

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

Monday, April 12, 2004

7:00 P.M. Regular Session

MINUTES

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

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

Absent: Commissioner Mary D. Jacobs

Presider: Chairman Reckhow

Opening of Regular Session

Chairman Reckhow welcomed everyone in attendance and asked them to join the Commissioners in the recitation of the Pledge of Allegiance.

Motion to Excuse Commissioner Jacobs

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to excuse Commissioner Jacobs from the April 12, 2004 Regular Session due to a family emergency.

The motion carried unanimously.

Agenda Adjustments

- Vice-Chairman Bowser added "Tax Office Issue" to the agenda.
- Commissioner Heron added "9-1-1 Communications Center" to the agenda.

Minutes

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve as submitted the February 18, 2004 BOCC/Hospital Corporation Board of Trustees and March 22, 2004 Regular Session Minutes of the Board and the March 3, 2004 Worksession Minutes as corrected.

The motion carried unanimously.

Announcements

- Commissioner Heron announced that the memorial service for Mr. Tony Mulvihill, an advocate for mental illness (particularly drug and alcohol abuse prevention), will be held on April 12, 2004 at 3:00 p.m. at The Newman Center, 218 Pittsboro Street, Chapel Hill, NC.
- Chairman Reckhow commented about her participation at a press conference held on air quality.
- Vice-Chairman Bowser announced the passing of Mr. Charles Rogers, an advocate of Durham County nursing homes.

Proclamation Recognizing “National County Government Week”

A proclamation naming the week of April 18-24 as “National County Government Week” was prepared for the Board’s approval. Several events were planned to observe the week.

- Monday, April 19—Announce Newsletter naming contest winner
- Tuesday, April 20—Durham, the “County” of Medicine Health Booth on 1st Floor
- Wednesday, April 21—Recycle Durham County Booth on 1st Floor
- Thursday, April 22—Durham County Trivia Contest
- Friday, April 23—Durham County Paraphernalia Day

Resource Person(s): Deborah Craig-Ray, Public Information/Governmental Affairs Director

County Manager's Recommendation: The County Manager recommended that the Board approve the proclamation and recognize the work that County employees perform on behalf of the citizens.

The proclamation follows:

PROCLAMATION

WHEREAS, County Government is a key part of the engine that drives this country; and

WHEREAS, Counties also provide public safety, and offer medical and human services. Counties provide opportunities for new businesses to prosper, provide job training and technological solutions; and

WHEREAS, County officials ensure that citizens are protected and that communities thrive; and

WHEREAS, Counties provide needed elderly services and healthcare to the disabled and needy. When natural or man-made disaster strikes, county emergency services keep children and their families safe and informed until order can be restored; and

WHEREAS, County officials and employees use their role as local leaders to encourage economic development and therefore improve the lives of their citizens and make their communities more livable; and

WHEREAS, Durham County is one of 3,066 counties in the United States, collectively responsible for the well being of more than 230 million residents; and

WHEREAS, Counties have a long history of serving and providing for the American people. In recognition of the leadership, innovation and valuable service provided by our nation's counties:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby proclaim the week of April 18-24, 2004 as

“NATIONAL COUNTY GOVERNMENT WEEK”

in Durham County. We further urge all citizens to recognize the leadership, innovation and valuable services provided by dedicated public employees.

This the 12th day of April, 2004.

/s/ Five Commissioners
Durham County Commissioners

Ms. Craig-Ray described the events that would be held in observance of National County Government Week.

Chairman Reckhow thanked Ms. Craig-Ray for planning fun activities to encourage employee participation.

Resolution Honoring Mr. Thad Howard

A resolution honoring Mr. Thad Howard was prepared at the request of Commission Chairman Ellen W. Reckhow. Mr. Howard provided exemplary volunteer service to the Durham community, especially while serving on the Durham Open Space and Trails Commission. He would leave the area next month, relocating to Tennessee.

County Manager's Recommendation: The County Manager recommended that the Board approve the resolution and present it to Mr. Howard, along with sincere thanks of the entire Durham County community.

The resolution follows:

RESOLUTION

WHEREAS, Thad A. Howard has demonstrated a philosophy of “giving back” to others by his loyal and dedicated service to the Durham community; and

WHEREAS, he has served two terms as a member of the Durham Open Space and Trails Commission, whose mission is to prepare, implement and review open space policy and to serve as a liaison between government and citizens on matters related to open space, greenways and conservation corridors; and

WHEREAS, in addition, he has served on the Development Review Committee, the Trails Committee and the Bicycle and Pedestrian Advisory Committee and is highly regarded as a member who always does his homework; and

WHEREAS, over the years he has willingly shared his knowledge of open space issues at various community and educational activities such as the annual Earth Day and Festival on the Eno; and

WHEREAS, Mr. Howard has regularly devoted many hours to working with the Rails to Trails group, most especially on portions of the American Tobacco Trail between the Streets at SouthPoint Mall and Herndon Park; and

WHEREAS, he has spent considerable time planning and organizing numerous Saturday workdays, obtaining gravel and tools and most importantly, recruiting other dedicated volunteers to help clear the trail; and

WHEREAS, his efforts have clearly advanced the completion of that portion of the American Tobacco Trail which will be enjoyed by residents and visitors for years to come:

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

THAD A. HOWARD

for many years of generously, and unselfishly donating considerable time and resources to improving trails and open spaces in Durham County.

This the 12th of April, 2004.

/s/ Five Commissioners
Durham County Commissioners

Chairman Reckhow asked Mr. Howard to come forward. (The resolution would be given to Mr. Howard later to give Commissioner Jacobs an opportunity to sign it.)

Mr. Howard thanked the Board for the recognition.

Consent Agenda

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

- * (b) Capital Project Ordinance Amendment No. 04CPA000012—Open Space and Farmland Preservation (approve the capital project ordinance amendment allocating \$300,000 for Open Space and Farmland Preservation activities);
- * (e) Mental Health Reform—Governance (extend the Mental Health Area Authority for one year and adopt the resolution);
- (f) Approval of Legislative Goals (approve the proposed package of Legislative issues); and
- * (g) Stormwater Ordinance Amendment (approve the ordinance amendment and direct that it be sent to the State for approval of the program amendment).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. b. Capital Project Ordinance Amendment No. 04CPA000012—Open Space and Farmland Preservation (approve the capital project ordinance amendment allocating \$300,000 for Open Space and Farmland Preservation activities).

The capital project amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Capital Project Ordinance
Amendment No. 04CPA000012

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

GENERAL FUND

<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
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Expenditures

Open Space and Farmland Preservation	\$0	\$300,000	\$300,000
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 12th day of April, 2004.

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

Consent Agenda Item No. e. Mental Health Reform—Governance (extend the Mental Health Area Authority for one year and adopt the resolution).

The resolution follows:

**RESOLUTION CONCERNING GOVERNANCE OF MENTAL
HEALTH, DEVELOPMENTAL DISABILITIES, AND
SUBSTANCE ABUSE SERVICES**

WHEREAS, the Board of Commissioners on September 18, 2002 elected to operate mental health, developmental disabilities, and substance abuse services in Durham County as a single county program effective July 1, 2004; and

WHEREAS, the transition from a service provider to a Local Management Entity (LME) has been slower than expected; and

WHEREAS, the Board of Commissioners desires to develop additional relationships with other counties for the provision of services through interlocal cooperation agreements.

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE
COUNTY OF DURHAM DO TH RESOLVE:**

1. The resolution establishing a county program for the operation of mental health, developmental disabilities, and substance abuse services in Durham County as a single county program dated September 18, 2002 is hereby rescinded.

2. The Durham County Mental Health, Developmental Disabilities, and Substance Abuse Authority known as The Durham Center shall continue in existence and operate as the County's LME effective July 1, 2004.

3. The County Manager is hereby ordered to prepare a letter for the signature of the Chairman of the Board to be sent to the State Mental Health Division notifying it of the rescinding of the County's prior election creating a single county program.

4. The County Manager or his designee, in conjunction with The Durham Center, is further ordered to continue to explore possibilities for interlocal cooperation agreements with other counties or other mental health authorities.

This the 12th day of April, 2004.

Consent Agenda Item No. g. Stormwater Ordinance Amendment (approve the ordinance amendment and direct that it be sent to the State for approval of the program amendment).

The ordinance follows:

ORDINANCE AMENDING DURHAM COUNTY
STORMWATER ORDINANCE

WHEREAS, the Board of Commissioners has enacted an ordinance which regulates stormwater runoff and implements requirements imposed on waters in the Neuse River Basin; and

WHEREAS, the Durham County Stormwater Ordinance currently provides for a review by State regulators when streams appear on certain maps, but do not in fact exist on the ground; and

WHEREAS, the State will not perform a review when the stream or streams are outside the Neuse River Basin; and

WHEREAS, the Board of Commissioners desires to provide a mechanism for a review of existing conditions of streams which may be reported in error on certain maps.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOTH ORDAIN:

1. That section 14-153 of the Durham County Code of Ordinances is amended to read as follows:

Sec. 14-153. Design and performance standards.

(a) Durham County has been included in the Neuse River Nutrient Sensitive Waters Management Strategy. Accordingly, developments within this article's jurisdiction are

subject to specific requirements established in the Act and its implementing rules. The following requirements shall apply to developments within the Neuse River Basin:

(1) Developments shall plan for, and implement, stormwater management controls which will limit the nitrogen load of runoff to 3.6 pounds/acre/year. Developers who have obtained an offset by participation in the North Carolina Wetland Restoration Fund established by the North Carolina Department of Environment and Natural Resources, shall plan for and implement management controls which will limit the nitrogen load of runoff from the site to six pounds/acre/year for residential development and ten pounds/acre/year for commercial or industrial development. Nitrogen export calculations shall be made using a formula approved by the stormwater administrator.

(2) Developments shall plan for and implement stormwater management controls which will ensure that there is no net increase in peak flow leaving the site from the predevelopment conditions for the one-year 24-hour storm, of more than ten percent. If the development results in an increase of greater than ten percent, the developer will be responsible for installing measures which will result in no net increase. The same methodology must be used for calculating both the pre- and post-development flow rates.

(3) Plans for developments shall protect and maintain existing riparian areas in accordance with 15A N.C.A.C. 2B.0233 which is hereby incorporated by reference, as well as the requirements of the Durham City-County Zoning Ordinance. Consistent with the requirements of 15A N.C.A.C. 2B.0233, no developments shall be approved which are proposed within the first 50 feet adjacent to a waterbody that is shown on the most recent version of either the U.S.G.S. 7½ minute quadrangle topographic map or the U.S.D.A. Soil Survey of Durham County, North Carolina, unless the developer can demonstrate to the stormwater administrator's satisfaction that the State Division of Water Quality has approved the development.

(b) The following requirements shall apply to developments outside the Neuse River Basin:

(1) Developments shall plan for and implement stormwater management controls which will ensure that there is no net increase in peak flow leaving the site from the predevelopment conditions for the one-year 24-hour storm, of more than ten percent. If the development results in an increase of greater than ten percent, the developer will be responsible for installing measures which will result in no net increase. The same methodology must be used for calculating both the pre- and post-development flow rates.

(2) Plans for developments shall protect and maintain existing riparian areas. No developments shall be approved which are proposed within the first 50 feet adjacent to a waterbody that is shown on the most recent version of either the

U.S.G.S. 7½ minute quadrangle topographic map or the U.S.D. A. Soil Survey of Durham County, North Carolina.

(3) Notwithstanding the foregoing, developments may be approved within the first 50 feet adjacent to a waterbody that is shown on the most recent version of either the U.S.G.S. 7½ minute quadrangle topographic map or the U.S.D.A. Soil Survey of Durham County, North Carolina provided:

(i) For streams, a stream delineation is performed by a person selected by the County Engineer from an approved list, which is to be compiled by the County Engineer, to do stream delineations and presented to the County Engineer which, to the County Engineer's satisfaction, shows that the stream shown on the most recent version of either the U.S.G.S. 7½ minute quadrangle topographic map or the U.S.D.A. Soil Survey of Durham County, North Carolina does not exist. Any person requesting such a stream delineation to be performed as provided in this paragraph shall make application to the County Engineer for the stream delineation to be done and shall pay a fee to cover the cost of said delineation in an amount as determined by the Board of Commissioners.

(ii) For ponds and lakes, that the ponds or lakes are manmade and are located outside natural drainage ways.

2. The County Manager shall submit this amendment to the Durham County stormwater management program to the Environmental Management Commission for review and approval pursuant to G.S. § 143-214.7(d).

3. This ordinance shall be effective when it becomes law.

(Recorded in Ordinance Book _____, page(s) _____.)

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. a Budget Ordinance Amendment No. 04BCC0000491—Public Health—Recognize North Carolina Sterilization Grant Revenue in the Community Health Division (approve the budget ordinance amendment for \$20,100 to recognize the North Carolina Sterilization Fund Grant and allow the department to contract with Raleigh Women's Health to provide the service).

The Health Department requested approval of a budget amendment to recognize a one-time grant of \$20,100 from the North Carolina Department of Health and Human Services to pay for sterilization procedures for 16 women. The agency presently has a waiting list of 12 women who have requested sterilization and anticipates that four women can easily be identified once the availability of funding is announced. To be eligible for the procedure, a woman must be over 21 years of age, a North Carolina resident, competent to understand the procedure, and below 250% of poverty, with

priority given to those below 100% of poverty. She must also sign a consent form 30 days in advance of the procedure. Raleigh Women's Health has agreed to perform the sterilizations at an all-inclusive fee of \$1,200 per patient. There will be no charge to the patient.

Vice-Chairman Bowser inquired about costs of services by Durham Women's Clinic and Raleigh Women's Health.

Mr. Brian Letourneau, Health Director, responded that Durham Women's Clinic cost of \$1,251 does not include anesthesia, pre-op labs, or follow-up visits. Raleigh Women's Health has agreed to perform the sterilizations at an all-inclusive fee of \$1,200 per patient.

Vice-Chairman Bowser noted that the cost of services at Durham Women's Clinic is \$251 more than the cost at Raleigh Women's Health; yet, patients may spend approximately \$251 or more for costs of follow-up visits and transportation to Raleigh. He suggested making services convenient for the patients by keeping the business in Durham.

Chairman Reckhow stated that the exact difference in costs between Durham Women's Clinic and Raleigh Women's Health is unknown, but considering the costs of anesthesia and follow-up visits, costs can extend to several hundred dollars more than \$251.

Mr. Letourneau reiterated that the \$1,251 does not include anesthesia, pre-op labs, or follow-up visits.

Vice-Chairman Bowser expressed concern that Durham Women's Clinic placed a bid for sterilization procedures without including the cost of anesthesia, which completes the procedure. He commented that he would vote against the Manager's recommendation but will not prolong the process any further.

Commissioner Cousin sought clarification about the grant balance after services are rendered by Durham Women's Clinic to the 12 patients.

Commissioner Heron inquired about the reasons for cost differences between Durham Women's Clinic, Raleigh Women's Health, Durham Regional Hospital, Harris and Smith, and Duke OB/GYN and why only Raleigh Women's Health provided an all-inclusive cost.

Mr. Letourneau responded that Durham Women's Clinic could not supply charges for anesthesia because it is charged per unit of service time and the amount of time is unknown.

Commissioner Heron asked if a decision on the grant can be delayed for two weeks.

Mr. Letourneau responded that if services are not rendered and billed by May 15, Public Health is obligated to forfeit the grant.

Mr. Letourneau added that using Raleigh Women's Health would allow four additional patients to receive treatment.

Commissioner Heron asked Mr. Letourneau about the feasibility of accepting the grant but choosing another provider.

Mr. Letourneau responded that Public Health will use the provider chosen by the Board of Commissioners, pending State approval. He clarified that the State may not approve Durham Women's Clinic, given that Raleigh Women's Health would provide the services at a lower cost.

Commissioner Heron asked Mr. Letourneau to check with the State to request two weeks to collect information requested by the Board. She added that if request is denied, the Board should proceed without further delay.

Chairman Reckhow clarified that the grant must be expended by May 15; thus, the next two weeks are critical in terms of contacting the patients and scheduling appointments. She suggested that the Board authorize Public Health to contract with Durham Women's Clinic (pending State approval) and to support Raleigh Women's Health as an alternate.

Commissioner Heron made the motion to approve Budget Ordinance Amendment No. 04BCC0000491 allowing Public Health to contract with Durham Women's Clinic (pending State approval) and to support Raleigh Women's Health as an alternate.

The motion failed for lack of a second.

Commissioner Cousin asked why services are contracted in surrounding areas if Durham is proclaimed the "City of Medicine".

Chairman Reckhow responded that the reason is due to another clinic providing more cost-efficient services.

Vice-Chairman Bowser requested a written statement that the State will not approve utilization of the grant unless the least expensive provider is chosen. He commented that the least expensive service is not always the most advantageous.

Mr. Letourneau noted that ten North Carolina counties have utilized Raleigh Women's Health for sterilization procedures, implying that the lesser cost does not reflect the quality of service.

Vice-Chairman Bowser reiterated rejecting a grant that must be used to contract services with the least expensive provider instead of the most favorable provider.

Mr. Letourneau stated that greater costs for services result in fewer patients being served.

Commissioner Heron made the motion to approve Budget Ordinance Amendment No. 04BCC0000491 and instruct Public Health to contract with a clinic in Durham County, pending State approval, and use another provider that is convenient for the patients as an alternate.

The motion failed for lack of a second.

Vice-Chairman Bowser made a substitute motion, seconded by Commissioner Cousin, to approve Budget Ordinance Amendment No. 04BCC0000491, contingent upon State approval of Durham Women's Clinic providing the services.

The motion carried unanimously.

The Board clarified for Mr. Letourneau that if services are not obtained from Durham Women's Clinic, then the grant is not to be accepted.

Commissioner Heron expressed concern about not providing services to the patients if Durham Women's Clinic is denied. She explained that providing sterilization will save the taxpayers money in childcare, food stamps, etc.

Vice-Chairman Bowser emphasized that health care will be provided to Durham citizens by professionals within Durham County or surrounding areas as long as they provide the best health care, regardless of where the funding originates.

Chairman Reckhow requested that Mr. Letourneau provide an update in two weeks for possible Board reconsideration.

Mr. Letourneau consented to providing an update but expressed his opinion that postponing a decision for two weeks may prevent the services from being provided. He expressed his concern that the funds will not be utilized.

The Commissioners held a brief debate about reconsidering the substitute motion.

Chairman Reckhow expressed disappointment in the Board's not casting a majority vote for the two-pronged motion (to contract with Durham Women's Clinic, pending State approval, and utilize Raleigh Women's Health as an alternate).

Commissioner Heron requested a report from Public Health on the State's decision.

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC0000491

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>			
Intergovernmental	\$299,603,602	\$20,100	\$299,623,702

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$359,459,829	\$20,100	\$359,479,929

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

This the 12th day of April, 2004.

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

Consent Agenda Item No. c. Triangle Wastewater Treatment Plant—Sludge Removal and Disposal—RFP-022 (authorize the County Manager to enter into a service contract with Bio-Nomic Services for the removal and disposal of 1716 dry tons of sludge in an amount of \$500,000 and authorize the County Manager to execute annual renewals of this contract as funding becomes available).

Vice-Chairman Bowser requested that future copies of proposals from interested vendors be submitted to the Board for review.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to enter into a service contract with Bio-Nomic Services for the removal and disposal of 1716 dry tons of sludge in an amount of \$500,000 and to execute annual renewals of this contract as funding becomes available.

The motion carried unanimously.

Consent Agenda Item No. d Resolutions Providing for the Issuance of \$10,600,000 General Obligation Public Improvement Bonds, Series 2004A, and \$46,600,000 General Obligation Public Improvement Bonds, Series 2004B (approve the two resolutions; separate votes should be held for each resolution).

Chairman Reckhow expressed concern about bonds being issued 24 months before construction begins. She deemed it would be helpful to calculate fixed costs associated with an issuance versus the extra interest to gather a cost benefit analysis.

Commissioner Heron echoed Chairman Reckhow's concern.

Mr. George K. Quick, Finance Director, responded that bonds can be issued every two years; thus, funding for construction plans are combined within the two-year time frame.

Commissioner Heron asked about the effect the issuance of \$57,000,000 in general obligation public improvement bonds would have on the County's tax rate.

County Attorney Chuck Kitchen responded that in the highest year, in the capital finance plan model, the \$46.6 million bond will necessitate 1.2 cents of the County tax rate to pay for the debt service. The \$10.6 million bond will necessitate .44 cents.

County Manager Mike Ruffin commented that a partial issuance helps control the effect on the tax rate. Museum staff has assured him that they are prepared for construction.

Mr. Ruffin gave an update about the planned construction on South Regional Branch Library. He recognized Mr. Glen Whisler, County Engineer, to elaborate on the new design of the library.

Mr. Whisler responded that the design contract would be presented to the Board in the near future. The project can be completed in approximately nine months.

Chairman Reckhow added that approval processes could take up to three to four months. She asked Mr. Quick about issuing general obligation bonds more frequently than every two years.

Mr. Quick explained that issuing partial general obligation bonds more frequently will increase issuance costs.

County Attorney Kitchen stated that another reason bonds are issued less frequently is that with debt issued, it subtracts from the ability to issue ? bonds.

Chairman Reckhow suggested that the administration should produce projects in a timely manner to prevent paying debt on bonds that are not being used.

Commissioner Heron asked Mr. Whisler about design fees.

County Attorney Kitchen mentioned that it might take longer than three months to approve the South Regional Branch Library design because of continuing negotiations about the County making road improvements.

County Manager Ruffin asked County Attorney Kitchen if it is possible to delay voting until April 26 to consider reducing the \$46.6 million bond by \$2 million and remain on the Local Government Commission calendar.

County Attorney Kitchen responded that postponing a vote would delay bond issuance by up to three or four months.

Chairman Reckhow suggested that the Board vote on the bonds as presented. If staff decides to reduce the bond amount, then an amended bond should be submitted to the Board at the April 26, 2004 Regular Session.

Commissioner Heron moved, seconded by Commissioner Cousin, to approve the resolution providing the issuance of \$10,600,000 General Obligation Public Improvement Bonds, Series 2004A.

The motion carried unanimously.

Commissioner Heron moved, seconded by Commissioner Cousin, to approve the resolution providing the issuance of \$46,600,000 General Obligation Public Improvement Bonds, Series 2004B.

The motion carried unanimously.

Commissioner Heron expressed concern to County Manager Ruffin about how much construction the County can afford in terms of time and money.

County Manager Ruffin assured the Board that the County is in a comfortable position to begin and end construction on the aforementioned projects. He asked Mr. Quick to share evidence with the Board that the County is financially stable to sustain the projects.

The resolutions follow:

RESOLUTION PROVIDING FOR THE ISSUANCE OF
\$10,600,000 GENERAL OBLIGATION PUBLIC IMPROVEMENT BONDS, SERIES
2004A

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

Section 1. Said Board of Commissioners (the "Board of Commissioners") has determined and does hereby find and declare:

(a) That orders authorizing not exceeding \$7,628,000 Court and Justice Center Facilities Bonds and \$2,972,000 Public Building Bonds were adopted by the Board of Commissioners on February 9, 2004 and that each of said orders has taken effect.

(b) That none of said Court and Justice Center Facilities Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said Court and Justice Center Facilities Bonds and that it is necessary to issue at this time all of said Court and Justice Center Facilities Bonds.

(c) That none of said Public Building Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said Public Building Bonds and that it is necessary to issue at this time all of said Public Building Bonds.

(d) That it is convenient to consolidate for the purpose of their issuance said \$7,628,000 Court and Justice Center Facilities Bonds and said \$2,972,000 Public Building Bonds into a single issue of \$10,600,000 General Obligation Public Improvement Bonds, Series 2004A as hereinafter provided.

(e) That the weighted average of the maximum periods of usefulness of the improvements to be financed with the proceeds of said Court and Justice Center Facilities Bonds and said Public Building Bonds to be issued is estimated as a period of 40 years and that the date of expiration of said period computed from May 1, 2004, the date of said Court and Justice Center Facilities Bonds and said Public Building Bonds to be issued as provided in Section 2 of this resolution, is May 1, 2044.

Section 2. Pursuant to said orders, there shall be issued bonds of the County of Durham, North Carolina (the "Issuer") in the aggregate principal amount of \$10,600,000, designated "General Obligation Public Improvement Bonds, Series 2004A" and dated May 1, 2004 (the "Bonds"). The Bonds shall be stated to mature annually, May 1, \$200,000 2005 to 2011, inclusive, \$800,000 2012 to 2022, inclusive, and \$400,000 2023, and shall bear interest at a rate or rates to be determined by the Local Government Commission of North Carolina at the time the Bonds are sold, which interest to the respective maturities thereof shall be payable on November 1, 2004 and semiannually thereafter on May 1 and November 1 of each year until payment of such principal sum.

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated upon an interest payment date in which event it shall bear interest from such interest payment date or (b) authenticated prior to the first interest payment date in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

The Bonds will be issued by means of a book-entry system with no physical distribution of Bond certificates to be made except as hereinafter provided. One fully-registered Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., a nominee of The Depository Trust Company, New York, New York ("DTC"), will be issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of each Bond shall be payable to Cede & Co. or any other person appearing on the registration books of the Issuer hereinafter provided for as the registered owner of such Bond or his registered assigns or legal representative at such office of the Bond Registrar mentioned hereinafter or such other place as the Issuer may determine upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each Bond shall be made by the Bond Registrar on each interest payment date to the registered owner of such Bond (or the previous Bond or Bonds evidencing the same debt as that evidenced by such Bond) at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such

person at his address as it appears on such registration books. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Finance Director of the Issuer determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the Issuer will discontinue the book-entry system with DTC. If the Issuer identifies another qualified securities depository to replace DTC, the Issuer will make arrangements with DTC and such other depository to effect such replacement and deliver replacement Bonds registered in the name of such other depository or its nominee in exchange for the outstanding Bonds, and the references to DTC or Cede & Co. in this resolution shall thereupon be deemed to mean such other depository or its nominee. If the Issuer fails to identify another qualified securities depository to replace DTC, the Issuer will deliver replacement Bonds in the form of fully registered certificates in the denomination of \$5,000 or any multiple thereof ("Certificated Bonds") in exchange for the outstanding Bonds as required by DTC and others. Upon the request of DTC, the Issuer may also deliver one or more Certificated Bonds to any participant of DTC in exchange for Bonds credited to its account with DTC.

Unless indicated otherwise, the provisions of this resolution that follow shall apply to all Bonds issued or issuable hereunder, whether initially or in replacement thereof.

Section 3. The Bonds shall bear the manual or facsimile signatures of the Chairman of the Board of Commissioners and the Clerk to said Board and the corporate seal or a facsimile of the corporate seal of the Issuer shall be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary of said Commission and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as provided hereinafter.

In case any officer of the Issuer or the Local Government Commission of North Carolina whose manual or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The Bonds to be registered in the name of Cede & Co. and the endorsements thereon shall be in substantially the following forms:

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC") to issuer or its agent for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R- \$.....

United States of America
State of North Carolina

COUNTY OF DURHAM

GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND, SERIES 2004A

<u>Maturity</u>	<u>Interest Rate</u>	<u>Cusip</u>
.....

The County of Durham, in the State of North Carolina, is justly indebted and for value received hereby promises to pay to

CEDE & CO.

or registered assigns or legal representative on the date specified above, upon the presentation and surrender hereof, at the office of the Finance Director of said County (the "Bond Registrar"), the principal sum of

..... DOLLARS

and to pay interest on such principal sum from the date hereof or from the May 1 or November 1 next preceding the date of authentication to which interest shall have been

paid, unless such date of authentication is a May 1 or a November 1 to which interest shall have been paid, in which case from such date, such interest to the maturity hereof being payable on November 1, 2004 and semiannually thereafter on May 1 and November 1 in each year, at the rate per annum specified above, until payment of such principal sum. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on the bond registration books of said County. Both the principal of and the interest on this bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both principal and interest as the same shall become due, the faith and credit of said County of Durham are hereby irrevocably pledged.

This bond is one of an issue of bonds designated "General Obligation Public Improvement Bonds, Series 2004A" (the "Bonds") and issued by said County for the purpose of providing funds, with any other available funds, for constructing court and justice center facilities of said County and constructing and improving public buildings and facilities of said County, and this bond is issued under and pursuant to The Local Government Bond Act, as amended, Article 7, as amended, of Chapter 159 of the General Statutes of North Carolina, two orders adopted by the Board of Commissioners for said

County, each of which has taken effect, and a resolution duly passed by said Board of Commissioners on April 12, 2004 (the "Resolution").

The Bonds maturing prior to May 1, 2015 are not subject to redemption prior to maturity. The Bonds maturing on May 1, 2015 and thereafter may be redeemed, at the option of said County, from any moneys that may be made available for such purpose, either in whole or in part on any date not earlier than May 1, 2014, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption.

If less than all of the Bonds of any one maturity shall be called for redemption, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot in such manner as said County in its discretion may determine; provided, however, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000 and, further, that The Depository Trust Company, New York, New York ("DTC") will determine by lot the amount of interest of each direct participant of DTC in such Bonds to be redeemed so long as a book-entry system with DTC is continued.

If less than all of the Bonds stated to mature on different dates shall be called for redemption, said County shall direct which maturities of the Bonds are to be redeemed.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any Bonds to be redeemed, whether such redemption be in whole or in part, said County shall cause a notice of such redemption to be filed with the Bond Registrar and

given by certified or registered mail to Cede & Co. at its address appearing upon the registration books of said County. On the date fixed for redemption, notice having been given as aforesaid, the Bonds or portions thereof so called for redemption shall be due and payable at the redemption price provided for the redemption of such Bonds or portions thereof on such date plus accrued interest to such date and, if moneys for payment of such redemption price and the accrued interest have been deposited by said County as provided in the Resolution, interest on the Bonds or the portions thereof so called for redemption shall cease to accrue. If a portion of this Bond shall be called for redemption, a new Bond or Bonds in principal amount equal to the unredeemed portion hereof will be issued to Cede & Co. or its legal representative upon the surrender hereof.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One fully-registered Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., a nominee of DTC, is being issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. Said County will not be responsible or

liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In certain events, said County will be authorized to deliver replacement Bonds in the form of fully-registered certificates in the denomination of \$5,000 or any multiple thereof in exchange for the outstanding Bonds as provided in the Resolution.

At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at his or her office the books of said County for the registration of transfer of Bonds. The transfer of this bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this bond, of the same maturity and bearing interest at the same rate.

The Bond Registrar shall not be required to exchange or register the transfer of any Bond during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or of any Bond called for redemption in whole or in part pursuant to the Resolution.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and in the issuance of this bond have happened, exist and have been performed in regular and due form and time as so required; that provision has been made for the levy and collection of a direct annual tax upon all taxable property within said County sufficient to pay the principal of and the interest on this bond as the same shall become due; and that the total indebtedness of said County, including this bond, does not exceed any constitutional or statutory limitation thereon.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until this bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, said County of Durham, by resolution duly passed by its Board of Commissioners, has caused this bond [to be manually signed by] [to bear the facsimile signatures of] the Chairman of said Board and the Clerk to said Board and [a facsimile of] its corporate seal to be [printed] [impressed] hereon, all as of the 1st day of May 2004.

Certificated Bonds issuable hereunder shall be in substantially the form of the Bonds registered in the name of Cede & Co. with such changes as are necessary to reflect the provisions of this resolution that are applicable to Certificated Bonds.

Section 4. The Bonds maturing prior to May 1, 2015 will not be subject to redemption prior to maturity. The Bonds maturing on May 1, 2015 and thereafter will be redeemable, at the option of the Issuer, from any moneys that may be made available for

such purpose, either in whole or in part on any date not earlier than May 1, 2014, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption.

If less than all of the Bonds of any one maturity shall be called for redemption, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot in such manner as the Issuer in its discretion may determine; provided, however, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000, and, further, that DTC will determine by lot the amount of interest of each direct participant of DTC in such Bonds to be redeemed so long as a book-entry system with DTC is continued. If less than all of the Bonds stated to mature on different dates shall be called for redemption, the Issuer shall direct which maturities of the Bonds are to be redeemed.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any Bonds to be redeemed, whether such redemption be in whole or in part, the Issuer shall cause a notice of such redemption to be filed with the Bond Registrar and to be mailed, postage prepaid, to the registered owner of each Bond to be redeemed in whole or in part at his address appearing upon the registration books of the Issuer, provided that such notice to Cede & Co. shall be given by certified or registered mail. Failure to mail such notice or any defect therein shall not affect the validity of the redemption as regards registered owners to whom such notice was given as required hereby. Each such notice shall set forth the date designated for redemption, the redemption price to be paid and the

maturities of the Bonds to be redeemed. In the event that Certificated Bonds are outstanding, each such notice to the registered owners thereof shall also set forth, if less than all of the Bonds of any maturity then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed and, in the case of any Bond to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any Bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds in principal amount equal to the unredeemed portion of such Bond will be issued.

On or before the date fixed for redemption, moneys shall be deposited with the Bond Registrar to pay the principal of the Bonds or portions thereof called for redemption as well as the interest accruing thereon to the redemption date thereof.

On the date fixed for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or portions thereof called for redemption shall be due and payable at the redemption price provided therefor, plus accrued interest to such date. If moneys sufficient to pay the redemption price of the Bonds or portions thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, have been deposited by the Issuer to be held in trust for the registered owners of Bonds or portions thereof to be redeemed, interest on the Bonds or portions thereof called for redemption shall cease to accrue, such Bonds or portions thereof shall cease to be entitled to any benefits or security under this resolution or to be deemed outstanding, and the registered owners of such Bonds or portions thereof shall have no

rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest to the date of redemption.

If a portion of a Bond shall be selected for redemption, the registered owner thereof or his attorney or legal representative shall present and surrender such Bond to the Bond Registrar for payment of the principal amount thereof so called for redemption, and the Bond Registrar shall authenticate and deliver to or upon the order of such registered owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond or Bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

Section 5. Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any Bond may be registered only upon the registration books of the Issuer upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed

principal amount of such Bond so surrendered, of the same maturity and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this resolution. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. The Issuer or the Bond Registrar may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of Bonds sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made by the Issuer or the Bond Registrar for exchanging or registering the transfer of Bonds under this resolution. The Bond Registrar shall not be required to exchange or register the transfer of any Bond during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or of any Bond called for redemption in whole or in part pursuant to Section 4 of this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such Bond and the interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

The Issuer shall appoint such registrars, transfer agents, depositories or other agents as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to then current commercial standards and for the timely payment of principal, interest and any redemption premium with respect to the Bonds. The Finance Director of the Issuer is hereby appointed the registrar, transfer agent and paying agent for the Bonds (collectively the "Bond Registrar"), subject to the right of the governing body of the Issuer to appoint another Bond Registrar, and as such shall keep at his or her office the books of the Issuer for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution.

Section 6. The Issuer covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended, as are applicable to the Bonds, except to the extent that the Issuer obtains an opinion of bond counsel to the effect that noncompliance would not result in interest on the Bonds being includable in the gross income of the owners of the Bonds for purposes of federal income taxation.

Section 7. The Issuer hereby undertakes, for the benefit of the beneficial owners of the Bonds, to provide:

(a) by not later than seven months from the end of each fiscal year of the Issuer, to each nationally recognized municipal securities information repository ("NRMSIR") and to the state information depository for the State of North Carolina ("SID"), if any, audited financial statements of the Issuer for such fiscal year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or, if such audited

financial statements of the Issuer are not available by seven months from the end of such fiscal year, unaudited financial statements of the Issuer for such fiscal year to be replaced subsequently by audited financial statements of the Issuer to be delivered within 15 days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each fiscal year of the Issuer, to each NRMSIR, and to the SID, if any, (i) the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under heading “The County - Debt Information and - Tax Information” in the Official Statement relating to the Bonds (excluding any information on overlapping or underlying units) and (ii) the combined budget of the Issuer for the current fiscal year, to the extent such items are not included in the audited financial statements referred to in (a) above;

(c) in a timely manner, to each NRMSIR or to the Municipal Securities Rulemaking Board (“MSRB”), and to the SID, if any, notice of any of the following events with respect to the Bonds, if material:

1. principal and interest payment delinquencies;
2. non-payment related defaults;
3. unscheduled draws on debt service reserves reflecting financial difficulties;
4. unscheduled draws on credit enhancements reflecting financial difficulties;
5. substitution of credit or liquidity providers, or their failure to perform;

6. adverse tax opinions or events affecting the tax-exempt status of the Bonds;
7. modification to the rights of the beneficial owners of the Bonds;
8. call of any of the Bonds for redemption;
9. defeasance of any of the Bonds;
10. release, substitution or sale of property securing repayment of the Bonds; and
11. rating changes; and

(d) in a timely manner, to each NRMSIR or to the MSRB, and to the SID, if any, notice of a failure of the Issuer to provide required annual financial information described in (a) or (b) above on or before the date specified.

If the Issuer fails to comply with the undertaking described above, any beneficial owner of the Bonds then outstanding may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Bonds.

The Issuer reserves the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the Issuer, provided that:

- (a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the Issuer;
- (b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 (“Rule 15c2-12”) as of the date of the Official Statement relating to the Bonds, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and
- (c) any such modification does not materially impair the interests of the beneficial owners, as determined either by parties unaffiliated with the Issuer (such as bond counsel), or by approving vote of the registered owners of a majority in principal amount of the Bonds then outstanding pursuant to the terms of this resolution, as it may be amended from time to time, at the time of the amendment.

The Issuer agrees that the annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Bonds.

Section 8. The actions of the County Manager, the Finance Director and the County Attorney of the Issuer in applying to the Local Government Commission of North Carolina to advertise and sell the Bonds are hereby approved and ratified and the

Local Government Commission of North Carolina is hereby requested to ask for sealed and electronic bids for the Bonds by distributing a notice and printing and distributing a Preliminary Official Statement and an Official Statement relating to the sale of the Bonds. Such Preliminary Official Statement, dated April 16, 2004, and substantially in the form of the draft thereof presented to the Board of Commissioners, is hereby approved, and the Chairman of the Board of Commissioners, the County Manager and the Finance Director of the Issuer are each hereby authorized to approve changes in such Preliminary Official Statement and to approve and execute such Official Statement for and on behalf of the Issuer.

Section 9. The County Manager, the Finance Director and the County Attorney of the Issuer and their designees are hereby authorized and directed to take such other actions and to execute and deliver such other documents, certificates, undertakings, agreements or other instruments as may be necessary or appropriate to effectuate the issuance of the Bonds.

This resolution shall take effect upon its passage.

RESOLUTION PROVIDING FOR THE ISSUANCE OF \$46,600,000 GENERAL
OBLIGATION PUBLIC IMPROVEMENT BONDS, SERIES 2004B

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

Section 1. Said Board of Commissioners (the "Board of Commissioners") has determined and does hereby find and declare:

(a) That orders authorizing not exceeding \$5,840,000 Museum Bonds, \$5,550,000 Recreational Facilities Bonds and \$1,200,000 Health Care Facilities Bonds were adopted by the Board of Commissioners on June 11, 2001 and that each of said orders was approved by the vote of a majority of the voters of said County who voted thereon at a referendum duly called and held on November 6, 2001.

(b) That \$4,840,000 of said Museum Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of the balance of said Museum Bonds and that it is necessary to issue at this time the balance of said Museum Bonds in the amount of \$1,000,000.

(c) That \$1,000,000 of said Recreational Facilities Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of the balance of said Recreational Facilities Bonds and that it is necessary to issue at this time the balance of said Recreational Facilities Bonds in the amount of \$4,550,000.

(d) That \$500,000 of said Health Care Facilities Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of the balance of said Health Care Facilities Bonds and that it is necessary to issue at this time the balance of said Health Care Facilities Bonds in the amount of \$700,000.

(e) That orders authorizing not exceeding \$105,315,000 School Bonds, \$8,345,000 Community College Bonds, \$5,280,000 Museum Bonds and \$4,725,000 Library Facilities Bonds were adopted by the Board of Commissioners on July 28, 2003 and that each of said orders was approved by the vote of a majority of the voters of said County who voted thereon at a referendum duly called and held on November 4, 2003.

(f) That none of said School Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said School Bonds and that it is necessary to issue at this time \$26,145,000 of said School Bonds.

(g) That none of said Community College Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said Community College Bonds and that it is necessary to issue at this time \$4,200,000 of said Community College Bonds.

(h) That none of said Museum Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said Museum Bonds and that it is necessary to issue at this time \$5,280,000 of said Museum Bonds.

(i) That none of said Library Facilities Bonds have been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of said Library Facilities Bonds and that it is necessary to issue at this time \$4,725,000 of said Library Facilities Bonds.

(j) That it is convenient to consolidate for the purpose of their issuance said \$1,000,000 Museum Bonds, \$4,550,000 Recreational Facilities Bonds, \$700,000 Health Care Facilities Bonds, \$26,145,000 School Bonds, \$4,200,000 Community College Bonds, \$5,280,000 Museum Bonds and \$4,725,000 Library Facilities Bonds into a single issue of \$46,600,000 General Obligation Public Improvement Bonds, Series 2004B as hereinafter provided.

(k) That the weighted average of the maximum periods of usefulness of the improvements to be financed with the proceeds of said Museum Bonds, Recreational Facilities Bonds, Health Care Facilities Bonds, School Bonds, Community College

Bonds, Museum Bonds and Library Facilities Bonds to be issued is estimated as a period of 40 years and that the date of expiration of said period computed from May 1, 2004, the date of said Museum Bonds, Recreational Facilities Bonds, Health Care Facilities Bonds, School Bonds, Community College Bonds, Museum Bonds and Library Facilities Bonds to be issued as provided in Section 2 of this resolution, is May 1, 2044.

Section 2. Pursuant to said orders, there shall be issued bonds of the County of Durham, North Carolina (the "Issuer") in the aggregate principal amount of \$46,600,000, designated "General Obligation Public Improvement Bonds, Series 2004B" and dated May 1, 2004 (the "Bonds"). The Bonds shall be stated to mature annually, May 1, \$1,500,000 2005 to 2011, inclusive, \$3,200,000 2012 to 2022, inclusive, and \$900,000 2023, and shall bear interest at a rate or rates to be determined by the Local Government Commission of North Carolina at the time the Bonds are sold, which interest to the respective maturities thereof shall be payable on November 1, 2004 and semiannually thereafter on May 1 and November 1 of each year until payment of such principal sum.

Each Bond shall bear interest from the interest payment date next preceding the date on which it is authenticated unless it is (a) authenticated upon an interest payment date in which event it shall bear interest from such interest payment date or (b) authenticated prior to the first interest payment date in which event it shall bear interest from its date; provided, however, that if at the time of authentication interest is in default, such Bond shall bear interest from the date to which interest has been paid.

The principal of and the interest on the Bonds shall be payable in any coin or currency of the United States of America which is legal tender for the payment of public and private debts on the respective dates of payment thereof.

The Bonds will be issued by means of a book-entry system with no physical distribution of Bond certificates to be made except as hereinafter provided. One fully-registered Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., a nominee of The Depository Trust Company, New York, New York ("DTC"), will be issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. The principal of each Bond shall be payable to Cede & Co. or any other person appearing on the registration books of the Issuer hereinafter provided for as the registered owner of such Bond or his registered assigns or legal representative at such office of the Bond Registrar mentioned hereinafter or such other place as the Issuer may determine upon the presentation and surrender thereof as the same shall become due and payable. Payment of the interest on each Bond shall be made by the Bond Registrar on each interest payment date to the registered owner of such Bond (or the previous Bond or Bonds evidencing the same debt as that evidenced by such Bond) at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such

person at his address as it appears on such registration books. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. The Issuer will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing records maintained by DTC, its participants or persons acting through such participants.

In the event that (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Finance Director of the Issuer determines that continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the Issuer will discontinue the book-entry system with DTC. If the Issuer identifies another qualified securities depository to replace DTC, the Issuer will make arrangements with DTC and such other depository to effect such replacement and deliver replacement Bonds registered in the name of such other depository or its nominee in exchange for the outstanding Bonds, and the references to DTC or Cede & Co. in this resolution shall thereupon be deemed to mean such other depository or its nominee. If the Issuer fails to identify another qualified securities depository to replace DTC, the Issuer will deliver replacement Bonds in the form of fully registered certificates in the denomination of \$5,000 or any multiple thereof ("Certificated Bonds") in exchange for the outstanding Bonds as required by DTC and others. Upon the request of DTC, the Issuer may also deliver one or more Certificated Bonds to any participant of DTC in exchange for Bonds credited to its account with DTC.

Unless indicated otherwise, the provisions of this resolution that follow shall apply to all Bonds issued or issuable hereunder, whether initially or in replacement thereof.

Section 3. The Bonds shall bear the manual or facsimile signatures of the Chairman of the Board of Commissioners and the Clerk to said Board and the corporate seal or a facsimile of the corporate seal of the Issuer shall be impressed or imprinted, as the case may be, on the Bonds.

The certificate of the Local Government Commission of North Carolina to be endorsed on all Bonds shall bear the manual or facsimile signature of the Secretary of said Commission and the certificate of authentication of the Bond Registrar to be endorsed on all Bonds shall be executed as provided hereinafter.

In case any officer of the Issuer or the Local Government Commission of North Carolina whose manual or facsimile signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and any Bond may bear the manual or facsimile signatures of such persons as at the actual time of the execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

No Bond shall be valid or become obligatory for any purpose or be entitled to any benefit or security under this resolution until it shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed thereon.

The Bonds to be registered in the name of Cede & Co. and the endorsements thereon shall be in substantially the following forms:

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation (“DTC”) to issuer or its agent for registration of transfer, exchange, or payment and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

No. R- \$.....

United States of America

State of North Carolina

COUNTY OF DURHAM

GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND, SERIES 2004B

Maturity

Interest Rate

Cusip

.....

.....

.....

The County of Durham, in the State of North Carolina, is justly indebted and for value received hereby promises to pay to

CEDE & CO.

or registered assigns or legal representative on the date specified above, upon the presentation and surrender hereof, at the office of the Finance Director of said County (the "Bond Registrar"), the principal sum of

..... DOLLARS

and to pay interest on such principal sum from the date hereof or from the May 1 or November 1 next preceding the date of authentication to which interest shall have been paid, unless such date of authentication is a May 1 or a November 1 to which interest shall have been paid, in which case from such date, such interest to the maturity hereof being payable on November 1, 2004 and semiannually thereafter on May 1 and November 1 in each year, at the rate per annum specified above, until payment of such principal sum. The interest so payable on any such interest payment date will be paid to the person in whose name this bond (or the previous bond or bonds evidencing the same debt as that evidenced by this bond) is registered at the close of business on the record date for such interest, which shall be the 15th day (whether or not a business day) of the calendar month next preceding such interest payment date, by check mailed to such person at his address as it appears on the bond registration books of said County. Both the principal of and the interest on this bond shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both principal and interest as the same shall become due, the faith and credit of said County of Durham are hereby irrevocably pledged.

This bond is one of an issue of bonds designated “General Obligation Public Improvement Bonds, Series 2004B” (the “Bonds”) and issued by said County for the purpose of providing funds, with any other available funds, for enlarging and improving museum exhibits and other museum facilities in said County, providing additional recreational facilities of said County, providing and improving health care facilities of said County, erecting, remodeling, enlarging and reconstructing school buildings and other school plant facilities in said County, expanding and improving community college facilities in said County and providing additional library facilities of said County, and this bond is issued under and pursuant to The Local Government Bond Act, as amended, Article 7, as amended, of Chapter 159 of the General Statutes of North Carolina, seven orders adopted by the Board of Commissioners for said County, each of which was approved by the vote of a majority of the qualified voters of said County who voted thereon at a referendum duly called and held, and a resolution duly passed by said Board of Commissioners on April 12, 2004 (the “Resolution”).

The Bonds maturing prior to May 1, 2015 are not subject to redemption prior to maturity. The Bonds maturing on May 1, 2015 and thereafter may be redeemed, at the option of said County, from any moneys that may be made available for such purpose, either in whole or in part on any date not earlier than May 1, 2014, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption.

If less than all of the Bonds of any one maturity shall be called for redemption, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot in such manner as said County in its discretion may determine; provided,

however, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting Bonds for redemption, each Bond shall be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000 and, further, that The Depository Trust Company, New York, New York ("DTC") will determine by lot the amount of interest of each direct participant of DTC in such Bonds to be redeemed so long as a book-entry system with DTC is continued.

If less than all of the Bonds stated to mature on different dates shall be called for redemption, said County shall direct which maturities of the Bonds are to be redeemed.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any Bonds to be redeemed, whether such redemption be in whole or in part, said County shall cause a notice of such redemption to be filed with the Bond Registrar and given by certified or registered mail to Cede & Co. at its address appearing upon the registration books of said County. On the date fixed for redemption, notice having been given as aforesaid, the Bonds or portions thereof so called for redemption shall be due and payable at the redemption price provided for the redemption of such Bonds or portions thereof on such date plus accrued interest to such date and, if moneys for payment of such redemption price and the accrued interest have been deposited by said County as provided in the Resolution, interest on the Bonds or the portions thereof so called for redemption shall cease to accrue. If a portion of this Bond shall be called for redemption, a new Bond or Bonds in principal amount equal to the unredeemed portion hereof will be issued to Cede & Co. or its legal representative upon the surrender hereof.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One fully-registered Bond certificate with respect to each date on which the Bonds are stated to mature, in the aggregate principal amount of the Bonds stated to mature on such date and registered in the name of Cede & Co., a nominee of DTC, is being issued and required to be deposited with DTC and immobilized in its custody. The book-entry system will evidence beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof, with transfers of ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC and its participants. Transfer of principal and interest payments to participants of DTC will be the responsibility of DTC, and transfer of principal and interest payments to beneficial owners of the Bonds by participants of DTC will be the responsibility of such participants and other nominees of such beneficial owners. Said County will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

In certain events, said County will be authorized to deliver replacement Bonds in the form of fully-registered certificates in the denomination of \$5,000 or any multiple thereof in exchange for the outstanding Bonds as provided in the Resolution.

At the office of the Bond Registrar, in the manner and subject to the conditions provided in the Resolution, Bonds may be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of authorized denominations and bearing interest at the same rate.

The Bond Registrar shall keep at his or her office the books of said County for the registration of transfer of Bonds. The transfer of this bond may be registered only upon such books and as otherwise provided in the Resolution upon the surrender hereof to the Bond Registrar together with an assignment duly executed by the registered owner hereof or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall deliver in exchange for this bond a new Bond or Bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the unredeemed principal amount of this bond, of the same maturity and bearing interest at the same rate.

The Bond Registrar shall not be required to exchange or register the transfer of any Bond during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or of any Bond called for redemption in whole or in part pursuant to the Resolution.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and in the issuance of this bond have happened, exist and have been performed in regular and due form and time as so required; that provision has been made for the levy and collection of a direct annual tax upon all taxable property within said County sufficient to pay the principal of and the interest on this bond as the same shall become due; and that the total indebtedness of said County, including this bond, does not exceed any constitutional or statutory limitation thereon.

This bond shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until this bond shall have been authenticated by the execution by the Bond Registrar of the certificate of authentication endorsed hereon.

IN WITNESS WHEREOF, said County of Durham, by resolution duly passed by its Board of Commissioners, has caused this bond [to be manually signed by] [to bear the facsimile signatures of] the Chairman of said Board and the Clerk to said Board and [a facsimile of] its corporate seal to be [printed] [impressed] hereon, all as of the 1st day of May 2004.

Certificated Bonds issuable hereunder shall be in substantially the form of the Bonds registered in the name of Cede & Co. with such changes as are necessary to reflect the provisions of this resolution that are applicable to Certificated Bonds.

Section 4. The Bonds maturing prior to May 1, 2015 will not be subject to redemption prior to maturity. The Bonds maturing on May 1, 2015 and thereafter will be redeemable, at the option of the Issuer, from any moneys that may be made available for such purpose, either in whole or in part on any date not earlier than May 1, 2014, at a redemption price equal to 100% of the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption.

If less than all of the Bonds of any one maturity shall be called for redemption, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot in such manner as the Issuer in its discretion may determine; provided, however, that the portion of any Bond to be redeemed shall be in the principal amount of \$5,000 or some multiple thereof and that, in selecting Bonds for redemption, each Bond

shall be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000, and, further, that DTC will determine by lot the amount of interest of each direct participant of DTC in such Bonds to be redeemed so long as a book-entry system with DTC is continued. If less than all of the Bonds stated to mature on different dates shall be called for redemption, the Issuer shall direct which maturities of the Bonds are to be redeemed.

Not more than sixty (60) nor less than thirty (30) days before the redemption date of any Bonds to be redeemed, whether such redemption be in whole or in part, the Issuer shall cause a notice of such redemption to be filed with the Bond Registrar and to be mailed, postage prepaid, to the registered owner of each Bond to be redeemed in whole or in part at his address appearing upon the registration books of the Issuer, provided that such notice to Cede & Co. shall be given by certified or registered mail. Failure to mail such notice or any defect therein shall not affect the validity of the redemption as regards registered owners to whom such notice was given as required hereby. Each such notice shall set forth the date designated for redemption, the redemption price to be paid and the maturities of the Bonds to be redeemed. In the event that Certificated Bonds are outstanding, each such notice to the registered owners thereof shall also set forth, if less than all of the Bonds of any maturity then outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed and, in the case of any Bond to be redeemed in part only, the portion of the principal amount thereof to be redeemed. If any Bond is to be redeemed in part only, the notice of redemption shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond

or Bonds in principal amount equal to the unredeemed portion of such Bond will be issued.

On or before the date fixed for redemption, moneys shall be deposited with the Bond Registrar to pay the principal of the Bonds or portions thereof called for redemption as well as the interest accruing thereon to the redemption date thereof.

On the date fixed for redemption, notice having been given in the manner and under the conditions hereinabove provided, the Bonds or portions thereof called for redemption shall be due and payable at the redemption price provided therefor, plus accrued interest to such date. If moneys sufficient to pay the redemption price of the Bonds or portions thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, have been deposited by the Issuer to be held in trust for the registered owners of Bonds or portions thereof to be redeemed, interest on the Bonds or portions thereof called for redemption shall cease to accrue, such Bonds or portions thereof shall cease to be entitled to any benefits or security under this resolution or to be deemed outstanding, and the registered owners of such Bonds or portions thereof shall have no rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest to the date of redemption.

If a portion of a Bond shall be selected for redemption, the registered owner thereof or his attorney or legal representative shall present and surrender such Bond to the Bond Registrar for payment of the principal amount thereof so called for redemption, and the Bond Registrar shall authenticate and deliver to or upon the order of such registered owner or his legal representative, without charge therefor, for the unredeemed portion of the principal amount of the Bond so surrendered, a Bond or Bonds of the same maturity,

of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

Section 5. Bonds, upon surrender thereof at the office of the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar, may, at the option of the registered owner thereof, be exchanged for an equal aggregate principal amount of Bonds of the same maturity, of any denomination or denominations authorized by this resolution and bearing interest at the same rate.

The transfer of any Bond may be registered only upon the registration books of the Issuer upon the surrender thereof to the Bond Registrar together with an assignment duly executed by the registered owner or his attorney or legal representative in such form as shall be satisfactory to the Bond Registrar. Upon any such registration of transfer, the Bond Registrar shall authenticate and deliver in exchange for such Bond a new Bond or Bonds, registered in the name of the transferee, of any denomination or denominations authorized by this resolution, in an aggregate principal amount equal to the unredeemed principal amount of such Bond so surrendered, of the same maturity and bearing interest at the same rate.

In all cases in which Bonds shall be exchanged or the transfer of Bonds shall be registered hereunder, the Bond Registrar shall authenticate and deliver at the earliest practicable time Bonds in accordance with the provisions of this resolution. All Bonds surrendered in any such exchange or registration of transfer shall forthwith be cancelled by the Bond Registrar. The Issuer or the Bond Registrar may make a charge for shipping and out-of-pocket costs for every such exchange or registration of transfer of Bonds

sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, but no other charge shall be made by the Issuer or the Bond Registrar for exchanging or registering the transfer of Bonds under this resolution. The Bond Registrar shall not be required to exchange or register the transfer of any Bond during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Bonds or any portion thereof and ending at the close of business on the day of such mailing or of any Bond called for redemption in whole or in part pursuant to Section 4 of this resolution.

As to any Bond, the person in whose name the same shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal or redemption price of any such Bond and the interest on any such Bond shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond, including the interest thereon, to the extent of the sum or sums so paid.

The Issuer shall appoint such registrars, transfer agents, depositories or other agents as may be necessary for the registration, registration of transfer and exchange of Bonds within a reasonable time according to then current commercial standards and for the timely payment of principal, interest and any redemption premium with respect to the Bonds. The Finance Director of the Issuer is hereby appointed the registrar, transfer agent and paying agent for the Bonds (collectively the "Bond Registrar"), subject to the right of the governing body of the Issuer to appoint another Bond Registrar, and as such

shall keep at his or her office the books of the Issuer for the registration, registration of transfer, exchange and payment of the Bonds as provided in this resolution.

Section 6. The Issuer covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended, as are applicable to the Bonds, except to the extent that the Issuer obtains an opinion of bond counsel to the effect that noncompliance would not result in interest on the Bonds being includable in the gross income of the owners of the Bonds for purposes of federal income taxation.

Section 7. The Issuer hereby undertakes, for the benefit of the beneficial owners of the Bonds, to provide:

(a) by not later than seven months from the end of each fiscal year of the Issuer, to each nationally recognized municipal securities information repository ("NRMSIR") and to the state information depository for the State of North Carolina ("SID"), if any, audited financial statements of the Issuer for such fiscal year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or, if such audited financial statements of the Issuer are not available by seven months from the end of such fiscal year, unaudited financial statements of the Issuer for such fiscal year to be replaced subsequently by audited financial statements of the Issuer to be delivered within 15 days after such audited financial statements become available for distribution;

(b) by not later than seven months from the end of each fiscal year of the Issuer, to each NRMSIR, and to the SID, if any, (i) the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information

included under heading “The County - Debt Information and - Tax Information” in the Official Statement relating to the Bonds (excluding any information on overlapping or underlying units) and (ii) the combined budget of the Issuer for the current fiscal year, to the extent such items are not included in the audited financial statements referred to in (a) above;

(c) in a timely manner, to each NRMSIR or to the Municipal Securities Rulemaking Board (“MSRB”), and to the SID, if any, notice of any of the following events with respect to the Bonds, if material:

- 1) principal and interest payment delinquencies;
- 2) non-payment related defaults;
- 3) unscheduled draws on debt service reserves reflecting financial difficulties;
- 4) unscheduled draws on credit enhancements reflecting financial difficulties;
- 5) substitution of credit or liquidity providers, or their failure to perform;
- 6) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- 7) modification to the rights of the beneficial owners of the Bonds;
- 8) call of any of the Bonds for redemption;
- 9) defeasance of any of the Bonds;
- 10) release, substitution or sale of property securing repayment of the Bonds; and

11) rating changes; and

(d) in a timely manner, to each NRMSIR or to the MSRB, and to the SID, if any, notice of a failure of the Issuer to provide required annual financial information described in (a) or (b) above on or before the date specified.

If the Issuer fails to comply with the undertaking described above, any beneficial owner of the Bonds then outstanding may take action to protect and enforce the rights of all beneficial owners with respect to such undertaking, including an action for specific performance; provided, however, that failure to comply with such undertaking shall not be an event of default and shall not result in any acceleration of payment of the Bonds. All actions shall be instituted, had and maintained in the manner provided in this paragraph for the benefit of all beneficial owners of the Bonds.

The Issuer reserves the right to modify from time to time the information to be provided to the extent necessary or appropriate in the judgment of the Issuer, provided that:

(a) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the Issuer;

(b) the information to be provided, as modified, would have complied with the requirements of Rule 15c2-12 issued under the Securities Exchange Act of 1934 ("Rule 15c2-12") as of the date of the Official Statement relating to the Bonds, after taking into account any amendments or interpretations of Rule 15c2-12, as well as any changes in circumstances; and

(c) any such modification does not materially impair the interests of the beneficial owners, as determined either by parties unaffiliated with the Issuer (such as bond counsel), or by approving vote of the registered owners of a majority in principal amount of the Bonds then outstanding pursuant to the terms of this resolution, as it may be amended from time to time, at the time of the amendment.

The Issuer agrees that the annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section shall terminate upon payment, or provision having been made for payment in a manner consistent with Rule 15c2-12, in full of the principal of and interest on all of the Bonds.

Section 8. The actions of the County Manager, the Finance Director and the County Attorney of the Issuer in applying to the Local Government Commission of North Carolina to advertise and sell the Bonds are hereby approved and ratified and the Local Government Commission of North Carolina is hereby requested to ask for sealed and electronic bids for the Bonds by distributing a notice and printing and distributing a Preliminary Official Statement and an Official Statement relating to the sale of the Bonds. Such Preliminary Official Statement, dated April 16, 2004, and substantially in the form of the draft thereof presented to the Board of Commissioners, is hereby approved, and the Chairman of the Board of Commissioners, the County Manager and the Finance Director of the Issuer are each hereby authorized to approve changes in such

Preliminary Official Statement and to approve and execute such Official Statement for and on behalf of the Issuer.

Section 9. The County Manager, the Finance Director and the County Attorney of the Issuer and their designees are hereby authorized and directed to take such other actions and to execute and deliver such other documents, certificates, undertakings, agreements or other instruments as may be necessary or appropriate to effectuate the issuance of the Bonds.

Section 10. This resolution shall take effect upon its passage.

Tax Office Issue

Vice-Chairman Bowser added this item to discuss an article that was published on April 8, 2004 in the Herald-Sun concerning two Council members who had written a complaint letter to the Tax Administrator. The letter referenced a case involving an individual who owed taxes dating back to 1996 and focused on the collection of delinquent taxes and the foreclosure process by Durham County Tax Administration.

Vice-Chairman Bowser recognized Mr. Kenneth Joyner, Tax Administrator, to describe the foreclosure process and explain, without revealing names, why the individual was delinquent by eight years.

Chairman Reckhow reminded the Commissioners of a letter submitted by Mr. Joyner four days prior explaining the foreclosure case and the County's efforts to collect back taxes.

Mr. Joyner explained the case and clarified that the Herald-Sun omitted the fact that since 1999, over \$1,845 in both City and County dollars has been collected on a \$3,237 debt accumulated from 1996 to 2003.

Vice-Chairman Bowser inquired about the number of similar cases that currently exist.

Mr. Joyner responded that each month, between 80 and 100 accounts are relinquished to foreclosure attorneys. Tax Administration works with individuals who have unexpected economic hardships which prohibit him or her from making timely payments. Collection methods such as bank attachments, wage garnishments, and intercepting state income tax refunds are used to obtain back taxes before opting to use foreclosure.

Vice-Chairman Bowser commended Mr. Joyner for Tax Administration's good faith efforts. He recommended that the County improve communication with the City relative to Tax Administration's efforts to collect delinquent taxes.

Mr. Joyner explained that by not commencing foreclosure, the City is given an opportunity to secure its lien on the property.

Chairman Reckhow requested that Tax Administration send monthly reports to City Council as proof of its efforts.

Mr. Joyner assured the Board that as Tax Administrator for the City, he is responsible for making sure that the City is aware of and understands foreclosure procedures. He announced that the County is able to place a higher tax collection rate into the Budget (Chairman Reckhow's request).

County Manager Ruffin expressed gratitude in the progress Tax Administration has made.

Chairman Reckhow thanked Mr. Joyner for the report.

Public Hearing to Review Requests from Affordable Housing Providers for the Payment of School Impact Fees

The Resolution Establishing a Payment Policy for School Impact Fees on Affordable Housing provides a procedure for determining the eligibility and payment of impact fees for nonprofit organizations providing affordable housing for renters and first-time homebuyers. According to the policy, those nonprofits constructing affordable housing in Fiscal Year 2003-2004 must submit a request for payment to the Impact Fee Administrator by January 31, 2004. Pursuant to G.S. 158-7.1, as stated in the policy, a public hearing shall be held by the Board of Commissioners on requests for payment.

A public hearing was held at the March 8, 2004 Commissioners' meeting for five nonprofit agencies. AIDS Community Residence Association, Inc. was not included in that public hearing. However, because they will be beginning construction prior to June 30 on New Blevins House, a group home for persons below 50% of the median income with disabilities caused by the HIV virus, and their application was received before the January 31, 2004 deadline, this request must be considered for Fiscal Year 2003-04.

Resource Person(s): Heidi Duer, Assistant to the County Manager and Impact Fee Administrator

County Manager's Recommendation: The County Manager recommended that the Board hold the public hearing to review the request for payment of School Impact Fee for Affordable Housing projects in Fiscal Year 2003-04 and authorize the Impact Fee Administrator to grant a payment voucher, if the Board deems appropriate.

Chairman Reckhow recognized Ms. Duer to present this item.

Chairman Reckhow opened the public hearing that was properly advertised and called signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, forward.

Ms. Duer and County Attorney Chuck Kitchen addressed the Commissioners' questions.

Ms. Janice Johnson, Executive Director, AIDS Community Residence Association Inc., answered Commissioners' questions on New Blevins House, which is replacing the group home on Guess Road.

Chairman Reckhow closed the public hearing and referred the item back to the board.

Commissioner Heron moved, seconded by Commissioner Cousin, to authorize the Impact Fee Administrator to grant a payment voucher.

The motion carried unanimously.

First Amendment to the Interlocal Agreement between the County and the City of Durham Regarding Membership of the Durham Convention and Visitors Bureau

On April 22, 2002, the Board approved an Interlocal Agreement with the City of Durham related to the membership of the Durham Tourism Development Authority, which was required by Session Law 2001-480.

On July 24, 2002, the General Assembly enacted Session Law 2002-36, entitled "An Act to Make Changes to the Durham County Occupancy Tax Provisions". The Act revised Section S.L. 2001-480 to provide that the Durham Convention and Visitors' Bureau shall continue to exist but shall act as a tourism development authority. Therefore, the County and City must amend the Interlocal Agreement to reflect the changes made by S.L. 2002-36.

Resource Person(s): Carol W. Hammett, Assistant County Attorney

County Manager's Recommendation: The County Manager recommended that the Board approve the First Amendment to the Interlocal Agreement between Durham County and the City of Durham regarding Membership of the Durham Convention and Visitors Bureau and authorize the Manager to execute the amendment.

Chairman Reckhow recognized Ms. Carol W. Hammett, Assistant County Attorney, to present the first amendment to the Interlocal Agreement between the County and the City of Durham regarding membership of the Durham Convention and Visitors Bureau.

Commissioner Cousin moved, seconded by Commissioner Heron, to approve the First Amendment to the Interlocal

Agreement regarding Membership of Durham Convention
and Visitors' Bureau.

The motion carried unanimously.

The amendment follows:

FIRST AMENDMENT TO
THE INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF DURHAM AND
THE COUNTY OF DURHAM REGARDING MEMBERSHIP OF THE
DURHAM TOURISM DEVELOPMENT AUTHORITY

This is the First Amendment to the Interlocal Cooperation Agreement entered into between the County of Durham, a political subdivision of the State of North Carolina ("County"), and the City of Durham, a North Carolina municipal corporation ("City") on this the ___ day of April, 2004 (hereinafter "First Amendment").

PREFACE

In December 2001, the General Assembly enacted Chapter 480 of the Session Laws of North Carolina (hereinafter "S.L.2001-480"), Part II of which consolidated Durham County's room occupancy tax provisions, authorized a 1% increase of the tax and created the Durham Tourism Development Authority.

In order to effectuate S.L. 2001-480, on April 22, 2002, the City and the County entered into the Interlocal Cooperation Agreement between the City of Durham and the County of Durham regarding Membership of the Durham Tourism Development Authority (hereinafter "Agreement").

On July 24, 2002, the General Assembly enacted Session Law 2002-36, entitled "An Act to Make Changes To the Durham County Occupancy Tax Provisions." The Act revised Section S.L. 2001-480 to provide that the Durham Convention and Visitor's Bureau shall continue to exist but shall act as a tourism development authority and made additional changes regarding the Durham Convention and Visitor's Bureau.

Therefore, the County and City now desire to amend the Agreement to reflect the changes made by S.L. 2002-36 as follows:

1. The title of the Agreement shall be amended as follows:

THE INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE CITY OF DURHAM AND
THE COUNTY OF DURHAM REGARDING MEMBERSHIP OF THE

DURHAM TOURISM DEVELOPMENT AUTHORITY CONVENTION AND
VISITOR'S BUREAU

2. Paragraph 1 of the Agreement shall be amended as follows:
 1. Purpose. The purpose of this Agreement is to specify the membership of the Authority Durham Convention and Visitors' Bureau (hereinafter "DCVB"), provide for the number of members and terms of office, specify who shall appoint the membership, and make other such provisions as may be reasonably necessary.

3. Paragraph 2 shall be amended as follows:
 2. Membership of the DCVB.
 1. ~~Pursuant to Chapter 480 Session Laws of North Carolina, from March 1, 2002 through June 30, 2004,~~ The members of the board of directors of the Durham Convention and Visitors Bureau DCVB and the members of the advisory committee shall together be ex-officio the Board of Directors of the Authority DCVB. The transition to a board membership which meets the criteria established in 2(B) below shall be completed prior to July 1, 2004.
 2. Beginning On or before July 1, 2004, the Authority DCVB shall be governed by a Board of Directors consisting of eleven members, with three-fourths of the members, at the time of appointment, active in the promotion of travel, tourism, or conventions in Durham County and one-third of the members affiliated with organizations that collect the room occupancy tax (hereinafter the "Board").
 3. ~~The members of the Board of Directors shall be appointed to the Authority~~ as follows:
 - (1) The City Council shall appoint five members as follows:
 - (a) Two representatives from lodging businesses that collect the tax, and are active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment,
 - One full-service
 - One limited service
 - (b) One representative from food service including restaurants, catering and food and beverage purveyors, who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment,
 - (c) One representative from an entity that generates visitor demand including major employers, universities or meeting planners and who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment, and

- (d) One member of the City Council.
- (2) The Board of County Commissioners shall appoint five members.
 - (a) Two representatives from bdging facilities that collect the tax, and are active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment,
 - One full-service
 - One limited service
 - (b) One representative from retail shopping or transportation, who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment, and
 - (c) One representative from neighborhood associations or citizens at large who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment, and
 - (d) One member of the Board of County Commissioners.
- (3) The Joint City/County Committee - shall appoint one representative from local visitor destinations including but not limited to historic sites, visual and performing arts, sports and entertainment venues or universities, who is also active in the promotion of travel, tourism, or conventions in Durham County at the time of appointment.
- (4) Each member of of the Board shall serve a three-year term, except that terms for representatives of the City Council and Board of County Commissioners shall be two years. In the event a member of City Council or the Board of County Commissioners, appointed pursuant to subsection (1)(d) or subsection (2)(d) of this section, ceases to be a member of the Council or Board during their appointed term, that individual's membership on the Board of the ~~Authority~~ DCVB shall immediately terminate and their seat shall be filled in the manner set forth in this Agreement.
- (5) Six members shall constitute a quorum for meetings of the Board. No action shall be taken by the Board unless a quorum is present. A quorum shall be determined at the time the meeting is called to order and any member who absents himself or herself after determination of a quorum without being excused by a vote of the Board shall be considered present until adjournment. The Board may adopt its own rules of procedure.

4. Paragraph 4, entitled Amendments and Termination, shall be amended as follows:

This Agreement may be amended or terminated at any time by the City and the County by execution of a written amendment. In the event this Agreement is terminated for any reason, the directors of the DCVB shall continue to serve until the appointment of their successors pursuant to further action by the City and the County or by the North Carolina General Assembly.

5. Except for the changes made by this First Amendment, the Agreement as it existed before this First Amendment was executed shall remain in full force and effect. In the event that there is a conflict between the Agreement as it existed before this First Amendment was executed and this First Amendment, this First Amendment shall control.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Interlocal Cooperation Agreement to be signed as of the day and year first above written, in their respective names by their proper officials by authority of resolutions duly adopted by the respective governing bodies.

Durham Public Schools—Right of First Refusal to Purchase Lowe’s Grove School Property

The Durham Public Schools Board of Education declared as surplus the Lowe’s Grove School, a 16.062-acre parcel located at the corner of Alston Avenue and Hwy. 54.

Pursuant to North Carolina General Statute §115C-518, the Board of Education must first offer the Board of County Commissioners the opportunity to acquire surplus school property at a fair market price. The price established for this property is \$1,000,000. If the Board of County Commissioners declines the offer, the Board of Education may dispose of the property in accordance with the provisions of the General Statutes.

This property is the recommended site for the location of the South Regional Branch Library, with the potential as a future site for an EMS substation.

If the purchase of the property is approved, it is intended that all structures located on the property will be razed except for Building #1 (as indicated on the Belk report), located on the northern end.

Resource Person(s): Michael M. Ruffin, County Manager, and Chuck Kitchen, County Attorney

County Manager's Recommendation: The County Manager recommended that the Board of County Commissioners exercise its right of first refusal and purchase the Lowe’s Grove Property from the School Board for \$1,000,000.

County Attorney Kitchen introduced this item.

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to purchase the Lowe’s Gove Property from the School Board for \$1,000,000 and to submit a letter to the

Board of Education in support of using proceeds from the sale for the Hillside High School band room project.

Chairman Reckhow called signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, forward.

County Attorney Kitchen stated for the record that bond monies will be used to construct the South Regional Branch Library and the property cannot be disposed of once it is acquired by the County.

The motion carried unanimously.

Career and Technical Education Task Force Report

Vice-Chairman Joe W. Bowser requested time on the agenda to provide a progress report on the Career and Technical Education Task Force.

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

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

Vice-Chairman Bowser gave a progress report on the Career and Technical Education Task Force. He announced that Dr. Carl Harris, Associate Superintendent of Instructional Services, has scheduled an April 23 tour of Durham Public Schools as the next field trip for the Task Force.

Commissioner Heron expressed anticipation about taking the trip to observe vocational education programs offered by Durham Public Schools.

Chairman Reckhow commented on a career and construction event held a week prior. An informative brochure listed opportunities in construction trade, education needed to achieve various trades, and expectant incomes. She expressed her opinion that such programs encourage students and adults to achieve at least two years of post-secondary education and earn a livable income.

Vice-Chairman Bowser gave a brief description of the Caldwell County Schools Career Center program.

Chairman Reckhow called signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, forward to speak on behalf of the Task Force.

Chairman Reckhow thanked Vice-Chairman Bowser for the report.

9-1-1 Communications Center

Commissioner Heron expressed concern about the malfunction at the 9-1-1 Communications Center. (Citizens pay a local surcharge of 60 cents a month to maintain the center.) Operations are currently being executed from the backup center. She encouraged County Manager Ruffin to team with City Manager Marcia Conner to investigate the problems at the backup center and ascertain why the primary system has not been operational for 11 days. She recommended that the Communications Center be placed under Emergency Management, along with other emergency services.

Chairman Reckhow recognized Mr. Wendell Davis, Deputy County Manager, to address Commissioner Heron's concern.

Mr. Davis responded that 9-1-1 Communications staff is scheduled to move back into the Communications Center the next morning. In addition, City and County staff went through the troubleshooting process to determine specific reasons for the difficulties. Mr. Davis stated that a report would be given to the Board as soon as he receives a full account of what transpired.

Commissioner Heron thanked Mr. Davis for the update. She reiterated concern about the breakdown at the Communications Center.

Closed Session

Commissioner Cousin moved, seconded to Commissioner Heron, to adjourn to closed session to consider the performance and fitness of a public officer or employee, and to instruct the staff concerning the position to be taken in negotiating the material terms for the acquisition of real property owned by Sean P. and Kristi G. Scully, PIN # 0817-03-42-4915, parcel ID# 189217, located on the west side of South Lowell Road, and south side of the South Fork of the Little River, 306 S. Roxboro St. owned by Scarborough and Hargett Funeral Home, and property adjacent to 3605 Shannon Rd. owned by Patty Watson pursuant to G.S. § 143-318.11(a)(5) & (6).

The motion carried unanimously.

Reconvene to Open Session

The Board of County Commissioners returned to Open Session. Chairman Reckhow declared that directives were given to staff, and no action was taken by the Board in the Closed Session.

Adjournment

There being no further business, the meeting was adjourned at 11:44 p.m.

Respectfully submitted,

Vonda C. Sessoms
Deputy Clerk to the Board