked that any unobligated project balance be assigned to renovating the children's facility on the YMCA campus.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to approve the request for modifications to the Animal Shelter, with the stipulation that funds left over be applied to renovating the children's facility on the YMCA campus.

The motion carried unanimously.

Commissioner Heron introduced, in attendance, Patty Croom, current President of the Animal Protection Society; Susan Teer, member; and Jennifer Sherian, the new APS Shelter Manager.

Status Update on the Community Development Block Grant—2002 Scattered Site Housing Program

The purpose of this item is to give the Board an update on the status of the Scattered Site Housing Program. The primary objective of the Community Development Block Grant—Scattered Site Housing Program is to improve the housing conditions of very low-income households with incomes at or below 50% of area median income. Eligible counties receive these funds every three years on a noncompetitive basis. The funds can only be used in the unincorporated areas of the county. As a lead agent, the County received funds by submitting a detailed plan describing how funds will be distributed to meet housing priorities.

On January 28, 2002, the Board awarded a contract to Benchmark Consulting to administer the Scattered Site Housing Program to prepare the County's application for the Scattered Site Funds. Two public hearings were held to comply with citizen participation requirements. Since that time, staff, along with Benchmark Consulting, has been working to find qualified county applicants for the program. To date, after considerable advertising of the availability of the funds, the response to the program has been minimal. Staff is recommending a media campaign to generate interest in the Scattered Site Housing Program.

Resource Person(s): Wendell M. Davis, Deputy County Manager, and Michael Walser, Vice President, Benchmark Consulting

County Manager's Recommendation: The County Manager's recommendation is that the Board receive the update on the CDBG Scattered Site Housing Program.

Deputy County Manager Wendell Davis introduced Michael Walser, Vice President of Benchmark Consulting, and presented the update regarding implementation of the program. Mr. Davis explained the CDBG Scattered Site Housing Program for the Cablevision viewing audience. He called for eligible persons to respond and make application for the available funds.

To attract more applicants, the County's Public Information Manager was requested to contact the media and other sources for further advertising. The wording should clearly describe the financial criteria.

In answer to Commissioner questions, Mr. Davis advised that about \$400,000 is initially available in the program. About 12-13 structures would be rehabilitated with about \$20,000 to \$25,000 allotted per structure. Rehabilitating an entire house for persons with special needs would be doubtful, but making one handicap-accessible could be possible.

No Commissioner action was required on this item.

Update on Status of Durham County Literacy Council Funding

The Durham County Literacy Council appeared before the Board on May 29, 2003 in support of a request for \$32,500 to provide pre-GED and GED instruction and readiness for out-of-school youth between the ages of 16 and 18. The Board did not act upon the request and suggested the submission of an application for Workforce Investment Act (WIA) funds. Lucy Haagen of the Literacy Council will be present to update the Board about the status of funding for the program.

Resource Person(s): Ellen Reckhow, Chairman; Joe Bowser, Vice Chairman; and Lucy Haagen, Durham County Literacy Council

County Manager's Recommendation: The County Manager recommends that the Board receive the report and advise the staff if any additional information is desired in advance of the Board's decision on August 25.

Vice-Chairman Bowser presented an update of the efforts to find a new space for the program. He stated that the community could ill afford to lose this program, which has been in operation for a number of years and provides a valuable service. He expressed the need to find funding to lease a space and stated he would like a specific amount quoted by the Housing Authority so that a commitment could be made.

Lucy Haagen and Sandy Washington of the Literacy Council provided background data for the literacy program and urged the Commissioners to help secure a safe facility to carry out the program—perhaps through the City's Parks and Recreation Department, at the White Building adjacent to Lyon Park. The program has growing numbers of youth applying for limited spaces. It serves the most vulnerable citizen population—16 to 18 year-olds. She stated that it has a better success rate than Durham Technical Community College. Chairman Reckhow opened the public hearing and recognized Fred Foster, who had signed to speak on the item.

Fred Foster, 5718 Whippoorwill Street, Durham, spoke as a representative of the Durham Voter Coalition, which has worked in partnership with the Literacy Council. He appealed to the Commissioners to endorse the program and to find facility space to continue this literacy program. He regarded the program as a refuge to change the future of this citizen group for the positive.

Ms. Washington called for either a commitment to funding so that a space could be leased at market rates, or help in finding a less expensive solution.

Following Commissioner discussion, Chairman Reckhow suggested that the Board make a general commitment to the Literacy Council to assist. The County would finalize the commitment to fund and seek space in the next two weeks. The County Manager will contact the City Manager to work together on the project.

Vice-Chairman Bowser added that the City should be a partner in this, because the majority of youth served by the program will come from the City of Durham.

Commissioner Heron commented that it should be remembered that the County has a stake in the Lyon Park facility.

The item would be placed on the August 25, 2003 Regular Session agenda.

Resolution Approving Financing Documents for American Tobacco Project

The Board is requested to approve the form of the financing documents, which are attached. There will be some minor changes to the documents before they are finalized. The resolution provides that minor changes may be made provided the documents remain substantially as presented.

The Board held a public hearing on the terms of the documents at its June 23, 2003 meeting. The terms of the financing were approved at that meeting. The only approval needed at this time is the form of the documents.

Resource Person(s): Chuck Kitchen, County Attorney, and George Quick, Finance Officer

County Manager's Recommendation: The County Manager recommends that the Board approve the financing documents so that the County may comply with the terms of the Development Agreement, which has been previously signed.

County Attorney Chuck Kitchen stated that this was a technical approval of the form of documents. The public hearing has been held, and the Board has already approved the terms of the financing for the South Garage, a multi-level parking garage located on the northeast corner of Julian Carr Street and Willard Street.

County Attorney Kitchen explained the documents before the Board. He advised that Capital Broadcasting would be sending proof of the lease commitments. Of more concern was that the subdivision plat had not yet been approved for the property. Until this is done, the property cannot be deeded to the County, and a Deed of Trust cannot be recorded. County Attorney Kitchen advised that the City-County Planning Department had been working on a subdivision plat and that a new plat was filed today. It was to be

approved the next day if it met all the technical requirements. All was proposed to be ready for closing on this deal the following week.

George Quick, Director of Finance, supplied the update on financing the parking deck project. He and the County Attorney had met with officials at Bank of America. If the documents were signed to close on August 20, the 4.415 percentage interest rate secured months ago would lock in for the project. If closing took place at a later date, the interest rate would increase to 5.42 percent. Also, if other factors regarding the project were not in place on time, the funds could be used for another project, subject to the bank's approval.

The County Attorney clarified for the Commissioners that the County would be closing on its financing one week before the City and Capital Broadcasting. If either the City or Capital Broadcasting did not close and the project defaulted, the County with its \$15 million would have the flexibility to utilize the funds on another project. This was the best alternate option given that the County would otherwise face an early repayment penalty of \$750,000 to \$1,000,000.

Vice-Chairman Bowser initiated discussion regarding the amount of minority participation contracted by Capital Broadcasting Company on the American Tobacco Project. He stated he could not support the project if Capital Broadcasting was not living up to its promises for minority participation on the whole project.

Finance Director Quick advised that Earth Reformers, a minority-owned contractor from Raleigh, had been contracted to clear the area and demolish the building where the deck will go. He reported that his staff was told that County funds were not involved in Capital Broadcasting's portion of the project, and that they were not prepared to give the County that information at that time.

County Manager Ruffin stated that Capital Broadcasting had sent the County a report which indicated a very high level of minority participation. Chairman Reckhow acknowledged this report. The report was to be sent again to the Board and Ms. Victoria Peterson.

A motion was made and followed with a lengthy discussion.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the financing documents.

County Manager Ruffin stated that he would contact Mike Hill at Capital Broadcasting Company on the following morning. He would seek clarification as to the minority participation involved on Capital Broadcasting's portion of the American Tobacco Project. The information would be updated and provided to the Board promptly.

Finance Director Quick urged finalization of the financing documents to avoid a higher interest rate, which could cost the County up to an additional \$3 million over the 15-year term of the loan.

Chairman Reckhow called for a vote on the motion.

The motion carried with the following 4 to 1 vote:

Ayes: Cousin, Heron, Jacobs, and Reckhow

Noes: Bowser

Chairman Reckhow requested that the County Manager contact and arrange for a meeting with the City Manager, Mayor Bell, Jim Goodman from Capital Broadcasting Company, Commissioners Reckhow and Bowser, and the County Manager to work to bring the American Tobacco Project to finalization. She spoke to the need for accountability on the project given the public's participation. She indicated her intent to bring forth quarterly reports to the Board regarding the level of minority participation on County projects.

Finance Director George Quick and the Commissioners discussed minority participation further. A marked increase was noted in the number of small contracts being awarded to M/WBE companies. The question was posed as to whether there are minority contractors in the community that have the capacity to carry out the big jobs. Commissioner Jacobs suggested that any report should include this capacity, in order to put the level of participation into perspective.

Items Added to the Agenda

Four-Year Terms for County Commissioners

Vice-Chairman Bowser brought forth the subject of "four-year terms." He commented that Durham is one of the only two counties in the state with two-year terms for its County Commissioners. He expressed concern over the short tenure of Commissioners, and that campaigning is a distraction to conducting the business of office and is a very expensive undertaking. Election to four-year terms would allow the Commissioners to spend less time campaigning and more time devoted to effective representation. It would be more fair.

The County Attorney addressed the options and procedure for affecting change. The Commissioners must first determine the type of board structure it would want, then adopt a resolution. The resolution would describe the proposed alteration to the election process—such as four-year terms, either staggered or non-staggered—and include an effective date and manner of transition. The referendum would be called on the question of adoption of the alterations. The referendum may be conducted with any other election or 60 days before or after a general election.

Commissioners Cousin, Jacobs, Heron, and Reckhow agreed this would be a very good position for the Board to take at this time. It would lead to better government with greater continuity.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to direct the County Attorney to prepare a resolution for the voters of Durham County to decide in November 2003 whether or not the County Commissioners would become elected to four-year terms or continue to be elected to two-year terms.

Chairman Reckhow asked that the resolution, when presented on the August 25, 2003 agenda, include background material listing all the counties in the state and describing what terms their commissioners hold. This should be available from the Institute of Government or the NC Association of County Commissioners.

Noting that all members of the press had left the Commissioner meeting, Chairman Reckhow asked the County Manager to notify the press that this decision had been made and that the item would be placed on the August 25, 2003 Regular Session.

County Attorney Kitchen stated he would check with Mike Ashe, Board of Elections Director, to ensure there is not a problem with timing for placement of the referendum on the November election.

The motion carried unanimously.

Staff Leave Permission

Vice-Chairman Bowser stated he had received calls for assistance from several Durham County employees. Administrative policy requires that employees contact their managers if they must be absent that day due to illness or emergency. Employees have complained that they were only able to reach their managers' voice mail. The Vice-Chairman suggested that an alternate plan be enacted to allow employees to report perhaps to the County Manager's office or other office. The County Manager was asked to look into this matter and report back.

Availability of Minority Contractors in Durham

Vincent Brown, owner of Brown's Painting Company Inc., and recent owner of Hairston Enterprise General Contractors Unlimited, addressed the Board regarding minority contractors in the Durham area. He stated he was also president of the Durham Minority Contractors Association and a board member of Carolina Minority Contractors Association, which is statewide. He remarked that he was watching the meeting on Cablevision at home and felt the need to clarify a statement made. He stated that, whereas the Finance Director stated he was aware of only one, there are actually seven minority unlimited general contractors in this area. He stated that he was bondable up to \$14 million.

Chairman Reckhow thanked Mr. Brown for the clarification and asked him to send contact information regarding these contractors to County Manager Mike Ruffin.

Board and Commission Appointments

Chairman Reckhow commented that newspaper advertisements for applicants to fill spaces on boards and commissions would be changed to include any categorical requirements of geography or occupation. This should avoid applications being submitted by ineligible persons.

Chairman Reckhow asked Deborah Craig-Ray, Public Information Officer, to utilize the County's Website to seek applicants for hard-to-fill positions on several boards. She also asked Garry E. Umstead, Clerk to the Board, to forward a copy of the newspaper advertisements to the Commissioners, so that they could seek applicants for openings as well.

Garry E. Umstead, CMC, Clerk to the Board, distributed ballots to make appointments to the following boards and commissions (asterisks indicate appointments):

Adult Care Home Community Advisory Committee:

Six vacant positions (expire September 2004)

- * Robert F. Deerin—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Beverly A. Johnson—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * R. Patrick Radack—Bowser, Cousin, Heron, Jacobs, and Reckhow (Mr. Radack has declined the appointment due to family circumstances.)

Alcoholic Beverage Control Board:

Two expired terms (expire July 31, 2006)

- * E'Vonne Coleman—Bowser, Cousin, Heron, Jacobs, and Reckhow
Eric C. Michaux (ineligible)—no votes
- * Kimberly Thornton—Bowser, Cousin, Heron, Jacobs, and Reckhow

Animal Control Advisory Committee:

One expired term (expires January 2006)

- David N. Blodgett—no votes
- Dr. James A. Bond—Reckhow
- * John Stephens—Bowser, Cousin, Heron, and Jacobs

Animal Control Review Board:

One expired term (expires October 31, 2004)

- * Dr. James A. Bond—Bowser, Cousin, Heron, Jacobs, and Reckhow

Bicycle and Pedestrian Advisory Commission:

Two expired terms (expire June 2006)

- Jimmy L. Gamble—no votes

- * Thad Howard—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Judy Martell—Bowser, Cousin, Heron, Jacobs, and Reckhow
- Courtney Weill—no votes
- Robert M. Zucker—no votes

Board of Adjustment:

One unexpired term and one expired term (two alternate positions) (terms expire June 30, 2006)

- David N. Blodgett—no votes
- * Daniel Edwards—Bowser, Cousin, Heron, Jacobs, and Reckhow

City-County Appearance Commission:

One expired term (expires April 2006)

- * John E. Felton—Bowser, Cousin, Heron, Jacobs, and Reckhow
- Allyson Blyth Morrell—no votes
- John Wood—no votes

Juvenile Crime Prevention Council:

Nineteen expired designated positions (expire June 30, 2005)

- * Rachel Botts—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Lt. Gregory Brown—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Arnold Dennis—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Dr. Betsy Feifs—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Gayle B. Harris—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Gudrun Parmer—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Donnie Phillips—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * R. Patrick Radack—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Dr. Paulette B. Bracy—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Mickey Brown—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Angela Nunn—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Harold E. Burch—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Antoinette Cooke—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Mariecia Smith—Bowser, Cousin, Heron, Jacobs, and Reckhow
- John Stephens—Bowser, Cousin, Heron, and Jacobs
- * Daniella Gabriel—Bowser, Cousin, Heron, Jacobs, and Reckhow

Memorial Stadium Authority

One expired term (expires May 2008)

- * James T. Hedrick—Bowser, Cousin, Heron, Jacobs, and Reckhow

Multi-Jurisdictional Advisory Board

Two expired terms (expire April 2006)

- * Edward Harrison—Bowser, Cousin, Jacobs, and Reckhow
- * John Stephens—Bowser, Cousin, Heron, Jacobs, and Reckhow

Nursing Home Community Advisory Committee

Five expired terms (initial terms are for one year; subsequent terms for three years)

- * Robert F. Deerin—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Marilyn J. Partin—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * John Stephens—Bowser, Cousin, Jacobs, and Reckhow

Open Space and Trails Commission

Three vacant positions for the Carr/Oak Grove, Lebanon, and Mangum Townships
(expire December 2006)

- Leroy Joyner (ineligible)—no votes
- * Matthew Morrel—Bowser, Cousin, Heron, Jacobs, and Reckhow
- Gary A. Rains (ineligible)—no votes
- John Stephens (ineligible)—no votes

Public Library Board of Trustees

One unexpired term (expires July 31, 2004) and one expired term (expires July 31, 2006)

- David N. Blodgett—no votes
- Herbert L. Carson—no votes
- Steve Jones—no votes
- Jon C. Miller—no votes
- * Lionell Parker—Bowser, Cousin, Heron, Jacobs, and Reckhow
- Mohammad S. Rashdi—no votes
- John Stephens—no votes
- * Wanda Wagstaff—Bowser, Cousin, Heron, Jacobs, and Reckhow

Triangle J Water Resources Committee

One expired term (expires September 30, 2004)

- G. Michael Freeman—Bowser
- Ed Harrison—Cousin
- * John Schrum—Heron, Jacobs, and Reckhow
- John Stephens—no votes

Women's Commission

Four expired terms (expire June 2006)

- * Dr. Michele A. Medinsky—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Mariecia Smith—Bowser, Cousin, Heron, Jacobs, and Reckhow

- * Tonja L. Washington—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Courtney Weill—Bowser, Cousin, Heron, Jacobs, and Reckhow

Workforce Development Board

Three expired terms (expire June 2005)

- * Daniel C. Hudgins (Public Assistance Agency position)—Bowser, Cousin, Heron, Jacobs, and Reckhow
- * Frank Johnson (Community-Based Organization position)—Bowser, Heron, Jacobs, and Reckhow
- Tonja L. Washington (Community-Based Organization position)—Bowser and Cousin
- * Jessie Pickett-Williams (Vocational Rehabilitation Agency position)—Cousin, Heron, Jacobs, and Reckhow
- Johnny D. Hawkins (ineligible)—no votes
- Gudrun Parmer (ineligible)—no votes

County Manager's Recommendation: The County Manager recommends that the Board of County Commissioners vote to appoint members to the above-mentioned boards/commissions.

The Commissioners voted their ballots. The results were read by County Attorney Chuck Kitchen.

Closed Session

The Board of County Commissioners is requested to adjourn to closed session pursuant to G.S. 143.318.11(a)(6) to consider a personnel matter.

This item was deferred until the August 25, 2003 Regular Session. The item would follow the 4:00 p.m. meeting with the Durham Public Schools Board of Education.

Adjournment

There being no further business, the meeting was adjourned at 10:48 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board