

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

Monday, November 12, 2001

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman MaryAnn E. Black, Vice-Chairman Ellen W. Reckhow, and
Commissioners Joe W. Bowser, Philip R. Cousin Jr., and Becky M. Heron

Absent: None

Presider: Chairman Black

Opening of Regular Session

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

Agenda Adjustments

Commissioner Heron asked that she be permitted to add one item to the agenda before the minutes.

Chairman Black agreed to her request.

Compliment

Commissioner Heron complimented Hillside High School on its production of "The Wizard" on Saturday night. She said she felt it was a wonderful production and was very professional. Vice-Chairman Reckhow said she also attended the production and concurred with Commissioner Heron.

Minutes

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the September 10, 2001 Regular Session Minutes as corrected and the September 24, 2001 Regular Session Minutes as submitted.

The motion carried unanimously.

Resolution Honoring Henry Scherich

Commissioner Ellen Reckhow had asked that this item be prepared honoring Mr. Henry Scherich. Mr. Scherich, who is President of Measurement Inc., recently gave his workers a \$2,000 bonus, which many chose to donate to various charities in light of the September 11 terrorist attacks. A resolution was prepared for the Board to adopt.

County Manager's Recommendation: Approve the resolution and present to Mr. Scherich along with the Board's sincere congratulations for his corporate generosity.

Vice-Chairman Reckhow read the resolution into the public record. The Commissioners expressed their appreciation for Mr. Scherich's generosity to his employees and for promoting public philanthropy.

Mr. Scherich thanked the Commissioners for the resolution on behalf of the employees.

The resolution follows:

RESOLUTION

WHEREAS, Henry Scherich, President of Measurement Incorporated, a company that develops and grades standardized tests for public schools, believes in a philosophy of helping others through community service and corporate support; and

WHEREAS, while Measurement Inc. has enjoyed success in the Durham area, Mr. Scherich actively promotes the idea of "giving back" to those in need of assistance; and

WHEREAS, following the senseless acts of terrorism on September 11, he decided to give a \$2,000 bonus to 183 employees to use as they wanted; and

WHEREAS, in a letter accompanying the surprise bonus, he wrote "the greatest need may not be the September 11th fund or other victims funds. It could be money to stabilize your own family or a loved one or friend who has lost a job due to recent layoffs"; and

WHEREAS, many employees of the company have generously donated most of their money to causes such as the American Red Cross, the Triangle United Way, and other local charities; and

WHEREAS, Measurement Inc. enjoys a reputation for being very family friendly and a positive corporate supporter of many programs which make Durham a better community in which to live:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby extend sincere appreciation to

MR. HENRY SCHERICH

for unselfishly donating considerable resources to others in need, and for modeling and promoting a spirit of philanthropy among his employees and the broader community.

This the 12th day of November, 2001.

/s/ Five Commissioners
Durham County Commissioners

Consent Agenda Items Removed for Discussion

Chairman Black stated she wanted to remove Consent Agenda Item “(a), Resolution declaring results of bond election,” and Consent Agenda Item “(o), Budget Ordinance Amendment No. 02CPA000005 and 02BCC000034—Approval of construction contract for additions and renovations to the Community Shelter for H.O.P.E.”

Commissioner Heron requested that Consent Agenda Item “(i), Final offer to purchase County property (704 Gaston Avenue)” be removed for discussion.

Consent Agenda 5(a). Resolution declaring results of bond election (adopt the resolution reflecting the outcome of the election).

Chairman Black thanked Mr. John Burness and Dr. Phail Wynn Jr. and all the committee members for their hard work on the recent bond referendum. She stated that the committee members would be thanked formally before the end of the year. She wished to especially thank the citizens who called and asked a lot of hard questions about these bonds. They wanted to know how the money would be spent. She spoke to the Commissioners’ commitment to the county’s citizens to use bond money for school facilities, library facilities, museum facilities, recreational facilities (Senior Center), and health care facilities (EMS Building). The Chairman said a special thanks to the citizens who voted for the bonds.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to approve consent agenda item 5(a), “Resolution declaring results of bond election (adopt the resolution reflecting the outcome of the election).”

The motion carried unanimously.

**RESOLUTION DECLARING THE RESULTS OF THE SPECIAL BOND
REFERENDUM HELD IN THE COUNTY OF DURHAM ON NOVEMBER 6, 2001
UPON THE QUESTIONS OF APPROVING \$51,800,000 SCHOOL BONDS,
\$10,270,000 LIBRARY FACILITIES BONDS, \$5,840,000 MUSEUM BONDS,
\$5,550,000 RECREATIONAL FACILITIES BONDS, AND \$1,200,000 HEALTH
CARE FACILITIES BONDS**

BE IT RESOLVED by the Board of Commissioners for the County of Durham:

Section 1. The Board of Commissioners for the County of Durham, North Carolina, having received from the Durham County Board of Elections a certified copy of the proceedings of said Board of Elections taken on November 9, 2001, evidencing said Board's determination of the results of the canvas of the returns of the special bond referendum held in said County on November 6, 2001 upon the questions of approving \$51,800,000 School Bonds, \$10,270,000 Library Facilities Bonds, \$5,840,000 Museum Bonds, \$5,550,000 Recreational Facilities Bonds and \$1,200,000 Health Care Facilities Bonds of said County, does hereby declare and certify the results of said referendum to be the results which are set forth in the following statement of the results of said referendum, which statement has been prepared by said Board of Commissioners:

**STATEMENT OF THE RESULTS OF THE SPECIAL BOND REFERENDUM HELD
IN THE COUNTY OF DURHAM, NORTH CAROLINA ON NOVEMBER 6, 2001
UPON THE QUESTIONS OF APPROVING \$51,800,000 SCHOOL BONDS,
\$10,270,000 LIBRARY FACILITIES BONDS, \$5,840,000 MUSEUM BONDS,
\$5,550,000 RECREATIONAL FACILITIES BONDS, AND \$1,200,000 HEALTH
CARE FACILITIES BONDS**

At a special bond referendum held in the County of Durham on November 6, 2001, 152,346 voters were registered and qualified to vote.

At said referendum 23,604 votes were cast for the order adopted June 11, 2001, authorizing not exceeding \$51,800,000 School Bonds of the County of Durham, North Carolina, for the purpose of providing funds, with any other available funds, for erecting

additional school buildings and other school plant facilities, remodeling, enlarging and reconstructing existing school buildings and other school plant facilities and acquiring any necessary land, furnishings and equipment therefor, in order to provide additional school facilities in said County to maintain the school term as required by Section 2 of Article IX of the Constitution, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, and 12,612 votes were cast against said order, and a majority of the qualified voters of said County who voted thereon at said referendum voted in favor of said order.

At said referendum 27,651 votes were cast for the order adopted on June 11, 2001, authorizing not exceeding \$10,270,000 Library Facilities Bonds of the County of Durham, North Carolina, for the purpose of providing funds, with any other available funds, for providing additional library facilities of said County, including the construction of a branch library in the eastern area of said County, the expansion and renovation of an existing branch library, the acquisition of necessary land, rights of way, furnishings and equipment therefor and the acquisition of necessary land and rights of way for additional branch libraries, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, and 8,092 votes were cast against said order, and a majority of the qualified voters of said County who voted thereon at said referendum voted in favor of said order.

At said referendum 25,735 votes were cast for the order adopted on June 11, 2001, authorizing not exceeding \$5,840,000 Museum Bonds of the County of Durham, North Carolina, for the purpose of providing funds, with any other available funds, for enlarging and improving exhibits, parking facilities, visitor facilities, offices and

maintenance facilities at the North Carolina Museum of Life and Science and acquiring any necessary furnishings and equipment therefor, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, and 9,771 votes were cast against said order, and a majority of the qualified voters of said County who voted thereon at said referendum voted in favor of said order.

At said referendum 27,430 votes were cast for the order adopted on June 11, 2001, authorizing not exceeding \$5,550,000 Recreational Facilities Bonds of the County of Durham, North Carolina, for the purpose of providing funds, with any other available funds, for providing additional recreational facilities of said County, including the construction of a new center for senior citizens in the downtown area of the City of Durham on land donated to said County and the acquisition of necessary rights of way, furnishings and equipment therefor, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, and 8,364 votes were cast against said order, and a majority of the qualified voters of said County who voted thereon at said referendum voted in favor of said order.

At said referendum 28,702 votes were cast for the order adopted on June 11, 2001, authorizing not exceeding \$1,200,000 Health Care Facilities Bonds of the County of Durham, North Carolina, for the purpose of providing funds, with any other available funds, for providing and improving health care facilities of said County, including the construction of a building to house emergency medical services to be relocated from Lincoln Community Health Center and the acquisition of necessary land, rights of way, furnishings and equipment therefor, and authorizing the levy of taxes in an amount sufficient to pay the principal of and the interest on said bonds, and 7,157 votes were cast

against said order, and a majority of the qualified voters of said County who voted thereon at said referendum voted in favor of said order.

Section 2. The Clerk to said Board of Commissioners shall file a copy of the foregoing statement of the results of said referendum in his office and shall publish such statement once in The Herald-Sun. A statement in substantially the following form shall be published with the foregoing statement:

Any action or proceeding challenging the regularity or validity of this bond referendum must be begun within 30 days after [date of publication].

Section 3. This resolution shall take effect upon its passage.

Consent Agenda 5(i). Final offer to purchase County property (704 Gaston Avenue) (approve offer of \$14,000 by Mr. Bryant Roberts and prepare a nonwarranty deed for the Chairman's signature).

Commissioner Heron said that Mr. Bryant Roberts had an outstanding indebtedness to the County regarding a major erosion control penalty that had not been settled. She advised she could not support this property being conveyed to Mr. Roberts until he has settled the erosion control debt.

After a lengthy discussion with the County Manager, Chairman Black suggested that she remove the item from the consent agenda for a separate vote by the Commissioners.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to table consent agenda item 5(i) for 30 days.

The motion carried unanimously.

Mr. Bill Martin, Real Estate Manager, advised the Board he would contact the bidder for the property regarding the Board's concerns and offer a report when the item returned to the agenda.

Consent Agenda Item 5(o). Budget Ordinance Amendment No. 02CPA000005 and 02BCC000034—Approval of construction contract for additions and renovations to the Community Shelter for H.O.P.E.—Project No. DC061-30—Bid No. IFB 01-025 (authorize appropriation of funds and execution of contracts and any necessary change orders in the total amount of \$1,842,895).

The Board was requested to appropriate funds and authorize the County Manager to enter into contracts with the following listed Contractors for the construction of the expansion and renovations to the Community Shelter for H.O.P.E. in the total amount of \$1,763,253 and to execute any other related contracts in the amount of \$31,000 thus totaling \$1,794,253 including change orders, if necessary, not to exceed the available budget of \$1,842,895. Following is the breakdown:

(A) C.T. Wilson Construction Co. Inc.	\$1,342,103	General (Negotiated Base bid plus Alt. G1&G2)
(B) ABC Plumbing Co. Inc.	137,182	Plumbing (Negotiated Base bid only)
(C) Southern Piping Co. Inc.	132,149	HVAC (Negotiated Base bid only)
(D) Pendergraph Electric Inc.	<u>151,819</u>	Electrical (Negotiated Base bid only)
Subtotal [A]:		\$1, 763,253
Other Associated Activities:		
Transformer Relocation (Duke Power)	\$ 25,000	
Impact Fees	<u>\$ 6,000</u>	
Subtotal [B]:		\$ 31,000
Contingencies	<u>\$ 48,642</u>	
Subtotal [C]:		\$ 48,642
Overall Total [A+B+C]:		<u>\$1,842,895</u>

The Homeless Shelter Building was purchased in 1988. The need for expansion and renovation is to improve the living conditions and to add family units. Presently, this facility has no provision for family housing units, which are sometimes needed to accommodate a family. During the past years, several repairs have been made to the building including roof patching, and more repairs are expected unless a complete renovation is done. The renovation and addition to the facility will enhance the overall living conditions for the homeless population and provide privacy for families with children, single men, and women by creating a dormitory atmosphere.

The Homeless Shelter Expansion and Renovation project was advertised in local newspapers on April 22, 2001. A Pre-Bid Conference was held on May 8, 2001 at 10:00 a.m. The bids received were: seven (7) for the General Contract, five (5) for the Plumbing Contract, four (4) for the HVAC Contract, and three (3) for the Electrical Contract. These were publicly opened and read on May 22, 2001 at 3:00 p.m.

E.I. Construction Services submitted the lowest price of \$1,314,200 for the general contract base bid. Alternates G1 and G2 combined, and this amount was negotiated to \$1,233,445. Recently, E.I. Construction Services Inc. indicated they can no longer participate as a responsible bidder. C.T. Wilson Construction Company Inc., the second low bidder, submitted a price of \$1,422,658 for the base bid, alternates G1 and G2 combined, and this amount was negotiated to \$1,342,103. Therefore, it is recommended that the general contract be awarded to C.T. Wilson Construction Company Inc., the second low bidder. ABC Plumbing Company Inc. submitted the lowest price of \$146,052 for the plumbing base bid, and this amount was negotiated to \$137,182.

Southern Piping Company Inc. submitted the lowest price of \$137,549 for the HVAC base bid only, and this amount was negotiated to \$132,149. Pendergraph Electrical Company Inc. submitted the lowest price of \$168,079 for the electrical base bid only, and this amount was negotiated to \$151,819. The Engineering Department has received the bid proposals with DTW Architects and Planners, Ltd., the Project Architects, and recommends that the County proceed with all the work described and award the contracts to the above-named contractors. During negotiations to reduce costs, Urban Ministries agreed to provide the landscaping as required by the approved site plan..

Resource Persons: Wendell Davis, Deputy County Manager; Glen Whisler, P.E., County Engineer, Engineering Department; Pam Meyer, Budget Director; George Quick, Finance Director; and Ademola Shobande, Project Manager, Engineering Department

County Manager's Recommendation: The County Manager recommended that the Board authorize appropriation of funds and execution of contracts with the above-named contractors, and change orders, if necessary, in the total amount of \$1,842,895. This would bring the total amount budgeted for the Homeless Shelter Renovation Project to \$1,982,895. Also recommended was the appropriation of \$47,636 to the Capital Finance Fund from the General Fund to support this project. Any HOME assisted units on the property will meet the affordability requirements for not less than 20 years, which time will begin to run after the completion of the HOME assisted units. The Board must advise the County Attorney on drafting a Declaration of Deed Restriction, required on HOME funds disbursement. Terms of the grant agreement between the City of Durham and Urban Ministries have been agreed upon, and the document is awaiting signatures.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the County Manager's recommendation that the Board authorize fund appropriation and contract execution with the named contractors (C. T. Wilson Construction Co. Inc., ABC Plumbing Co. Inc., Southern Piping Co. Inc., and Pendergraph Electric Inc.) and any necessary change orders in the amount of \$1,842,895. Also recommended was the appropriation of \$47,636 to the Capital Finance Fund from the General Fund. The Board is to advise the County Attorney on drafting a Declaration of Deed Restriction, which is required for HOME funds disbursement.

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Capital Projects Ordinance
Amendment No. 02CPA000005

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Capital Projects Budget Ordinance is hereby amended to reflect budget adjustments for the Homeless Shelter Renovation Project.

HOMELESS SHELTER RENOVATION PROJECT

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Homeless Shelter Renovation Project</u>	\$140,000	\$1,842,895		\$1,982,895

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

This the 12th day of November 2001

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

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000034

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Budget Ordinance is hereby amended to reflect budget adjustments for the General Fund Nondepartmental Function and the Capital Finance Plan Nondepartmental Function.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Nondepartmental	\$18,168,526	\$47,636		\$18,216,162
<u>Revenue</u>				
Other Financing Sources	\$ 9,945,172	\$47,636		\$ 9,992,808

CAPITAL FINANCE PLAN FUND

<u>Expenditures</u>				
Nondepartmental	\$27,278,729	\$47,636		\$27,326,365

Revenue

Other Financing Sources \$16,686,266 \$47,636 \$16,733,902

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

This the 12th day of November, 2001

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

Consent Agenda

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

- *(b) Closed Session minutes—approval of minutes to be opened (approve the nine sets of closed session minutes);
- (c) Board appointment—Juvenile Crime Prevention Council (JCPC)—(appoint Mr. Donnie Phillips to the Chief Court Counselor designated position);
- (d) Performance report for Health Care Trust Fund (based on performance, increase MDL’s fund level by \$3 million and reduce US Trust’s fund level by \$3 million);
- (e) Community Development Block Grant—2002 Scattered Site Housing from State Department of Commerce Division of Community Assistance (receive presentation and authorize County Manager to prepare RFP for consulting services);
- (f) Standard nonreimbursable contract for extension of County sanitary sewer system (authorize County Manager to execute the utility contract with Lichtin Arringdon, LLC to extend County sewer system by 125 LF of 12” and 902 LF of 8” pipe to serve Arringdon-Building 7 and adjacent lots);
- (g) Contract award for wastewater utility rate and fee study (authorize the County Manager to execute a contract with Raftelis Financial Consulting in the amount of \$44,870);
- (h) Vehicles for Sheriff, General Services, Emergency Management Services, and Engineering Departments (authorize County Manager to enter into contracts with University Ford for \$426,942.00; Bobby Murray Chevrolet Inc. for \$39,340.94; and Sir Walter Chevrolet for \$28,557.93 for a total of 23 vehicles);

- (j) Left blank intentionally;
- (k) Left blank intentionally;
- * (l) Budget Ordinance Amendment No. 02BCC000031—
General Services—NC Department of Agriculture
pesticide container recycling program grant (approve
Budget Ordinance Amendment No. 02BCC000031
and accept the \$8,309.75 grant);
- * (m) Budget Ordinance Amendment No. 02BCC000032—
Enterprise Fund—appropriation for IBM Tivoli
Industrial Extension Policy reimbursements (approve
Budget Ordinance Amendment No. 02BCC000032 to
appropriate \$30,300 to cover two payments to IBM
Tivoli due this fiscal year); and
- * (n) Budget Ordinance Amendment No. 02BCC000033—
FY 2001-2002 Encumbrances (approve Budget
Ordinance Amendment No. 02BCC000033 to pay
outstanding purchase orders and service contracts at
the end of FY 2001).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda 5(b). Closed Session minutes—approval of minutes to be opened
(approve the nine sets of closed session minutes).

County Attorney Chuck Kitchen determined the following Closed Session Minutes
should be approved by the Commissioners and opened as public record.

March 27, 2000	July 10, 2000	May 14, 2001
April 3, 2000	August 28, 2000	June 11, 2001
June 5, 2000	April 23, 2001	June 25, 2001

Consent Agenda 5(l). Budget Ordinance Amendment No. 02BCC000031—General
Services—NC Department of Agriculture pesticide container recycling program grant
(approve Budget Ordinance Amendment No. 02BCC000031 and accept the \$8,309.75
grant).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000031

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Budget Ordinance is hereby amended to reflect budget adjustments for the Department of Social Services.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
General Government	\$21,221,120	\$8,310		\$21,229,430
<u>Revenues</u>				
Intergovernmental	\$229,894,347	\$8,310		\$229,902,657

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

This the 12th day of November, 2001

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

Consent Agenda 5(m). Budget Ordinance Amendment No. 02BCC000032—Enterprise Fund—appropriation for IBM Tivoli Industrial Extension Policy reimbursements (approve Budget Ordinance Amendment No. 02BCC000032 to appropriate \$30,300 to cover two payments to IBM Tivoli due this fiscal year).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000032

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Budget Ordinance is hereby amended to reflect budget adjustments for the Enterprise Fund.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Enterprise Fund	\$4,318,800	\$30,300		\$4,349,100
<u>Revenues</u>				
Other Financing Sources	\$4,318,800	\$30,300		\$4,349,100

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

This the 12th day of November, 2001

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

Consent Agenda 5(n). Budget Ordinance Amendment No. 02BCC000033—FY 2001-2002 Encumbrances (approve Budget Ordinance Amendment No. 02BCC000033 to pay outstanding purchase orders and service contracts at the end of FY 2001).

The Budget Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA
 FY 2001-02 Budget Ordinance
 Amendment No. 02BCC000033

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Budget Ordinance is hereby amended to reflect budget adjustments for encumbrances.

GENERAL FUND

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Revenues</u>				
Other Financing Sources	\$ 9,945,172	\$1,780,619		\$ 11,725,791
<u>Expenditures</u>				
General Government	\$ 21,221,120	\$ 469,542		\$ 21,690,662
Public Safety	\$ 33,827,058	\$ 167,779		\$ 33,843,837
Environmental Protection	\$ 2,341,612	\$ 45,649		\$ 2,387,261
Economic & Phys. Devel.	\$ 5,302,543	\$ 8,225		\$ 5,310,768
Human Services	\$274,456,445	\$1,046,165		\$275,502,610
Cultural & Recreation	\$ 7,725,630	\$ 43,259		\$ 7,768,889

SELF INSURANCE FUNDS

<u>Revenues</u>				
Fund Balance Appropriated	\$ 1,824,222	\$ 3		\$ 1,824,225
<u>Expenses</u>				
Self Insurance Fund	\$ 1,824,222	\$ 3		\$ 1,824,225

CAFETERIA FUND

<u>Revenues</u>				
Fund Balance Appropriated	\$ 7,208,460	\$ 2,003		\$ 7,210,463
<u>Expenses</u>				
Cafeteria Fund	\$ 7,208,460	\$ 2,003		\$ 7,210,463

REVALUATION FUND

Revenues

Fund Balance Appropriated	\$ 115,000	\$ 46,997	\$ 161,997
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Expenses

Revaluation Fund	\$ 115,000	\$ 46,997	\$ 161,997
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SEWER FUND

Revenues

Fund Balance Appropriated	\$ 0	\$ 8,900	\$ 8,900
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Expenses

Sewer Fund	\$ 0	\$ 8,900	\$ 8,900
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ENTERPRISE FUND

Revenues

Fund Balance Appropriated	\$ 4,318,800	\$1,311,359	\$ 5,630,159
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Expenses

Enterprise Fund	\$ 4,318,800	\$1,311,359	\$ 5,630,159
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EQUIPMENT LEASING FUND

Revenues

Fund Balance Appropriated	\$ 2,597,000	\$ 93,620	\$ 2,690,620
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Expenses

Equipment Leasing Fund	\$ 2,597,000	\$ 93,620	\$ 2,690,620
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 12th day of November, 2001

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

Update on ABC Board

Mr. Eric Michaux, Chairman of the Durham County ABC Board, was present to provide an update on the ABC Board.

Resource Persons: Eric Michaux, Chairman, Durham County ABC Board

County Manager's Recommendation: Receive the report and advise the staff if any additional information/action is necessary.

Alcoholic Beverage Control Board Chairman Eric Michaux presented the ABC Board update to the County Commissioners. He began his presentation by introducing the

following ABC Board members present. They were as follows: Julia Borbely Brown, E'Vonne Coleman, Charles D. Watts Jr., and Charles T. Wilson Jr. General Manager Randy Mills and ABC Board Attorney George W. Miller were also present.

Vice-Chairman Reckhow and Mr. Michaux discussed security measures in connection with the recent robberies at several ABC Stores. Commissioner Heron and Mr. Michaux discussed the recent audit. Commissioner Bowser, Commissioner Heron, and Chairman Black discussed the audit, personnel, and security concerns with Mr. Michaux.

The Commissioners asked questions and made comments in response to the update to which Mr. Michaux responded.

No official action was taken or required on this report.

Public Comment—Major Site Plan—Bethesda Christian Academy—D01-531

Bethesda Christian Academy has submitted a site plan for a 1,584 square-foot modular classroom on an 11.9-acre tract (Tax Map 643-01-004; PIN 0749-02-78-4419). The modular unit was proposed as an addition to an existing private school. A Traffic Impact Analysis study was required for this project because of an increase in the maximum student population threshold from 232 to 360 in two phases.

The Development Review Board reviewed and approved this plan at its October 19, 2001 meeting with the recommendation that all road improvements be installed prior to the issuance of Certificates of Occupancy for each phase. At its October 23, 2001 meeting, the Board of Adjustment approved the Minor Use Permit for the school expansion with a condition that the road improvements for Phase One be installed by August 1, 2002 instead of prior to Certificate of Occupancy.

Resource Person(s): Dennis Doty, Planner, and Steve Medlin, Planning Supervisor.

County Manager's Recommendation: The County Manager recommended that the Board approve this Site Plan with the Board of Adjustment conditions regarding the installation of road improvements for Phase One.

Chairman Black asked Mr. Dennis Doty, Planner, to present the major site plan request to the Board of County Commissioners.

The staff concurred with the County Manager's recommendation for the Commissioners to approve the Site Plan with the Board of Adjustment conditions regarding the installation of road improvements for Phase One.

Chairman Black gave the Commissioners an opportunity to ask questions and make comments.

Chairman Black opened the meeting for public comment.

The only speaker signed was Mr. Brian Van Horn, 4409 Cottondale Drive, who requested the Board to approve the site plan.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the site plan with the Board of Adjustment's conditions regarding the installation of road improvements for Phase One. This motion includes the County Manager's recommendation.

The motion carried unanimously.

(Tax Map number: 643-01-004; PIN 0749-02-78-4419); recorded in Ordinance Book _____, page _____.)

Land Use Plan Amendment #A01-13 (Mangum Township Plan)

Adopted in 1997, the Mangum Township Plan recognizes the need to accommodate reasonable, planned growth while providing protection for the unique character of the Township. The Plan directs nonresidential development generally in the area between the confluences of the Eno, Little, and Flat Rivers.

Based on the adopted FLUM, a portion of the subject site is designated for commercial uses with the remainder designated for industrial uses. However, the subject site and most of the surrounding area is currently zoned for industrial uses. A change of future land use designation would not increase or expand the amount or location of land currently zoned for industrial uses.

The plan amendment applicant, EMD Pharmaceuticals, Inc., requests that the Mangum Township Plan FLUM be amended to designate the area bounded by Old Oxford Road, Red Mill Road, and Teknika Parkway for industrial land uses. The Durham Planning Commission reviewed the request at its meeting on October 24, 2001 and unanimously recommended approval (11-0).

Resource Person(s): Dick Hails, Interim Planning Director and Dwight Yarborough, Senior Planner

County Manager's Recommendation: Amend the Mangum Township Plan FLUM to designate the area bounded by Old Oxford Road, Red Mill Road, and Teknika Parkway for industrial land uses.

Dwight Yarborough, Senior Planner, presented the land use plan amendment to the Board of County Commissioners. The staff recommended the amendment be approved.

Chairman Black called on the Commissioners for questions and comments.

The Commissioners asked questions and made comments to which Mr. Yarborough responded.

The two persons signed to comment on this item chose to withdraw. They were as follows: Lou Goetz, 3531 Stoneybrook Drive and Dan Jewell, 1025 Gloria Avenue.

Chairman Black called for the motion.

Commissioner Bowser moved, seconded by Commissioner Heron, to approve the request to amend the Mangum Township Plan FLUM to designate the area bounded by Old Oxford Road, Red Mill Road, and Teknika Parkway for industrial land uses.

The motion carried unanimously.

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

Status Report on the Durham Comprehensive Plan Update

The Comprehensive Plan update provides an opportunity for citizens and elected officials to take stock and see whether growth and development policies in present plans still make sense after several years of rapid change. The Durham 2020 Comprehensive Plan was adopted in late 1995, so an update now is appropriate. Preparing the update of the Comprehensive Plan would take about two years and is expected to be complete in the summer of 2003. The process would utilize professional planners to translate input from citizens into draft goals, objectives, and policies. A citizens steering committee would provide pragmatic direction and oversight. A broad citizen participation program would include two Public Forums; periodic newsletters, cable TV programs, and a Website dedicated to this topic; and an extensive mailing list of interested citizen who express an interest in being kept informed. The Durham Planning Commission, the City Council, and the County Board of Commissioners would conduct public hearings as they each consider adoption of the updated Plan. This process has been designed to best utilize the time and energy of citizens and staff to produce a workable Plan for Durham's future.

Resource Person(s): Keith Luck, Planning Supervisor, City-County Planning Department

County Manager's Recommendation: The County Manager recommended that the Board receive the status report on the Durham Comprehensive Plan update.

Keith Luck, Planning Supervisor, presented an update on the Durham Comprehensive Plan to the Commissioners.

Chairman Black called on the Commissioners for questions and comments.

The Commissioners asked questions and made comments to which Mr. Luck responded.

Commissioner Cousin moved, seconded by Commissioner Bowser, to appoint Vice-Chairman Reckhow to sit on the Citizen's Steering Committee to represent the County Commissioners.

The motion carried unanimously.

Chairman Black said the Commissioners would receive the report as presented.

New Hope Trail Easement Donation

In April 2001, the Board approved funding for trail improvements for the 2.2-mile long nature trail along the New Hope Creek in southwestern Durham County just south of Highway 15-501. Approximately half of the trail is located on private property, and the property owner has donated a 50-foot wide trail easement to complete the 2.2-mile trail loop. Volunteers and County staff, with the permission of the property owner, have already completed the four-foot wide trail itself. The easement would allow the County to construct the approved trail improvements and to open the trail to the general public.

The trail easement would allow the County to continue its implementation phase of the New Hope Creek Corridor Plan, which includes nature trails, passive nature-based recreation, and public access. The property owner, Boulevard Properties, is a supporter of the New Hope concept and is willing to work with the County, the City of Durham, and other agencies to implement the Plan.

The trail easement is adjacent to the County-owned parcel and the City of Durham future park site adjacent to Githens Middle School. This partnership will offer the public and the City and County the chance to work together in providing environmental education opportunities, passive nature based recreation, and the experience of the New Hope Creek environment.

Resource Person(s): Dick Hails, Interim Planning Director, and Mike Giles, Open Space Land Manager

County Manager's Recommendation: The Manager recommended that the Board accept the trail easement donation from Boulevard Properties along New Hope Creek.

Mike Giles, Open Space Land Manager, made a presentation to the Commissioners in reference to accepting a donation of a trail easement on the New Hope Creek Corridor.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to accept the trail easement donation from Boulevard Properties along New Hope Creek.

The motion carried unanimously.

Vice-Chairman Reckhow asked that a letter of thanks be sent to the property owner donating the easement.

Approve Sole Source of Communications Repeaters From Local Law Enforcement Block Grant Funds—Budget Ordinance Amendment No. 02BCC000017

The Office of the Sheriff requested the Board's approval of a sole-source exemption to allow the purchase of three Communication Repeaters from Motorola (Piedmont Communications Co. Inc.). Justification for this sole source purchase is based on North Carolina G.S. §143-129(f), which allows an exemption from formal bidding "when standardization or compatibility is the overriding consideration."

The Board of County Commissioners approved the funding for these Repeaters on September 24, 2001. This funding is part of the 2001 Local Law Enforcement Block Grant. The cost of the equipment is \$37,761.75. After adding sales tax, freight, programming, and installation, the amount would be \$46,132.45. No further County funding would be necessary for this purchase. The Purchasing Department has approved this item.

Resource Person(s): Nancy Dellinger; Major Mike Andrews

County Manager's Recommendation: The County Manager recommended that the Board approve the sole source exemption for Motorola (Piedmont Communications Co., Inc.) to furnish, install, and program the Repeaters for the Sheriff's Office.

Chairman Black called for a vote on the agenda item.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve the sole-source exemption for Motorola (Piedmont Communications Co. Inc.) to furnish, install, and program the repeaters for the Office of the Sheriff.

The motion carried unanimously.

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2001-02 Budget Ordinance
Amendment No. 02BCC000017

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2001-02 Budget Ordinance is hereby amended to reflect budget adjustments for the Office of the Sheriff.

GENERAL FUND

	<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
<u>Expenditures</u>				
Public Safety	\$33,198,362	\$178,676		\$33,377,038
<u>Revenues</u>				
Intergovernmental	\$229,656,901	\$178,676		\$229,835,577

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

This the 12th day of November, 2001

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

Refunding Bonds

A refunding bond proposal was made by the County's financial consultant, Davenport & Company, L.L.C. Davenport has suggested that the County Commissioners authorize the refunding of approximately \$35,485,000 in 1992 bonds. The projected net savings would be \$1,502,402. This is based on current market rates, and the savings could and probably would fluctuate with market conditions. In refunding the existing bonds, no additional debt would be incurred. This is just a restructuring of existing debt. It should also be noted that the refunding bonds would be paid off in the same time period as the existing 1992 bonds. The actual amount to be requested in the legal documents to be approved would be an amount not to exceed \$39,000,000. This would allow for additional savings if market conditions are favorable at the time of the actual bond sale.

The Preliminary Resolution authorizing proceeding with the bonds and the Bond Order was prepared by Bond Counsel to be sent to the Board prior to the meeting. The required public hearing should be set for November 26, 2001. This date would allow for the required 30-day notice period prior to a proposed sale date of January 8, 2002, which date has been reserved for the County by the Local Government Commission contingent upon the Board deciding to go forward with the refunding.

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

County Manager's Recommendation: Approve the Preliminary Resolution and approve the introduction of the Bond Order setting the public hearing on November 26, 2001.

County Attorney Chuck Kitchen explained to the Commissioners their status on the refunding of the bonds.

Chairman Black asked if there were any questions about the agenda item. There were none.

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to move approval of the Preliminary Resolution and the Introduction of the Bond Order setting the public hearing for November 26, 2001.

The motion carried unanimously.

The Preliminary Resolution and the Introduction of the Bond Order follow:

RESOLUTION RELATING TO THE AUTHORIZATION
OF REFUNDING BONDS OF THE COUNTY OF
DURHAM, NORTH CAROLINA

WHEREAS, the Board of Commissioners for the County of Durham, North Carolina (the "County"), is considering authorizing the issuance of Refunding Bonds of the County in an aggregate principal amount not exceeding \$39,000,000 for the purpose of providing funds, with any other available funds, for refunding all of the Refunding Bonds, Series 1992 of the County, dated September 1, 1992, and stated to mature after March 1, 2002 in the principal amount of \$35,485,000, including paying expenses related thereto; and

WHEREAS, it is necessary to take certain related actions at this time;

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Board of Commissioners for the County, as follows:

Section 1. The Board of Commissioners for the County (the "Board of Commissioners") hereby finds and determines in connection with authorizing the issuance of such Refunding Bonds that (i) the issuance of such Refunding Bonds is necessary or expedient in order to realize debt service savings for the County, (ii) the proposed principal amount of such Refunding Bonds is adequate and not

excessive for the proposed purpose of such issue because it is based upon the best estimate of the County of the funds needed for such purpose, (iii) the County's debt management procedures and policies are good and are managed in strict compliance with law, (iv) the increase in taxes , if any, necessary to service such Refunding Bonds will not be excessive because it is expected that debt service savings will be realized in connection with the issuance of such Refunding Bonds and (v) such Refunding Bonds can be marketed at reasonable rates of interest.

Section 2. The County Manager, the Finance Director, and the County Attorney of the County are each hereby designated as a representative of the County to file an application for approval of such Refunding Bonds with the Local Government Commission of North Carolina and authorized to take such other actions as may be advisable in connection with authorizing the issuance of such Refunding Bonds; and all actions heretofore taken by any of such officers or any other officer of the County relating to such matter on behalf of the County are hereby approved, ratified, and confirmed.

Section 3. The law firms of Robinson, Bradshaw & Hinson, P.A., Charlotte, North Carolina, and Marsh and Marsh, Attorneys at Law, Durham, North Carolina, are hereby confirmed as co-bond counsel of the County in connection with the authorization and issuance of such Refunding Bonds; Davenport & Company LLC is hereby confirmed as financial advisor of the County in connection with the authorization and issuance of such Refunding Bonds and The Arbitrage Group, Inc., Tuscaloosa, Alabama, is hereby appointed

as verification agent of the County in connection with the issuance of such Refunding Bonds.

Section 4. This resolution shall take effect immediately upon its passage.

ORDER AUTHORIZING
\$39,000,000 REFUNDING BONDS

BE IT ORDERED by the Board of Commissioners for the County of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, the County of Durham, North Carolina, is hereby authorized to issue Refunding Bonds in an aggregate principal amount not exceeding \$39,000,000 for the purpose of providing funds, with any other available funds, for refunding all of the Refunding Bonds, Series 1992 of said County, dated September 1, 1992, and stated to mature after March 1, 2002 in the principal amount of \$35,485,000, including paying expenses related thereto.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of the debt of said County has been filed with the Clerk to the Board of Commissioners for said County and is open to public inspection.

4. That this order shall take effect upon its adoption

The Board of Commissioners thereupon designated the Finance Director of the County as the officer whose duty it shall be to make and file with the Clerk to the Board of Commissioners the sworn statement of debt of the County which is required by The Local Government Bond Act, as amended, to be filed after the bond order has been introduced and before the public hearing thereon.

Thereupon the Finance Director filed with the Clerk to the Board of Commissioners, in the presence of the Board of Commissioners, the sworn statement of debt as so required.

Thereupon the order entitled: "ORDER AUTHORIZING THE \$39,000,000 REFUNDING BONDS" was passed on first reading.

On motion duly made, seconded and unanimously carried, the Board of Commissioners fixed 7:00 P.M. on November 26, 2001, in the County Commissioners Meeting Room in the Durham County Government Administrative Complex at 200 East Main Street, in Durham, North Carolina, as the hour, day and place for the public hearing upon the foregoing order and directed the Clerk to the Board of Commissioners to publish said order, together with the appended statement as required by The Local Government Bond Act, as amended, once in The Herald-Sun not later than the sixth day before said date.

Refunding Bonds and 2/3's Bonds

A bond issue of 2/3's bonds for projects in the County's Capital Improvements Plan (CIP) was proposed. The maximum amount available for issue was approximately \$11.05 million.

It should be recalled that 2/3's bonds are general obligation bonds, which are limited to 2/3's of the amount of principal debt retired in the previous fiscal year. These bonds do not require voter approval, and for this reason, are the most cost-effective form of financing available to the County. These bonds must be issued before the refunding bonds.

Resource Person(s): Chuck Kitchen, County Attorney; Pam Meyer, Budget Director; and George Quick, Finance Officer

County Manager's Recommendation: Approve the Preliminary Resolution and introduce the Bond Order setting the public hearing on the Bond Order for November 26, 2001.

County Attorney Chuck Kitchen explained the process for the 2/3's Bonds to the Commissioners.

Chairman Black called for questions from the County Commissioners. There were none.

Chairman Black called for the motion.

Commissioner Heron moved, seconded by Commissioner Bowser, to approve the Preliminary Resolution and introduce the Bond Order setting the public hearing on the Bond Order for November 26, 2001.

The motion carried unanimously.

The Preliminary Resolution and Bond Order follow:

RESOLUTION RELATING TO THE AUTHORIZATION
OF PUBLIC BUILDING BONDS AND LIBRARY FACILITIES BONDS OF THE
COUNTY OF DURHAM, NORTH CAROLINA

WHEREAS, the Board of Commissioners for the County of Durham, North Carolina (the "County"), is considering authorizing the issuance of general obligation bonds of the County pursuant to Article 4 of Chapter 159 of the North Carolina General Statutes, as amended, for the purpose of providing funds, with any other available funds, for various purposes, as follow:

- (a) \$5,910,000 Public Building Bonds without voter approval for enlarging, expanding and improving public buildings and facilities of the County, including the renovation of the Judicial Building, the Animal Shelter, and the Agricultural Building, the construction of an addition to and renovation of the Lebanon Building, the provision of site planning and architectural services and the acquisition of land for the Human Services Complex and the acquisition of necessary furnishings and equipment therefore; and
- (b) \$5,140,000 Library Facilities Bonds without voter approval for providing additional library facilities of the County, including the construction of a branch

library in the northern area of the County and the acquisition of necessary furnishings and equipment for such library and an additional branch library; and

WHEREAS, it is necessary to take certain related actions at this time;

NOW, THEREFORE, BE IT DETERMINED AND RESOLVED by the Board of Commissioners for the County, as follows:

Section 1. Said Board hereby finds and determines in connection with authorizing the issuance of such bonds (collectively, the "Bonds") that (i) the proceeds of the Bonds will be used to finance a portion of the cost of the respective projects to meet urgent needs for facilities or provide desirable facilities to serve the residents of the County and, accordingly, the issuance of the Bonds is necessary or expedient for the County, (ii) the principal amounts of the Bonds are adequate and not excessive for the proposed respective purposes of the Bonds because they are based upon best estimates of the County of the costs of the respective projects and, if necessary, will be supplemented with other funds to be adequate for such purposes, (iii) the County's debt management procedures and policies are good and will be managed in strict compliance with law, (iv) the increase in taxes necessary to service the Bonds will not be excessive because it is expected that any increase in taxes will not exceed fifty hundredths cents (.50¢) per one hundred dollars (\$100) of the appraised value of property subject to taxation by the County and (v) the Bonds can be marketed at reasonable rates of interest.

Section 2. The County Manager, the Finance Director, and the County Attorney of the County are each hereby designated as a representative of the County to file an application for approval of the Bonds with the Local Government Commission of North Carolina and authorized to take such other actions as may be advisable in

connection with authorizing the issuance of the Bonds; and all actions heretofore taken by any of such officers or any other officer of the County relating to such matter on behalf of the County are hereby approved, ratified and confirmed.

Section 3. The law firms of Robinson, Bradshaw & Hinson, P.A., Charlotte, North Carolina, and Marsh and Marsh, Attorneys at Law, Durham, North Carolina, are hereby confirmed as co-bond counsel of the County in connection with the authorization and issuance of the Bonds.

Section 4. This resolution shall take effect immediately upon its passage.

ORDER AUTHORIZING
\$5,910,000 PUBLIC BUILDING BONDS

BE IT ORDERED by the Board of Commissioners for the County of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, the County of Durham, North Carolina is hereby authorized to contract a debt, in addition to any and all other debt which said County may now or hereafter have power or authority to contract, and in evidence thereof to issue Public Building Bonds in an aggregate principal amount not exceeding \$5,910,000 for the purpose of providing funds, with any other available funds, for enlarging, expanding and improving public buildings and facilities of said County, including the renovation of the Judicial Building, the Animal Shelter and the Agricultural Building, the construction of an addition to and renovation of the Lebanon Building, the provision of site planning and architectural services and the acquisition of land for the Human Services Complex and the acquisition of necessary furnishings and equipment therefor.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of the debt of said County has been filed with the Clerk to the Board of Commissioners for said County and is open to public inspection.

4. That this order shall take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the people as provided in G.S. § 159-60 in which event it will take effect when approved by the voters of said County at a referendum as provided in said Act.

ORDER AUTHORIZING
\$5,140,000 LIBRARY FACILITIES BONDS

BE IT ORDERED by the Board of Commissioners for the County of Durham:

1. That, pursuant to The Local Government Bond Act, as amended, the County of Durham, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said County may now or hereafter have power or authority to contract, and in evidence thereof to issue Library Facilities Bonds in an aggregate principal amount not exceeding \$5,140,000 for the purpose of providing funds, with any other available funds, for providing additional library facilities of said County, including the construction of a branch library in the northern area of said County and the acquisition of necessary furnishings and equipment for such library and an additional branch library.

2. That taxes shall be levied in an amount sufficient to pay the principal of and the interest on said bonds.

3. That a sworn statement of the debt of said County has been filed with the Clerk to the Board of Commissioners for said County and is open to public inspection.

4. That this order shall take effect 30 days after its publication following adoption, unless it is petitioned to a vote of the people as provided in G.S. § 159-60 in

which event it will take effect when approved by the voters of said County at a referendum as provided in said Act.

The Board of Commissioners thereupon designated the Finance Director of the County as the officer whose duty it shall be to make and file with the Clerk to the Board of Commissioners the sworn statement of debt of the County which is required by The Local Government Bond Act, as amended, to be filed after the bond orders have been introduced and before the public hearing thereon.

Thereupon the Finance Director filed with the Clerk to the Board of Commissioners, in the presence of the Board of Commissioners, the sworn statement of debt as so required.

Thereupon the order entitled: "ORDER AUTHORIZING \$5,910,000 PUBLIC BUILDING BONDS" was passed on first reading.

Thereupon the order entitled: "ORDER AUTHORIZING \$5,140,000 LIBRARY FACILITIES BONDS" was passed on first reading.

On motion duly made, seconded and unanimously carried, the Board of Commissioners fixed 7:00 P.M. on November 26, 2001, in the County Commissioners Meeting Room in the Durham County Government Administrative Complex at 200 East Main Street, in Durham, North Carolina, as the hour, day and place for the public hearing upon the foregoing orders and directed the Clerk to the Board of Commissioners to publish each of said orders, together with the appended statement as required by The Local Government Bond Act, as amended, once in The Herald-Sun not later than the sixth day before said date.

Establishing a Six Month Moratorium on New Telecommunications Tower Applications

In June of this year, both Durham City Council and the Durham Board of County Commissioners approved a zoning text amendment affecting regulations for telecommunications towers. Among the elements of that amendment is the provision of an independent consultant to review the documentation provided by the tower applicant and to advise the approving authority (usually the Board of Adjustment) on its accuracy. A Request for Proposals (RFP) that was issued in follow-up to this ordinance approval is limited to the direction given by that approval.

However, there is now interest in expanding the scope of professional services related to towers substantially beyond that identified in the current RFP to include additional services, such as a tower master plan, an overhaul of regulations, and issues regarding communications equipment within rights-of-way and on other jurisdiction-owned sites. This interest arises from concerns with the number of towers that have been approved or are potentially requested, with changes in dimensional standards accounting for newer technologies, with wise use of local government-owned facilities as possible sites for communications facilities, and with avoiding interference with local government communications such as essential for emergency services. To accommodate this interest, the RFP would have to be amended and reissued. Therefore, the previous RFP process has been put on hold.

Analysis: Revision to and re-issuance of the RFP, consultant selection, and contract approvals are expected to require up to six months. It can be expected that applications for site plan and/or use permit approval for new towers and for towers replacing nonconforming towers would continue to be submitted during that time period. The Attorney's office advises that the legal way to avoid processing or acting on applications is through enactment of a moratorium.

Included in the agenda package is a resolution setting a public hearing on such a moratorium for the Board's November 26 meeting. Such a moratorium would apply to all new towers allowed by right, all new towers allowed with a use permit, and all towers replacing nonconforming towers. It would allow applications received prior to September 5 to be processed, provided the applicant can show to the satisfaction of the County that no interference with emergency communications or governmental dispatch capabilities will result. It would not apply to antennas co-locating on existing towers, buildings, or other structures.

Resource Person: Sheila Stains-Ramp, Interim Assistant Planning Director, C/C Planning

County Manager's Recommendation: Adopt the resolution to set a public hearing to receive public comment and consider establishment of a moratorium on acceptance or review of applications for new towers or replacement towers.

Chairman Black called on Sheila Stains-Ramp, Interim Assistant Planning Director, to present the agenda item to the County Commissioners.

The Commissioners asked questions and made comments to which Ms. Stains-Ramp responded.

County Attorney Chuck Kitchen made comments to the County Commissioners about the moratorium.

Dick Hails, Interim Planning Director, made comments to the Commissioners about the moratorium in reply to the County Attorney's remarks.

A lengthy discussion was held on the moratorium with the Commissioners, County Attorney, and the Interim Planning Director.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to schedule a public hearing at the first Regular Session in December to consider establishment of a moratorium on or review of applications for new towers or replacement towers.

The motion carried unanimously.

The Resolution to set a public hearing follows:

A RESOLUTION TO SET A PUBLIC HEARING
ON A PROSPECTIVE AMENDMENT TO THE DURHAM ZONING ORDINANCE
TO ESTABLISH A MORATORIUM REGARDING CONSIDERATION OF
COMMUNICATIONS TOWERS

WHEREAS, the Board of County Commissioners is concerned with the ongoing proliferation of towers for transmission and receipt of electronic signals; and

WHEREAS, the Board of County Commissioners has, as a result, identified a need for master planning to guide future tower placement; and

WHEREAS, the Board of County Commissioners has also identified a need for revision of dimensional standards to take into account newer technologies; and

WHEREAS, the Board of County Commissioners is concerned with the potential for interference with police, fire and rescue emergency communications, and with radio dispatch required for municipal and County services; and

WHEREAS, the Board of County Commissioners has adopted a zoning ordinance amendment providing for the hiring of an independent consultant to evaluate the

technical documentation submitted by applicants for communication towers (Section 7.39); and

WHEREAS, the access to an independent consultant to do this technical evaluation is important because the technical expertise is not available on staff; and

WHEREAS, the consideration of applications for new communications towers (either by use permit or by right) and for towers replacing nonconforming communications towers is to await this independent technical expertise; and

WHEREAS, adoption of a formal moratorium on such consideration is in the best interests of the County:

NOW, THEREFORE, BE IT RESOLVED by the Durham Board of County Commissioners:

1. That a public hearing on consideration of a six-month moratorium on acceptance or consideration of requests for new communications towers (either by right or by use permit) and for towers replacing nonconforming towers be scheduled for the Durham Board of County Commissioners meeting on November 26, 2001, a meeting which starts at 7:00 p.m. in the Board Chambers of the Durham County Government Administrative Complex, 200 E. Main Street, second floor.
2. That such public hearing be duly advertised by notice in the local newspaper once a week for two successive weeks as provided by G.S. § 153A-323 and G.S. § 153A-343.
3. That the moratorium be considered a Board of County Commissioners-initiated zoning ordinance amendment.

Adopted this 12th day of November, 2001

The Zoning Ordinance Text Amendment TC127-01 follows:

AN ORDINANCE AMENDING THE ZONING CODE OF THE COUNTY OF
DURHAM TO ESTABLISH A MORATORIUM ON CONSIDERATION OF NEW
COMMUNICATION TRANSMISSION TOWERS

WHEREAS, the Board of County Commissioners is concerned with the ongoing proliferation of towers for transmission and receipt of electronic signals; and

WHEREAS, the Board of County Commissioners has, as a result, identified a need for master planning to guide future tower placement; and

WHEREAS, the Board of County Commissioners has also identified a need for revision of dimensional standards to take into account newer technologies; and

WHEREAS, the Board of County Commissioners is concerned with the potential for interference with police, fire and rescue emergency communications, and with radio dispatch required for municipal and County services; and

WHEREAS, the Board of County Commissioners has adopted a zoning ordinance amendment providing for the hiring of an independent consultant to evaluate the technical documentation submitted by applicants for communication towers (Section 7.39); and

WHEREAS, the access to an independent consultant to do this technical evaluation is important because the technical expertise is not available on staff; and

WHEREAS, the consideration of applications for new communications towers (either by use permit or by right) and for towers replacing nonconforming communications towers is to await this independent technical expertise; and

WHEREAS, adoption of a formal moratorium on such consideration is in the best interests of the County:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF DURHAM THAT:

Section 1. For the time period November 27, 2001 through May 27, 2002, the following language is added at the beginning of Section 7.39 Towers for transmitting and receiving electronic signals (or same section as renumbered) of the Zoning Ordinance:

“Moratorium on approvals for communications towers: Notwithstanding any other provision in this zoning code allowing the construction or placement of communication towers, no application for a building permit, site plan, use permit, or any other permit or approval for a tower for transmitting or receiving electronic signals shall be accepted, processed, or granted from November 27, 2001 through May 27, 2002. This moratorium does not apply to antenna co-location, or antenna on existing buildings or structures. It does apply to all new towers and proposed replacements for nonconforming towers.”

Section 2. Notwithstanding the above moratorium, applications received prior to September 5, 2001 may be processed for approval and granted, where appropriate if the applicant can show to the satisfaction of the County that the tower and its equipment, including antennae, will not cause any interference with emergency communications and municipal, county, state, or federal radio dispatch capabilities.

Section 3. This ordinance shall become effective upon adoption.

This the 12th day of November, 2001.

Board and Commission Appointments

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

The vote follows (asterisks indicate appointees):

Adult Care Home Community Advisory Committee (Terms expire September 2002)

* Gregory Badger—Black, Bowser, Cousin, Heron, and Reckhow

Area Mental Health Board (Terms expire July 2005)

Hans Himler—No Votes

* Cynthia M. Wiford—Black, Bowser, Cousin, Heron, and Reckhow

Durham Convention and Visitors Bureau (Term expires October 2004)

Susan B. Allen—No Votes

Dominick T. DeFeo—No Votes

* William A. Kalkhof—Black, Bowser, Cousin, Heron, and Reckhow

Amanda Denise Mandy—No Votes

Julia Damsel Moushon—No Votes

Raleigh-Durham Airport Noise Abatement Committee (Term expires September 2004)

* Christopher Voigt—Black, Bowser, Cousin, Heron, and Reckhow

Transportation Advisory Board (Terms expire October 2004)

* Joseph E. Kilsheimer—Black, Bowser, Cousin, Heron, and Reckhow

Adjournment

Chairman Black adjourned the meeting at 9:46 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board