

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

Monday, November 4, 2002

9:00 A.M. Worksession

MINUTES

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

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

Absent: None

Presider: Chairman Black

Agenda Adjustments

Deputy County Attorney Lowell Siler added an item to the agenda, "Tolling and Accounting Order to Extend the Review Period for Time Warner Cable." This became item No. 5.

A Closed Session was added to the agenda as item No. 6.

Citizen Comments—Ray Guthrie

Mr. Ray Guthrie, 2214 Rada Drive, had requested time on the agenda to speak to the Commissioners regarding the Social Services Department.

Mr. Guthrie did not make comments. Instead, a meeting was arranged with Deputy County Manager Carolyn Titus and Mr. Guthrie to discuss his concerns.

Crime Prevention Through Environmental Design (CPTED) in the Public Sector

The Durham Crime Cabinet, along with representatives from the Durham Convention and Visitors Bureau, the Greater Durham Chamber of Commerce, the Durham Businesses Against Crime, the Home Builders Association of Durham and Orange Counties, the faith community, and the design and construction industry, have met monthly for more than a year in an effort to evaluate ways and means by which the principles of CPTED could be more effectively incorporated in the public and private sectors. Representatives are present to present the findings of that effort and respond to any questions that the Board may have.

Resource Person(s): Ellen W. Reckhow, Co-Chair, Durham Crime Cabinet; Reyn Bowman, Chairman, CPTED Private Sector Committee; Mike Turner, Chairman, CPTED Public Sector Committee

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

Vice-Chairman Reckhow, who acts as co-chair for the Durham Crime Cabinet, introduced the agenda item. She stated that most of the CPTED principles are common sense. The main approach is to make sure there is good visibility for people as they come and go in the community. Buildings should be evaluated regarding lighting, site design, and landscaping to assure there are no opportunities for people to hide. People should feel safe in their environment. The workshops have led to safety strategies. She thanked Mr. Reyn Bowman, President of the Durham Convention & Visitors Bureau, and Chairman of the CPTED Private Sector Committee, for taking the lead in the private sector and promoting CPTED in the community. She thanked Mr. Mike Turner, Director of General Services for the County of Durham and chairman of the CPTED Public Sector Committee, for assessing all County buildings and striving to make them safer.

Vice-Chairman Reckhow turned over presentation to Mr. Reyn Bowman, to describe some of the things he has done.

Mr. Bowman thanked Vice-Chairman Reckhow for inviting him to be a part of the private sector side of the CPTED group. He related that, over the last two years, the groups involved, with support from the Durham Police Department and City-County Planning, performed a study of best practices and named some safety actions that both public and private sector citizens could implement to make the community safer. He emphasized that it would take both City and County entities acting together to accomplish the safety goals and make the program work.

Points made by Mr. Bowman in his presentation follow:

1. Public sector recommendations:

- Lace CPTED principles into the Uniform Development Ordinance (UDO).
- Weave well-proven CPTED and “Fixing broken windows” principles into an intense crime reduction philosophy and action plan for the City and County. Create a mindset to recover neighborhoods by repairing and reclaiming one building at a time.
- Consider administrative “fee” waiver for businesses and organizations that implement CPTED principles (as certified by law enforcement evaluation and quantifiable cost savings measured against a reduction in crime).
- Institute policy of paying before pumping gas to circumvent “drive-offs” at convenience store gas pumps.
- Amplify commercial and residential code enforcement.

- Create a joint City and County Appearance Cabinet, based on the successful Crime Cabinet, to identify and close gaps in appearance, upkeep, and beautification—as related to crime prevention.
- Amplify efforts related to appearance, upkeep, and beautification. To better fund these efforts, consider a prepared food tax.
- Establish official “gatekeepers” in City and County administration to answer questions and provide a mechanism for residents to report CPTED issues.
- Inculcate CPTED throughout the implementation of the Downtown Master Plan.

2. Private sector recommendations:

- Recommend that the CPTED Manual be placed on the City and County Websites and linked to and within Websites including the Durham Convention & Visitors Bureau, Downtown Durham Inc., Durham Chamber of Commerce, neighborhood sites, places of worship, Durham Police Department, and Durham County Sheriff’s Department.
- Include CPTED training for the design and engineering community, ALSA, and NAIOP.
- The State has been encouraged and has agreed to consider an incentive on insurance for CPTED evaluated and certified businesses and residences.
- Encourage regular CPTED workshops and use newsletters to publicize its principles and practices. The CPTED manual should be made available to the public.
- The joint public/private Durham Public Information and Communications Council should incorporate CPTED awareness into its Strategic Plan.
- Home improvement and landscape businesses are encouraged to provide or incorporate CPTED awareness and training into workshops and classes provided for customers.
- Professionals have provided a much-needed set of landscape guidelines with a variety of plant recommendations to the Durham Police Department to incorporate in CPTED evaluations and recommendations.

Mr. Bowman added that the CPTED Website could be used to spread the word and request feedback. Women provided the most feedback and emphasized issues such as the need for improved lighting, cutting back overgrown vegetation, and eliminating boarded-up buildings.

He noted that most citizens look to government to fix things. Businesses should be held responsible to maintain their areas. An overarching approach of City and County is essential. Mr. Bowman added that the public has a lackadaisical attitude to its role in creating a safe environment. It is not expensive.

Mr. Bowman ended his presentation, and the County Commissioners made comments.

Vice-Chairman Reckhow suggested relaying safety issues to the public. Citizens should turn on lights, keep shrubs cut, etc. Citizens should understand they are a part of the effort and solution.

Commissioner Heron suggested bringing back the Neighborhood Watch program to include riding the streets.

Mr. Bowman stated that this safety effort does include Neighborhood Watch. Participants must understand that this goes beyond installing signs. It requires active participation. He encouraged the Board of County Commissioners to move more quickly to a 311 system to report environmental safety issues within neighborhoods. The prepared food tax could be brought back to support this cost.

Commissioner Heron stated she wanted to continue to urge the City to get rid of boarded-up buildings and houses. Renovation and reclamation could lead to less crime in the neighborhoods. Most environmental measures to prevent crime are inexpensive and simple.

Mr. Bowman agreed on the importance of enforcing the housing code. Enforcement requires lots of energy (personnel and time). It requires lots of due process and cooperation between the Police Department and Sheriff's Department.

Commissioner Heron and Mr. Bowman discussed parking garages and the need to improve their lighting. Special events should bring forth more police coverage for parking garages.

The County Commissioners commended Mr. Bowman for his efforts on the CPTED Committee and for his informative presentation.

Chairman Black said she found the report helpful in making her own home safer. She suggested materials be sent to ministers to help them enlist the safety principles for church landscaping and building design. The school system could use its youth clubs to launch crime initiatives.

Vice-Chairman Reckhow spoke of incorporating crime safety principles into the County's Capital Improvement projects and making assessments. She suggested that Mr. Bowman work with County staff to derive a short list of safety recommendations for the County to follow up.

Chairman Black introduced Mr. Mike Turner, for his portion of the CPTED presentation.

Mr. Turner reported on the collaboration of Durham Public Schools, City and County governments, and the Durham Housing Authority. He informed the Commissioners on the progress made by these groups toward Crime Prevention Through Environmental Design and some of their safety suggestions.

Regarding the County, Mr. Turner advised that General Services and the committee have evaluated 100 percent of the County's properties. Points made follow:

County of Durham:

- Shrubs should be trimmed to a maximum height of three-four feet.
- Tree limbs should be cut to provide a ten-foot clearance underneath.
- Public parking garages should be provided better lighting and have emergency exit signs installed.
- The County gas station should have a 24-hour security camera system.
- The County has made efforts to remove tools from its trucks at night, keep its gas pump sites locked, and keep County grounds clean and litter free.

To date, 20% of recommended issues brought forth for the County have been addressed from FY 2002-2003 funds. Mr. Turner anticipates having items on this list complete by the end of June 2003. CPTED principles have been integrated into the planning and design phases of all new County facilities (including renovations to the Homeless Shelter, Animal Shelter, Judicial Annex and the proposed new Justice Building project).

City of Durham:

- Staff of the Police Department and property maintenance offices are working together to identify appropriate measures and generate cost estimates.
- The City-County Planning Department will incorporate CPTED measures into the work being done on the UDI (Uniform Development Ordinance).
- The City-County Planning Department has ensured that a Police Department representative will review development plans for CPTED application opportunities.
- The City-County Planning Department has reviewed the landscaping and buffer requirements for possible amendments.
- Funding for these improvements are in the City's operating budget.
- The Housing Authority's CPTED facility evaluation on McDougald Terrace will be completed in two weeks with the support of a \$15,000 federal grant. Items identified to date are the closing of several streets and alleyways leading into the McDougald Terrace area, and additional lighting, signage, and fencing needs for security and traffic control.
- Money for items identified as CPTED improvements needed for the Housing Authority will be requested through federal grants.

Durham Public Schools:

- Durham Public Schools conducts an annual evaluation/inspection of all its facilities, and has added CPTED principles to this safety initiative.
- To date, 80% of the identified CPTED-related concerns have been implemented. Funding is in the its FY 2002-2003 budget. Some funding will be requested in the Capital Outlay.
- Durham Public Schools anticipates a full implementation by 2004.
- Other CPTED concerns identified and recommended will be budgeted in future budget presentations.

Vice-Chairman Reckhow, Chairman Black, and Commissioner Heron thanked Mr. Turner for his leadership on the CPTED Committee and for his informative presentation. They agreed the County is moving forward with the CPTED principles.

14th Judicial District's Annual Report for FY 2001-2002

The Judicial District Manager was present to discuss the 14th Judicial District's Annual Report for the 2001-2002 Fiscal Year. The report included a breakdown of the Department of Correction's organization, along with information that summarizes money paid by offenders to the Durham County Clerk of Court, the results of structured sentencing, probation and parole entries, probation and parole admissions by crime category, and year-end trends for the probation population.

Resource Person(s): James W. Ellis, Jr., Judicial District Manager, 14th Judicial District

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

Mr. James W. Ellis Jr., Judicial District Manager for the 14th Judicial District, Division of Community Operations, stated he had been a manager for ten years and this report was the first of its kind. He welcomed the opportunity to present this information to the Board of County Commissioners and commented he would like this to happen annually. The report contained information related to the collections made by the Division of Community Corrections. Charts and graphs were included indicating the top felony and misdemeanor crimes committed by offenders in Durham County, and the breakdown of the types of offenders assigned to their custody. The report also introduced the District's hardworking staff, numbering 83, in Judicial District 14.

Mr. Ellis introduced the staff members who were present and who also were responsible for putting together the report. They were Ms. Felicia McLean, Assistant Judicial District Manager; Ms. Melverleen Wilson, Mr. Timothy Schultz, Mr. Theron Dennis, and Mr. Andrew Conner, Chief Probation Parole Officers (CPPOs). Mr. Ellis shared that state budget cuts had eliminated six positions in his division.

Mr. Ellis commented that the report describes the challenges facing correction officers today, and the dedication and hard work they put into the program. There is an increase in crime, and offenders are more violent. The current economy has an impact on crime.

The mission of the criminal justice professionals is to protect the safety of citizens and communities throughout the state by providing viable alternatives and meaningful supervision to offenders placed in their custody. The primary goal is to accomplish the mission by reaching an equal balance of control and treatment for offenders that will positively affect their behavior and lifestyle pattern.

The duties of the organization were divided two years ago. Mr. Ellis' area involves fiscal issues, training, and employee relations. Ms. McLean handles special operations and specialized programs for offenders.

The report indicated that \$1,139,805.65 was paid by offenders to the Durham County Clerk's office in FY 2001-2002. Of that, \$547,559.87 was restitution paid to victims of crime.

Mr. Ellis reported on structured sentencing including new admissions, probation, parole, and post release.

Ms. McLean, Assistant Judicial District Manager, next presented information on the division's special operations—programs and types of services offered to the offenders in their custody, to the community, and courts. Of the 66 field officers in District 14, some are specialized as gang officers, sex offender officers, school partnership officers, TROSA officers, and officers for drug treatment court and daily reporting centers.

Ms. McLean thanked the County Manager and County Commissioners for keeping the Criminal Justice Resource Center open. Some counties have closed their centers due to budget constraints. Two of the division's specialized officers work with Durham's Day Reporting Center.

Durham has a six-month long, re-entry (post-release) program for offenders being released from prison. Involved with this program are the faith community, Criminal Justice Resource Center, Durham Police Department, and probation. Of 22 offenders placed in the program since last December, only one has been returned to jail for new crimes. Many offenders released have no GEDs or job skills. The Day Reporting Center provides job training opportunities and a chance for persons released (and on probation) to work on GEDs. It's imperative to involve the business community to help find jobs for these persons.

Other correction officers are involved with domestic violence, electronic house arrest, community policing with the Police Department, and the STARS program.

Commissioner Heron asked what space the County provides for the 14th Judicial District Division of Community Corrections. Mr. Ellis answered that Durham County provides the office space at 119 Orange Street. He thanked the Board of County Commissioners for this provision. The North Carolina Department of Correction pays for other leased space.

Mr. Ellis thanked the Commissioners for the opportunity to provide this report. He stated he hoped to be back next year to give an annual report.

Taxation Issues for the Governor's Commission on Modernization of Taxes

Chairman Black had been appointed to the above Commission and was interested in asking the Commission to investigate any local or state tax issues about which members of the Board of County Commissioners are concerned. The reform effort is designed to close tax loopholes and eliminate inequities in state and local tax laws.

Resource Person(s): MaryAnn E. Black, Chairman

County Manager's Recommendation: Advise the Chairman regarding any concerns about state and local tax laws.

A general discussion was held between the Board of County Commissioners and the County Attorney concerning what could be done to encourage legislation to end tax loopholes concerning property taxation and enact laws to recoup the County's cost for local services provided.

Commissioner Heron raised the concern that tax law loopholes aid certain properties in obtaining exemption from property taxation. She named Duke's golf course as an example. She stated that it is too easy to acquire tax exempt status.

Vice-Chairman Reckhow noted that local retirement communities are exempt from paying property tax. One is church-owned and managed. She commented that these communities are using public services—EMS, fire, and police. She suggested that certain services might be appropriate for taxation in lieu of payment of property taxes.

Vice-Chairman Reckhow also pointed out that the County is mandated to inspect local restaurants on a quarterly basis, and cannot request compensation from the restaurants. She suggested a \$50 per year inspection fee per restaurant. Chairman Black suggested the fee be based on seating capacity. Thus, the County's cost for these inspections could be redirected to other areas of need.

The Commissioners stated that tax exemptions and nonpayment for services further erode the County's tax base. They expressed the opinion that the legislative delegation should seek to close tax loopholes. This could solve some of the state's budget problems, as well, by generating additional revenue. The Commissioners suggested that they and the County Attorney explore loopholes and decide which ones the local delegation should address.

Vice-Chairman Reckhow suggested that the legislative committee investigate the possibility of charging tax on certain appropriate services, such as is done by the State of Florida. Because we are becoming more of a service economy, this could help to keep other taxes lower.

The Commissioners discussed whether local governments receive some sort of reimbursement from the state for services provided to state facilities located in their

communities (such as colleges). County Attorney Chuck Kitchen stated that UNC-Chapel Hill might receive something through a special arrangement.

County Attorney Kitchen addressed the case regarding the Springs at Pine Glen, concerning assessing property by true value rather than by reduced rental value (due to subsidized rental payment). The outcome of this case will affect tax revenue collection in Durham County, because there are numerous subsidized rental units in the County.

Tolling and Accounting Orders to Extend Review Period for Time Warner Cable

On October 1, 2002, Time Warner Cable filed the required FCC forms used for calculating Basic Service Tier (BST) rates, and equipment and installation charges to become effective on January 1, 2003.

Staff desires additional time to review the rate filing and other information submitted by Time Warner Cable.

Staff requests that the Board approve the Tolling and Accounting Orders to Extend the Review Period for Time Warner Cable's 2003 FCC-1240, 1205, 1235 rate filing through January 2003. Durham County has two franchise areas; therefore, two Tolling and Accounting Orders have been provided. By approving the Tolling and Accounting Orders, the time period in which the County has to review Time Warner Cable's FCC-1240 rate filing is tolled 90 days past the original 30 days (120 days total) allowed by the FCC, extending the total review period deadline.

November 4 is the last day on which the tolling orders can be adopted.

Resource Person(s): Lowell Siler, Deputy County Attorney

County Manager's Recommendation: Suspend the rules and approve the Tolling and Accounting Orders.

Mr. Lowell Siler, Deputy County Attorney, stated that this item was a request to extend the time period, to give the staff an opportunity to review certain information that Time Warner Cable has submitted. Time Warner Cable filed the necessary FCC forms on October 1, 2002 for its request for an increase to the basic service tier rates and equipment and installation charges, to become effective January 1, 2003. By Board approval of the orders being submitted, an additional 90-day time period would be given for staff to analyze the information provided and determine whether Time Warner Cable has submitted the information necessary to support the request for a rate increase.

Mr. Siler, in answer to Commissioner Heron's question, stated that the request before the Board is for the two cable franchises in the county. The request does not include the incorporated area of the city. He was not certain what the City was doing.

Vice-Chairman Reckhow noted that a newspaper article commented on an effort by the City to have Time Warner Cable provide cable service to the downtown area. She suggested the County support the City's effort.

Mr. Siler stated that there is a special area of the franchise agreement regarding provision of cable service to public buildings. This building (the Administrative Complex) has cable service.

Vice-Chairman Reckhow stated that it is appropriate to support the City's effort to bring cable service to downtown Durham, given the number of sports restaurants here and that the American Tobacco Project should include new housing.

Mr. Siler requested that the Board suspend its rules and approve the Tolling and Accounting Orders so that they might be filed that day (November 4, 2002) to allow staff the extra time needed to review Time Warner Cable's calculations.

Commissioner Heron suggested that the County unite with the City for support. Vice-Chairman Reckhow suggested that the County could investigate joining a consortium brought together by Triangle J Council of Governments (TJCOG).

It was asked whether the City-County cable advisory committee would be revitalized to discuss this issue. Mr. Siler advised there have been efforts to revitalize the committee, but it appears to have become dormant.

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to suspend the rules to allow the Board to vote on this item.

The motion carried unanimously.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve the Tolling and Accounting Orders.

The motion carried unanimously.

The Tolling and Accounting Orders for Television Subscribers NC-0650 and NC-0343 follow:

STATE OF NORTH CAROLINA
DURHAM COUNTY

IN THE MATTER OF:)	Tolling and Accounting Order to
Regulated Cable Service Provided by Time)	Extend the Review Period for
Warner Cable to its Durham County Cable)	Time Warner Cable's 2003
Television Subscribers, <u>NC-0650</u>)	FCC-1240. 1205, 1235 Rate Filing
)	Through January 2003

BEFORE THE DURHAM COUNTY BOARD OF COMMISSIONERS:

WHEREAS, on October 1, 2002, Time Warner Cable submitted an FCC-1240 Updating Maximum Permitted Rates filing, FCC-1205 Determining Regulated Equipment and Installation costs, and FCC-1235 cost of Service Filing for Cable Network Upgrades for Regulated Cable Service with the County, Time Warner Cable's filing includes actual and estimated costs it may incur during the projected period January - December 2003, along with previous expenses from the Atrue up@ period October 2001-September 31, 2002;

WHEREAS, the Federal Communications Commission has promulgated rate filing procedures that allow cable operators to estimate future external costs, and costs associated with system upgrades, and recover those projected costs utilizing the FCC-1240 filing process, performed annually;

WHEREAS, the County is certified with the FCC to regulate basic cable service, equipment and installation rates and services within the County; and

WHEREAS, the FCC '76.933 grants franchise authorities the ability to roll the time in which to review rate filings submitted by cable operators, extending the period of review from the initial 30 days, to an additional 90 days (120 days total) past the original date of receipt by the franchise authority.

IT IS THEREFORE ORDERED:

THAT the time period in which the County has to review Time Warner Cable's FCC-1240 rate filing is tolled 90 days past the original 30 days (120 days total) allowed by the FCC, extending the total review period deadline; and

THAT Time Warner Cable is directed to maintain a complete and accurate accounting of all costs and revenues associated with the aforementioned filing.

ISSUED BY ORDER OF THE DURHAM COUNTY BOARD OF COMMISSIONERS:

This the 4th day of November, 2002.

BY:

/s/ MaryAnn E Black
Chairman

ATTEST:

/s/Gary E. Umstead (SEAL)
Clerk

STATE OF NORTH CAROLINA
DURHAM COUNTY

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THAT Time Warner Cable is directed to maintain a complete and accurate accounting of all costs and revenues associated with the aforementioned filing.

ISSUED BY ORDER OF THE DURHAM COUNTY BOARD OF COMMISSIONERS:

This the 4th day of November, 2002.

BY:

/s/ MaryAnn E Black
Chairman

ATTEST:

/s/Gary E. Umstead (SEAL)
Clerk

First Quarter Expenditure and Revenue Report—FY 2002-2003 Budget

Vice-Chairman Reckhow added this item to the agenda and provided each Commissioner a copy. This provided an overview of how the County's expenditures and revenue appear after the first quarter of the fiscal year. She stated she was pleased and thought the staff did an excellent job of outlining items and highlighting revenues that are either below or above that expected at that point in the fiscal year.

She stated she would like consideration given to changing the funding schedule for the nonprofit organizations. She noted that the County funds in a lump, whereas the City funds on a monthly basis and the State funds retroactively. She suggested the County go to a quarterly or semi-annual funding system to guard against loss of funding dollars should any organization fail and dissolve during the fiscal year. Another advantage would be that the County would earn interest on the money held until it is released periodically to the nonprofit organizations.

Chairman Black asked questions about money for licenses and permits and whether these are paid in the latter part of the year. She commented that revenues appear to be low at this point.

Visit of British Delegation From County Durham

Chairman Black read a letter from the County Durham delegation, which was very complimentary of this community and Durham County staff. The delegation, which visited Durham County in October 2002, learned much about the area. She advised that the Board would discuss, at some later time, continuing the partnership to address economic development and human service issues. There was not ample time to do so during the delegation's October visit.

Chairman Black advised that grant money would have to be found in order for the Commissioners to travel abroad again. County funds cannot be used to travel to England.

Closed Session

The Board of Commissioners was requested to meet in Closed Session to hear a report concerning investigations of alleged criminal activity, to discuss the performance of individual public officers and employees, and to prevent the disclosure of information not considered a public record pursuant to N.C.G.S. § 143-318.11(a)(1), (6), and (7).

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to adjourn to Closed Session.

The motion carried unanimously.

Before the Board left the room, County Attorney Chuck Kitchen and News & Observer reporter Barbara Barrett discussed Ms. Barrett's request that the Closed Session be audiotaped. County Attorney Kitchen quoted the reason it would not be taped.

The Board plus involved staff left to attend the Closed Session in the Conference Room. No action was taken upon their return as a result of the Closed Session.

Commissioner Excused From Meeting

Vice-Chairman Reckhow moved, seconded by Commissioner Cousin, to excuse Chairman Black from the November 11, 2002 Regular Session.

The motion carried unanimously.

Adjournment

There being no further business, the meeting was adjourned.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board

GEU:SBP