

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

Monday, February 9, 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., Becky M. Heron, and Mary D. Jacobs

Absent: None

Presider: Chairman Reckhow

**Opening of Regular Session**

Chairman Reckhow welcomed those in attendance. She asked that everyone stand and join the County Commissioners for the recitation of the Pledge of Allegiance.

**Agenda Adjustments**

The following items were added to the agenda for discussion:

- Change in Primary Date for Elections
- Operation Breakthrough Financing
- McDougald Terrace Branch of Durham County Library
- Career and Technical Education Taskforce

**Announcements**

- Chairman Reckhow reminded the Board of the Hospital Corporation Board of Trustees meeting on Wednesday, February 18, 2004 at 11:00 a.m. at Durham Regional Hospital.
- Chairman Reckhow expressed appreciation for the resolution adopted by the North Carolina Association of County Commissioners in support of Durham County's efforts to adopt a School Impact Fee.

**Minutes**

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to approve the January 5, 2004 Worksession

Minutes as corrected and the January 12, 2004 Regular Session Minutes as submitted.

The motion carried unanimously.

**Resolution Honoring the Life of Coach Russell E. Blunt**

A resolution was prepared to recognize the outstanding career of legendary Track Coach Russell Evans Blunt. Coach Blunt, who passed away on January 7, will be long remembered for his 42-year career, particularly as coach of Hillside High School and the Durham Striders Track Club.

County Manager's Recommendation: The County Manager recommended that the Board approve the resolution and present it to the family of Coach Russell Evans Blunt.

Chairman Reckhow read the following resolution into the record:

RESOLUTION

WHEREAS, Russell Evans Blunt, a native of Andover, Massachusetts, graduated from Puchard High School in 1926 and enrolled in St. Paul's Polytechnical Institute in Virginia; and

WHEREAS, he completed undergraduate studies at St. Augustine's College in Raleigh and received a BA degree in French and Social Studies in 1936; and

WHEREAS, Coach Blunt attended Boston University and received a Master's degree in Education in 1944 and accepted his first coaching job at Southern University in Louisiana; and

WHEREAS, thus, he began an exceptional record-setting career during which time he coached football, basketball, and track at schools and colleges in Florida, Louisiana, and North Carolina; and

WHEREAS, he is perhaps best known for long tenure as Track Coach at Hillside High School and the Durham Striders Track Club; and

WHEREAS, over his lifetime, Coach Blunt received numerous awards and recognitions, was inducted in seven different halls of fame, and was presented North Carolina's Order of the Long Leaf Pine Award by former Governor James B. Hunt, the highest award given to a North Carolina citizen; and

WHEREAS, his legacy lives in the hearts of his family, students, athletes, and all whose lives he positively touched for generations:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby resolve to pay tribute to

RUSSELL EVANS BLUNT

a gifted coach, teacher, mentor, and friend without peers who gave his talents to improve the lives of others. We call upon all citizens of Durham County to remember the extraordinary contributions he made in this community and beyond.

This the 9<sup>th</sup> day of February, 2004.

/s/ Five Commissioners  
Durham County Commissioners

Chairman Reckhow extended condolences to the Blunt family.

The daughter of Mr. Blunt received the resolution on behalf of the Blunt family and thanked the Board and Durham County for recognizing Mr. Blunt's contributions.

**Proclamation for "American Heart Month"**

February is "American Heart Month". A proclamation was prepared in observance of the month and a number of activities were planned to bring attention to risk factors and heart disease prevention.

County Manager's Recommendation: The County Manager recommended that the Board approve the proclamation and present it to Tracey Bates, MPH, RD, LDN, Health Promotion Nutritionist, Durham Public Health Department.

Chairman Reckhow read the following proclamation into the record:

PROCLAMATION

WHEREAS, diseases of the heart are the nation's leading cause of death; and

WHEREAS, a recent study with children of North Carolina found one in eight school-aged children had three or more risk factors of cardiovascular disease and one in four were classified as overweight; and

WHEREAS, nationally, 60 percent of overweight children from ages five to ten have at least one cardiovascular risk factor, such as high cholesterol, elevated blood pressure, or increased insulin level; and

WHEREAS, overweight adolescents have a 70-percent chance of becoming overweight adults with the associated health risks; and

WHEREAS, poor dietary choices contribute to overweight, obesity, and heart disease;  
and

WHEREAS, research indicates that a diet including lowfat milk or dairy is preventive for  
heart disease, overweight, and obesity; and

WHEREAS, the calcium in milk is important to keep muscles, including the heart and the  
whole body, healthy; and

WHEREAS, children will drink more milk, even lowfat milk, if it is flavored:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the  
Durham County Board of Commissioners, do hereby proclaim the month of  
February 2004 as

“AMERICAN HEART MONTH”

in Durham County. I further ask all citizens to consume at least three servings of lowfat  
milk or dairy every day to “Get Heart Healthy, Durham”.

This the 9<sup>th</sup> day of February, 2004.

/s/ Ellen W. Reckhow  
Chairman

Ms. Bates gave a briefing of planned activities to promote “American Heart Month” and  
thanked the Board for its support.

Chairman Reckhow presented the proclamation to Ms. Bates.

### **Presentation of Property Tax Check by Durham County Habitat for Humanity**

Durham County Habitat for Humanity builds affordable housing for qualifying  
low-income Durham County residents (most make between 40-60 percent of the area  
Median Family Income). The average household income for homebuyers in 2003 was  
\$23,958.33. Approximately 140 homes have been built and approximately  
120 mortgages are held by the organization. Each house is sold at 0% interest. Habitat  
homeowners then give back to the community through required volunteer hours and  
property taxes.

Resource Person(s): Bill Wismer, Fiscal Director, Durham County Habitat for Humanity

County Manager's Recommendation: The County Manager recommended that the Board  
receive the symbolic check and congratulate Durham County Habitat for Humanity for  
providing affordable homes in the Durham community.

Teffoney James, representative for Durham County Habitat Homeowners' Association, made brief remarks about the program and presented the check equal to the 2003 property taxes of Durham County Habitat homeowners.

Chairman Reckhow accepted the check and thanked Habitat for Humanity for the presentation.

### **Consent Agenda**

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

- \*a. Interlocal Reconciliations (approve the transfer of funds, including the appropriation of \$148,417 from the general fund contingency account for payment of the Interlocal Reconciliations);
- \*b. Board of Elections—Lease Renewal for 706 Corporation Street (approve the Lease Extension for 706 Corporation Street to provide for an additional five-year term, and authorize the County Manager to execute the Lease Extension);
- \*d. Durham Board of County Commissioners' 2004 Meeting Schedule (approve the 2004 Meeting Schedule as presented, noting that the March Worksession is scheduled for Wednesday, March 3);
- e. Appointment of Vonda Sessoms as Deputy Clerk to the Board (confirm the appointment of Ms. Sessoms as Deputy Clerk to the Board in order for her to sign official documents and act in the absence of the Clerk); and
- \*f. Appointment of the 2004 E&R Board Members (appoint a special Board of Equalization and Review, designate membership to this Board, appoint the Chair and Vice Chair, and establish the compensation rate for serving on this Board at \$50.00 per session plus \$15.00 per hour after the three-hour session).

The motion carried unanimously.

\*Documents related to these items follow:

**Consent Agenda Item No. a.** Interlocal Reconciliations (approve the transfer of funds, including the appropriation of \$148,417 from the general fund contingency account for payment of the Interlocal Reconciliations). These funds, which total \$497,745, are described below:

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

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

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

Consent Agenda Item No. b. Board of Elections—Lease Renewal for 706 Corporation Street (approve the Lease Extension for 706 Corporation Street to provide for an additional five-year term, and authorize the County Manager to execute the Lease Extension).

Lease Summary for 706 Corporation Street (Board of Elections)

Overview

The County leases 4134 square feet within the premises at 706 Corporation Street for the Board of Elections. The present lease term runs from November 1, 2003 through October 31, 2004 and is the fifth and final year of a five-year lease. *The lease rate during this final year is set at \$3,802.64 per month, \$45,631.65 annual, or \$11.04 per sq. foot per year.*

Landlord—Zapolski + Rudd, LLC

Lease Terms/Rent

The original lease was signed September 1, 1999 for a five-year period from September 13, 1999 through October 31, 2004. The lease provides for rent increases of 1.025 % per year.

Date	Lease term	Annual Cost	Monthly Cost	Price per sq. foot/year
Sep.13, 1999 to Oct 31, 2000	1	\$41,340.00	\$3,445.00	\$10.00
Nov 1, 2000 to Oct 31, 2001	2	\$42,373.50	\$3,531.13	\$10.25
Nov 1, 2001 to Oct 31, 2002	3	\$43,432.84	\$3,619.40	\$10.50
Nov 1, 2002 to Oct 31, 2003	4	\$44,518.65	\$3,709.89	\$10.76
Nov 1, 2003 to Oct 31, 2004	5	\$45,631.65	\$3,802.64	\$11.04

The County is responsible for janitorial services as an additional cost. For 2003, this cost was an additional \$3,608 per year.

Lease Renewal Provisions

The existing Lease includes a holdover provision, where the County can continue to occupy the building on a month-to-month basis at the end of the lease term with the rental payment equal to double the monthly rental payment last in effect. (#39)

The lease includes an option to extend the lease or a period of 5 years under the same terms and conditions except that the minimum base rent shall be increased by 1.03% each year of the five-year period. (#56). Under this renewal option, the terms would be as follows:

<b>Date</b>	<b>Lease term</b>	<b>Annual Cost</b>	<b>Monthly Cost</b>	<b>Price per sq. foot/year</b>
Nov 1, 2004 to Oct 31, 2005	6	\$47,000.60	\$3,916.60	\$11.37
Nov 1, 2005 to Oct 31, 2006	7	\$48,410.00	\$4,034.21	\$11.71
Nov 1, 2006 to Oct 31, 2007	8	\$49,862.94	\$4,155.24	\$12.06
Nov 1, 2007 to Oct 31, 2008	9	\$51,358.83	\$4,279.90	\$12.42
Nov 1, 2008 to Oct 31, 2009	10	\$52,899.59	\$4,408.30	\$12.79

Tenant (County) Responsibilities:

The County is responsible to maintain and repair the interior including ceiling, walls, and doors, equipment and fixtures including electric lights, light bulbs, and plumbing (#16).

The County is responsible for garbage removal generated within the premises (#16).

Landlord Responsibilities:

The landlord is responsible for utilities to include gas, electric, and water and sewer. (#15)

The landlord is responsible for the foundation, walls, ceiling, plate glass, and building mechanical and electrical systems. Costs for repairing these will be borne by the landlord. (#16)

The landlord shall pay any real estate taxes related to the premises. (#5)

The landlord shall provide service and maintenance related to the common area maintenance - landscaping, parking lot, loading docks, walkways, roofs gutters downspouts, snow and ice trash and debris removal, lighting and fixtures, pest control, policing and security, and all utilities for common facilities (#6)

**LEASE EXTENSION**  
706 Corporation Street –City Place

THIS LEASE EXTENSION is made as of the 9<sup>th</sup> day of February 2004, between Zapolski + Rudd, LLC, (“Landlord”) and Durham County, North Carolina (“Tenant”).

WITNESSETH:

WHEREAS, Landlord and Tenant entered into that certain lease agreement dated September 1, 1999, for approximately 4,134 sq. ft. of space at 706 Corporation Street, located in downtown Durham, North Carolina (“Lease”). The space is used as the Durham County Board of Elections; and

WHEREAS, Landlord and Tenant wish to exercise the Option to Renew the Lease upon the terms and conditions stated in the Lease.

NOW, THEREFORE, for and in consideration of the promises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. The Tenant hereby exercises its Option to Renew the Lease pursuant to Item 56 of the Lease, for one five (5) year period. The Renewal Period will begin on November 1, 2004 and shall end on October 31, 2009 (“Renewal Period”).
2. Pursuant to Item 56 of the Lease, the minimum base rent for the first year of the Renewal Period shall be \$3,916.60 (\$47,000.00 annually), and shall increase three percent on November 1, each year thereafter of the Renewal Period.
3. The terms and conditions of the Lease shall remain in full force and effect for the Renewal Period.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the dates set forth below.

Landlord:  
Zapolski + Rudd, LLC

By: /s/ Todd Zapolski  
Managing Director

Tenant:  
County of Durham,

By: /s/ Michael M. Ruffin  
County Manager

Consent Agenda Item No. d. Durham Board of County Commissioners’ 2004 Meeting Schedule (approve the 2004 Meeting Schedule as presented, noting that the March Worksession is scheduled for Wednesday, March 3).



The meeting schedule follows:

January 5 Worksession  
January 12 Regular Session  
January 26 Regular Session  
February 2 Worksession  
February 9 Regular Session  
February 23 Regular Session  
\*March 3 Worksession (Wednesday)  
March 8 Regular Session  
March 22 Regular Session  
April 5 Worksession  
April 12 Regular Session  
April 26 Regular Session  
May 3 Worksession  
May 10 Regular Session  
May 24 Regular Session  
June 7 Worksession  
June 14 Regular Session  
June 28 Regular Session  
July 26 Regular Session  
August 2 Worksession  
August 9 Regular Session  
August 23 Regular Session  
\* September 7 Worksession (Tuesday)  
September 13 Regular Session  
September 27 Regular Session  
October 4 Worksession  
October 11 Regular Session  
October 25 Regular Session  
November 1 Worksession  
November 8 Regular Session  
November 22 Regular Session  
December 6 Worksession  
December 13 Regular Session

\*Meetings not held on Monday.

Please note that the July Worksession and the July 12 and December 27 Regular Sessions have been cancelled.

Consent Agenda Item No. f. Appointment of the 2004 E&R Board Members (appoint a special Board of Equalization and Review, designate membership to this Board, appoint the Chair and Vice Chair, and establish the compensation rate for serving on this Board at \$50.00 per session plus \$15.00 per hour after the three-hour session).

**Appointments to the 2004  
Board of Equalization and Review**

**George A. Scott**

909 Brandon Road  
Durham NC 27713  
596-8370

Appointed by Dr. Mary D. Jacobs  
(Chairman)

**Kelly Matherly**

2701 Pickett Road  
Durham NC 27705  
489-1740 (h) 489-2195 (w)

Appointed by Chairman Ellen W. Reckhow  
(Vice-Chairman)

**Robert E King Jr., Attorney**

1104 Lansing Ave  
Durham NC 27713  
598-0043 596-6168 (fax)

Appointed by Vice-Chairman Joe W. Bowser

**Warren Robinson**

705 Wellingham Drive  
Durham NC 27713  
730-7008

Appointed by Reverend Philip Cousins

**Virginia E. Thomas**

1802 West MLK Parkway  
Suite 208  
Durham NC 27707  
489-7147

Appointed by Commissioner Becky M. Heron

**Consent Agenda Items Removed for Discussion**

Consent Agenda Item No. c. Budget Ordinance Amendment No. 04BCC000044 and Capital Project Ordinance Amendment No. 04CPA000007—Establish the ERP Capital Project and Approve the Recommended Financing of the Project (authorize the Manager to award the bid to Siemens SAP and to execute the contract; approve Budget Ordinance Amendment No. 04BCC000044 to appropriate funds from fund balance and Capital Project Ordinance Amendment No. 04CPA000007 and a Reimbursement Resolution in the amount of \$3,425,000).

Chairman Reckhow removed this item to allow signed speaker Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, to ask questions.

Chairman Reckhow recognized George K. Quick, Finance Director, and County Manager Mike Ruffin to answer Dr. Allison's questions.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve consent agenda item No. c.

The motion carried unanimously.

The budget ordinance amendment follows:

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

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

Revenue:

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

Expenditures:

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

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

This the 9<sup>th</sup> day of February, 2004.

(Budget Ordinance Amendment recorded in Ordinance Book \_\_\_\_\_, page \_\_\_\_\_.)

The capital project ordinance amendment follows:

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

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 County ERP Software Project.

County ERP Software Project

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

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

This the 9<sup>th</sup> day of February, 2004.

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

The reimbursement resolution follows:

RESOLUTION OF THE BOARD OF COMMISSIONERS  
FOR THE COUNTY OF DURHAM, NORTH  
CAROLINA, DECLARING ITS INTENTION TO  
REIMBURSE SAID COUNTY FROM THE PROCEEDS  
OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR  
CERTAIN EXPENDITURES IN CONNECTION WITH  
THE ENTERPRISE RESOURCE PLANNING  
REPLACEMENT.

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

WHEREAS, the County has paid, beginning no earlier than December 8, 2003, and will pay, on and after the date hereof, certain expenditures in connection with purchasing certain software and hardware for the replacement of the County's enterprise resource planning system (the "Project"); and

WHEREAS, the Board of Commissioners for the County (the "Board") has determined that certain moneys of the County previously advanced no earlier than December 12, 2003 and to be advanced on and after the date hereof by the County to pay such expenditures (the "Expenditures") are available only for a temporary period and it is

and will be necessary to reimburse the County for the Expenditures from the proceeds of one or more tax-exempt financings in the form of one or more private placement tax exempt financing pursuant to N.C.G.S. §160A-20 that are expected to be authorized in the amount of \$3,425,000 (collectively the “Tax-exempt Financings”);

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

Section 1. The Board hereby declares the County’s intent to reimburse the County with the proceeds of the Tax-exempt Financings for the Expenditures made on and after December 8, 2003, which date is no more than 60 days prior to the date hereof. The County reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Tax-exempt Financings.

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

Section 3. The maximum principal amount of the Tax-exempt Financings expected to be entered into with respect to the Project is \$3,425,000.

Section 4. The County will make a reimbursement allocation, which is a written allocation by the County that evidences the County’s use of proceeds of the Tax-exempt Financings to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or

abandoned, but in no event more than three years after the date on which the Expenditure is paid. The County recognizes that exceptions are available for certain preliminary expenditures, costs of issuance, certain de minimis amounts, expenditures by small issuers (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least five years.

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

**Advance Public Hearing on the FY 2004-2005 Budget**

As County staff began preparation of the Fiscal Year 2004-2005 budget, public comment was solicited.

The County Manager's Recommended FY 2005 Budget will be presented to the Board of Commissioners on Monday, May 10, 2004, with individual budget worksessions with the Board to be scheduled between May 18 and June 16. Final adoption of the FY 2004-05 Budget Ordinance is scheduled for Monday, June 28, 2004.

Resource Person(s): Pam Meyer, Director of Budget and Management Services

County Manager's Recommendation: The County Manager recommended that the Board hold the Advance Public Hearing on the Fiscal Year 2004-2005 Budget.

Chairman Reckhow opened the public hearing that was properly advertised and called the following speakers forward:

Patty Croom, 120 Prescott Drive, Durham, NC 27712, representing the Animal Protection Society, requested funding for the Durham County Animal Shelter.

Jack Steer, 729 Quiet Woods Place, Durham, NC 27712, suggested budget reduction strategies for the County.

Doug Wright, 3 Osage Place, Durham, NC 27712, Chairman of the Mental Health Board, thanked the Board for its past support and funding of The Durham Center and requested funding equal to that received for FY03-04.

E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, requested funding for a vocational technical center, homeownership, schools, and health.

Victoria Peterson, P.O. Box 101, Durham, NC, requested funding for programs to help prevent the incarceration of black males.

Chairman Reckhow closed the public hearing and thanked the speakers for their participation.

**Public Hearing on Bond Orders for Justice Center Bonds and Public Building Bonds**

The Board of County Commissioners was requested to hold a public hearing on the advisability of issuing two-thirds general obligation bonds. The purpose of the bonds is fund planning and architectural services for the new Justice Center and Parking Facility, as well as the acquisition of interests in land. The bonds are also for the provision of planning, architectural services, 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 Head Start.

The first reading of the bond orders was held on January 12, 2004. The public hearing was duly advertised as required by law.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: The County Manager recommended that following the public hearing, the Board approve the two bond orders on separate votes, if appropriate, based on comments from the public hearing.

Chairman Reckhow recognized County Attorney Chuck Kitchen to briefly describe the bond orders.

Chairman Reckhow opened the public hearing that was properly advertised.

As no one asked to speak, Chairman Reckhow closed the public hearing and referred the item back to the Commissioners.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve the bond order authorizing \$7,628,000 for court and justice center facilities.

The motion carried unanimously.

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Commissioner Heron moved, seconded by Commissioner Jacobs, to approve the bond order authorizing \$2,972,000 for public buildings.

The motion carried unanimously.

**FY 2004-2005 Consolidated Action Plan Needs Public Hearing**

The City of Durham Department of Housing and Community Development requested that the Board of County Commissioners hold the FY 2004-2005 Consolidated Action Plan Needs public hearing to receive citizen comments.

The adopted Citizen Participation Plan requires that two public hearings be held prior to submission of the Consolidated Action Plan to the Department of Housing and Urban Development (HUD). The purpose of the first public hearing is to receive comments pertaining to HOME program needs in Durham. Comments received from the public during this phase will be used to assist in the development of the FY Draft Consolidated Action Plan. The FY 2004-2005 Draft Consolidated Action Plan is scheduled to be available for public review March 15, 2004 through April 16, 2004.

The Durham City-County HOME Consortium anticipates receiving total HOME Investment Partnership (HOME) program funds for \$1,400,000. This amount includes an approximate annual HOME allocation of \$1,300,000 and program income for \$100,000. The proposed use of FY 2004-2005 HOME funds includes a Community Housing Development Organization (CHDO) set-aside, substantial homeowner rehabilitation activities for low-income city and county residents, and a First-Time Homebuyers Program for city and county residents. Housing and Community Development staff is currently reviewing FY 2004-2005 HOME proposals and will present funding recommendations in April. The Durham City-County HOME Consortium will be required to provide a 25% match (non-federal funds) to the total amount of HOME funds used directly for affordable housing activities during FY 2004-2005. The required match would be approximately \$325,000 and would be funded with City Housing Bonds and available County funds as outlined in the current Consortium Agreement.

Constance Stancil, Interim Director of the City of Durham Department of Housing and Community Development, reviewed this request and recommended that the Board of County Commissioners hold the FY 2004-2005 Consolidated Action Plan Needs public hearing to receive citizen comments.

Resource Person(s): Katherine Simmons, Associate Director of Planning and Administration, or Vickie Miller, Planning and Development Officer

County Manager's Recommendation: The County Manager recommended that the Board hold the FY 2004-2005 Draft Consolidated Action Plan Needs public hearing to receive citizen comments.

Ms. Simmons stated the purpose of the public hearing.

Chairman Reckhow opened the public hearing that was properly advertised.

Dr. E. Lavonia Allison, P.O. Box 428, Durham, NC 27702, made comments and asked questions.



Chairman Reckhow closed the public hearing and asked staff to address questions raised by Dr. Allison.

Chairman Reckhow expressed appreciation for the program and urged staff to continue publicizing within County Government.

Commissioner Heron inquired about unmet goals for the five-year plan for housing construction. She also inquired about the availability of funding for Next Step Housing.

Staff addressed Commissioner Heron's inquiries.

Commissioner Heron requested a report from the Department of Housing on houses located on Felicia Street.

Chairman Reckhow directed staff to submit a memo to the Board within the next two weeks addressing Commissioner Heron's request.

Commissioner Heron continued to express concern about housing on Felicia Street.

Chairman Reckhow suggested that additional funding be allocated for housing for mentally ill individuals in the Department of Housing's upcoming consolidated five-year plan. She also directed staff to meet with Ellen Holliman, Interim Mental Health Director, to determine housing needs for the mental health population and to implement appropriate programs.

### **Change in Primary Date for Elections**

Chairman Reckhow announced that today, the State Board of Elections set the new Primary Election for July 20, which is the middle of traditional vacation season for most of the state's citizens. This, coupled with the fact that there will not be a Presidential Primary, will result in an exceptionally low voter turnout. Delaying the primary until mid August, when school is back in session, will result in a greater number of voters participating and demonstrating the will of the people. Additionally, elections offices across the state will have difficulty staffing their polling locations, as many of the traditional workers will be unavailable due to conflicts with vacations, conferences, etc.

Chairman Reckhow recognized Michael Ashe, Board of Elections Director, to give a briefing on the primary election date change.

Commissioner Heron echoed Chairman Reckhow's concern and suggested that a letter be written to the Governor, the legislative delegation, and to Elections Committee members, suggesting an alternative date for the primary election.

Vice-Chairman Bowser asked Commissioner Heron to include the State Board of Elections, the Senate, and the House of Representatives as recipients of the letter.

Commissioner Heron moved, seconded by Commissioner Cousin, that a letter be written to the Governor, State Board of Elections, the Senate, and House of Representatives registering the Board's concern about the primary date for elections, suggesting an alternative date.

The motion carried unanimously.

### **Operation Breakthrough Financing**

On February 3, 2004, the Executive Committee of Operation Breakthrough held a meeting to discuss a funding issue with Durham's Partnership for Children. The issue has compelled Operation Breakthrough to decrease its services during the school year, including the Smart Start transportation program, beginning March 1, 2004.

Vice-Chairman Bowser briefly introduced this item.

Raymond Smith, Transportation Director for Smart Start, and Mr. Warren L. Herndon spoke as advocates for the program and requested additional funding to continue serving over 600 families per day in Durham County.

Chairman Reckhow commented that as a representative of the County Commissioners on the Partnership Board, she voted against the original motion that proposed a reduction in Smart Start funding due to her concerns about the impact on children. She suggested that Mr. Smith meet with the Partnership director and the Executive Committee chairman to present current data regarding the families served daily. This meeting should occur before the Board takes action, as the Committee issued a decision based on discrepant data presented by staff on February 3.

Vice-Chairman Bowser, Chairman of the Operation Breakthrough Board, expressed confusion about the Partnership Board having an agreement with Operation Breakthrough to transport Smart Start children and rescinding the funding during the middle of the school year. Such a decision should be made at the end of the school year, granting families ample time to make alternative arrangements. Given the short amount of time before Smart Start is required to reduce its services, Vice-Chairman Bowser suggested that the Board take action to either provide or not provide funding to prevent elimination of services to families.

Mr. Smith explained the discrepancy in the data that was presented to the Executive Committee and to the Board of County Commissioners.

Chairman Reckhow explained the basis of the Partnership Board's decision and reiterated her suggestion that Mr. Smith and staff be given a week to present the data to the Partnership Board before the Commissioners take action.

Commissioner Jacobs asked if February 23, 2004 (the next regular session of the County Commissioners) would be ample time to make a decision and have it enforced by March 1, 2004.

Mr. Smith commented that waiting until the last minute will not only be detrimental to families affected by the reduced services, but to employees as well.

Commissioner Jacobs inquired about the degree of impact on children within Durham County.

Mr. Smith explained that the reduction in funding is forcing the service area to be narrowed from within Durham County to within Durham City.

Commissioner Cousin asked about the proposed \$40,000 funding request for transportation and employees.

Mr. Smith explained that the \$40,000 is the funding difference between the original agreement and the amended agreement between Smart Start and the Partnership Board, allocated over a four-month period.

Vice-Chairman Bowser made reference to a letter submitted by Charles Chapman, Executive Director of Operation Breakthrough, stating the original agreement amount of \$27,500 for four months.

Chairman Reckhow added that additional requests for more funding have been made since submission of the letter.

Commissioner Cousin inquired about future Smart Start funding sources.

Mr. Smith responded to Commissioner Cousin's inquiry.

Commissioner Heron spoke against the County funding \$40,000 if Smart Start is able to meet with the Partnership Board to present accurate data for a potential decision reversal.

Chairman Reckhow made a commitment to call the Partnership chairman, treasurer, and Mr. Chapman tomorrow to request a meeting with Mr. Smith and staff to review current data.

Vice-Chairman Bowser made a motion to devise a contingency plan in case the Partnership Board refuses funding at the meeting.

The motion failed for lack of a second.

Commissioner Heron voiced her opinion that devising a contingency plan to fund Smart Start would not be in the best interest of the taxpayers.

Commissioner Jacobs commented that considering the timing issue, she would like the Board to reach an agreement.

Commissioner Cousin supported the contingency plan suggestion.

Commissioner Cousin moved, seconded by Commissioner Heron, to ask the Partnership Board to reconsider the issue.

The motion carried unanimously.

Commissioner Heron added that the issue of retracting funding during the middle of the school year must be addressed during the emergency meeting between Smart Start and the Partnership Board.

**Approval of Professional Services for Building Programming and Pre-Design Contract for the Durham County Human Services Complex Project No: DC070-48**

The Board was requested to authorize the County Manager to enter into a contract with The Freelon Group Inc. to provide professional services for the programming, master planning, and pre-design of the New Durham County Human Services Complex to be located on East Main Street (for \$345,220, plus a reimbursable amount of \$8,000, thus totaling \$353,220) and to execute any other related contracts, if necessary, not to exceed the estimated \$400,000 budget.

This project is to build a new Human Services Complex to house the departments of Social Services, Public Health, and The Durham Center (formerly Mental Health). This facility was included in the Durham County Facility Master Plan completed in 2000 and amended in 2003 to reflect changes generated by the downsizing and reorganization of Mental Health. The total space requirements for the Human Services Complex are approximately 224,000 square feet, plus parking facilities to support the complex. This project consolidates delivery of Human Services and improves service delivery by providing adequate facilities for each agency along East Main Street. During programming, the current and future space needs of each building occupant will be determined and used to develop the size of the building and parking facilities and serve as the basis for design and construction. In addition, the actual placement of the buildings and parking on the potential sites will be examined and several alternatives evaluated. The facilities are included in the approved Capital Improvement Plan (CIP) with an estimated project cost of \$62,176,259. Construction is scheduled to begin in FY 06 and to be completed in FY 09.

A request for qualifications (RFQ) for architectural services for the facility was advertised on July 9, 2003. Nine responses were received on August 11, 2003 and were evaluated by a selection committee representing the County Manager's Office and Social Services, Public Health, The Durham Center, Engineering, General Services, Finance, and Budget Departments. Four firms were interviewed on October 29, 2003, and The

Freelon Group Inc. (located in Durham) was determined to be the most qualified firm for the Durham County Human Services Complex project.

Between November 2003 and January 2004, representatives from Social Services, Public Health, The Durham Center, and Engineering Departments met with The Freelon Group Inc. to develop a scope of work. A fee proposal for the programming and pre-design work was submitted on December 12, 2003, which was refined during negotiations and revised on January 21, 2004. The services to be rendered under this contract include: (A) Project Initiation & Data Gathering: To develop an operational and functional concept for the Human Services Complex and tour of comparable buildings. (B) Process Analysis & Programming: Process analysis and programming for primary occupants; scope, and project budget reconciliation. (C) Master Planning: A comprehensive site investigation will be undertaken to analyze topographic and subsurface conditions, site utilities, boundaries, and environmental investigations prepared by others. Site access and parking requirements will also be evaluated to determine the best utilization of the site. (D) Stakeholder Involvement: Review and confirm requirements for security operations, Information Technology, Appearance Commission, and Board of the County Commissioners. (E) Project Documentation: Produce final programming and master planning documents. It is expected that the completion of programming and pre-design phases will take about five months. The Freelon Group Inc. is an MBE firm and proposes a 15.5% WBE participation on this project.

It was recommended that the County proceed with all work described in the revised proposal dated January 21, 2004, for \$353,220. The total estimated design cost currently included in the approved CIP is \$4,310,936. Current approved funding for this project is \$2,915,485.

Resource Person(s): Glen Whisler, P.E., County Engineer, Engineering Department

County Manager's Recommendation: The County Manager recommended that the Board authorize execution of the contract with The Freelon Group Inc. to provide professional services for the programming, master planning, and pre-design of the New Durham County Human Services Complex (for \$345,220, plus a reimbursable amount of \$8,000, thus totaling \$353,220) and to execute any other related contracts, if necessary, not to exceed the estimated budget of \$400,000.

Chairman Reckhow recognized Mr. Whisler to present this item.

Commissioner Heron inquired about the location of the Human Services Complex.

Mr. Whisler addressed Commissioner Heron's inquiry.

Commissioner Jacobs moved, seconded by Vice-Chairman Bowser, to authorize execution of the contract with The Freelon Group Inc. to provide profession services for programming, master planning, and pre-design of the

Human Services Complex and to authorize execution of any other related contracts not to exceed the estimated budget of \$400,000.

The motion carried unanimously.

**Request to Award Sole Source Contract to Applied Control Technologies for Security Card Access and HVAC Controls in the General Services Complex, Detention Center, and Judicial Building**

The Board was requested to authorize the County Manager to execute a sole source contract with Applied Control Technologies for \$72,057 to upgrade the environmental (HVAC) controls to the General Services Complex and Detention Center and security card access upgrades to the existing Direct Digital Control (DDC) system in the Judicial Building.

More specifically, upgrading General Services' environmental PC from single-user to multi-user to allow access to all Andover Control HVAC and security card systems in county buildings; installing server hardware in the IT department to support the additional control upgrades to multi-users; multi-user upgrades to the Detention Center for HVAC support; and re-programming of the current DDC (HVAC) system to support and operate the new security card system for the Judicial building.

Currently, no back-up systems exist for the environmental (HVAC) computer located in the General Services department. This proposed upgrade will allow General Services' staff to access the HVAC equipment in the Detention Center, Judicial building, DSS-Main, and DSS-Carmichael remotely for monitoring, troubleshooting, and temperature adjustment.

Durham County General Services currently has Andover Control environmental control computer systems in the Detention Center, DSS-Main, DSS-Carmichael, and Judicial buildings. Andover Controls has built its excellent reputation through authorized dealers such as Applied Control Technologies. For that reason, Andover Controls Corporation has awarded exclusive territorial rights for North Carolina to Applied Control Technology for all installation and factory support. Applied Controls Technology Inc. is based out of Morrisville, NC and has previously installed DDC (HVAC) controls in the Detention Center, Judicial Building, and both DSS facilities.

Stakeholders for this project include: General Services for environmental controls of the Judicial building and both DSS facilities; IT department for server support; ARAMARK for environmental (HVAC) controls of the Detention Center; and the Sheriff's Office for security card access control and administration in the Judicial building. All of the above-named stakeholders have been involved in development and approval of this project, including Purchasing and Legal Departments.

Funding for this project was approved by the Board in the FY 03-04 Operating Budget for \$76,600.

Pursuant to N.C.G.S. §143-129(e)(6), this project is exempt from the public bidding requirements because performance and price competition for the Andover product is unavailable and standardization and compatibility is an overriding consideration.

Resource Person(s): Michael Turner, Director of General Services; Don Hasselbach, Assistant General Services Director; and Jacqueline Boyce, Purchasing Manager

County Manager's Recommendation: The County Manager recommended that the Board approve the purchase of the Andover environmental (HVAC) and security card access control systems upgrade from Applied Control Technologies pursuant to the sole source exception of the public bidding requirements; authorize the County Manager to execute a contract with Applied Control Technologies in the amount of \$72,057 to add the Andover security card access controls and HVAC controls to the General Services Complex and Detention Center and existing Direct Digital Control (DDC) system in the Judicial Building; and authorize the County Manager to execute change orders, if necessary, not to exceed \$4,543. The total contract shall not exceed \$76,600.

Chairman Reckhow recognized Mr. Turner to present this item.

Commissioner Heron expressed concern about the person(s) responsible for controlling the temperature in the buildings.

Chairman Reckhow echoed Commissioner Heron's concern and asked how upgrading the environmental controls relate to comfort control in individual buildings and offices.

Mr. Hasselbach responded to the Commissioners' questions.

Commissioner Cousin moved, seconded by Commissioner Heron, to approve the purchase of the Andover environmental and security card access control systems upgrade from Applied Control Technologies pursuant to the sole source exception of the public bidding requirements; to authorize the County Manager to execute a contract with Applied Control Technologies in the amount of \$72,057 to add the Andover security card access controls and HVAC controls to the General Services Complex and Detention Center and existing DDC system in the Judicial Building; and to authorize the County Manager to execute change orders not to exceed \$4,543.

The motion carried unanimously.

**Time Warner's Request to Seek an Increase in the Rate Charged for Basic Cable Television, Service Installation, and Equipment Rental**

On October 1, 2002, Time Warner Cable submitted three FCC forms to the County (the 1240 for the Basic Cable Service Tier, the 1205 for Equipment and Installation charges and the 1235 for upgrade costs) to seek an increase in the rates charged for (1) basic cable television service, and (2) installation and equipment rentals for the 2003 calendar year. Time Warner proposed to raise the County's Maximum Permitted Basic Service Tier Rate by 7.76% (three times the rate of inflation for 2002) and its equipment and installation charges 5% (more than twice the 2002 Consumer Price Index). On May 12, 2003, the Durham County Board of Commissioners rejected Time Warner's rate request on the grounds that these proposed rates were not "reasonable", that is, they did not reflect rates that would be charged in the presence of effective competition, the standard on which the Cable Act of 1992 and the FCC's rate regulation rules determine the limits of a "reasonable rate". On June 11, 2003, Time Warner Cable appealed this decision to the FCC. The Durham County Board of Commissioners has filed an Opposition. The Appeal remains pending at the FCC.

On October 2, 2003, Time Warner Cable submitted to the County FCC forms 1240, 1235, and 1205 seeking a rate increase in its maximum permitted rate for the basic service tier and installation and equipment fees for the 2004 calendar year. The County's TJCOG consultant evaluated these rates and determined that they continue to reflect higher rates than would be charged in an effectively competitive market and that Time Warner has filed to increase 2003 rates that the County deemed were unreasonable back in May 2003. The Consultant recommended rejection of Time Warner Cable's rate request.

Resource Person(s): Robert Sepe, President, Action Audits, LLC

County Manager's Recommendation: The County Manager recommended that the Board reject Time Warner Cable's 2004 FCC1240/1235/1205 proposed rates because they do not reflect rates that would be charged in the presence of effective competition and therefore are not reasonable. Permit Time Warner to charge rates below the last approved basic service Maximum Permitted and HSC rates.

Chairman Reckhow asked Mr. Sepe to come forward and clarify the County Manager's recommendation.

Mr. Sepe presented this item and responded to Commissioner questions.

County Attorney Chuck Kitchen commented on franchise fees relating to cable modems.

Chairman Reckhow suggested that a letter be written and sent to Time Warner in reference to paying franchise fees.

County Attorney Kitchen made additional comments.



Brad Phillips, V.P., Government and Public Affairs, Time Warner Cable, responded to Mr. Sepe's presentation.

Chairman Reckhow inquired about Durham County having the highest rate within the Time Warner Cable subscription area.

Vice-Chairman Bowser moved, seconded by Commissioner Jacobs, to reject Time Warner Cable's 2004 proposed rates and permit Time Warner to charge rates below the last approved basic service Maximum Permitted and HSC rates.

The motion carried unanimously.

### **McDougal Terrace Branch of Durham County Library**

Harold Chestnut, President of District IV PAC, submitted a letter to the Board addressing an issue concerning children of Durham not being able to use the library due to limited hours of operation. Current hours of operation are Tuesdays and Thursdays from 2:00 p.m. – 6:00 p.m. (eight hours per week). Mr. Chestnut proposed that the hours of operation be increased to at least 20 hours per week, with the County providing the required additional funding.

Commissioner Jacobs introduced this item and asked the Board to consider Mr. Chestnut's proposal.

Chairman Reckhow recognized County Manager Mike Ruffin to enlighten the Board on the issue.

County Manager Ruffin asked Deputy County Manager Carolyn Titus to present a brief report to the Board.

Ms. Titus recommended that the Commissioners wait until the Library Board gives its recommendation to the Board of Commissioners, and then consider the recommendation during the budget process.

Chairman Reckhow requested that the Commissioners also receive a copy of the report that will be sent to the Library Board.

Commissioner Heron inquired about the number of libraries within the community.

Chairman Reckhow commented about property damage at the Stanford L. Warren Library.

### **Career and Technical Education Task Force**

The Career and Technical Education Task Force is a joint committee between the Board of Education and Board of County Commissioners to study enhancing vocational education opportunities in Durham County. Part of the study involves viewing existing facilities and vocational centers in the schools. Additional funding is needed to view facilities in other areas.

Vice-Chairman Bowser suggested that the Board of Education and the County should supply additional funding to the Committee.

Chairman Reckhow inquired about field trip costs.

Commissioner Heron suggested getting an approximate number of members interested in taking a field trip. This would assist in determining the cost.

Chairman Reckhow suggested that the Board authorize up to \$1000 to fund up to two field trips.

Commissioner Heron moved, seconded by Commissioner Cousin, to authorize funding up to \$1000 for field trips.

The motion carried unanimously.

### **Closed Session**

Commissioner Cousin moved, seconded by Vice-Chairman Bowser, to adjourn to Closed Session to consider the performance of a public officer, to discuss a claim, and to preserve the attorney-client privilege pursuant to N.C.G.S. §§ 143-318.11(a)(3) & (6).

The motion carried unanimously.

The Commissioners adjourned to Closed Session at 10:00 p.m.

### **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 10:29 p.m.

Respectfully submitted,

Garry E. Umstead, CMC  
Clerk to the Board