

**CITY OF DURHAM**

OFFICE OF THE MAYOR

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March 19, 2009

Dear Elected Officials and Managers of local governments in Orange County,

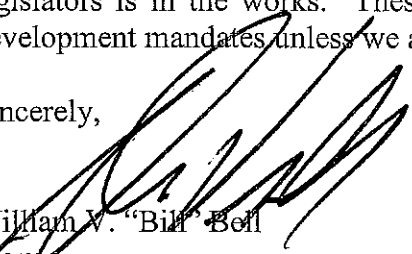
I write to encourage you to enact a resolution in support of a compromise on the contested Jordan Rules. Like the City of Durham, you have probably received a request from the Chatham County Commissioners to support all of the proposed Jordan Lake Rules. Durham's City Council has declined to do that. Instead, our Council believes that the most reasonable approach to the Jordan Rules must involve a substantial modification to the existing development rule. We hope you will agree, and adopt official positions similar to Durham's.

Durham has been proactive in many environmental initiatives over the years. However, our Council cannot support the Jordan Rules, given the questionable science and assumptions behind the rules and their immense economic impact. They target a water body that, in the main, is functioning well, especially in light of the dire predictions made when it was created. In particular, they impose unreasonable costs on the Upper New Hope governments and their citizens. The Upper New Hope arm plays a valuable role in reducing pollutants that would otherwise be reaching the Lower New Hope arm. Requiring our arm to meet the same water quality standards that more "pristine" water sources meet makes no sense. If you are interested in reviewing more materials regarding the Jordan Rules, Durham's web site at [http://www.durhamnc.gov/departments/wm/jordan\\_lake\\_rules.cfm](http://www.durhamnc.gov/departments/wm/jordan_lake_rules.cfm) contains a number of useful resources, including an informative engineering article regarding the lake's history.

The Durham City Council has approved a resolution that we believe sets forth a reasonable compromise on the Jordan Rules. I attach it for your consideration and support. Although our position is a compromise, in no way do we believe that it compromises the health of the lake. The tight restrictions on wastewater and on new development will ensure that local governments, rate-paying citizens, and private sector developers will be contributing significant resources toward the goal of continuing to protect the health of Jordan Lake.

It is important that Triangle governments speak up *immediately, with one voice*, with regard to the Jordan Rules. Alternative legislation to the total disapproval bills already submitted by legislators is in the works. These alternatives may not make the changes needed to existing development mandates unless we act in concert.

Sincerely,



William W. "Bill" Bell  
Mayor

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RESOLUTION SUPPORTING THE ADOPTION OF  
GENERAL LEGISLATION TO MODIFY THE JORDAN LAKE RULES

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WHEREAS, the City of Durham and its citizens have been leaders over the years in protecting the environment in wastewater treatment, water quality, land use regulation, buffer protection, open space preservation, and stormwater regulation;

WHEREAS, since the impoundment of Jordan Lake in 1983, Durham's citizens have sustained special and extraordinary costs to prevent nutrients from reaching Jordan Lake, such costs including over 40 million dollars over the last fifteen years to reduce nitrogen and phosphorus in wastewater and over 30 million dollars to address stormwater pollution;

WHEREAS, Rules adopted for Jordan Lake in 2008 by the Environmental Management Commission are unprecedented in the state in mandating that the City of Durham and a few other local governments reduce nitrogen from "existing development" by 35% and phosphorus by 5%, with a time frame for achieving such reductions;

WHEREAS, cost estimates of the impact of those Rules, using reliable data from state experts, show that Durham's citizens will pay at least 570 million dollars over the next 20 years to fund retrofits to comply with the Rules, in addition to costs they will pay for additional nutrient reductions in wastewater treatment;

WHEREAS, compliance with the existing development requirement will cause Durham's stormwater rates to increase at least seven-fold, with rates for smaller homes increasing from \$26 a year to \$200 a year, and for larger homes from \$54 a year to \$416 a year;

WHEREAS, these costs are unnecessary for protection of the Lake, will not achieve expected results, will cause significant hardship to Durham's citizens, and will hamper further economic development;

WHEREAS, mandates to reduce nutrients from existing development could also force the City to condemn private property, and would result in considerable valuable residential and commercial property being removed from the City's tax base;

WHEREAS, prior to construction of Jordan Lake by the Army Corps of Engineers, water quality problems were predicted by scientists from UNC-Chapel Hill, NC State, and Duke, by conservationists, and by many local governments and these concerns led to widespread opposition in the 1960's and 1970's to the construction of the Lake;

WHEREAS, in fact Jordan Lake performs better than predicted, in part because local governments and authorities in the Upper New Hope arm -- Durham City, Durham County, and the Orange Water and Sewer Authority (OWASA) -- have funded approximately 100 million dollars of wastewater treatment upgrades to reduce nitrogen and phosphorus in the Lake;

WHEREAS, Jordan Lake functions well for all of its intended uses -- flood control, improved downstream water quality, conservation of fish and wildlife, drinking water supply,

and recreation – even though its suitability for uses such as drinking water were doubted at the time of the Lake’s creation;

WHEREAS, studies have shown that nitrogen loads have **declined** in the Upper New Hope and Haw River arms over the last twenty years and further declines will occur without imposition of the existing development rule;



WHEREAS, the Jordan Rules were promulgated based on limited sampling of Chlorophyll *a*, an imperfect predictor, with samples taken in years influenced by drought and unusual weather conditions, and the consultant responsible for the Lake model noted the “considerable analytic uncertainty” in the measurements used;

WHEREAS, under the Rules, jurisdictions in the Upper New Hope arm, including the City of Durham, will be required to impose the strictest limits on nutrient runoff for new development that exist anywhere in North Carolina;

WHEREAS, the City needs time to “optimize” its South Durham plant and to study, plan, bid, and contract for additional nitrogen and phosphorus upgrades, and the date of 2016 proposed in the Rules that were originally published by the State allows for such time; now, therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DURHAM THAT:

1. The Council opposes portions of the Jordan Rules as enacted by the Environmental Management Commission, in particular,
  - a. the mandate to reduce nutrient runoff from existing development;
  - b. implementation of new nitrogen limits for point sources prior to 2016;
  - c. enforcement of the buffer requirements of the Rules by local governments rather than by the State, as has been done in the Neuse and Tar Pamlico programs;
  - d. identification of the Jordan Basin as a “critical water supply watershed.”
2. The Council supports further reducing nutrients in Jordan Lake through, among other measures, further reduction of nutrients in wastewater plant discharges to all arms of the Lake; implementation of buffers; additional controls on new development, including projects controlled by local governments, DOT, and the state; mandatory changes in agricultural practices; changes in fertilizer content and application practices; implementation of “Phase 2” stormwater programs throughout the Jordan Basin; and expected reductions in atmospheric nitrogen.
3. The Council urges the General Assembly to modify requirements relating to existing development for the Jordan Basin so that, at most, they parallel what was implemented in the Tar-Pamlico and Neuse Basins, watersheds with water bodies that have more severe pollution problems than does Jordan Lake.
4. The Council authorizes the Mayor and City staff to take all necessary steps to implement the above objectives, including, where necessary, supporting compromises that achieve the general objectives of this Resolution.
5. This Resolution is effective upon adoption.

  
  
CITY CLERK