

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

Monday, September 22, 2003

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—Pledge of Allegiance

Chairman Reckhow called the September 22, 2003 Regular Session to order. She asked that all persons in attendance stand for the recitation of the Pledge of Allegiance.

Agenda Adjustments

- County Attorney Chuck Kitchen noted that he added an item to the Closed Session to preserve the attorney-client privilege.
- Commissioner Heron requested an item be added to discuss the possibility of asking for state assistance in debris collection resulting from Hurricane Isabel. (This item was not discussed during the meeting due to time constraints.)
- Commissioner Bowser added a personnel issue to the Closed Session.

Vice-Chairman Bowser had been made aware of citizen concerns about the significant increase in City water bills relative to sewer rate and service charges. He felt compelled to invoke his privilege as a County Commissioner to call on the City Council to address this issue. He asked that citizens contact the City Council and the Mayor's office to voice their concerns.

Chairman Reckhow called attention to the revised agenda that had been placed at each Commissioner's station.

Minutes

Chairman Reckhow removed the September 8, 2003 Regular Session Minutes from the agenda, as the Commissioners had not received a hard copy of the minutes prior to tonight's meeting.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to approve the September 2, 2003 Worksession Minutes of the Board as submitted. The August 4, 2003 Worksession Minutes and the August 25, 2003 Regular Session Minutes were approved as corrected.

The motion carried unanimously.

Proclamation for "NATIONAL 5-A-Day MONTH"

Chairman Reckhow was asked to proclaim the month of September as "NATIONAL 5-A-DAY MONTH" to promote the value of eating five or more servings of fruits and vegetables per day to reduce the risk of obesity and chronic disease. Public Health Department Nutritionist Barbara Rumer briefed the Board on local events planned to celebrate the occasion.

Resource Person(s): Barbara Rumer, MPH, RD, LDN, Public Health Department

County Manager's Recommendation: The County Manager recommended that the Board approve the proclamation and present it to Ms. Rumer.

Chairman Reckhow read the following proclamation into the record:

PROCLAMATION

WHEREAS, overweight and obesity among children and adults has been on an alarming increase throughout the nation, North Carolina, and Durham County; and

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

WHEREAS, research indicates that eating five or more servings per day of fruit and/or vegetables can help reduce the risk of overweight, obesity, and chronic disease; and

WHEREAS, eighty percent of Americans are not eating five or more servings of fruit and/or vegetables per day; and

WHEREAS, promoting fruit and vegetable intake can help fight chronic disease risk; and

WHEREAS, eating a variety of colorful fruit and vegetables will help to give Durham County citizens the vitamins, minerals, fiber, and phytochemicals needed for health:

NOW, THEREFORE BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim the month of September 2003 as

“NATIONAL 5-A-DAY MONTH”

in Durham County. I further ask all citizens to eat at least five servings of colorful fruit and/or vegetables each day to “get healthy, Durham.”

This the 22nd day of September, 2003.

/s/ Ellen W. Reckhow
Chairman

Chairman Reckhow commented on the Public Health Department display on the first floor of the Administrative Complex. Two healthy recipes comprising fruits and vegetables are available for the taking.

Ms. Rumer thanked the Commissioners for the proclamation and expressed appreciation to the Commissioners for recognizing the importance of eating fruits and vegetables and good nutrition. She is an elementary school nutritionist and part of the community nutrition team at the Durham County Health Department. A large part of their mission is to distribute accurate and useful nutritional information to the Durham community. Ms. Rumer referred to the packets from the Health Department’s Nutrition Division, which had been distributed to the Commissioners. She highlighted the DINE for LIFE program being carried out in ten Durham elementary schools, as well as in the Durham community.

In addition to promoting 5-A-Day Month for the month of September, the Nutrition Division is sponsoring a yearlong promotion of eating fruits and vegetables in the schools. The Division is partnering with a number of organizations including the Durham Farmers Market, SEEDS, the Durham Food Coop, Lowe's Foods, Whole Foods, and Durham’s Winner’s Circle Healthy Dining Program to raise the visibility of fruits and vegetables and to encourage students and their families to consume them. The kickoff event will be held at the Farmers Market Fair at Burton Elementary School on September 30, 2003. She invited the Commissioners to attend.

Ms. Rumer mentioned several plans to promote fruit and vegetable consumption as the school year progresses. Seasonal fruits and vegetables will be highlighted through bulletin boards that will be changed quarterly. This will be combined with information on produce selection, cooking tips, and recipes distributed to parents and teachers. Relevant articles will be submitted to school newsletters. As an entertaining way to

promote behavioral change, the nutrition team will periodically roam the cafeterias and classrooms of the schools at lunch and snack times. Fruit and vegetable eaters will be photographed and displayed in the school.

Ms. Rumer concluded by again thanking the Commissioners for their support.

Chairman Reckhow thanked Ms. Rumer for the informative packets. She then recognized Commissioner Jacobs, liaison to the Public Health Board.

Commissioner Jacobs commended the Public Health Department for this program and for sharing information. She has spent years in her professional career promoting good nutrition, noting that in our fast-food society, raw fruits and vegetables are some of the fastest foods one can eat!

Chairman Reckhow encouraged people to eat “colorful” fruits and vegetables.

Certificate of Achievement—Finance Department

The Government Finance Officers’ Association has recognized Durham County’s Finance Department for 19 of the past 23 years for Excellence in Financial Reporting. This year is no exception, as the department has been awarded The Certificate for Excellence in Financial Reporting for the FY 2002 Comprehensive Annual Financial Report (CAFR). The CAFR has been judged by an impartial panel to meet the high standards of the program, including demonstrating a constructive “spirit of full disclosure” to clearly communicate its financial story and motivate potential users and user groups to read the CAFR. This year’s award is particularly significant, because GASB-34 went into effect this year. This new accounting pronouncement required significant changes in the CAFR (e.g., Management’s Discussion and Analysis, full accrual statements for all fund types with reconciliation to governmental fund statements, change in the format of the notes to the financial statements, how the report was compiled, etc.). The Local Government Commission was making adjustments to these requirements as the financial report was being prepared. The Finance Department managed to issue the report in a timely manner (prior to the issuance of the November revenue bonds), although the department was not fully staffed. This award is indeed a credit to the quality and dedication of Finance Department employees who have adapted to these new requirements, produced the report on a timely basis (one of the first departments to submit to the Local Government Commission), and met the required high standards.

Resource Person(s): George K. Quick, Finance Director

County Manager’s Recommendation: The County Manager recommended that the Commissioners recognize the Finance Department for its outstanding performance.

Mr. Quick thanked Ms. Jessica Brown-Linton and Ms. Susan Fox-Kirk for their excellent work in making this Certificate of Achievement possible.

Chairman Reckhow read and presented the Certificate of Achievement to Mr. Quick, along with sincere congratulations of the entire Board.

**CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE
IN FINANCIAL REPORTING**

Presented to the County of Durham, North Carolina
for its Comprehensive Annual Financial Report
for the Fiscal Year Ended June 30, 2002.

A Certificate Of Achievement For Excellence In Financial Reporting is presented by the Government Finance Officers Association of the United States and Canada to government units and public employee retirement systems whose comprehensive annual financial report achieved the highest standards in government accounting and financial reporting.

Progress Report from Bond Campaign Committee

In July, Ms. MaryAnn Black and Mr. Steve Toler agreed to co-chair a private effort to raise funds to support four ballot questions for \$123 million in General Obligation Bonds for Durham Public Schools, Durham Technical Community College, Durham Public Library System, and the Museum of Life and Science. A brief progress report on the Committee's efforts was made.

Resource Person(s): MaryAnn Black and Steve Toler, Co-Chairs, "Learning 4 All"

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

Chairman Reckhow recognized Ms. Black and Mr. Toler for an update on the bond campaign.

Ms. Black began her presentation by quoting the Bond Campaign Committee slogan, "Expanding Educational Opportunities for our Community—Learning 4 All—2003 Durham Bond Referendum—Vote November 4th". She thanked the Commissioners for their vision in asking citizens to vote for the bond referendum. Four public educational facilities vital to our community need refurbishing—Durham Public Schools, Durham Technical Community College, Durham Public Library System, and the Museum of Life and Science. Each provides a great service for the citizens of this County. Ms. Black shared literature being prepared for the voters. She mentioned that Dr. John Lucas, past school board member, is Honorary Chairman for the 2003 Bond Referendum. Ms. Black invited the County Commissioners to the kickoff event for an opportunity to talk with

citizens about the bond referendum and the importance of voting in favor of the bond. The event will be held on Tuesday, September 23, 2003 from 4:00 until 5:00 p.m. in the Mercury Meeting Room at the Museum of Life and Science, 433 Murray Avenue. Ms. Black thanked County Manager Mike Ruffin, Deborah Craig-Ray, and County Attorney Chuck Kitchen for providing assistance to the committee. She encouraged all voters to vote yes for the four bonds—"Learning 4 All".

Mr. Toler stated that support for the bond referendum continues to be very encouraging throughout a broad spectrum of the community. Our commitment is to have the best communicated, most understood and supported bond referendum in the history of Durham County. The marketing committee meets weekly and is working on multi-media communications at all levels for all citizens, including the Hispanic population. Mr. Toler thanked the Commissioners for the opportunity to serve the County in this capacity.

Vice-Chairman Bowser thanked Ms. Black and Mr. Toler for their efforts. He mentioned that bond committee members are scheduled to meet with the NAACP at 4:00 p.m. on Sunday to speak to the bond referendum. Durham Public Schools Superintendent Ann Denlinger will also be present at that meeting.

Chairman Reckhow called on Dr. E. Lavonia Allison who had requested to speak on this agenda item.

Dr. E. Lavonia Allison, PO Box 428, Durham, NC 27702 first commended the Commissioners for adopting the School Impact Fee Ordinance. She invited Co-Chairs Black and Toler to the regular meeting of the Durham Committee on the Affairs of Black People in October. She pointed out that the committee is supportive of learning; however, public forums regarding bonds do not provide sufficient information about priorities to be addressed. Although Dr. Allison expressed appreciation to Chairman Reckhow and Vice-Chairman Bowser for facilitating a meeting, questions remain unanswered. She expressed her opinion that everyone should be able to decide on the priorities before a final decision is made, and this has not occurred.

Vice-Chairman Bowser asked whether money can be taken from one bond project and used for another project and, if allowed, be accomplished before November.

County Attorney Chuck Kitchen responded that proposed bond projects must first be accomplished. Remaining money may be used for other projects approved by the Durham Public Schools Board of Education and the Board of Commissioners. After the bond order is adopted, changing the order of the projects may be illegal.

Chairman Reckhow thanked the bond committee members for their outstanding work. She stated that the County Commissioners would be happy to assist in outreach efforts.

Consent Agenda

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

- * (a) Property Tax Releases and Refunds for Fiscal Year 2003-04 (accept the August property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- * (b) Budget Ordinance Amendment No 04BCC000015—Recognize Revenue for Emergency Medical Services (approve the budget ordinance amendment to recognize incremental funding in the amount of \$10,963 from Philips Medical Systems);
- * (c) Patriot Act Resolution (approve the prepared resolution and direct that it be sent to Congress as indicated);
- * (d) Resolution on Appointments to Boards and Commissions (approve the change to the policy);
- * (e) Street Annexation Petition—Rexing Court (adopt the resolution to approve the addition of Rexing Court to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation); and
- (g) Appointment of Chair of ABC Board (appoint E'Vonne Coleman as chairman of the ABC Board as recommended by the ABC Board).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. a. Property Tax Releases and Refunds for Fiscal Year 2003-04 (accept the August property tax release and refund report as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details releases and refunds for the month of August 2003.

Releases & Refunds for 2003 Taxes:

Real	\$	151,350.99
Personal	\$	391,627.31
Registered Vehicles	\$	16,134.28
Vehicle Fees	\$	190.00
Solid Waste	\$	<u>975.00</u>
Total for 2003 Taxes and Fees	\$	560,277.58

Prior years (2001-2002) releases and refunds for August 2003 are in the amount of \$13,638.53.

The total current year and prior years releases and refunds amount to \$573,916.11.

(Recorded in Appendix A in the Permanent Supplement of the September 22, 2003 Regular Session Minutes of the Board.)

Consent Agenda Item No. b. Budget Ordinance Amendment No 04BCC000015—Recognize Revenue for Emergency Medical Services (approve the budget ordinance amendment to recognize incremental funding in the amount of \$10,963 from Philips Medical Systems).

DURHAM COUNTY, NORTH CAROLINA
FY 2003-04 Budget Ordinance
Amendment No. 04BCC000015

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>			
Other Financing Sources	\$ 13,328,667	\$10,963	\$ 13,339,630

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$ 35,769,252	\$10,963	\$ 35,780,215

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

This the 22nd day of September, 2003.

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

Consent Agenda Item No. c. Patriot Act Resolution (approve the prepared resolution and direct that it be sent to Congress as indicated).

RESOLUTION CONCERNING
THE USA PATRIOT ACT

WHEREAS, the United States Congress has passed Public Law 107-56 entitled "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001"; and

WHEREAS, serious questions have been raised concerning certain provisions of the Patriot Act especially as they relate to the Durham County Library and the rights of the citizens of Durham County to be secure in their homes; and

WHEREAS, § 213 of the Patriot Act allows for "sneak and peek" searches of people's homes without notifying the homeowner of the search; and

WHEREAS, § 215 of the Patriot Act allows the search of records of patrons of the Durham County Library which are confidential under State law; and

WHEREAS, while the Board of Commissioners recognizes the need for laws to protect the citizens of Durham County and the United States from terrorists, these laws should not be used to invade the privacy of United States citizens or conduct illicit covert surveillance of ordinary Americans.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS FOR THE COUNTY OF DURHAM DOETH RESOLVE:

1. The Congress of the United States is called upon to conduct hearings regarding the appropriateness of the provisions of the Patriot Act and any abuses which may have occurred under the authority of the Patriot Act.

2. The Congress of the United States is further requested to consider the modification or repeal of §§ 213 and 215 of the Patriot Act, and to enact a privilege providing for the confidentiality of records maintained by public libraries by amending F.R.Evid. 501.

3. The County Manager shall send copies of this resolution to the Congressional delegation representing the citizens of Durham County and to the members of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

This the 22nd day of September, 2003.

Consent Agenda Item No. d. Resolution on Appointments to Boards and Commissions (approve the change to the policy).

RESOLUTION FOR ESTABLISHMENT OF POLICY AND PROCEDURES FOR
APPOINTMENTS TO COUNTY BOARDS, COMMISSIONS,
COMMITTEES OR AUTHORITIES

WHEREAS, it is the statutory duty of the Durham County Board of Commissioners, as Governing Body of Durham County, to appoint persons to various boards, commissions, committees, or authorities, to assist in the operation of county government; and

WHEREAS, the Board of Commissioners is desirous of appointing qualified, knowledgeable, and dedicated people to serve on the aforesaid boards, commissions, committees, or authorities, and to that end solicits the interest and participation of the citizens of Durham County in providing information and recommendations to assist the Board of Commissioners in identifying qualified candidates for said appointments; and

WHEREAS, the Board of Commissioners recognizes the need for a policy and procedure to provide for increased public awareness of the appointments to be made from time to time by the Board, to solicit public participation in the submission of names of qualified candidates, to set forth the subsequent steps for the selections of the candidate(s) by the Board, and to ensure attendance at meetings; and

WHEREAS, the Board of Commissioners recognizes the need to have a representative sample of the citizens of Durham County serving on the boards, commissions, committees, and authorities; therefore, appointment applications will solicit necessary information to achieve a representative sample of the community.

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

Section 1. The policy of Durham County governing appointments to the various boards, commissions, committees, or authorities made by the Board of County Commissioners is as follows:

- A) Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words imparting the singular number mean and include the plural number and vice versa.
- B) Any citizen of Durham County who is eighteen (18) years of age or older is eligible to serve on the appointed boards, commissions, committees, or authorities of the County where such appointment is not prohibited by state statute.
- C) All appointments will be made according to the Appointments Statute or Ordinance that created that board, commission, committee, or authority.

- D) No citizen of Durham County may serve in more than two appointed positions of Durham County Government unless exempted by nature of the position or otherwise.
- E) Unless otherwise stated by statute, no citizen may serve more than three consecutive terms in any one position. This policy may be waived if the Board of Commissioners determines that the removal of a number of individuals made ineligible by the policy would be detrimental to the functioning of that board, commission, committee, or authority, unless such removal is prescribed by statute.
- F) If an appointee has absences (excused or unexcused) which constitute more than 50% of the meetings in any calendar year which he or she is required to attend pursuant to his or her appointment, he or she is obligated to resign.
- G) The Clerk to the Board will notify the member that he or she is obligated to resign. An unexcused absence is defined as an absence without prior notification to the chairman, secretary, or staff to the boards, commissions, committees, or authorities.
- H) Excused absences are defined as absences with proper prior notification indicating legitimate conflicts or other circumstances.
- I) For each appointee, the calendar year is counted beginning on the date of appointment.
- J) If a member's absence exceeds these percentages, the Clerk to the Board of County Commissioners should be notified immediately.
- K) The clerk to the boards, commissions, committees, or authorities shall be responsible for keeping an attendance record and notifying the Clerk to the Board, who shall in turn notify the Board of County Commissioners when the limit of absences of any appointee has been reached.
- L) Property tax listing must be current. County and City taxes must not reflect any delinquencies before an application is submitted. Property taxes must be current both prior to appointment and during the term of the appointment. However, if the appointee's taxes become delinquent during the term of the appointment, the appointee shall be allowed up to 30 days to bring the property taxes current or to establish a payment plan with the Tax Administrator's Office. The appointee shall be allowed a maximum of 90 days after a payment plan is established with the Tax Administrator's Office in which to pay the delinquent taxes and bring all property taxes current.
- M) If a member has more than 50% absences (excused or unexcused) or, if the member is delinquent in the listing and/or payment of taxes for which an appeal has not been filed, the Clerk to the Board will notify the Chairman of the Board of County Commissioners. Upon receipt of notification from the Clerk to the Board, the Chairman will notify the member that he or she may be removed from the board, commission, committee or authority. The Commissioners shall consider the board member's status at a regularly scheduled meeting of the Board of County Commissioners.

Each County Commissioner will have available to him or her a binder containing a list of all County appointments, with the following data provided:

1. The name of the board, commission, committee, or authority and the composition of the board according to the statute.
2. A brief description of its functions.
3. The statute or cause creating the board, commission, committee, or authority and the composition of the board according to the statute.
4. The total number of members and length of terms of office.
5. The names of current members, the number of terms each has served, and the date of his or her original appointment.
6. The regular meeting day, time and location, if determined.
7. The date(s) on which appointments should be made.

Section 2. The procedures of Durham County for filling vacancies for appointed positions should be as follows:

- A) Notification of available appointments
 1. A current list of upcoming appointments to County boards, commissions, or authorities shall be kept in the Office of the Clerk to the Board and shall be furnished to any person or group on request.
 2. A list of available positions and the date by which names should be submitted will be published in the Herald Sun, the News & Observer, the Carolina Times, or any other newspaper having general circulation throughout the County that the Board may specify from time to time, once a week for two weeks beginning two weeks in advance of the deadline for submitting applications. The Clerk to the Board may alternate the publication of the available positions in different newspapers from week to week as the Board of Commissioners directs. The name, phone number, website, and address of the Clerk to the Board shall be provided in the advertisement to obtain more information.
 3. A list of available positions stating terms of office, requirements for office, duties of positions, and the date by which names should be submitted will be placed on the Durham County Website beginning two weeks in advance of the deadline for submitting applications.
 4. Twenty-five (25) days prior to the expiration of the terms, a notice will be mailed to each person who is eligible for reappointment requesting an indication of his or her interest in continuing to serve. If an individual is not eligible for reappointment, he or she will be notified and given the reason for being ineligible.
 5. The Chairman of the Board of Commissioners or his designee will be responsible for carrying out the above notification procedures.
 6. If, because of policy or otherwise, an individual is unable to be reappointed, that person will be sent a Letter of Appreciation by the

Chairman of the Board of Commissioners at the expiration of his or her term, thanking the person for past services rendered.

B) Selection Process

1. At least twelve (12) days prior to the appointments by the Board of County Commissioners, all applications for a particular position must be in the hands of the Clerk to the Board. The Clerk will check each applicant for eligibility and recheck any prior applicants, if any.
2. A copy of the applications submitted together with the prior applications, if any, shall be sent to all Commissioners at least ten (10) days prior to the meeting at which action will be taken. Those candidates who are ineligible will be noted and the reasons for ineligibility given.
3. a. When the advertising or readvertising of positions for boards, commissions, committees, etc., does not produce within the time frame prescribed the necessary number of qualified persons to fill the vacancies indicated, the Board of County Commissioners on its own initiative will name the appointees.
b. When vacancies and positions appointed pursuant to this policy occur prior to the expiration of the term of office, the Board of County Commissioners shall appoint a person to serve the remainder of the term in accordance with the procedures outlined herein.

C) Notification of Appointment

The Chairman of the Board of County Commissioners shall prepare a letter of notification of appointment or non-appointment to the applicants and a copy to the affected board, notifying each of the appointment or non-appointment.

D) Applications

All applications received shall be retained for at least one (1) year and considered if a vacancy occurs during that time period. Applications shall be kept on file for all active appointees. These will be treated as public records and made available upon request for the cost of copying.

Consent Agenda Item No. e. Street Annexation Petition—Rexing Court (adopt the resolution to approve the addition of Rexing Court to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation).

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION
REQUEST FOR ADDITION OF STATE MAINTAINED
SECONDARY ROAD SYSTEM

North Carolina
County of Durham

Road Description: Rexing Court is located in the Fairfield Subdivision. The cul-de-sac is 0.2 miles.

WHEREAS, the attached petition has been filed with the Durham Board of County Commissioners requesting that the above-described road, the location of which has been indicated in red on the attached map,* be added to the secondary road system; and

WHEREAS, the Board of County Commissioners is of the opinion that the above described road should be added to the secondary road system, if the road meets minimum standards and criteria established by the Division of Highways of the Department of Transportation for the addition of roads to the system.

NOW, THEREFORE, BE IT RESOLVED by the Durham Board of County Commissioners that the Division of Highways is hereby requested to review the above-described road, and to take over the road for maintenance if it meets established standards and criteria.

CERTIFICATE

The foregoing resolution was duly adopted by the Durham Board of County Commissioners at a meeting on the

Witness my hand and official seal this the 23rd day of September, 2003.

/s/ Garry E. Umstead
Clerk, Board of Commissioners
County of Durham

*In the office of the Clerk to the Board.

Consent Agenda Item Removed for Discussion

Consent Agenda Item No. f. Joint Resolution on Vocational Educational Opportunities—
Minor Revisions (approve the resolution).

Vice-Chairman Bowser removed this item from the consent agenda for additional discussion to be undertaken. Although he fervently supports the concept of vocational education, he asked for clarification regarding the intended direction of the educational opportunities and expressed concern about the composition of the Task Force.

Commissioner Heron expressed her continued, wholehearted support of vocational education for all interested students in Durham County.

Commissioner Jacobs interpreted the resolution to include all students, citing her support.

Chairman Reckhow stated that the next step is to approve a mission statement that would include issues identified by Vice-Chairman Bowser.

Commissioner Jacobs moved, seconded by Commissioner Heron, to approve the consent agenda item.

The motion carried unanimously.

The joint resolution follows:

A JOINT RESOLUTION TO ESTABLISH A TASK FORCE TO STUDY
ENHANCING VOCATIONAL EDUCATIONAL OPPORTUNITIES IN
DURHAM COUNTY

WHEREAS, Durham County ranked #1 in job announcements and new manufacturing investment among North Carolina counties in 2002; and

WHEREAS, over the last ten years, \$305 million in expanded investment and 2,700 new jobs have been announced in Durham County; and

WHEREAS, the Board of Commissioners of Durham County and the Board of Education of the Durham Public Schools desire to strategically prepare high school students, including students at risk of dropping out, to favorably compete for new and existing jobs created in Durham County.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Durham County and the Board of Education of the Durham Public Schools to create a Task Force to investigate the feasibility of a school to study enhancing vocational educational opportunities in Durham County. The Task Force shall be comprised of twenty-one (21) representatives; two (2) representatives from the Board of County Commissioners and two (2) representatives from the Board of Education. The remaining seventeen (17) members shall be appointed by the Board of County Commissioners and the Board of Education. The county manager shall nominate nine (9) citizens for consideration to the Board of County Commissioners and the superintendent shall nominate eight (8) citizens for consideration to the Board of Education. The Task Force shall make a report to the School Board and Board of County Commissioners by December 31, 2004.

Adopted this the ___ day of _____, 2003.

Public Hearing—Centex Homes, Applicant (Rezoning Case P02-25)

Centex Homes presented to the Board of County Commissioners a request to rezone 133.3 acres located on the west side of Grandale Drive and north of the Sedwick Road intersection. (PIN 0727-01-36-7805) (TM 531-1-6)

Request: RD (Rural District) to PDR 1.66; F/J-B (Planned Density Residential-1.66 units/acre; Falls/Jordan Protected Area).

The original rezoning request for PDR 2.1 with 271 single-family lots went to the Board of County Commissioners September 23, 2002. The Board continued the hearing, suggesting changes to the rezoning. A revised rezoning request and development plan for PDR 1.93 and 251 single-family lots returned to the Board for a public hearing on March 24, 2003, but was continued again. The applicant further modified the rezoning request to the current proposal. These modifications met the Ordinance thresholds requiring a new public hearing before the Zoning Committee. The Zoning Committee of the Durham Planning Commission conducted a public hearing August 13, 2003 and voted 5-1 to recommend denial, citing flooding concerns and school overcrowding.

The proposal is in general conformance with the small area plan. Staff recommended approval, citing general adopted plan conformance.

The public hearing for this request was re-advertised on September 5 and 12, 2003 in the Durham Herald-Sun.

Resource Person(s): Frank M. Duke, AICP, Planning Director, Durham City-County Planning Department

County Manager's Recommendation: The County Manager recommended that the Board hold a public hearing on the proposed rezoning and approve it, if appropriate, based on the comments received.

Mr. Duke reviewed changes to the rezoning request, specifically addressing committed elements.

County Attorney Chuck Kitchen asked the likelihood of the developer obtaining building permits prior to January 1, 2004.

Mr. Duke responded that obtaining permits previous to that date would be unlikely, as the site plan process cannot be undertaken until rezoning is complete.

Chairman Reckhow opened the public hearing, which was properly advertised. The County Attorney advised her that a valid protest petition had been filed.

Mr. Patrick Byker, representing Centex Homes, reported that significant changes have been made to this plan as a result of several neighborhood group meetings. At Chairman Reckhow's request, Mr. Byker listed recent additions to the committed elements.

Discussion followed between Chairman Reckhow, County Attorney Kitchen, Mr. Duke, and Centex representatives regarding elimination of the cul-de-sac at the end of Hamilton Way. While Centex Homes would agree to eliminate the cul-de-sac, Mr. Duke raised questions about whether this change would comply with Zoning and Subdivision Ordinances.

Mr. Bill Heemstra, 1202 Grandover Drive, Durham, NC 27713 expressed his opinion that the development would take away green space from his property.

Chairman Reckhow asked that Mr. Heemstra talk with Mr. Byker and Mr. Duke about his concern.

Dr. Lavonia Allison, PO Box 428, Durham, NC 27702 stated that the development plan is encouraging, given that it features single-family homes rather than townhouses and condos. She does not understand why the Zoning Committee and the Planning Department submit opposing recommendations. She asked how the money promised as a committed element would be earmarked. Elementary school impact was another concern.

Mr. Berndt Haneke, 1017 Hamilton Way, Durham, NC 27713 urged the Planning Department to reconsider its position relative to the cul-de-sac on Hamilton Way.

Ms. Liz Pullman, 1114 Scott King Road, Durham, NC 27713 expressed acceptance of the revised plan. She thanked Chairman Reckhow and Commissioner Heron for their mediation efforts.

Mr. Roger Nelsen, 306 Ashmont Lane (Fairfield Subdivision), Durham, NC 27713 preferred that the property remain undeveloped; however, if development must occur, he would support rezoning because of the committed elements.

Mr. Ken Couch, 304 Ashmont Lane, Durham, NC 27713 was not supportive of land development, yet the committed elements provided by Centex make the rezoning worthy of support. He thanked the Commissioners for considering homeowner concerns and asked that Centex be held accountable for its promises.

Ms. Sara Broome, 1202 Grandover Drive, NC 27713 expressed her concern that the north area of the development lacks sufficient buffers. She asked the Board to consider adding buffers and to consider the elementary school and traffic impact. In her opinion, the road infrastructure cannot accommodate increased traffic.

Mr. Reeves Young, 5808 Williamsburg Way, Durham, NC 27713 stated that Centex Homes must be held accountable for its promises.

Ms. Carol Young, 5808 Williamsburg Way, Durham, NC 27713 asked Centex to honor its commitments. She thanked the Commissioners for listening and addressing the residents' concerns.

Ms. Lee Mobley, 103 Croydon Place (Fairfield Subdivision), NC 27713 expressed concern about flooding on the south side of the subdivision. She is opposed to the development until the subdivision is annexed into the City of Durham.

Ms. Susan Belanger, 5205 Grandhaven Drive, Durham, NC 27713 stated her primary concerns are traffic impact and drainage issues.

Chairman Reckhow closed the public hearing and referred the matter back to the Commissioners.

In response to a concern raised by Dr. Allison, Chairman Reckhow clarified that the County would receive no financial benefit from the development.

County Attorney Kitchen and Mr. Duke pointed out several changes that must be made in the language in bullets 1, 2, and 3 of the additional committed elements.

At the request of Chairman Reckhow, County Attorney Kitchen advised the Commissioners to indicate whether they would agree to the rezoning with the changes. After the changes are made, the proposal could be placed on the October 13, 2003 Regular Session agenda as a regular item, given that a protest petition is involved.

Chairman Reckhow asked the Commissioners if they would support the rezoning, provided the language is corrected. (For approval, four Commissioners must vote for the rezoning since a protest petition was filed).

Each Commissioner expressed support, stating the following reasons:

- Impact fees to be paid by the developer;
- Reduction in the number of lots;
- Consideration given to the floodplain;
- Additions to the committed elements;
- Concessions made by the developer;
- Positive, significant changes in the development plan; and
- The neighborhood will be an asset to the area, blending in with existing neighborhoods.

Commissioner Jacobs asked the record to reflect that she voted against the School Impact Fee Ordinance, not to oppose funding for schools or to support developers, but because the fees may be passed to underprivileged citizens.

Commissioner Heron moved, seconded by Vice-Chairman Bowser, to direct staff and the developer to delete the cul-de-sac at the end of Hamilton Way.

The motion carried unanimously.

A formal vote on the rezoning request was deferred until the October 13, 2003 Regular Session so the developer and staff could revise the language relative to the committed elements.

Chairman Reckhow suggested that the revised wording be emailed to a resident designated as the point of contact.

Public Hearing (continued) and Adoption of the FY 2002-2003 Consolidated Annual Performance and Evaluation Report (CAPER)

The City of Durham Department of Housing and Community Development requested that the Board of County Commissioners adopt the FY 2002-2003 Consolidated Annual Performance and Evaluation Report (CAPER) for submission to the U.S. Department of Housing and Urban Development (HUD). The CAPER provides Durham an opportunity to assess anticipated performance with actual performance in meeting the priorities and objectives of the Consolidated Action Plan. The CAPER public hearing is held annually in September by the Board of County Commissioners to receive comments on the previous year's City-County HOME Consortium Investment Partnership program performance. This performance is detailed in the CAPER that must be submitted to HUD prior to the September 28, 2003 deadline. The 2002-2003 CAPER was made available (in draft form) for public review from August 1, 2003 through September 1, 2003. Comments received at the public hearing will be placed into the CAPER before its submission to HUD. The City Council held its CAPER public hearing on September 2, 2003. This public hearing was opened at the September 8, 2003 meeting and continued until the September 22, 2003 meeting.

Durham receives an annual HOME Consortium grant award from HUD. The FY 2002-2003 HOME entitlement allocation was \$1,051,000 in HOME funds. The FY 2002-2003 Consolidated Action Plan allocated these HOME funds primarily for housing activities in Durham with special focus in target neighborhoods. Major HOME program expenditures made during the 2002-2003 program year (as shown in the draft CAPER) included assistance for homebuyers, dwelling rehabilitation for first-time homebuyers, and special needs housing.

During FY 2002-2003, City staff, local lenders, and realtors presented a First-Time Homebuyers Program to Durham County residents during National Homeownership Month. The HOME-funded program is now available to qualified homebuyers that desire to live in Durham County (outside the City limits). Effective marketing strategies will be implemented for both the County Substantial Housing Rehabilitation and Homebuyers Assistance Programs during FY 2003-2004. During FY 2003-2004, a homeownership program will be designed and implemented for Durham County Sheriff's and Durham County Government employees through the use of HOME funds.

Resource Person(s): Charlene Montford, Director of the City of Durham Department of Housing and Community Development and Michael Pullum, Senior Planner

County Manager's Recommendation: The Manager recommended that the Board hold the public hearing and adopt the FY 2002-2003 Consolidated Annual Performance and Evaluation Report (CAPER) for submission to the U.S. Department of Housing and Urban Development (HUD) prior to the September 28, 2003 deadline.

Chairman Reckhow called on Mr. Pullum to present this item to the Commissioners.

Commissioner Heron reminded the Board that at the September 8, 2003 meeting, Chairman Reckhow directed that the County Manager contact the City Manager to request that Ms. Montford attend this meeting. Ms. Montford had communicated that she would attend this meeting.

Mr. Pullum explained that Ms. Montford had been in attendance; however, she left for an important engagement, stating that she would return prior to the presentation of this item.

Chairman Reckhow declared that this item would follow "Summer Meadows Additions—Rezoning Case P03".

Summer Meadows Additions—Rezoning Case P03-12

On August 11, 2003, Crossman Communities of North Carolina Inc. presented to the Commissioners a request to rezone a 20.09-acre site (in two separate tracts) located on the north side of Hebron Road, between West Avenue and Danube Lane, and the west side of Denfield Street, between Hebron Road and Communications Drive. (PIN 08334-03-11-6522 [partial], 03-31-5464, 03-31-7450)

Request: R-20; F/J-B & E-B to PDR-4.69. The proposal is in conformance with the small area plan. Staff recommends approval, citing adopted plan conformance. The Zoning Committee of the Durham Planning Commission conducted a public hearing June 11, 2003 and voted 6-0 to recommend denial, citing mass grading and lot size.

This request was continued from the August 11, 2003 and September 8, 2003 Board of County Commissioners' meetings for development of a note regarding improvements to

Felicia Street not directly related to this project. This is now reflected on the development plan.

Resource Person(s): Frank M. Duke, AICP, Planning Director, Durham City-County Planning Department

County Manager's Recommendation: The County Manager recommended that the Board approve the rezoning, if appropriate.

Mr. Duke stated that at the last Commissioner meeting, the Board directed the insertion of a committed element to address offsite stormwater improvements not directly related to this project. The County Attorney worked with the developer, and language was added to the site plan to address the issue.

Chairman Reckhow called upon persons who had signed to speak on the rezoning request.

Dr. Lavonia Allison, PO Box 428, Durham, NC 27702 expressed confusion regarding conflicting recommendations of the Zoning Committee and the City-County Planning Department and concern for issues involving mass grading, school and road impact, and flooding.

Mr. Larry D. Hall, 315 East Chapel Hill Street, Durham NC, brought to the attention of the Commissioners that this proposed development is an addition to a PDR district approved more than three years ago. The lot sizes and development are consistent with adopted plans for the area. The addition provides for a desirable 80/20 mix of single-family homes and condos. The committed element relative to Felicia Street is important; NCDOT will be responsible for continued street maintenance. This portion of the development will reduce the velocity of water runoff in the area. He asked that the Commissioners approve the rezoning request.

Mr. Bill Anderson, 2604 Kilgore Avenue, Raleigh NC 27607 declined his privilege to speak.

Mr. Mitch Huff, 213 Brereton Drive, Raleigh NC 27615, thanked the Commissioners who visited the site. Crossman Communities of NC Inc. is attempting to create a good neighborhood with affordable, quality homes.

Chairman Reckhow felt it was important to note that, according to the staff report, the stormwater detention pond on the site will allow less runoff than occurs currently. Hopefully, the residents downstream will benefit from the project.

Commissioner Cousin mentioned that he visited the site and Felicia Street. He felt the rezoning should be approved given that it will restrict the level of runoff. He noted that the homes are of good quality.

Commissioner Heron voiced long-standing concerns regarding runoff from the development. Her desire is for residents to be protected from further runoff problems. She asked Mr. Huff whether the detention pond will resolve the runoff issue and how the pond will be maintained.

Mr. Huff replied that no guarantees can be given except that the detention pond will exceed the minimum requirements of the ordinance, which states that runoff velocity should be no greater post-development than pre-development. This pond will over-detain to produce a net reduction in the velocity of the runoff post-development. A requirement is that a perpetual maintenance bond, a letter of credit, or a CD be posted for any permanent pond and remain until replaced (in this case, by the homeowners association). Replacement will occur when all development is completed that would have an impact on the pond.

Glen Whisler, County Engineer, assisted Mr. Huff with his response by adding that the stormwater pond can serve a dual purpose. It may be used during construction as a sediment basin to control sediment from the grading operation. At the conclusion of construction, it would be converted to a stormwater management pond to manage the runoff from the property.

Chairman Reckhow asked about the date that the \$20,000 payment would be made to NCDOT for Felicia Street improvements. She requested that wording be added that the payment would be made prior to final plat approval.

Mr. Huff was in agreement with the request.

Vice-Chairman Bowser informed the Board that he made a site visit to the property as well. He did not believe the flooding problem in the existing neighborhood could be completely resolved, as the development was built in the floodplain. He supported approval of the rezoning since this would involve improvements to Felicia Street. Vice-Chairman Bowser echoed comments of Commissioner Cousin of being impressed with the construction and design of the 2,000 square-foot quality homes.

Vice-Chairman Bowser moved, seconded by Commissioner Cousin, to approve Summer Meadows with amended wording to the committed element pertaining to Felicia Street—"such payment shall be made prior to final plat approval".

The motion carried unanimously.

Chairman Reckhow thanked the Commissioners who devoted much time to this project.

Commissioner Heron directed the County Manager to contact NCDOT and ask the department to move expeditiously on paving and maintaining Felicia Street.

Commissioner Cousin suggested that streetlights be installed on Felicia Street.

(Legal description recorded in Ordinance Book 2, page ____.)

Public Hearing (continued) and Adoption of the FY 2002-2003 Consolidated Annual Performance and Evaluation Report (CAPER)

Chairman Reckhow announced that Ms. Montford had arrived and this item would now be heard.

Ms. Montford apologized to the Commissioners for her tardiness. She informed the Board that revision to the CAPER report had been modified to include additional housing as well as monies spent to provide affordable housing for needy Durham citizens.

Chairman Reckhow opened the public hearing, which was properly advertised.

Mr. Fred Foster Jr., Chairman of the Durham Voter Coalition, 5718 Whippoorwill Street, Durham, NC 27704 addressed the Board as a concerned citizen. He urged the Commissioners to expand housing opportunities through the use of HOME funds to include all Durham citizens, rather than the FY 2003-2004 focus on Durham County Sheriff's and Government employees.

Ms. Nancye Bryan, 3408 Dover Road, Durham, NC 27707 represented Next Step Housing, its goal being to build housing and provide supportive services for people with serious and persistent mental illness. This group purchased a lot from the Herndon estate properties on Raynor Street several years ago to build 12 housing units from two funding sources: City of Durham Department of Housing and Community Development and the NC Housing Finance Agency. Ms. Bryan expressed frustration that money committed on April 27, 2001 from Housing has not been provided. Although this process has taken two and one-half years, she remains optimistic that the provision of promised funds will be forthcoming.

Chairman Reckhow closed the public hearing and referred to the Commissioners for comment or consideration.

Commissioner Heron offered an historical perspective regarding this agenda item. She stated that the County applies for the HOME grant while the City's Housing Department administers it. Unmet housing needs in the City and County have caused the County to become more active in ascertaining how the funds are spent. Commissioner Heron questioned why the money allocated to Next Step Housing has not been distributed.

Vice-Chairman Bowser asked what steps the Department of Housing and Community Development is taking to abate homelessness, specifically regarding funding allocations to various organizations. He encouraged the department to provide as much funding as possible to help reduce homelessness.

Ms. Montford replied that funds have been allocated to the Shelter for Hope for the previous and current fiscal years. The department also partners with various organizations through the Continuum of Care and funds the Durham Affordable Housing Coalition with the Community Development Block Grant and non-city agency monies. Ms. Montford stated that the table on page 7 of the CAPER lists the allocation amounts.

Commissioner Cousin inquired whether the assistance program for teachers is advertised to entice employment prospects to the DPS system.

Ms. Montford responded that the department is aggressively marketing through newspaper advertisements, brochures, and handouts.

Chairman Reckhow questioned whether the First-Time Buyers Program has been implemented for teachers, police, firefighters, and others who wish to purchase a home in the county (outside the City limits).

Ms. Montford stated that in October, the department will ask the City Council to allow expansion of the program to aid these employees to purchase a home in the county.

Chairman Reckhow asked the names of County representatives serving on the advisory committee for Housing.

Ms. Montford was unable to provide the names but offered to look into this and report back to the Commissioners.

Chairman Reckhow expressed the hope that departmental restructuring will result in more expeditious processing of special needs housing. She recommended that the Housing and Community Development Department work with Ellen Holliman, Acting Director, Mental Health Department, in establishing a committee to address special housing needs. Commissioner Cousin would be an excellent resource for these activities.

In response to a question by Vice-Chairman Bowser, Ms. Montford agreed to review the by-laws of the advisory committee to determine whether a County Commissioner may serve as a member.

Commissioner Heron directed Ms. Montford to begin the process tomorrow morning of finalizing the disbursement of monies to Next Step Housing.

Commissioner Heron asked if any unused federal funds were remitted to the federal granting agency.

Ms. Montford responded that monies were returned only where eligibility concerns prohibited their use.

Commissioner Heron mentioned housing concerns on Felicia Street relating to flooding and the presence of mold. She asked if HOME funds could be used to help these homeowners.

Ms. Montford assured Commissioner Heron that she would perform a site inspection and consider housing rehabilitation to eliminate the mold issue and bring the houses up to City code.

Chairman Reckhow instructed the County Manager to ascertain whether Community Development Block Grant money could be used for this purpose.

Commissioners Cousin and Heron challenged Ms. Montford to promptly confront the housing problems on Felicia Street.

Chairman Reckhow expressed concern that the unexpended fund balance increases each year.

Ms. Montford replied that CDBG monies are expended regularly, while the focus has changed regarding fund allocation for the HOME program. The Housing Department is on target to expend approximately \$5 million this fiscal year.

Chairman Reckhow communicated her expectations for next year's report to include higher fund expenditures, a lower fund balance, and further progress in meeting housing needs.

Commissioner Jacobs moved, seconded by Commissioner Cousin, to adopt the FY 2002-2003 Consolidated Annual Performance and Evaluation (CAPER) for submission to the U.S. Department of Housing and Urban Development (HUD) prior to the September 28, 2003 deadline.

The motion carried unanimously.

In response to a question from Commissioner Heron, Ms. Montford stated that she would supply the Commission with a date that the proposed expenditure of funds for Next Step Housing would be presented to City Council.

Utility Revenue Remittances by the City of Durham to Durham County

The Board was requested to approve a settlement proposal between the City and County to resolve differences between the amount of utility revenues collected by the City of

Durham and remitted to the County as determined in the Agreed Upon Procedures (AUP) reports dated December 23, 2002 and August 28, 2003. The settlement recommended by the City and County Managers involves three items:

- Payment of \$583,430 to the County from the City.
- Reimbursement of 100% of revenue collected from Triangle Wastewater Treatment Plant (TWWTP) customers served by County owned lines and annexed by the City of Durham, and;
- Consideration of a City suggestion to consolidate ownership and operation of the wastewater collection system in the area served by the TWWTP.

The proposal was considered and supported by the Joint City/County Committee on September 9, 2003. The Agreed Upon Procedures began in March 2002 and was conducted in two phases. Phase I was completed in December 2002 and presented to the Joint City/County Committee on January 14, 2003. Phase II was completed in August 2003 and presented to the Joint City/County Committee on September 9, 2003, at which time the Committee recommended that the City Council and County Commissioners consider a settlement proposal.

Phase I of the AUP involved water and sewer extension projects completed by the County and transferred to the City for ownership. Based on the interlocal agreement for these projects, the City is to remit 50% of the water and sewer consumption fees and 100% of the connection fees. Through the end of December 2001, the County was underpaid by \$1,114,854.

Phase II of the AUP focused on the consumption or collection amounts of sewer customers within the TWWTP service area for the calendar year 2001. The City and County agree that the City is to remit 80% of units consumed times the County rate to the County when the City owns the lines serving the customers. It is also agreed that the City is to remit 100% of the sewer payments received from customers served by County-owned lines outside of the Durham City limit. However, there is disagreement regarding the remittance amount for customers served by County-owned lines but annexed by the City. The County takes the position that 100% of the consumption times the County rate should be remitted while the City takes the position that 80% of the consumption times the County rate should be remitted. For 2001, the County was overpaid \$407,389 based on the County perspective or \$655,458 based on the City perspective.

The settlement proposal averages the overpayment amounts in Phase II and deducts that from the underpayment amount in Phase I with the result being a payment to the County in the amount of \$583,430. Additionally, the remittances in areas that have been annexed and where the County owns the lines will be increased from 80% to 100% of the consumption upon acceptance of the settlement by the City and County. The City and County will also evaluate the City's suggestion to consolidate ownership and operation of the collection in the area serviced by the TWWTP with a target of July 1, 2004 for single ownership.

Resource Person(s): Wendell M. Davis, Deputy County Manger; Susan Fox-Kirk, Deputy Finance Director; Glen Whisler, County Engineer; Chuck Hill, Utility Division Manager.

Resource Person(s): The Manager recommended that the Board accept the proposed settlement agreement as outlined above and supported by the Joint City/County Committee.

Mr. Whisler reviewed the results of the Agreed Upon Procedures project for utility revenue remittances from the City of Durham to Durham County. He summarized the project that was jointly undertaken by the City and the County in March 2002 to address concerns related to the accuracy of billing rates, billing remittances and the timeliness of remittances for utility revenues collected by the City on behalf of the County. These concerns were recognized by County staff during reviews of revenues received from the City related to utility billings. Staff initiated additional reviews and conducted meetings with City staff but was unable to resolve the problems. Ultimately, the City Council and Board of County Commissioners agreed to jointly fund the AUP project which involved the use of third party consultant, Dixon Odom, PLLC.

The AUP was conducted in two phases. Phase I of the AUP involved water and sewer extension projects funded by the 1986 bond referendum and transferred to the City for ownership. Phase II of the AUP focused on customers within the Triangle Wastewater Treatment Plant (TWWTP) service area for the calendar year 2001.

Phase I involved review of 38 projects and the associated billing records for 3,650 accounts for a period of approximately 13 years. Only 2001 data was available in an electronic format. All other data was contained on microfiche that was keyed and converted to electronic form. Detailed information for each account was reviewed and approved by the City and County staff before being evaluated by Dixon Odom.

Phase II of the project involved the review of 6,379 accounts for 2001. Before analysis by Dixon Odom began, the City and County staff confirmed the list of customers that were reviewed. This proved to be a time-consuming process that involved considerable field verification.

The AUP and the proposed settlement have taken a tremendous amount of staff time and effort, but have resulted in benefits to the County. An accurate list of customers served by the TWWTP now exists and can be kept current. The City has acknowledged that their utility billing system for keeping these records is inadequate and have committed to a new system. City and County staff have agreed on accurate customer lists for the water and sewer extension projects and on data that represented almost \$5 million. The County is using the information obtained from the AUP to verify better the revenues received from the City related to utility billings. An evaluation of consolidating the collection system ownership and operation in the area served by the TWWTP is expected to resolve any remaining concerns about utility billing, collections, and remittances.

Staff recommended that the Board approve a settlement proposal between the City and County to resolve differences between the amounts of utility revenues collected by the City and remitted to the County as determined in the Agreed Upon Procedures (AUP) reports dated December 23, 2002 and August 28, 2003, and as supported by the Joint City/County Committee.

In response to a question from Commissioner Cousin, Mr. Whisler stated that the differences in the two numbers (County—100%, City—80%) result from service areas annexed by the City, while the County owns the lines and has 100% of the responsibility for operations and maintenance.

Commissioner Heron asked about the following sentence, “The City and County will also evaluate the City’s suggestion to consolidate ownership and operation of the collection in the area serviced by the TWWTP with a target of July 1, 2004 for single ownership.”

Mr. Whisler responded that the County has agreed to perform an evaluation over the next few months involving consolidation for single ownership. Currently, within the area served by the Triangle Plant, there is a mixture of different combinations of ownership of lines and annexation. If ownership is consolidated, transfers of ownership must occur.

Chairman Reckhow followed up on Commissioner Heron’s questions by stating that the Board is not making a final decision regarding consolidation at tonight’s meeting. Approval of this item will simply authorize staff to proceed with an evaluation.

County Manager Ruffin informed the Commissioners that upon conclusion of the study, it will be brought before the Board for a determination. Additional information will be forthcoming to assist with a decision.

Vice-Chairman Bowser moved, seconded by Commissioner Heron, to accept the proposed settlement agreement as outlined and supported by the Joint City/County Committee.

The motion carried unanimously.

Closed Session

The Board was requested to adjourn to closed session to instruct the County’s staff on negotiating the possible purchase of a tract of land on New Hope Creek owned by Oakridge 58 Investors, to consult with the County Attorney and to maintain the attorney-client privilege, and to discuss a personnel matter pursuant to G.S. § 143-318.11(a)(3), (5), and (6).

Following the closed session, Chairman Reckhow announced that direction was given to staff in the closed session, and no further action was necessary.

Adjournment

Chairman Reckhow adjourned the meeting at approximately 11:00 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board