

February 2, 2004

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

Monday, February 2, 2004

9:00 A.M. Work and Regular Sessions

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

Welcome

Chairman Reckhow welcomed everyone to the Worksession and Regular meeting of the Board of County Commissioners Monday, February 2, 2004, since we cancelled last Monday's regular meeting. We will be taking up items of business at this meeting.

Agenda Adjustments

Chairman Reckhow requested that agenda item no. 13 be moved after consent agenda item no. 14 and possibly move it to 16a. depending on time.

We will proceed as outlined on the agenda.

Citizen Comments—Ralph McKinney Jr.

Mr. Ralph McKinney Jr. requested time on the agenda to speak to the County Commissioners about sexual abuse and racial prejudices in Durham County.

He spoke to the Board of County Commissioners about sexual abuse and racial prejudices in Durham County.

No action was taken by the Commissioners.

Citizen Comments—Felicia McNeil

Ms. Felicia McNeil requested time on the agenda to speak to the County Commissioners concerning The Durham Center, Urban Ministries, management of Durham County finances, and housing for the homeless.

Ms. McNeil did not attend the meeting to make her comments to the Commissioners.

Citizen Comments—Ephesus Church Road Sewer

The following citizens requested time on the agenda to speak to the County Commissioners regarding the sewer on Ephesus Church Road:

Ella Woods
Lillian Roberts
Mary R. Hart
Atty. Charles Day
Isaac Woods

Resource Person(s): Commission Vice-Chairman Joe W. Bowser

Mr. Isaac Woods said he represents the minority property owners that are located where the new Elementary A school is being built on Ephesus Church Road. Our major concern is that the sewer line is being installed where it will not serve the community. The elevation of the sewer line is approximately four feet higher than we have seen a sewer line installed.

Mr. Woods presented the County Commissioners a detail report on the Ephesus Church Road sewer project as it relates to the neighborhood and the school project.

Chairman Reckhow asked the County Manager to set up a meeting this week with Hugh Osteen, Durham Public Schools, Isaac Woods, concerned citizen, Andy Oakley, representing Coulter,

February 2, 2004

Jewell, Thames, engineers for Durham Public Schools, and Katie Kalb, City of Durham Public Works Department, to discuss this sewer project.

The Board of County Commissioners had a lengthy discussion about the Ephesus Church Road Sewer project.

Ms. Ella Woods asked for permission to speak about the sewer line going through the Daniel's property. She also discussed the need for water sewer lines in the area.

Vice-Chairman Bowser said it is normal for a public water and sewer system to follow the public right-of-way. The residents assumed that the utility lines would follow the public right-of-way. Commissioner Bowser stated that he called Dr. Ann Denlinger, Superintendent, Durham Public Schools, to see if the Board of Education would lower the sewer line on the Daniels' property so other families could connect to the utility line. The school system rejected the request. Commissioner Bowser said his problem is that the Daniels property is going to be developed. He said for some time now that this school is a deal for someone in the area. It is obvious now that the Daniels' property was the reason that the school is being built out there. I am not going to sit here and let the school system get away with putting a public sewer line through private property in order to accommodate a private development when we have citizens living out there for two hundred years and we refuse to accommodate them.

Vice-Chairman Bowser said that the County Commissioners should go back and revisit the sewer line project and asked the school system to put the sewer line on the public right-of-way and let the developer pay for his own sewer line out there and don't ask the citizens of Durham County pay for it.

Chairman Reckhow wanted the County Manager to set up the meeting and send a copy of the report to the Commissioners.

Ms. Ella Day Turrentine, concerned citizen, made comments to the Commissioners about her house and the sewer system.

No official action was taken on the agenda item other than giving the County Manager a directive about the meeting.

Citizen Comments—Melvin Whitley

Mr. Melvin Whitley, representing the Coalition to Reduce Plea-Bargaining of Violent Gun Crimes in Durham, Durham NAACP, requested time on the agenda to make a request of the County Commissioners involving judicial matters.

Mr. Whitley asked permission to let Steve Matherly, representing Peoples Alliance, to make a short comment about gun violence.

Steve Matherly, President, Peoples Alliance, and a member of the Executive Board of the NAACP said he has taken a lot of information to the Peoples Alliance for its consideration. We don't have a particular stand at the moment. We are very concerned about gun violence. I wanted to speak up in support of Melvin's proposal.

Melvin Whitley, 2614 Harvard Avenue, was speaking on behalf of the Coalition to Reduce Plea-Bargaining of Violent Gun Crimes in Durham. He said that the NAACP has taken the leadership under the able leadership of President Joe W. Bowser. He spoke to the Commissioners about gun violence and what is being and should be done to curb gun violence.

Melvin Whitley said that he is coming to the Commissioners on the citizens' side to ask you to add to the legislative agenda a request for two judges and two prosecutors. We are also asking that you support the request that the judges require the individual that have not complete high school to work on their GED.

We are requesting that you support the initiative to ask the Parole Board that a high school education be a part of a parole stipulation.

Chairman Reckhow said that the County Commissioners will be considering the court needs in the next month or so with our legislative agenda.

No official action was taken on agenda item no. 5.

Chairman Reckhow requested that agenda item no. 6 be placed in front of agenda item no. 5.

Quarterly M/WBE Report on American Tobacco Project

Officials from Capitol Broadcasting Corporation (CBC) provided a report about the status of the American Tobacco Project and the M/WBE results achieved to date. The project represents a guaranteed minimum private investment of \$54 million. CBC's agreement with the County

February 2, 2004

requires compliance with the County's M/WBE Ordinance, including the provision of quarterly reports as the project progresses. Reports must include verifiable percentage goals; type and total dollar value of projects; minority business utilization by minority business category for each project; and the applicable good faith guidelines or rules used to recruit M/WBE participation.

Resource Person(s): Mike Hill, Capitol Broadcasting Corporation

County Manager's Recommendation: The Manager recommended that the Board receive the report and advise staff if any additional information or action is required.

Mike Hill presented the quarterly M/WBE report on American Tobacco Project.

Mike Hill said he came to present to the Commission the second quarterly report on the M/WBE performance results as required by the development agreement.

We are about 60 to 70 percent through the letting of contracts. A lot of work is yet to be awarded. We are not done yet. We are trying to complete and to put out the major bid packages on the street.

Mr. Hill went through the report to let the Commissioners know how the report is put together and what sections support the report.

The following results are reported in the second quarterly report:

1. \$5,887,233 has been awarded directly to M/WBE companies, vendors, and professionals.
2. As of January 19, 2004, the project had engaged 21 different M/WBE contractors, vendors, and professionals.
3. For campus work, 19.27 percent of the eligible construction work and 18.80 percent of the total eligible work has gone to M/WBE companies.
4. For the South parking deck work, 40.48 percent of the eligible construction work and 35.93 percent of the total eligible work has gone to M/WBE companies.
5. For the North parking deck work, 56.78 percent of the eligible construction work and 40.27 percent of the total eligible construction work has gone to M/WBE companies.
6. For the campus work, 16.40 percent of the total construction work and 15.33 of the total project work has gone to M/WBE companies.
7. For the South parking deck work, 9.65 percent of the total construction work and 10.71 of the total project work has gone to M/WBE companies.
8. For the North parking deck work, 5.29 percent of the total construction work and 6.98 percent of the total project work has gone to M/WBE companies.

No official action was taken on this agenda item.

Time Warner Cable Presentation

Time Warner made a presentation detailing the process by which basic cable rates are calculated. The presentation covered new products and services, their contributions to the community, as well as factors contributing to the rate adjustments for 2004.

Resource Person(s): Brad Phillips, V. P., Government and Public Affairs, and Andi Curtis, Public Affairs Manager, Time Warner Cable

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

Brad Phillips, V. P., Government and Public Affairs, and Ms. Curtis presented the report to the Board of County Commissioners.

Andi Curtis made the initial presentation to the Commissioners.

Brad Phillips and Andi Curtis responded to the County Commissioners' questions and comments.

Commissioner Heron requested a report from Time Warner Cable concerning what is being done in the Bahama – Rougemont area about expansion and providing more services.

Mr. Phillips proposed that Vice-Chairman Bowser and any other Commissioner set up a meeting with our Vice-President, Finance and review the 1240 forms.

Chairman Reckhow said she wanted to be involved with the meeting with Time Warner Cable. She would like to invite Reverend James Vaughn and the other members of the Cable TV Advisory Board.

Reverend James Vaughn, Chairman of Durham County Cable TV Advisory Board, asked several questions to Brad Phillips for a response.

February 2, 2004

No official action was taken on the agenda item.

Advertising of Tax Liens

Authorize the Tax Administrator to provide public notice and advertise the 2003 delinquent tax liens. N.C.G.S. 105-369 states the advertisement of tax liens shall be made during the period March 1 through June 30.

<u>Levy</u>	<u>Fund</u>	<u>Outstanding</u>
\$ 136,941,140.32	County	\$ 15,530,003.03
\$ 14,196,553.98	Capital	\$ 1,502,928.74
\$ 916,926.57	Bethesda	\$ 42,050.32
\$ 541,390.36	Lebanon	\$ 55,387.47
\$ 966,926.57	Parkwood	\$ 140,178.80
\$ 488,321.36	Redwood	\$ 121,512.03
\$ 40,438.96	New Hope	\$ 3,484.88
\$ 17,367.26	Eno	\$ 1,126.43
\$ 300,218.61	Bahama	\$ 28,932.79
\$ 349,986.29	RTP Special	\$ 24,141.01
\$ 79,622,395.99	Durham City	\$ 8,394,184.59
\$ 1,314,606.93	Town of Chapel Hill	\$ 73,150.48
\$ 11,875.07	Butner	\$ 1,096.73
<u>\$ 132,609.98</u>	City of Raleigh	<u>\$ 8,493.29</u>
\$ 235,840,330.45		\$ 24,926,670.59

Resource Person(s): Kenneth L. Joyner, Tax Administrator

County Manager's Recommendation: The Manager recommended that the Board suspend the rules and approve the Tax Administrator's request to begin advertising the 2003 tax liens in the month of March.

Kenneth L. Joyner said his office is in the process of preparing to advertise the 2003 delinquent tax liens.

The Board of County Commissioners must order the tax administrator to advertise the tax liens. The dollar amount will be reduced to the actual amount owed until the list goes to the newspaper for publication on March 1. The advertising date will be March 8, 2004.

Once we receive the order from the Board, by statute, we will send out notices to everyone informing them of the forthcoming advertising and if they don't pay their taxes, the taxes will be advertised. Board and commission members will also be notified about delinquent taxes.

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to suspend the rules, when appropriate, in order to take a vote.

The motion carried unanimously.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve the tax administrator's request to begin advertising the 2003 tax liens in the month of March.

The motion carried unanimously.

The Commissioners asked questions about tax collection and foreclosure.

Kenneth Joyner and County Attorney Chuck Kitchen responded to the questions and comments.

Chairman Reckhow said the tax administrator is reevaluating the foreclosure process. The Commissioners should get a report as to what you are going to do. It may help to address the equity issues Vice-Chairman Bowser is talking about.

Tax Administrator Joyner asked the Commissioners if they were going to bring forward the same names for their Equalization and Review Board members from last year. Commissioner Heron had submitted her representative's name. The other four Commissioners said they were going to appoint the same persons they appointed last year.

Kenneth Joyner said he was going to mail out the present use requalification letters next. The Commissioners may get phone calls about the letters.

February 2, 2004

9-1-1 Departmental and Surcharge Status Report

Durham Emergency Communications Center will make a presentation to the Board of County Commissioners outlining the management changes that have occurred within the department and plans for expenditures from the surcharge.

Resource Person(s): Cheryl Smith, Assistant Communications Manager – Staff Services
Tonya Pearce, Acting Assistant Communications Manager – Operations
Mavis Galantis, Training Coordinator

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

County Manager Mike Ruffin said that Finance Director George Quick and Kim Connally prepared the Surcharge Fund Analysis for the Commissioners. That report was prepared from a request that Commissioner Heron made several months ago. If there are questions about the Surcharge Fund Analysis, they should be directed to George Quick and Kim Connally or the County Manager.

Mike Ruffin said he is going to ask the Internal Auditor to work with the City to look at the equipment related expenses spent locally during the last few years. The audit is something we have not done that should be done. Durham County is responsible for the fund although we do not spend the money. We get a reimbursement request each fiscal year for those expenditures. The administration will share the audit report with the County Commissioners.

Commissioner Heron said that after the presentation, she had some comments and suggestions to make.

Cheryl Smith, Assistant Communications Manager – Staff Services began the presentation by introducing the staff present. She introduced Acting Director Bill Bidy, Tonya Pearce, Acting Assistant Communications Manager – Operations, and Mavis Galantis, Training Coordinator.

Ms. Smith made summary remarks about the presentation. The areas to be highlighted included 9-1-1 Surcharge Status, Work Plan, Back-up Center, Training Curriculum Outline, General Statute 62-A, and recruitment.

Cheryl Smith recognized Ms. Pearce to review the items of interest in the 9-1-1 Departmental and Surcharge Status Report dated January 5, 2004.

Chairman Reckhow recognized the Commissioners for questions to the 9-1-1 Center personnel.

Commissioner Heron asked several questions about differential pays (working 33-hour weeks being paid for 40 hours). She committed that she has a real problem with the differential pay plan. She also asked several questions based on the letters she received concerning favoritism in the department and other things going on in the department. Commissioner Heron expressed concern about not having 12 people working on each shift.

Commissioner Heron commented on the consideration of potentially building an emergency management and an emergency communication center different from where we are located now because of security reasons. There needs to be a more secure facility for 911. The managers are working to see about the possibility of putting the 911 Communication Center under Emergency Management so we will have all the emergency facilities in the County and City under one umbrella under Emergency Management.

Commissioner Heron said that she still had some major concerns about the issues that she brought up. I have some major concerns about what the employers wrote to the governing bodies. I hope there will be lot of communication between the two managers. Staffing needs to be increased to have more available help.

Commissioner Heron asked the County Manager, when a purchase is made using surcharge money do those contracts come to the County for approval. Commissioner Heron said the contracts need to be approved by the County Commissioners because the County is responsible for surcharge money. We should be accountable.

Chairman Reckhow said we need an analysis of the cash flow as it relates to capital and equipment needs and what the Board could expect the next three to five years relating to how these funds may be used. We need some analysis of what we are spending in relations to what we generate in terms of cost.

County Attorney Chuck Kitchen responded to several questions the Commissioners had about revenues and expenditures for the 911 system.

February 2, 2004

Chairman Reckhow said the interlocal agreement requires the County to pay 28 percent and the City pays 72 percent for the 911 service. We need an accounting to find out if that breakout is appropriate.

Vice-Chairman Bowser said the County should provide the service and take over the 911 function and take the City out of the equation.

Tonya Pearce responded to several questions from the County Commissioners.

County Manager Ruffin responded to questions about the 911 system.

The County Commissioners should look into the possibility of the County taking over the 911 system.

Commissioner Heron spoke about the surcharge money. She said she is not nervous about having \$2,000,000 in that account because there are going to be some major improvement to the CADE system.

Tonya Pearce said the cell phone project is ready to start receiving phase two wireless information. The cell phone equipment would tell the location of the person calling. The 911 system is ready and the carriers are still working with the Federal Communications Commission (FCC) to complete the project.

Interlocal Reconciliations

The Finance Department requests that the BOCC approve the transfer of \$148,417 from the contingency fund and \$349,327 from the 911-surcharge fund for payment of outstandings due under the 1996 through 1999 interlocal agreements with the City of Durham. These funds, which total \$497,745, are described below:

	FY95-96	FY96-97	FY97-98	FY98-99
Emergency Comm. GF	51,432	97,839	(35,534)	(23,104)
Emergency Comm. Surcharge	(520,633)	690,514	103,869	75,576
Civic Center	(44,382)	(37,188)	(48,872)	23,782
Emergency Management	46,797			7,004
Planning Department	64,157	14,259	192,708	94,639
Inspections Department	(22,790)	(47,355)	(36,177)	(3,106)
GIS				9,290
Landfill Tipping Fee	95,648	(70,240)	(53,308)	
Sales Tax Audit			(65,472)	
TMA Tax Revenue Audit			(52,028)	
Youth Coordinating Board			(1,857)	6,464
Payments				(117,138)
Total **	\$ (329,771)	\$ 647,829	\$ 3,329	\$ 73,407

** () = Due to County from the City
without () = Due from County to the City

Total Interlocals	\$ 394,794
800 MHZ Radios	<u>\$ 102,951</u>
Total due to City	<u>\$ 497,745</u>

The \$102,951 payment for 800 MHZ Radios is an amount due to the City and authorized for payment by the BOCC in FY 99, but was never paid. The amount results from a \$687,451 bill charged incorrectly to the Emergency Telephone System Fund rather than to the General Fund during FY 98 and a \$584,500 charge to the General Fund in FY 96 that should have been charged to the Emergency Telephone Fund (revealed in a FY 98 Internal Audit).

The \$102,951 balance due the Emergency Telephone Fund was due to be paid during FY 99, but was not, and is part of this request.

It should be noted that the City of Durham has netted our payment (\$497,745) against the amount due Durham County (\$583,431—Agreed Upon Procedure Audit/Utilities Audit) and forwarded to Durham County the difference (\$85,686). Release of the above-mentioned funds is necessary to close the transactions on the County books. With the closing of this transaction, all reconciliation of interlocals will be complete through FY 2002.

Resource Person(s): George K. Quick, Finance Director

County Manager's Recommendation: The County Manager recommends that the BOCC suspend the rules to approve the report and authorize the placement of a budget amendment on the February 9, 2004 consent agenda.

February 2, 2004

Chairman Ellen Reckhow recognized George K. Quick, Finance Director, to make a presentation on the interlocal reconciliations. Mr. Quick said he learned during the utility audit with the City last year that the Interlocal reconciliations had not been done for FY 95-96, FY 96-97, FY 97-98, and FY 98-99. He had his staff compile the information, so the reconciliations could be done. Funding was not available to pay the City what the County owed the City. The County set aside in the 2004 budget sufficient money to pay the City what was owed as determined by the reconciliations.

George said he was here today to ask permission to move funds from the various accounts within the budget so the finance area could complete that transaction from an internal stand point.

County Manager Ruffin said the actual budget amendment will appear on the agenda next Monday night. This is just the mechanics of the journal entry.

Commissioner Heron said she wanted to know what the \$349,327 from the 911 surcharge fund for payment of outstanding due was for. She also wanted to know the breakdown of the \$394,794 for the total interlocals. Commissioner Heron said she had a concern about the emergency surcharge fund money.

Commissioner Jacobs moved, seconded by Vice-Chairman Bowser, to authorize the placement of a budget amendment on the February 9, 2004 consent agenda.

The motion carried unanimously.

ERP Project – Final Vendor Selection

On December 22, 2003, the ERP Committee informed the Board of County Commissioners that it had reduced the possible choices of vendors to three: Peoples Software, Munis, and Siemens SAP. The committee also indicated that the cost of the project could be as high as \$3,600,000. The committee completed the process and prepared to recommend Siemens SAP at a cost of \$3,425,000. This vendor was the unanimous choice of the committee. Siemens SAP met the requirements of all the stakeholders, was not the most expensive, was user friendly and had very positive recommendations from its current users. The conversion is projected to be a 54-week process. The budget for FY 2005 will reflect the additional temporary manpower needed to complete the conversion.

As such, the committee recommended approval of the selection and authorization for the Manager to sign the appropriate contracts to move the process forward.

Resource Person(s): George K. Quick, Finance Director

County Manager's Recommendation: The Manager recommended that the Board receive the presentation and place the recommendation by the ERP Committee on the Consent Agenda for the February 9, 2004 Commissioners' meeting.

Chairman Reckhow recognized George Quick, Finance Director, to make comments about the ERP Project – Final Vendor Selection.

The ERP Committee will bring forth a contract to support the contract.

George Quick answered several questions the Commissioners asked.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to place the recommendation by the ERP Committee on the Consent Agenda for the February 9, 2004 Commissioner's meeting.

The motion carried unanimously.

Consent Agenda

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

- a. Approval for the Tax Assessor to Use the North Carolina Department of Revenue Cost Index and Depreciation Schedules for Business Personal Property Valuation (approve the request of the Tax Administrator to use the North Carolina Department of Revenue Cost Index and Depreciation Schedules for the 2004 tax year and all subsequent tax years);

February 2, 2004

- b. Purchase of Vehicles for the Department of General Services, Animal Control, and the Sheriff's Office (IFB No. 04-015) (authorize the County Manager to enter into a contract with University Ford Inc. for \$518,867.68);
- *c. Property Tax Releases and Refunds for Fiscal Year 2003-04 (December) (accept the property tax release and refund report as presented, and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- *d. Declaration of Surplus Personal Property and Approval of Resolution to Donate to Nonprofit Corporations (declare the personal property as surplus; authorize the donation of the personal property to the Partnership for a Drug Free North Carolina Inc., the Freedom House Inc., and Coastal Horizons Inc. on the condition that said property be used for a public purpose; authorize the County Manager to enter into an agreement which reflects the terms of the conveyance as set forth herein);
- e. Standard Non-Reimbursable Contract for the Extension of the County Sanitary Sewer System (Alexander Crossing—Phases 2, 3, & 4) (authorize the County Manager to execute the Utility Contract for this addition to the County sanitary sewer system);
- *f. Declaration of Surplus Personal Property and Approval of Resolution to Sale to Another Governmental Unit (declare the personal property as surplus, authorize the sale of the personal property to Orange-Person-Chatham Mental Health Area Authority in the amount of \$10,494.00, and authorize the County Manager to enter into an agreement which reflects the terms and conditions of the sale);
- g. Lease Amendment and Subleases for 102 East Main Street (approve the lease amendment for 102 East Main Street and the two subleases for Carolyn Cordasco and Coastal Horizons Center Inc. for a portion of the overall leased space; authorize the County Manager to execute the lease amendment and both subleases);
- *i. Reimbursement Resolution for YMCA Project (adopt the resolution so that the County can reimburse itself from the bond proceeds of the two-thirds bonds);
- *j. Capital Project Ordinance Amendment No. 04CPA000008 and Contract Approval for a Reused Wastewater Capital Project Study (approve Capital Project Ordinance Amendment No. 04CPA000008 to establish the Reused Wastewater Capital Project in the amount of \$100,000; authorize the Manager to execute a contract with Camp Dresser and McKee for the Reused Wastewater Capital Project Study at a cost not to exceed \$75,500);
- k. Welcome Baby Position Assignments (authorize the assignment of three part-time provisional positions to Cooperative Extension, Welcome Baby and direct Human Resources to classify the noted positions); and
- l. Durham County Tax Department Cessation of Extended Hours (approve the Tax Administrator's request that Tax Administration return to normal County operating hours of 8:30 a.m. to 5:00 p.m., Monday through Friday).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. c. Property Tax Releases and Refunds for Fiscal Year 2003-04 (December) (accept the property tax release and refund report as presented, and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the attached report details releases and refunds for the month of December 2003.

Releases & Refunds for 2003 Taxes:

Real	\$	29,166.47
Personal	\$	112,562.94
Registered Vehicles	\$	23,642.90
Vehicle Fees	\$	325.00
Solid Waste	\$	<u>455.00</u>
Total for 2003 Taxes and Fees	\$	166,152.31

February 2, 2004

Prior years (1998-2002) releases and refunds for December 2003 are for \$3,647.59.

The total current year and prior years releases and refunds amount to \$169,799.90.

(Recorded in Appendix A in the Permanent Supplement of the February 2, 2004 Minutes of the Board.)

Consent Agenda Item No. d. Declaration of Surplus Personal Property and Approval of Resolution to Donate to Nonprofit Corporations (declare the personal property as surplus; authorize the donation of the personal property to the Partnership for a Drug Free North Carolina Inc., the Freedom House Inc., and Coastal Horizons Inc. on the condition that said property be used for a public purpose; authorize the County Manager to enter into an agreement which reflects the terms of the conveyance as set forth herein).

The resolution follows:

RESOLUTION AUTHORIZING THE DONATION OF SURPLUS PROPERTY TO PARTNERSHIP
FOR A DRUG FREE NORTH CAROLINA, INC., FREEDOM HOUSE, INC., AND COASTAL
HORIZONS CENTER, INC.

WHEREAS, The County of Durham accumulated surplus personal property consisting of miscellaneous office furniture and machines, and other items no longer needed for County operational purposes; and

WHEREAS, The County of Durham desires to dispose of these items by donation Partnership of a Drug Free North Carolina, Inc., Freedom House, Inc., and Coastal Horizons Center, Inc. as provided by North Carolina General Statute 160A-279; and

WHEREAS, The procedural provisions of North Carolina General Statute of 160A-267 requires that the County of Durham shall publish a notice summarizing this resolution, and no sale may be executed pursuant to this resolution until at least 10 days after the day the notice is published:

NOW, THEREFORE, BE IT RESOLVED by the Durham County Board of Commissioners that the donation of specified items are herein authorized and directed:

1. In accordance with statutory requirements, Mr. Michael M. Ruffin, County Manager, shall be authorized as the County official in charge of the disposal of the surplus personal property.
2. All items will be donated on an "as is" basis. The County will make no guarantees and assumes no responsibility for any of the items.

BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DURHAM
THIS 2nd DAY OF FEBRUARY, 2004.

Consent Agenda Item No. f. Declaration of Surplus Personal Property and Approval of Resolution to Sale to Another Governmental Unit (declare the personal property as surplus, authorize the sale of the personal property to Orange-Person-Chatham Mental Health Area Authority in the amount of \$10,494.00, and authorize the County Manager to enter into an agreement which reflects the terms and conditions of the sale).

The resolution follows:

RESOLUTION AUTHORIZING THE SALE OF SURPLUS PERSONAL PROPERTY TO
ORANGE PERSON CHATHAM AREA MENTAL HEALTH AUTHORITY

WHEREAS, The County of Durham accumulated surplus personal property consisting of miscellaneous office furniture and machines, and other items no longer needed for County operational purposes; and

WHEREAS, The County of Durham desires to dispose of these items by selling it to Orange Person Chatham Area Mental Health Authority, a governmental unit, as provided by North Carolina General Statute 160A-274; and

WHEREAS, The Orange Person Chatham Area Authority has offered a consideration in the amount of \$10,494.00:

NOW, THEREFORE, BE IT RESOLVED by the Durham County Board of Commissioners that the sale of specified items are herein authorized and directed:

1. In accordance with statutory requirements, Mr. Michael M. Ruffin, County Manager, shall be authorized as the County official in charge of the disposal of the surplus personal property.

February 2, 2004

2. All items will be sold on an "as is" basis without any warranty, express or implied.

BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DURHAM
THIS 2nd DAY OF FEBRUARY, 2004.

Consent Agenda Item No. i. Reimbursement Resolution for YMCA Project (adopt the resolution so that the County can reimburse itself from the bond proceeds of the two-thirds bonds).

The resolution follows:

RESOLUTION OF THE BOARD OF COMMISSIONERS FOR THE COUNTY OF
DURHAM, NORTH CAROLINA, DECLARING ITS INTENTION TO REIMBURSE SAID
COUNTY FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR
CERTAIN EXPENDITURES IN CONNECTION WITH CERTAIN HUMAN SERVICES
FACILITIES

WHEREAS, the County of Durham, North Carolina (the "County"), is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the County has paid, beginning no earlier than November 27, 2003, and will pay, on and after the date hereof, certain expenditures in connection with renovating a building to be acquired by the County for housing human services programs (the "Project"); and

WHEREAS, the Board of Commissioners for the County (the "Board") has determined that certain moneys of the County previously advanced no earlier than November 27, 2003 and to be advanced on and after the date hereof by the County to pay such expenditures (the "Expenditures") are available only for a temporary period and it is and will be necessary to reimburse the County for the Expenditures from the proceeds of one or more tax-exempt financings in the form of one or more issues of general obligation Public Building Bonds of the County that are expected to be authorized in the amount of \$2,972,000 pursuant to a bond order introduced by the Board on January 12, 2004 (collectively the "Tax-exempt Financings");

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1. The Board hereby declares the County's intent to reimburse the County with the proceeds of the Tax-exempt Financings for the Expenditures made on and after November 27, 2003, which date is no more than 60 days prior to the date hereof. The County reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Tax-exempt Financings.

Section 2. Each Expenditure was or will be (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Tax-exempt Financings, (c) a nonrecurring item that is not customarily payable from current revenues or (d) a grant to a party that is not related to or an agent of the County so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the County.

Section 3. The maximum principal amount of the Tax-exempt Financings expected to be entered into with respect to the Project is \$381,000.

February 2, 2004

Section 4. The County will make a reimbursement allocation, which is a written allocation by the County that evidences the County's use of proceeds of the Tax-exempt Financings to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The County recognizes that exceptions are available for certain preliminary expenditures, costs of issuance, certain de minimis amounts, expenditures by small issuers (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least five years.

Section 5. This resolution shall take effect immediately upon its passage.

Thereupon, upon motion of Commissioner Jacobs, seconded by Commissioner Cousin, the foregoing resolution was passed by the following vote:

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

Noes: None.

* * * *

I, Garry E. Umstead, Clerk to the Board of Commissioners for the County of Durham, North Carolina, DO HEREBY CERTIFY that the foregoing is a true copy of so much of the proceedings of said Board at a regular meeting held on January 26, 2004 as relates in any way to the passage of the resolution described therein and that said proceedings are recorded in Minute Book ____ of the minutes of said Board, beginning on page ____ and ending on page ____.

I HEREBY FURTHER CERTIFY that a schedule of regular meetings of said Board, stating that regular meetings of said Board are held in the County Commissioners' Meeting Room in the Durham County Government Administrative Complex at 200 East Main Street, in Durham, North Carolina, on the second and fourth Mondays of each month at 7:00 P.M., except that regular meetings scheduled to be held on a holiday will be held on the next succeeding day that is not a holiday at the same place and time, has been on file in my office pursuant to G.S. § 143-318.12 as of a date not less than seven days before the date of said meeting.

WITNESS my hand and the corporate seal of said County, this 3rd day of January 2004.

/s/Garry E. Umstead
Clerk to the Board of Commissioners

Consent Agenda Item No. j. Capital Project Ordinance Amendment No. 04CPA000008 and Contract Approval for a Reused Wastewater Capital Project Study (approve Capital Project Ordinance Amendment No. 04CPA000008 to establish the Reused Wastewater Capital Project in the amount of \$100,000; authorize the Manager to execute a contract with Camp Dresser and McKee for the Reused Wastewater Capital Project Study at a cost not to exceed \$75,500).

The capital project ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Capital Project Ordinance
Amendment No. 04CPA000008

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2003-04 Capital Project Ordinance is hereby amended to reflect budget adjustments for

February 2, 2004

Reused Wastewater Facility Project

<u>Expenditures</u>	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
Reused Wastewater Facility Project	\$0	\$100,000		\$100,000

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

This the 2nd day of February, 2004.

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

Consent Agenda Item Removed for Discussion

Consent Agenda Item h. Lease for DACCA Location at the Child Care Resource Center (approve the contract with CCSA for a 10-year lease agreement in the new Child Care Resource Center).

County Commissioner Heron said the financing must be on “shakier ground” if the developer will not accept a five-year lease agreement from Durham County subject to a renewal. I cannot see the County entering into a ten-year lease. I don’t think it is good business for us to do that. I would support a five-year base with an option to renew. I cannot support a ten-year lease.

Vice-Chairman Bowser said he had a problem with the original recommendation of ten-year lease. I would have a problem with a 20-year lease recommendation. I still have a problem with a five-year lease. I cannot accept the concept of building a large building for all of Social Service’s functions and then build a smaller building when the large building is under construction. I cannot support the proposal.

Chairman Reckhow said we had an intensive discussion last month about the proposal. We had numbers to show that it would actually save the County money. We made a decision to move this particular function out of Social Services and put it with the other child care referral services in order to make a “one stop shop center” for child care.

Arnold Dennis, representing Social Services Department, responded to the Commissioners’ questions and comments.

Commissioner Jacobs said what sold her on the proposal was the amount of money the County was going to save and the proposal location of the facility near Durham Technical Community College. I would like to vote it “up or down”.

Commissioner Jacobs moved, that we moved the item as it appears on the Consent Agenda (Lease for DACCA Location at the Child Care Resources Center [approve the contract with CCSA for a ten-year lease agreement in the new Child Care Resources Center]).

Chairman Reckhow seconded the motion.

Commissioner Heron said she does not like the location of the facility. The clients using the Child Care Resource Center will have to ride the bus to the center which will cost them money for transportation. The County in putting itself into a ten-year obligation or longer since the building has to be constructed. I will support the five-year lease but not the ten-year lease plan.

Vice-Chairman Joe Bowser said it is easier on the Social Services clients to have all of the needs Social Services provide by being under one roof.

Sue Russell, President, Child Care Services Association, spoke about the type of client the facility serves. Chairman Reckhow requested the remarks.

Ms. Russell said we (Social Services and DACCA) have been out stationed together and what we are seeing is a higher degree of customer satisfaction. The quality of care these families have been getting has increased. The latino families in the community are getting better services. Bringing all the child services to one location is a model of Durham and many other communities across our country.

The Commissioners asked questions and made comments about the subject at hand.

The motion carried with the following votes:

Ayes: Commissioners Heron, Jacobs, and Reckhow

February 2, 2004

Noes: Commissioners Bowser and Cousin

Closed Session

Commissioner Jacobs moved, seconded by Commissioner Heron, to adjourned to closed session in order to preserve the attorney-client privilege and to discuss Brannon v. County pursuant to G.S. § 143-318.11 (a)(3).

The motion carried unanimously.

Return of Open Session

Chairman Reckhow announced that no action was taken in the closed session. The Board gave directions to staff.

Amendments to the 2000-2005 Durham Consolidated Plan and the FY 2001-2002, 2002-2003, and 2003-2004 Consolidated Action Plans

The City of Durham Department of Housing and Community Development requests that the Board of County Commissioners, having held a public hearing regarding an amendment to the 2003-2004 Consolidated Action Plan on December 8, 2003, and having received citizen comments on how City-County HOME Consortium funds can be used to address housing needs in Durham, adopt Amendments to the 2000-2005 Durham Consolidated Plan and the FY 2001-2002, 2002-2003, and 2003-2004 Consolidated Action Plans.

Staff from the City of Durham Department of Housing and Community Development has reviewed this request and recommends adoption.

Resource Person(s): Katherine Simmons, Associate Director City of Durham Housing and Community Development, and Vickie Miller, Planning and Development Officer

County Manager's Recommendation: The County Manager recommends that the Board discuss Amendments to the 2000-2005 Durham Consolidated Plan and the FY 2001-2002, 2002-2003, and 2003-2004 Consolidated Action Plans and take action as it deems appropriate.

Chairman Reckhow recognized Shannon Pittman, Federal Program Manager, City of Durham, to make a presentation to the County Commissioners about the YMCA Renovations and 2003-2004 Reprogramming.

Shannon Pittman said the staff was present to answer any questions the Commissioners may have.

The Commissioners asked several questions about the letter dated January 20, 2004 written to Vice-Chairman Bowser concerning YMCA Renovation and 2003-2004 Reprogramming.

Ms. Shannon Pittman responded to the questions and comments.

Constance Stancil, Interim Director Housing and Community Development, said that Shannon Pittman and Vickie Miller, Planning and Development Officer, have been working to be sure we can answer any issues that have happen in the pass. We are reviewing our processes and our systems to be sure that something like this will not happen again. That is all we can promise you at this time. The staff is working very hard to bring the department up to the standard it should be. The staff is trying to address issues like this.

Commissioner Jacobs said she cannot withhold this adoption of this plan and jeopardize some of the other programs that have already been approved. Not approving the plan would not help the situation. It would just make the situation worse when people are dependent on these funds.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to adopt the amendments and plans.

The motion carried unanimously.

Commissioner Heron said she voted for this but with reservations. I hope Next Step Housing moves along expeditiously. It's been three years Chairman Reckhow said that she was disappointed. I hope the commitment we got from the Interim Director tonight means we will get better information.

Budget Ordinance Amendment No. 04BCC000044 and Capital Project Ordinance Amendment No. 04CPA000007—Establish the ERP Capital Project and Approve the Recommended Financing of the Project

February 2, 2004

On January 22, 2004, the bids for the financing of the new financial software and related hardware were opened. The Board of County Commissioners is being requested to approve the recommended bid.

In addition, the Board is being requested to approve a General Fund fund balance appropriation for \$3,425,000, to allow the County to set up the capital project and to enter into a contract for conversion of its financial system to SAP/Siemens. This approval will provide the funds needed to bridge the period between February 10, 2004 and closing of the above-mentioned loan that will actually fund the purchase. At this worksession, the proposed contract for the purchase of the Financial System will be recommended for approval at the February 9, 2004 meeting. The vender has agreed to hold the negotiated price until February 10, 2004.

Resource Person(s): George K. Quick, Finance Director

County Manager's Recommendation: The County Manager recommends that the Board suspend the rules and approve the recommended financing bid for the project. In addition, approve Budget Ordinance Amendment No. 04BCC000044 and the Capital Project Ordinance Amendment No. 04CPA000007 establishing the ERP Capital Project for \$3,425,000.

George K. Quick, Finance Director, was recognized by Chairman Reckhow to make a presentation to the Commissioners about establishing the ERP Capital project and to approve the recommended financing of the project.

The bids were opened on January 22, 2004. Five bids were received. Two bids were not considered because they were leases and we were requesting a loan. The lowest bid was a loan for 2.99 percent over a 59 month period. That was received from RBC Centura Bank. We are recommending the RBC loan for the Commissioners' approval.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve the recommended financing bid for the project. The loan is 2.99 percent over a 59 month period from RBC Centura Bank.

The motion carried unanimously.

George Quick said on February 9, 2004 we will ask that the contract be approve that was moved earlier to be put on the current agenda. We would like to be able to close on this transaction because of a commitment from the vendor to hold the price steady until February 10, 2004. In order to negotiate a contract, we need to have the money available.

County Manager Ruffin said this will be a budget amendment for Monday night, February 9, 2004, on the consent agenda.

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000044

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

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Other financing sources	\$15,548,041	\$3,425,000	\$18,973,041

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Other	\$18,737,999	\$3,425,000	\$22,162,999

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

This the 2nd day of February, 2004.

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

The capital project ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Capital Project Ordinance
Amendment No. 04CPA000007

February 2, 2004

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2003-04 Capital Project Ordinance is hereby amended to reflect budget adjustments for

County ERP Software project

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
County ERP Software Project	\$0	\$3,425,000		\$3,425,000

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

This the 2nd day of February, 2004.

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

Consideration of Ethics Policy and Rules of Procedure

The Board is requested to review the current Ethics Policy and Rules of Procedure to determine if changes are needed. The County Attorney has made suggested revisions to the current Ethics Policy. The current laws regulating bidding were revised in 2002. The Ethics Policy must conform to existing state statutes.

Resource Person(s): Commissioner Mary Jacobs

County Manager's Recommendation: The Manager recommends that the Board consider the Ethics Policy and Rules of Procedure and give direction to staff as to any changes desired.

Chairman Reckhow recognized County Attorney Kitchen to make presentation to the Commissioners about suggested revisions he recommended to the Ethics Policy.

County Attorney Kitchen said the Ethics Policy must conform to existing state statutes, especially in the bidding area.

Attorney Kitchen said he has gone through and changed the provisions in the current ethics policy to make them in compliance with current law. In 2002, the purchasing laws were rewritten in North Carolina. This is the reason some of these changes are necessary to be made because of those changes in the current law. He left in the policy the probation on close business associates.

Chairman Reckhow said the Open Space and Trails Commission was very concerned about how that would be operational for certain people. Chairman Reckhow said the policy dealing with close business associate should be taken out of the code of ethics.

Attorney Kitchen said there are two kinds of Code of Ethics policies in use at the present time. Like the County's policy which is a regulatory Code of Ethics. The other type of policy is an aspirational policy which says these are the things we shall endeavor to do as County employees. This is the way we should behave. There is no penalty for violation. It is setting a goal or standard that we try to obtain.

The Commissioners discussed the definition of immediate family.

The Attorney said that under the Standards of Conduct he deleted their real or apparent under the state statute it is requirement as a County Commissioner you are required to vote on every item that comes before you, unlike the City. If you are not at the Commissioner meeting, you have the legal duty to be here, and you have the legal duty to vote on every item, unless you are excused because of your personal interest in the item. If you are sitting and you choose not to vote that is a violation and you could be arrested. You are required to vote.

County Attorney Kitchen said in Section 6. Investigation of Allegations of Conflicts of Interests he was of the opinion that the County should not contract with the Dispute Settlement Center or disinterested third-party agency. Therefore, the attorney removed the allegations of conflicts of interest from the ethics policy. Commissioners shall decide the matter in an open meeting of the Board of Commissioners.

County Attorney Kitchen left in the policy the provisions relating to hearing for individual County officials that have violated a policy which is in performance of due process rights.

Attorney Kitchen has taken out Executive Session and replaced it with Closed Session. He also put in the policy the Clerk to the Board shall be authorized to swear witnesses before the presentation of their testimony in lieu of the presiding officer.

The Attorney said this completes the changes he recommended.

February 2, 2004

Commissioner Jacobs asked Attorney Kitchen for clarification about contracts the Board of Commissioners has to approve.

The Attorney said a Commissioner cannot contract with a business that is owned by a Commissioner. In most cases, a Commissioner with a conflict of interest would be excused from voting by the other members of the Board.

Commissioner Jacobs requested information on the aspirational ethics policy before she would be comfortable to vote on the Code of Ethics policy. Attorney Kitchen will send the Commissioners a copy of the aspirational code of ethics that the North Carolina Association of County Commissioners uses.

Chairman Reckhow said the consideration of Ethics Policy and Rules of Procedures will be discussed at another meeting.

There will be no action on this agenda item today.

Commissioner Jacobs brought up a suggestion about how the consent agenda item should be handled in the meetings. As a result of her suggestion, a lengthy discussion was held on the consent agenda.

Commissioner Jacobs said that she has noticed that there does not seem to be a courtesy sometime to each other. That is interrupting while others are talking. I think that is an injustice to the individual as well as the public. I don't know if we need that in our procedures and mutual respect for our fellow colleagues for the staff and other presenters. The employees and staff members that come to the podium, they deserve the respect that we expect of them. I don't know if it should be written, but I do think it needs to be brought to our attention. Chairman Reckhow said we need to set a good example and realize we are community leaders.

Board Appointment

Garry E. Umstead, CMC, Clerk to the Board, will distribute ballots to make one business representative appointment to the Farmland Protection Advisory Board.

Resource Person(s): Garry E. Umstead

County Manager's Recommendation: The County Manager recommends that the Board suspend the rules to appoint one business representative to the Farmland Protection Advisory Board.

The following votes were cast to make an appointment to the business position on the Farmland Board:

Neil T. Frank – no votes
*Aileen Roberson Glasgow – Bowser, Cousin, Heron, and Reckhow
Leroy Joyner – no votes
Allen Powell – Jacobs
Ramon A. Tancinco II – no votes

* asterisk indicates an appointment

Adjournment

Chairman Reckhow adjourned the meeting at 3:00 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board