

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

Monday, January 12, 2004

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 (arrived at 5:45 p.m.), and Commissioners Philip R. Cousin Jr., Becky M. Heron (arrived at 5:15 p.m.), and Mary D. Jacobs

Absent: None

Presider: Chairman Reckhow

Closed Session

5:00 P.M.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to adjourn to closed session to consider the performance of a public officer, to preserve the attorney-client privilege, and to consult with an attorney regarding *Durham Land Owners Association, et al. v. County of Durham*, 03 CVS 5500, pursuant to G.S. § 143-318.11(a)(3) & (6).

The motion carried with the following vote:

Ayes: Cousin, Jacobs, and Reckhow

Noes: None

Absent: Bowser and Heron (arrived late)

7:00 P.M. Regular Session

Opening of Regular Session

Chairman Reckhow welcomed everyone to the January 12, 2003 Regular Session of the Durham Board of County Commissioners. She asked that everyone in attendance rise and join the County Commissioners for the recitation of the Pledge of Allegiance.

Board Action Required as a Result of the Closed Session

Chairman Reckhow announced that the County Commissioners appraised the County Manager's job performance (from November 2002 through November 2003).

Commissioner Heron moved, seconded by Commissioner Cousin, to increase the County Manager's annual salary to \$142,000.

The motion carried unanimously.

Announcement

Chairman Reckhow announced the second session of the Durham City-County Neighborhood College. The upcoming series of classes will be held for ten weeks (February through April). Various topics to be discussed include: City and County services, community development, emergency services, health and human services, the City and County budget processes, and environmental services. Classes will be held on Thursday nights (6:00–9:00 p.m.) and one Saturday morning. A graduation ceremony will follow the ten-week session. The last day to apply for the Spring Session is Tuesday, January 20, 2004. Space in the Neighborhood College is limited to 25 people, and applications will be accepted to create a diverse participant population from as many Durham neighborhoods as possible. Both City and County applicants must submit completed applications to the Clerk to the Board's office. Applications can be downloaded on the County's website and can be obtained by calling 560-0000. All applicants must be current in their payment of vehicle and property taxes at the time of application. Chairman Reckhow encouraged youth over the age of 15 to apply and encouraged citizens in Durham County and City to take advantage of this opportunity.

Agenda Adjustments

- Commissioner Jacobs added a brief discussion about reviewing the Board's Rules of Procedure and Ethics Policy.
- Commissioner Cousin added a Closed Session to the end of the meeting.

Minutes

Commissioner Heron moved, seconded by Commissioner Jacobs, to approve as submitted the following Minutes of the Board:

November 10, 2003 BOCC Training (Local Management Entity)
November 24, 2003 BOCC/Durham Public Schools
December 1, 2003 Worksession
December 8, 2003 Regular Session

The motion carried unanimously.

DSS Best Practice Award and Presentation of DSS Annual Report

On November 20, 2003, the NC Association of County Directors of Social Services presented to the Durham County Department of Social Services the “Best Practice Award for Cost Savings Measures and/or Improvements in Efficiency”. DSS worked in partnership with the County IT Department to develop the IM Plan, a blueprint for systems development in DSS. To date, successes in implementation are:

- first county to interface the daysheet time-reporting process with the State, eliminating duplicate data entry;
- development of an electronic notification and scheduling system for appointments, which reduces wait times;
- automated Trust Account System;
- Day Care Subsidy Direct Deposit;
- Adoption Subsidy Payment Cards; and
- Technology Trainer hired from position reallocation made possible by new systems developed in the accounting area.

RESOURCE PERSON(S): Dan Hudgins, Director, DSS; Sharon Hirsch, Director, Customer Access and Program Support Services, DSS; Perry Dixon, IT Director; Joe Whittemore, Systems Manager, IT; and Larry Johnson, President, NC Association of County Directors of Social Services

COUNTY MANAGER’S RECOMMENDATION: The County Manager recommended that the Board accept the award, receive the annual report, and congratulate DSS on this honor.

NCACDSS President Larry Johnson proclaimed that among 98 nominations, Durham County’s Department of Social Services Information Management (IM) Plan was one of five selected for the Best Practice Award. He stated that the IM Plan is based on the agency’s outcome goals, particularly in helping the agency increase its capacity to share information across programs in support of family-centered outcomes. The guiding principles of the IM Plan are to eliminate duplication, simplify work processes, build technology infrastructure to support new systems, and build staff capacity to utilize new technology. The IM Plan is a model for other counties, as well as the State, for how to integrate and build new systems. Durham County is hosting a demonstration tomorrow for ten counties. Mr. Johnson presented the award on behalf of the NC Association of County Directors of Social Services.

Mr. Hudgins thanked Mr. Johnson and accepted the award on behalf of DSS staff and the IT Department. He acknowledged Systems Manager Joe Whittemore (representing the IT Department) for working with DSS as a team, contributing to the excellent outcome.

Mr. Hudgins also recognized Sharon Hirsch, Director, DSS Customer Access and Program Support Services, who was also essential to the success of the plan. Mr. Hudgins shared copies of the DSS 2003 Annual Report, which focused on outcomes designed around families. The report was in a calendar format.

Chairman Reckhow commended Mr. Hudgins, DSS, and IT staff, especially for being recognized for efficiency during difficult economic times.

Commissioner Heron congratulated DSS on its accomplishments. She strongly encouraged Mr. Hudgins to place Child Support as a top priority for DSS.

Mr. Hudgins informed Commissioner Heron that DSS takes the Child Support responsibility very seriously. DSS will be working closely with the court system, Sheriff's Department, and the business community to assure that "deadbeat dads" pay child support. One initiative is to identify and train persons who lack job-related skills. Child support payments are not increasing as they have in the past because of economic conditions. DSS plans to work harder and more creatively to obtain child support increases.

Consent Agenda

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

- *b. Budget Ordinance Amendment No. 04BCC000040—Additional Revenue for Social Services From the Federal Adoption Incentive Program (approve the budget ordinance amendment as presented);
- c. (removed);
- d. Ten-Year Plan to End Homelessness (take action to participate in a joint press conference with the City, appoint representatives to serve on the Steering Committee, and appoint staff members from DSS and The Durham Center to participate in the planning process);
- *f. Resolution Opposing Location of Outlying Landing Field in Washington and Beaufort Counties (approve the requested resolution); and
- *g. Capital Project Ordinance Amendment No. 04CPA000006—Head Start/YMCA Building Purchase & Renovation (approve the capital project ordinance amendment (\$568,500) for FY 2003-04 purchase and renovation of the former YMCA Childcare Center).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. b. Budget Ordinance Amendment No. 04BCC000040—
Additional Revenue for Social Services From the Federal Adoption Incentive Program.

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000040

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	\$298,623,838	\$40,886	\$298,664,724

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$357,946,339	\$40,886	\$357,987,225

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

This the 12th day of January, 2004.

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

Consent Agenda Item No. f. Resolution Opposing Location of Outlying Landing Field in
Washington and Beaufort Counties (approve the requested resolution).

The resolution follows:

Resolution in Opposition to the Location of an Outlying Landing Field for F/A-18e/F in
Perquimans, Bertie, Washington, and Hyde Counties

WHEREAS, the Navy is looking at sites for a new remote airfield where jets based
primarily at Oceana Naval Air Station and Chambers Field at Norfolk Naval Station at

Virginia Beach can practice carrier-landing techniques in northeastern North Carolina; and

WHEREAS, the aircraft have used Fentress Naval Auxiliary Landing Field in southern Chesapeake for years; and

WHEREAS, new pilots must make about 400 practice landings before heading out to an aircraft carrier; and

WHEREAS, veteran pilots must also re-qualify for carrier landing by making practice runs before deployments; and

WHEREAS, these touch-and-go operations are projected to be conducted 24 hours a day, 7 days a week, and 365 days a year; and

WHEREAS, the Navy has been besieged with complaints about jet noise at Fentress for more than two years after 10 squadrons of F/A-18 Hornets were relocated to Oceana; and

WHEREAS, a class-action lawsuit has been filed seeking compensation for reduced property values because of the noise at the Fentress and Oceana fields; and

WHEREAS, suburban growth has surrounded the once-remote Fentress outlying field producing an increasing number of complaints, particularly from nighttime flying that frequently lasts until early morning; and

WHEREAS, the Navy has also contributed to the problems at Fentress by failing to secure adequate buffers around the facility for expanding operations; and

WHEREAS, Atlantic Fleet officials have contracted with Ecology and Environmental Inc. of Buffalo, NY to conduct a study to determine the best location for such a field and to recommend a potential site; and

WHEREAS, for years there have also been numerous noise complaints at Bogue Banks OLF in Carteret County, NC and Oak Grove OLF in Jones County, NC; and

WHEREAS, northeastern North Carolina would not see benefits in the sites being considered for the outlying landing field in the area from the F/A-18E/F deployment from either Oceana Naval Air Station at Virginia Beach or the Cherry Point Marine Corps Air Station at Havelock; and

WHEREAS, it has been reported that noise studies indicate that the Super Hornet is more than twice as loud as the model the Navy now flies; and

WHEREAS, F/A-18E/F practicing touch-and-go landings, even at an outlying landing field that is over 50,000 acres in size, will be off the base in a matter of seconds; and

WHEREAS, the current military operations have already restricted airspace in this region to the point that general aviation airports are negatively impacted; and

WHEREAS, the Navy has not clearly illustrated that the outlying landing field will contribute positively to the Region's economic growth without negatively impacting our environment and existing economies; and

WHEREAS, the environmental impacts from such a facility will be disastrous to the entire northeast region:

NOW, THEREFORE, BE IT RESOLVED that the Durham County Board of Commissioners opposes locating a new outlying landing field in Bertie, Perquimans, Hyde, and Washington Counties.

Adopted this 12th day of January, 2004.

/s/ Ellen W. Reckhow
Chairman, Durham County Commissioners

Consent Agenda Item No. g. Capital Project Ordinance Amendment
No. 04CPA000006—Head Start/YMCA Building Purchase & Renovation (approve the capital project ordinance amendment [\$568,500] for FY 2003-04 purchase and renovation of the former YMCA Childcare Center).

The capital project ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Capital Project Ordinance
Amendment No. 04CPA000006

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 the Head Start/YMCA Building Project.

Head Start/YMCA Building Project

	<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
<u>Expenditures</u>				
Head Start/YMCA Building Project	\$ -0-	\$568,500		\$568,500

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

This the 12th day of January, 2004.

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

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. a. Budget Ordinance Amendment No. 04BCC000039—Public Health—Recognize Additional New Revenue for the Nutrition Division in the Amount of \$28,323 to Establish a Full-Time Nutritionist II Position and Operational Expenses for Six Months (approve the budget ordinance amendment to recognize funds for \$28,323 from the Durham’s Partnership for Children for the Nutritionist position, continuation of which is contingent upon continued grant funding).

Commissioner Heron removed the above-mentioned consent agenda item to suggest that the Public Health Department consider assigning a Nutritionist to attend community PAC meetings to share information regarding good nutrition.

Ms. Rebecca Freeman, Nutrition Director, remarked that the revenue in Budget Ordinance Amendment No. 04BCC000039 is targeted for a specific purpose. Public Health will explore other programs in an attempt to locate funding for a Nutritionist to attend PAC meetings and provide educational information.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve Budget Ordinance Amendment No. 04BCC000039—Public Health—Recognize Additional New Revenue for the Nutrition Division in the Amount of \$28,323 to Establish a Full-Time Nutritionist II Position and Operational Expenses for Six Months (approve the budget ordinance amendment to recognize funds for \$28,323 from the Durham’s Partnership for Children for the Nutritionist position, continuation of which is contingent upon continued grant funding).

The motion carried unanimously.

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000039

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	\$298,595,515	\$28,323	\$298,623,838

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$357,918,016	\$28,323	\$357,946,339

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

This the 12th day of January, 2004.

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

Consent Agenda Item No. e. Adequate Public Schools Facilities Policy.

Summary: The Durham Board of County Commissioners (BOCC) expressed a desire to have the City and County implement a policy tying rezonings with a residential component to the availability of classroom space in public schools. The proposed policy establishes a level of service for public schools of each type. Revisions to the originally proposed policy provide a methodology for calculating decreases as well as increases in potential enrollment caused by rezonings.

Background: For the past few years, Durham has explored the feasibility of implementing an adequate public school facilities ordinance, linking the ability to rezone property to the availability of space within the public school system. The County Commissioners adopted a school impact fee ordinance in September 2003 that became effective in January 2004. The BOCC also directed staff to prepare a level of service policy for consideration of, and use by, both the City and County in the rezoning process. The policy proposes that rezonings be denied when the proposed student increase will cause the public school system to exceed its building capacity system-wide.

The BOCC considered this policy at its January Worksession and directed the addition of wording to exempt projects that include proffers of schools sites from the policy.

Issues: Consistent with the recommendation of the County Attorney, the draft policy establishes a level of service for schools and links the ability to seek

rezoning to zoning districts that would result in a residential density not exceeding the ability of the public school system to accommodate the projected student population. The policy establishes the level of service as 120 percent of building capacity, providing no consideration for modular classrooms on a school site. The policy measures capacity on a district-wide basis rather than by attendance zone, reflecting the County Attorney's determination that, given the School Board's existing procedure for assigning students to schools, this was the only viable means of measuring the availability of capacity.

The policy also establishes a procedure for evaluating requested rezonings, laying out the framework for such evaluation. The data to be used for evaluating building capacity and student generation are established. In addition, the policy provides for tracking rezonings for three years, rather than the current two years, to ensure greater accountability for past actions in determining the availability of capacity.

Vice-Chairman Bowser removed the consent agenda item to discuss the policy. He inquired about the sentence that reads: "When any request for a rezoning is submitted to the Planning Department, the Department shall review the request in light of the ability of the Public School system to accommodate development pursuant to the request." Vice-Chairman Bowser expressed his opinion that the policy does not address the issue of school overcrowding in individual schools or particular areas of the county.

Mr. Frank Duke, AICP, City-County Planning Director, responded that school overcrowding is considered on a system-wide basis rather than by attendance zone, given Durham Public Schools' liberal assignment provisions. The policy encourages better planning and better coordination of planning between DPS, the City, and the County.

Vice-Chairman Bowser inquired how the policy would encourage better planning.

Mr. Duke clarified that data will be tracked on a school-by-school basis to determine which schools need relief from overcrowding.

Vice-Chairman Bowser asked why the policy does not propose that rezonings be denied in specified regions of the county where schools are overcrowded.

County Attorney Kitchen explained that due to the open transfer policy, children in the Durham Public School System may attend assigned schools, neighboring elementary schools, magnet schools, or year-round schools. He could not determine how to draft districts that would withstand scrutiny, if challenged. Given the School Board's existing procedure for assigning students to schools, this was the only viable means of measuring the availability of capacity and provides limited exemptions from policy application. Orange County has also adopted a similar policy (system-wide capacity) to prevent its

School Board from making zoning decisions (a board of education can change district lines).

Vice-Chairman Bowser debated that there should be no difficulty in the policy targeting selected communities. Overcrowding has been an ongoing problem in certain schools for a number of years and should be addressed, as opposed to trying to determine the school system's future plans or needs.

Chairman Reckhow mentioned that the Commissioners have legislative authority to deny rezonings that would negatively impact schools.

Vice-Chairman Bowser did not believe that the policy, as written, would be effective. It gives the developers a stronger argument for rezoning as it relates to schools. He noted that he would vote against approval of the Adequate Public Schools Facilities Policy.

Commissioner Heron conveyed that the policy could be amended in the future. She expressed the importance of sending the policy to the City with a unanimous vote.

Commissioner Cousin asked that the Board not rule out future consideration of an Adequate Public Schools Facilities Ordinance, which would give the Commissioners more authority.

Mr. Duke stated that this item would be presented to City Council at its February 2 meeting.

Vice-Chairman Bowser decided to vote for the policy, given that amendments could be made later. He also wanted to move the policy forward as quickly as possible.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve the Adequate Public Schools Facilities Policy.

The motion carried unanimously.

The Adequate School Facilities Policy follows:

DURHAM CITY/COUNTY
ADEQUATE SCHOOL FACILITIES POLICY

STATEMENT OF POLICY

The schools in the Durham Public School System should not be required to exceed their maximum building capacity as a result of changes in the official Zoning Map of the City and County. To that end, zoning atlas amendments that propose to allow an increase in

the density of residential development on any parcel of land when the public schools exceed their maximum building capacity should be denied.

While the application of the policy is intended to be advisory to the Governing Bodies, with the Governing Bodies reserving the prerogative to consider each request for rezoning property on its merits, as a general rule the Governing Bodies will not support requests for rezoning property that are inconsistent with the criteria established herein.

DEFINITIONS

Building Capacity: The design capacity of the buildings (without trailers) located on a campus within the Durham Public School System. Building capacity does not reflect campus capacity, which includes students in mobile classrooms.

Density: A measure of the intensity of residential development, considering the number of dwelling units per acre on any site.

Level of Service (LOS): The measure of the utilization, expressed as a percentage, which is the result of comparing the number of students enrolled in the school system at all schools of each type with the total building capacity of all schools of each type.

Maximum Building Capacity: The level of service that may be permitted in the Durham Public School System: 120% of total building capacity.

Residential Development: Any development that is comprised in whole or in part of dwelling units designed for long-term human habitation.

School Type: Schools in the same categories of education: i.e., elementary (grades K-5), middle (grades 6-9), and high schools (grades 9-12).

Student Generation Multipliers: The calculation of the number of students anticipated to be generated by various types of residential development. Separate multipliers should be employed for each type of school.

Total Building Capacity: The sum of all building capacities of all schools of each type within the Durham Public School System.

PROCEDURE

The Durham Public School System and the City/County Planning Department shall be jointly responsible for the implementation of this policy. This shall be accomplished through the Planning Department's review of requests for rezonings in both the City and the County, considering the information provided to the Department by the School System.

In applying this policy, the enrollment of students in all schools of each type throughout the Public School System shall be considered. This countywide evaluation is required as a result of the flexibility the School Board allows with regard to the assignment of students to schools, particularly magnet schools. The distribution of the homes of students attending magnet schools in the 2003-04 school years is shown in Attachments 1 through 8.

The Durham Public School System shall provide the Planning Department with the following information on at least an annual basis:

1. Identification of the total building capacity of all schools of each type within the School System;
2. Identification of the 20th day actual daily enrollment at all schools of each type within the School System;
3. An updated copy of the School System's Capital Improvement Plan;
and,
4. Additional information describing the capacity that will be added as a result of any projects for which funding is committed.

The information provided by the School System each year shall be considered the best available information until new information is provided. The current building capacity, 20th day enrollment information, and programmed additions to school capacity is shown in Attachment 9.

When any request for a rezoning is submitted to the Planning Department, the Department shall review the request in light of the ability of the Public School System to accommodate development pursuant to the request. The number of students anticipated to be generated as a result of the requested change in zoning shall be calculated by the Planning Department, utilizing the most recent student generation multipliers approved by the City, the County, and the School System. The Planning Department shall determine the net change in projected student impacts as a result of the requested change in zoning districts and include that information in all staff reports associated with the requested rezoning.

In addition to considering the number of students projected to be generated by the development, the Planning Department's analysis shall consider the most recent 20th day actual daily enrollment statistic provided by the School System, and the cumulative total change projected as a result of all rezonings approved over the prior three years in order

to determine the impact on school facility space (measured by enrollment) anticipated as a result of approval of the change in zoning. In evaluating the cumulative impact, no reduction in the projected total number of students below the existing enrollment shall be considered, even if changes in zoning may suggest such a system-wide reduction. Attachment 9 reflects the impact of zoning approvals over the past three years on schools because of projected student generation during this period.

The projected cumulative demand as a result of changes in zoning shall then be compared to the maximum total building capacity of all schools of each school type (elementary, middle, high) within the School System. This analysis shall consider the existing maximum building capacity of all schools of each type, as well as any committed increases in capacity as a result of the appropriation of funding for the construction of additional school building capacity shown in the Durham County Capital Improvement Plan, the approval by the voters of a bond issue for the construction of additional school building capacity, or any other funding mechanism that is identified by the Durham Public Schools as being committed to the expansion of physical capacity.

If, as a result of this analysis, the proposed development can be shown to cause the level of service for schools of any type to be exceeded, the Planning Department shall recommend that the resulting project be denied. That is, for instance, if the analysis shows that the resulting development will cause the school system enrollment of all elementary schools to exceed the maximum building capacity (120% of total building capacity) for elementary schools, the project shall not be recommended for approval.

Certain projects shall be exempt from application of this policy. Any rezoning that provides an opportunity for the developer to make a binding commitment, either through conditions on a special use permit or proffers on a development plan, that the project will be permanently age-restricted so that children under the age of 18 may not reside on the property, may be exempted from application of this policy, for example. Similarly, projects that proffer expansions of school building capacity including proffers of school sites to accommodate the impacts of projected student generation (beyond the simple payment of school impact fees) may also be exempted.

RECOMMENDATIONS FOR ADDITIONAL WORK

No policy is static. As circumstances change or additional information is gathered, the data and assumptions underlying the policy may change. Accordingly, the following recommendations should be directed as a part of this policy.

1. The Adequate Public School Facility Policy should be reinforced and supported in the Durham Comprehensive Plan. The Policy should be incorporated as part of the Public School Facilities Element of the Comprehensive Plan to ensure that it is regularly evaluated with revisions recommended as conditions change.
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Consent Agenda Item No. h. Budget Ordinance Amendment No. 04BCC000041— Agreement for Participation in Costs of Federal Grant for Prosecution of Cases Involving Gun Violence (approve the agreement and the budget ordinance amendment in the amount of \$2,500).

A three-year agreement between the District Attorney, the Administrative Office of the Courts (State of North Carolina), and Durham County has been proposed to employ one temporary assistant district attorney to prosecute cases involving firearm-related violent crimes. A federal grant for \$40,000 per year was received, which requires a local match of \$10,000. Durham County and City of Durham have each agreed to pay \$2,500 in FY 2004, \$5,000 in FY 2005, \$5,000 in FY 2006, and \$2,500 FY 07. The agreement will expire on November 30, 2006.

Vice-Chairman Bowser removed the consent agenda item to ask James E. Hardin Jr., District Attorney, 14th Prosecutorial District, whether the assistant district attorney will have the authority to prosecute cases involving firearm-related crimes.

Mr. Hardin responded that the assistant district attorney would have the full range of authority for appropriate resolution of this particular caseload of crime, including trying cases before a jury, negotiating pleas, or dismissing cases, if appropriate.

Vice-Chairman Bowser wanted to know how the Board of County Commissioners could assist in getting the proper people in place to prosecute gun violence cases.

Mr. Hardin replied that funding is at the core of the court system's ability to meet its obligations. His office handles 60,000 cases each year with only 15 lawyers. Additional resources would afford the court system the opportunity to take a more focused, concerted approach as it addresses various types of crime. The court system must be funded adequately to employ more prosecutors, public defenders, clerks, and judges. The County and City are not responsible for funding. This is a state function; however, the County and City can help.

Vice-Chairman Bowser encouraged Mr. Hardin to attend the meeting with the Durham Legislative Delegation when legislative goals are discussed. A staff member would inform Mr. Harden of the time and date.

Chairman Reckhow reported that the Crime Cabinet is working with the court system to schedule a meeting.

Mr. Hardin suggested that the political force in the community make an appeal to the North Carolina Legislature as well.

Vice-Chairman Bowser complimented Mr. Hardin for his work.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve Budget Ordinance Amendment No. 04BCC000041—Agreement for Participation in Costs of Federal Grant for Prosecution of Cases Involving Gun Violence (approve the agreement and the budget ordinance amendment in the amount of \$2,500).

The motion carried unanimously.

Commissioner Heron stated to the public that Durham County Government has gone the extra mile to assist with funding in the court system.

The budget ordinance amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000041

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>Expenditures:</u>			
Activity			
<u>GENERAL FUND</u>			
General Government	\$23,539,415	\$ 2,500	\$23,541,915
Other	\$18,740,499	(\$2,500)	\$18,737,999

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

This the 12th day of January, 2004.

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

Public Hearing—Living Wage

At the December 1, 2003 Board of County Commissioners' Worksession, staff presented a review of the livable wage ordinance proposed by DurhamCAN, which set a living wage at \$9.85 to be applied to all businesses with County service contracts. An internal taskforce met several times to discuss the impact of such an ordinance, developing a

Living Wage Policy that the Board of County Commissioners adopted at the December 8, 2003 Regular Session.

According to the County Purchasing Department, the County has approximately 545 service contracts. Given the large number of service contracts, the taskforce recommended hiring an outside consultant to determine the fiscal impact of applying a living wage policy to all for-profit service contractors. The Board of Commissioners set this public hearing at the December Worksession to allow for-profit vendors to speak on the potential impact of a living wage on their business. The Board also directed staff to send out notices to all service contractors to be affected by this Living Wage Policy, inviting them to the public hearing. Letters were mailed on December 8, 2003.

RESOURCE PERSON(S): Heidi Duer, Assistant to the County Manager, and Chuck Kitchen, County Attorney

COUNTY MANAGER'S RECOMMENDATION: The recommendation of the County Manager was to hold the public hearing and provide staff direction on further implementation of the Living Wage Policy.

County Manager Mike Ruffin gave a synopsis of the item, making the following points:

- At the October 7, 2003 Commissioner Worksession, DurhamCAN presented a proposal for a Durham County living wage ordinance.
- The proposal seeks to “ensure that all people working in County Government and all those working for the County as employee of businesses with service contracts shall receive at least a living wage calculated as the Federal Poverty Level plus 7.5% (\$9.85)”.
- A Living Wage Taskforce was created to study the implications and develop a recommendation. Through its study, the Taskforce found that the County is presently engaged in approximately 545 service contracts (a contract value of approximately \$86 million) and is not currently monitoring the wages of these workers.
- It is estimated that approximately 150 of these contracts have employees working for the County that would be impacted by the living wage. However, the County Attorney has stated that a living wage requirement could not apply to services that are competitively bid or where a statute or grant requires a different pay rate.
- The following recommendations were agreed upon at a meeting between members of DurhamCAN and County staff and presented to the BOCC at the December Worksession.
 1. Set a livable wage based on the federal poverty guidelines plus 7.5%: \$9.51, to be adjusted annually.

2. The living wage will apply to all full-time County employees, at no additional cost to the County for the first year of implementation.
 3. The living wage will also apply to all full-time temporary employees. The hourly rate will be negotiated on an as-needed basis between the County department and the individual temporary agency.
 4. Further study is needed to determine the fiscal impact of the living wage on service contracts, part-time employees, and nonprofit organizations.
 5. Adopt the policy for living wage for all full-time County employees, effective July 1, 2004.
- In addition to the above, the Taskforce recommended that volunteers and students earning course credit be exempt and that part-time County Government employees, service contracted employees, and employees of nonprofits working under a contract with County Government be given further study and a recommendation be brought back to the BOCC once a fiscal impact has been estimated. (This would affect election precinct workers, volunteer firefighters, and part-time paramedics— to name a few examples that raised complications in implementation.)
 - In addition, study of living wage implementation in jurisdictions around the country was conducted. Costs were found to be lowest in cities, but a huge variation exists among all, making it very difficult to predict costs in Durham County. For example, in jurisdictions that applied the living wage to outside service contracts, costs ranged from relatively no cost (Baltimore), \$7.6 million annually in Orange County, Florida; up to \$5 million annually in Miami Dade County; to a high of \$59 million annually in San Francisco.
 - Both the City of Durham and Orange County have living wage ordinances in place; however, the City estimates that fewer than 20 contracts are actually impacted by this living wage and Orange County's ordinance only applies to full-time internal employees, not to contracted workers.
 - Staff recommended that an outside consultant be hired to study the impact of requiring a living wage of \$9.51 on all County service contracts. Commissioners scheduled tonight's public hearing to hear from for-profit vendors contracting with the County about the potential impact of a \$9.51 wage requirement on their businesses.

Chairman Reckhow indicated that the Federal Government releases a new Federal Poverty Index in February. Subsequently, \$9.51 per hour will be adjusted, presumably reflecting an increase. When the living wage is implemented in July, an hourly rate greater than \$9.51 is anticipated.

Chairman Reckhow opened the public hearing that was properly advertised.

The following DurhamCAN members spoke in support of extending the living wage policy to County service contracts:

Reverend Cornelius Battle, 5202 Langford Trail, Durham, NC 27713
Lamonica Coleman, 4600 University Drive #314, Durham, NC 27707
Kerry Ford Morancy, 2424 Vesson Avenue, Durham, NC 27707 (Housing Team)
Ann Stock, 3527 Racine Street, Durham, NC 27707
Maria Eugenia Calvopina, 5619 Christie Lane, Durham, NC 27713
Reverend Michael Walrond, 9 Queensland Court, Durham, NC 27712
Karima Abdusamad, 1507 Logan Street, Durham, NC 27707 (Education Team)
Guillermo Rodriguez, 2111 Pershing Street, Durham, NC 27705
Rom Coles, 1305 Watts Street, Durham, NC 27701 (Jobs Team)
Frank Hyman, 1412 N. Mangum Street, Durham, NC 27701 (Jobs Team)

John Schelp, 1022 Rosehill Avenue, Durham, NC 27705, representing the NAACP as Vice President of the Durham Branch, also supported implementation of the living wage policy to County service contractors.

Clinton Ball, 406 Willow Avenue, Knoxville, TN 37923, shared with the Board how policy implementation would affect his business, SSC Services Solutions (provides custodial services to Durham County). He estimated that his cost would increase annually by 42 percent or \$110,000 on a \$190,000 contract.

As no one else requested to speak, Chairman Reckhow closed the public hearing and referred the matter back to the Board for discussion and consideration.

Chairman Reckhow wished to know how the consultant would assess the fiscal impact.

County Attorney Kitchen replied that the consultant must survey the County's current service contractors to determine how implementation of a living wage will affect their contracts. In addition, the consultant must perform a market survey. Ideally, the consultant will have experience with the impact of livable wage policies and ordinances on other City and County Governments. Durham County administration does not believe that the full cost will be passed to the County because of the market forces. Nevertheless, an approximate dollar amount must be determined so the Board can make a decision.

Chairman Reckhow inquired about existing contracts.

Attorney Kitchen informed her that existing contracts could not be terminated; however, contracts with a short termination period can be terminated at the end of the period. Contracts with no termination provision can be renewed with the new provisions. To phase in all the contracts will take time, perhaps three years to implement fully.

Mr. Kitchen cautioned the Board that a contractor's refusal to cooperate will reduce the reliability of the results and should be noted.

Chairman Reckhow recommended that a letter be sent to notify contractors of the forthcoming survey.

Commissioner Jacobs inquired about the length of time needed for the consultant to determine the fiscal impact. She also asked if contractors, other than Mr. Ball who spoke tonight, responded to the letter sent out on December 8.

Ms. Duer related that the consultant would need approximately 90 to 120 days. The Purchasing Manager had received questions from contractors and had responded accordingly.

Chairman Reckhow inquired about the next steps and whether the County had funds to hire a consultant.

County Manager Ruffin explained that funds were reserved last spring for items that could not be anticipated at the time. He would not hazard a guess relative to the cost for fear that a consultant might assume a set price. The County Manager wished to allow competition. He would recommend a consultant at a February Board meeting. The consultant's report would be presented in time for budget consideration.

Chairman Reckhow suggested that contractors be surveyed to determine how many Durham residents they employ. Living wage implementation may save the County money in terms of reducing the need for Human Services, affordable housing, childcare subsidies, etc. If the consultant cannot provide quantitative information, perhaps qualitative information can be provided based on the experience of other jurisdictions.

Vice-Chairman Bowser recommended that the consultant survey contract service employees making less than \$9.51 per hour to ascertain whether they are using services provided to low-income families. Although State and Federal Governments provide many services, Durham County tax dollars are utilized to provide the administrators for those services.

Commissioner Cousin moved, seconded by Commissioner Heron, to authorize the County Manager to publish a request for proposal to evaluate the fiscal impact of living wage policy implementation on County service contracts.

The motion carried unanimously.

Commissioner Cousin stated, for the record, that even though a living wage is positive for Durham County, \$9.51 per hour is inadequate as a livable wage.

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

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

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

RESOURCE PERSON(S): Katherine Simmons, Associate Director, City of Durham Housing and Community Development, and Vickie Miller, Planning and Development Officer

COUNTY MANAGER'S RECOMMENDATION: The County Manager recommended that the Board adopt Amendments to the 2000-2005 Durham Consolidated Plan and the FY 2001-2002, 2002-2003, and 2003-2004 Consolidated Action Plans.

Ms. Simmons briefly highlighted the attachments to the agenda item.

Chairman Reckhow and Commissioner Heron asked questions about the attachments, particularly about the \$470,000 designated as "reprogramming" funds for Next Step Housing, which provides housing for the mentally ill. The County has a genuine interest in this project.

Ms. Simmons explained that reprogramming dollars will not be used for the designated projects. The funds will be placed back into the budget and allocated to new projects (amendments).

Commissioner Heron and Chairman Reckhow inquired why Next Step Housing is on the reprogramming list. The Commissioners need to understand fund allocation, as the County has a substantial investment through the HOME program.

Ms. Simmons replied that she knew no specifics related to Nest Step Housing; however, reprogramming is carried out in consultation with the director and project staff, being agreed upon by the sub recipient.

Commissioner Heron voiced her concern that \$43,500 was spent on homebuyer education.

Discussion ensued about a question Vice-Chairman Bowser asked several months earlier. He had inquired how the County could apply for funding for the purchase and/or renovation of the YMCA building for the Head Start project. He had received no response.

Vice-Chairman Bowser voiced his concern about asking clear, concise questions and getting no cooperation from the City.

Ms. Simmons informed the Commissioners that City and County agencies could currently submit applications for funding, but the money would not be allocated prior to the FY 2004-05 budget year.

Chairman Reckhow asked whether any funds are available in this year's budget. The Commissioners must have an answer in the immediate future, as the public hearing for the bond order is scheduled for the February 9 meeting.

Constance Stancil, Interim Director, Housing, assured the Commissioners that she would send them a letter with answers to their questions by the end of the week.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to defer action on this item until the January 26 Regular Session, at which time the City of Durham Department of Housing and Community Development would answer Commissioner questions and concerns.

Durham Open Space Commission Matching Grants Recommendation

The Durham Open Space and Trails Commission (DOST) received five applications for Matching Grants Program funds to assist nonprofit community organizations with recreational and open space projects. The following financial summary shows the Commission's recommendation to the Board for funding the four applications for a total of \$66,890, using part of the \$95,000 of contractual funds requested and recommended under the General Fund, "Open Space Matching Grants" Organization of the County's FY 03-04 Budget.

<u>Applicant / Project</u>	<u>Request</u>	<u>Cost</u>	<u>Grant</u>
Central Park School/Playground & Garden	\$ 24,750.00	\$ 49,500.00	\$ 24,750.00
Forest View Elem. School PTA/Playground	31,543.00	63,543.00	31,543.00
Historic Preservation Society-Northgate Park NA/Landscaping Round About	1,298.00	2,784.00	-0-
Parkwood Elementary School PTA/Playground	6,252.00	12,504.00	6,252.00
Saint Philip's Episcopal Church/Garden Park	4,345.00	12,825.00	4,345.00

RESOURCE PERSON(S): Tom Stark, DOST Chairman, and Bill Renfrow, Matching Grants Administrator

COUNTY MANAGER'S RECOMMENDATION: Members of the Durham Open Space and Trails Commission evaluated and revised this year's applications for matching funds to assist nonprofits with providing recreational opportunities and preserving open space for Durham County citizens. This recommendation to allocate \$66,890 of grant funds represents a gain to the County of \$71,482 in matching funds as more than half the projects' proposed value of \$138,372. The County Manager recommended approval for funding four projects and the allocation of \$66,890 of the budgeted Matching Grants Funds.

Mr. Stark announced that DOST was happy to bring forward the Matching Grants recommendations. The Commissioners had been provided a memo describing the criteria by which the grants are awarded and the rationale for the grants.

Mr. Guillo Rodriguez, member of the Matching Grants Committee, briefly reported on the three school playground renovation projects and the St. Philip's Episcopal Church garden park project.

Commissioner Heron thanked the committee and staff for presenting a complete packet of information.

Commissioner Jacobs inquired why the Northgate Park project was not funded.

Mr. Rodriguez responded that the project failed to meet two criteria: to serve as a recreational function and to preserve open space. Northgate Park is merely a landscaping beautification project in the middle of a traffic island.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve funding the four projects and the allocation of \$66,890 of the budgeted Matching Grants Funds.

The motion carried unanimously.

Major Site Plan—Ample Storage (D03-267)

Duane K. Stewart Associates, on behalf of Lampe Management Company, submitted a site plan for a 47-unit, indoor mini-storage warehouse with three parking spaces on a 0.471-acre site. The proposed project will be located on the north side of Wolfpack Lane, west of Old Oxford Highway, and will be accessed by a driveway entrance off Wolfpack

Lane. Street Atlas Page 42, Block D-2. PIN 0833-02-79-7150 (Tax reference 783-01-004G).

RESOURCE PERSON(S): Frank M. Duke, AICP, Planning Director

COUNTY MANAGER'S RECOMMENDATION: The County Manager recommended approval of the site plan for a 47-unit mini-storage warehouse on 0.471 acres located on the north side of Wolfpack Lane west of Old Oxford Highway.

Mr. Duke stated that the County Attorney advised him that the variances associated with this project were approved in December, but the actual order had not been issued. The item must be deferred until a February meeting. Mr. Duke apologized for the delay.

Resolution Authorizing Two-Third's Bonds

The Board was requested to adopt a preliminary resolution on the issuance of two-thirds general obligation bonds and to pass on first reading a Bond Order. A public hearing is further proposed to be set for February 9, 2004 on the Bond Order.

The amount of the proposed two-thirds bonds is \$10,600,000. \$7,628,000 of the funds would be used for planning and architectural services related to the new courthouse, as well as for the acquisition of an interest in the property of the courthouse. This interest will take the form of an option or earnest money for the property. The remaining amount to purchase the property would be accomplished through certificate of participation financing, as was done on the jail.

The remaining \$2,972,000 of the funds would be used for the second phase (Public Health and Mental Health building) of architectural services, geotechnical investigation, and environmental testing for the human services complex, together with some demolition work for the new buildings. In addition, approximately \$381,000 of this amount will be used for renovating the YMCA building for Head Start.

RESOURCE PERSON(S): Chuck Kitchen, County Attorney; George Quick, Finance Officer; and Glen Whisler, County Engineer

COUNTY MANAGER'S RECOMMENDATION: The Manager recommended approval of the preliminary resolution so staff can start the approval process with the Local Government Commission and approval on first reading the Bond Order setting the public hearing for February 9, 2004. Separate votes should be held on the resolution and the bond order.

Mr. Kitchen explained that the item is the first approval of the Bond Order to issue two-thirds bonds. These bonds will be advertised with the GO voted-upon bonds and sold on the same day to save the County a considerable amount of money relative to

issuance cost. This is scheduled to occur in March or April, thus the YMCA/Head Start project will not be delayed.

Commissioner Heron inquired about interest rates.

Attorney Kitchen replied that interest rates have risen slightly yet should not increase appreciably prior to March or April.

Vice-Chairman Bowser asked why an option or earnest money is necessary since Durham County has no competitive buyers.

County Manager Ruffin informed Vice-Chairman Bowser that an option or earnest money is a requirement of the seller.

George Quick, Finance Director, interjected that the County must secure property prior to authorizing architects to begin planning. In addition, an agreement for purchase must be reached before an owner can buy other property and relocate.

Vice-Chairman Bowser inquired why the projects (YMCA, courthouse, and human services) are not listed separately on the bond issue. This does not afford him the opportunity to vote "no" on the courthouse, which he is against until an agreement can be reached with Scarborough and Hargett Funeral Home.

Attorney Kitchen stated that the documents were prepared by Bond Counsel.

Commissioner Jacobs explained that bond issuance will begin the planning process, not determine project location.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve the preliminary resolution so staff can start the approval process with the Local Government Commission.

The motion carried unanimously.

Commissioner Cousin moved, seconded by Commissioner Jacobs, to approve on first reading the Bond Order setting the public hearing for February 9, 2004.

The motion carried unanimously.

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

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

- (a) \$7,628,000 Court and Justice Center Facilities Bonds without voter approval for constructing a new courthouse and justice center of the County and related off-street parking facilities of the County on or near the site of such courthouse and justice center, including the provision of planning and architectural services and the acquisition of interests in land therefor, and
- (b) \$2,972,000 Public Building Bonds without voter approval for constructing and improving public buildings and facilities of the County, including the provision of planning, architectural, geotechnical investigation and environmental testing services and demolition work with respect to the Human Services Complex and the renovation of a building to be acquired by the County for housing human services programs; and

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

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

Section 1. Said Board hereby finds and determines in connection with authorizing the issuance of such bonds (collectively, the "Bonds") that (i) the proceeds of the Bonds will be used to finance a portion of the cost of the respective projects to meet urgent needs for facilities or provide desirable facilities to serve the residents of the County and, accordingly, the issuance of the Bonds is necessary or expedient for the County, (ii) the principal amounts of the Bonds are adequate and not excessive for the proposed respective purposes of the Bonds because they are based upon best estimates of the County of the costs of the respective projects and, if necessary, will be supplemented with other funds to be adequate for such purposes, (iii) the County's debt management procedures and policies are good and will be managed in strict compliance with law, (iv) the increase in taxes necessary to service the Bonds will not be excessive because it is expected that any increase in taxes will not exceed forty-two hundredths cents (.42¢) per one hundred dollars (\$100) of the appraised value of property subject to taxation by the County and (v) the Bonds can be marketed at reasonable rates of interest.

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

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

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

ORDER AUTHORIZING
\$7,628,000 COURT AND JUSTICE CENTER FACILITIES BONDS

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

1. That, pursuant to The Local Government Bond Act, as amended, the County of Durham, North Carolina is hereby authorized to contract a debt, in addition to any and all other debt which said County may now or hereafter have power or authority to contract, and in evidence thereof to issue Court and Justice Center Facilities Bonds in an aggregate principal amount not exceeding \$7,628,000 for the purpose of providing funds, with any other available funds, for constructing a new courthouse and justice center of the County and related off-street parking facilities of the County on or near the site of such courthouse and justice center, including the provision of planning and architectural services and the acquisition of interests in land therefor.

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

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

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

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

**ORDER AUTHORIZING
\$2,972,000 PUBLIC BUILDING BONDS**

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

1. That, pursuant to The Local Government Bond Act, as amended, the County of Durham, North Carolina, is hereby authorized to contract a debt, in addition to any and all other debt which said County may now or hereafter have power or authority to contract, and in evidence thereof to issue Public Building Bonds in an aggregate principal amount not exceeding \$2,972,000 for the purpose of providing funds, with any other available funds, for constructing and improving public buildings and facilities of the County, including the provision of planning, architectural, geotechnical investigation and environmental testing services and demolition work with respect to the Human Services Complex and the renovation of a building to be acquired by the County for housing human services programs.

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

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

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

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

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

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

Thereupon the order entitled: "ORDER AUTHORIZING \$7,628,000 COURT AND JUSTICE CENTER FACILITIES BONDS" was passed on first reading.

Thereupon the order entitled: "ORDER AUTHORIZING \$2,972,000 PUBLIC BUILDING BONDS" was passed on first reading.

On motion duly made, seconded and unanimously carried, the Board of Commissioners fixed 7:00 P.M. on February 9, 2004, in the County Commissioners Meeting Room in the Durham County Government Administrative Complex at 200 East Main Street, in Durham, North Carolina, as the hour, day and place for the public hearing upon the foregoing orders and directed the Clerk to the Board of Commissioners to publish each of said orders, together with the appended statement as required by The Local Government Bond Act, as amended, once in The Herald Sun not later than the sixth day before said date.

Authorization of Service Contract for Program Administrator of the Community Development Block Grant Scattered Site Housing Program

On December 9, 2002, the County received a Community Development Block Grant (CDBG) for \$400,000 to be used for a Scattered Site Housing Program in Durham County. On January 28, 2002, the Board awarded a consulting contract to Benchmark, LLC for the purpose of administering the CDBG Scattered Site Housing Program through December 30, 2003. The primary objective of the CDBG Scattered Site Housing Program is to improve the housing conditions of very low-income households with incomes at or below 50% of area median income. Eligible counties receive these funds every three years on a noncompetitive basis. The funds can only be used in unincorporated areas of Durham County.

On December 8, 2003, the County declared Benchmark, LLC in default and terminated the contract. At the December 8, 2003 meeting, the Board further authorized staff to exercise the State's Small Procurement Purchasing Procedures in order to hire expeditiously a new administrator for the CDBG Scattered Site Housing Program. On December 22 and 23, 2003 and January 7, 2004, the review committee began the Informal Bidding Process, utilizing the standard evaluation criteria. Telephone interviews were conducted with Neighborhood Solutions, Wooten Company, Durham Regional Community Development Group, and LEAH Consulting Group Inc.

After careful consideration of all respondents and a general analysis of the needs of the program, staff is recommending LEAH Consulting Group Inc., a local minority vendor in Durham, as the Administrator for the Community Development Block Grant Scattered Site Housing Program.

RESOURCE PERSON(S): Finance Department—Yolanda Moore-Gaddy, Business Development Manager/MWBE Coordinator; Jacqueline Boyce, Purchasing Manager; and Catherine Davis, Compliance Officer

COUNTY MANAGER'S RECOMMENDATION: The Manager recommended that the Board authorize the Manager to enter into a service contract with the LEAH Consulting Group Inc. to provide grant administration services for the CDBG Scattered Site Housing Program not to exceed the amount of \$20,580.00.

Ms. Moore-Gaddy gave a brief overview regarding termination of the contract with Benchmark LLC and the recommendation of LEAH Consulting Group as Administrator.

Commissioner Heron requested that the Board receive a quarterly report from the contractor regarding monies expended.

Ms. Moore-Gaddy stated that the following would be provided:

- a kick-off report on the initial scope of work identifying the residents who can receive CDBG funds;
- each expenditure on a monthly basis;
- a progress report to follow up with the schedule of values with each individual home; and
- a report to support dollars expended to subcontractors, particularly MWBE.

Commissioner Jacobs moved, seconded by Commissioner Heron, to authorize the Manager to enter into a service contract with the LEAH Consulting Group Inc. to provide grant administration services for the CDBG Scattered Site Housing Program not to exceed the amount of \$20,580.00.

The motion carried unanimously.

Chairman Reckhow commended staff for bringing this before the Board in an expeditious manner.

Ms. Moore-Gaddy reassured the Board that all dollars would be allocated by August, expended by December.

Board and Commission Appointments

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

RESOURCE PERSON(S): Garry E. Umstead

COUNTY MANAGER'S RECOMMENDATION: The County Manager recommended that the Board of County Commissioners vote to appoint members to the boards/commissions.

The following appointments were made:

Adult Care Home Community Advisory Committee
Mitzi McClammy

Animal Control Advisory Board
Carol Charping

Board of Adjustment
Furney E. Brown Jr., Ed D

Boxing and Wrestling Commission

S. Marcus Leazer

Community Child Protection Team/Child Fatality Prevention Team

Katherine J. Mellown

Criminal Justice Partnership Act Advisory Board

Judge Craig B. Brown

Durham Convention and Visitors Bureau

Chris Adams (“Lodging-Limited Service” position)

Environmental Affairs Board

Sharon D. Beard (Public Health position)

Farmland Board

S. Douglas Daye

Beecher R. Gray

John M. Jones

Talmage Layton

Juvenile Crime Prevention Council

Linzie Atkins

Public Health Board

Sue Evelyn McLaurin

Lorraine S. Salois-Deane

William T. Small

Transportation Advisory Board

Joan M. Pellettier

Women’s Commission

Rosa S. Anderson

Wanda M. Thompson

No applicant received a majority of votes (three) for appointment to the Citizens Advisory Committee; consequently,

Commissioner Jacobs moved, seconded by Commissioner Cousin, to appoint Rena Zubay Abayhan (who received two votes) to the Citizens Advisory Committee.

The motion carried unanimously.

County Commissioner Rules of Procedure and Ethics Policy

Commissioner Jacobs suggested that the Commissioners review the Rules of Procedure (on an annual basis) and the Ethics Policy, as it has not been revised since 1990.

Chairman Reckhow recommended that review of the Rules of Procedure and the Ethics Policy be placed on the February 2 Worksession Agenda. She directed the County Attorney to examine both documents and present recommended changes at the Worksession.

Closed Session

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to adjourn to Closed Session to preserve the attorney-client privilege and to consult with an attorney regarding Brannon v. County of Durham, 03CV014432, pursuant to G.S. § 143-318.11(a)(3).

The motion carried unanimously.

Open Session

Chairman Reckhow declared that direction was given to staff in Closed Session.

Adjournment

Chairman Reckhow adjourned the meeting at 10:11 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board