

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

Monday, March 10, 2008

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 Michael D. Page, and Commissioners Lewis A. Cheek, Philip R. Cousin Jr., and Becky M. Heron

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

Agenda Adjustments

Chairman Reckhow acknowledged a revised agenda and an agenda action form for a closed session at each Commissioner's station.

Announcement

Chairman Reckhow recognized Vice-Chairman Page to comment on the Child Care Services Association's 8th Annual Triangle Child Care Awards Breakfast, which was held on Friday, March 7.

Vice-Chairman Page announced that County Commission Chairman Ellen W. Reckhow was presented the Dorothy B. Graham Child Care Leadership Award at the Awards Breakfast. He stated that Chairman Reckhow was chosen for the award "for making a difference in the lives of young children through leadership and advocacy for high quality child care". She was recognized for her leadership in establishing the Encore! Middle School After School Program, her efforts to obtain additional child care subsidies from the state when the County was running out of money in 2004, and her work to support the construction of the Jim and Carolyn Hunt Child Care Resources Center.

Vice-Chairman Page congratulated Chairman Reckhow and asked the audience to join him in acknowledging her for this achievement.

Chairman Reckhow received applause from the audience.

Chairman Reckhow displayed the award and explained that it was named for Dorothy Graham, who served as Director of the Durham Daycare Council.

Commissioner Heron expressed appreciation to Chairman Reckhow for her accomplishments in improving child care in Durham.

Recognition of a Durham Soil and Water Conservation District Supervisor for Being Awarded the Supervisor of the Year for North Carolina

Chairman Reckhow called Eddie Culberson, Director of Soil and Water Conservation, forward to introduce this item.

Mr. Culberson recognized Soil and Water District Chairman Talmage Layton for his accomplishments at the county, state, and federal level. He stated that these accomplishments were recognized at the state level as Mr. Layton received the Supervisor of the Year Award for North Carolina. Each year, the NC Association of Soil and Water Conservation Districts recognizes a district supervisor who has made significant contributions to the conservation and proper management of North Carolina's natural resources. Mr. Layton has been a leader in conserving, enhancing, and promoting Durham's natural resources and, in addition, has established a record of outstanding contributions to the cause of conservation at the state and national levels. The Supervisor of the Year Award was presented in Asheville, NC on January 6, 2008. Mr. Layton received a plaque during an awards ceremony held before other District Supervisors and staff from across the state.

Mr. Layton briefly remarked on his experiences and passion with nature and agriculture, which allowed him to contribute greatly to soil and water conservation in Durham. He thanked the Board for the recognition.

Chairman Reckhow presented the plaque to Mr. Layton, which reads, "2008 Outstanding Soil and Water Conservation Supervisor, presented to Talmage Layton, NC Association of Soil and Water Conservation Districts."

Social Work Month Proclamation

Chairman Reckhow called signed speaker Barbara Lyons, representing Durham County Women in Transition, 128 Cushman Street, Durham 27703, forward for comments.

Ms. Lyons requested additional financial support from the Department of Social Services (DSS) for women who work but earn more income than the maximum required by DSS.

Chairman Reckhow informed Ms. Lyons that she attended a meeting this afternoon where financial support was discussed.

Per a request by Chairman Reckhow, Rhonda Stevens, Social Work Program Administrator, DSS, gave an overview of the discussion at the DSS meeting. Ms. Stevens explained that DSS is considering ways to work with families eligible for the Earned Income Tax Credit or to meet other needs to build or raise a family. She agreed to follow up on Ms. Lyons' questions.

Chairman Reckhow directed Ms. Stevens to connect Ms. Lyons with nonprofit support services and other assistance.

Commissioner Heron asked Deputy County Manager Wendell Davis if HOME grant funds could be used for such assistance described by Ms. Lyons.

Commissioner Cheek noted that local programs may struggle as the state and federal governments continue to cut funds.

Chairman Reckhow read the following proclamation into the record:

PROCLAMATION

WHEREAS, social workers have the right education and experience to guide individuals, families, and communities through complex issues and choices; and

WHEREAS, social workers connect individuals, families, and communities to available resources; and

WHEREAS, social workers are dedicated to improving the society in which we live; and

WHEREAS, social workers stand up for others to make sure everyone has access to the same basic rights, protections, and opportunities; and

WHEREAS, social workers help people help themselves, whenever and wherever they need it most; and

WHEREAS, social workers have been the driving force behind important social movements in the United States and abroad; and

WHEREAS, social workers in the Durham County Department of Social Services invest in people so that they can contribute more to the economic and social wellbeing of our community; and

WHEREAS, social workers in the Durham County Department of Social Services assure families' basic economic needs are met; provide access to health care and nutrition; help people find jobs and develop strong work habits and career paths; keep children and families safe; and help children to be ready for and succeed in school:

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby proclaim March 2008 as

PROFESSIONAL SOCIAL WORK MONTH.

I commend this observance to our citizens and urge all citizens to join with the Department of Social Services in celebration and support of social workers and the social work profession.

This the 10th day of March, 2008.

/s/ Ellen W. Reckhow, Chairman

Chairman Reckhow presented the proclamation to Chuck Harris, Assistant Director for Child Welfare and Adult Services, and DSS staff.

Mr. Harris thanked the Board for the recognition.

Consent Agenda

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

- a. Cultural Master Plan Spending Request: Public Art Planning Initiative (authorize the spending request for an additional \$2,500 in the Cultural Master Plan to the Public Art Collaborative to further the development of a public art process);
- *c. Budget Ordinance Amendment No. 08BCC000062—Results Based Accountability Program Grant to Public Health (recognize \$3,600 in RBA grant funds for Public Health);
- *d. Budget Ordinance Amendment No. 08BCC000063—Criminal Justice Resource Center—Recognize \$3,540 Grant Revenue from the NC Department of Corrections, Justice Partnership;
- *e. Budget Ordinance Amendment No. 08BCC000065 and Interlocal Agreement—Recognize \$15,000 in Funding from City of Durham for the joint funding of an Assistant District Attorney for Domestic Violence cases;
- f. Approve Grant Application from the Criminal Justice Resource Center to the NC Department of Correction, Division of Community Corrections, for Criminal Justice Partnership Program Funds (this has been placed on your consent agenda as it is a recurring grant application and approval process the County participates in each year);
- g. Request for Authorization to Enter into Contract with Advanced Imaging Systems (AIS) (authorize the Register of Deeds to enter into a contract with Advanced Imaging Systems to convert Real Estate Records);
- i. Approve the Sale of County Surplus Property – 904 Ardmore Drive to Charles Clifford Kroner for \$18,500; 811 & 813 Colfax Street to P.A.P.’s Custom Home Building for

- \$6,000; and 215 Todd Street to Michael Hamblin for \$3,500;
- j. Hollow Rock/Duke Acquisition CWMTF Grant Agreement and Capital Project Amendment No. 08CPA000015—Appropriation of CWMTF Grant Funds (\$1,000,000) and County Funds (\$14,000) to Duke Acquisition Project (DC085) (appropriate CWMTF Grant Funds [\$1,000,000] and County Funds [\$14,000] to Duke Acquisition Project [DC085] for a total project budget of \$1,564,000; authorize the Manager to execute the Grant Agreement; and authorize an interfund loan from the General fund to the capital project until the CWMTF reimbursement funds are received);
 - k. Revision to the 2007 Federal Farm and Ranchlands Protection Grant Cooperative Agreement (approve the Revised Cooperative Agreement between Durham County and Commodity Credit Corporation to add an additional \$670,369 to the existing 2007 Cooperative Agreement and to authorize the County Manager to execute the Agreement);
 - l. Adoption of the Seven-Year Review and Updated Work Plan for the Downtown Master Plan;
 - m. Offer to Purchase 44 acres on Little River owned by Roger and Patti McClendon (approve the offer to purchase 44 acres owned by Roger and Patti McClendon on Little River for \$10,500 per acre [parcel ID 189198], with \$15,000 earnest deposit; the offer is contingent upon a CWMTF award equaling 50% of the purchase price, a clean Phase I environmental assessment and a closing prior to December 31, 2008);
 - n. Approval of Bond Resolutions (approve the resolutions authorizing the issuance of \$12,100,000 General Obligation Public Improvement Bonds, and \$34,090,000 General obligation School Bonds); and
 - o. Ambulance Replacement Contract Amendment (approve to amend the contract with Southeastern Specialty Vehicles).

County Manager Mike Ruffin responded to Commissioner Heron's question regarding Consent Agenda Item No. 1. He stated that he is not aware of the County having any financial obligations.

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. c. Budget Ordinance Amendment No. 08BCC000062—Results Based Accountability Program Grant to Public Health (recognize \$3,600 in RBA grant funds for Public Health).

DURHAM COUNTY, NORTH CAROLINA
FY 2007-08 Budget Ordinance
Amendment No. 08BCC000062

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2007-08 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$364,521,587	\$3,600	\$364,525,187

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$419,018,438	\$3,600	\$419,022,038

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

This the 10th day of March, 2008.

Consent Agenda Item No. d. Budget Ordinance Amendment No. 08BCC000063—Criminal Justice Resource Center—Recognize \$3,540 Grant Revenue from the NC Department of Corrections, Justice Partnership.

DURHAM COUNTY, NORTH CAROLINA
FY 2007-08 Budget Ordinance
Amendment No. 08BCC000063

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2007-08 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$364,525,187	\$3,540	\$364,528,727

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Public Safety	\$48,629,210	\$3,540	\$48,632,750

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

This the 10th day of March, 2008.

Consent Agenda Item No. e. Budget Ordinance Amendment No. 08BCC000065 and Interlocal Agreement—Recognize \$15,000 in Funding from City of Durham for the joint funding of an Assistant District Attorney for Domestic Violence cases.

DURHAM COUNTY, NORTH CAROLINA
FY 2007-08 Budget Ordinance
Amendment No. 08BCC000065

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2007-08 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u> Intergovernmental	\$364,528,727	\$15,000	\$364,543,727

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u> General Government	\$33,895,350	\$15,000	\$33,910,350

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

This the 10th day of March, 2008.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. b. Capital Project Amendment No. 08CPA000014—Appropriation of \$234,411.50 of 2003 GO Bond Issuance Reserved Fund Balance for the Existing C. C. Spaulding Elementary Project (DC079), increasing the total project budget to \$8,105,771.50; and Consent Agenda Item No. h. Resolution Approving Lease between the Board of Education and Northgate Mall (approve the Resolution authorizing the operational lease between the Durham Public Schools Board of Education and Northgate Associates Limited Partnership for space located in Northgate Mall which will house the DPS Performance Learning Center).

Chairman Reckhow pulled these items to allow signed speaker Dr. E. Lavonia Allison, PO Box 428, Durham 27702, to comment.

Dr. Allison expressed thanks for the additional funds for the C.C. Spaulding Project; however, she asked about the origination of the funds. She noted that funds were requested

from the 2001 Bond Referendum for the Project; it has been significantly delayed and not properly prioritized.

Regarding Consent Agenda Item No. h, Dr. Allison expressed concern that funds are being used for other school projects while the Hillside High School cafeteria issue has yet to be addressed. She encouraged the Board to consider another location for the Durham Public Schools (DPS) Performance Learning Center to save money.

County Manager Ruffin introduced Finance Director George Quick to address Dr. Allison's question regarding origination of the additional funds.

Chairman Reckhow informed Dr. Allison that the Hillside cafeteria project will be one of the first 2007 Bond projects to be implemented.

Mr. Quick explained that the funds are transferred from a contingency fund that was a part of the bonds that the County previously issued. Durham Public Schools is asking that the Board approve the transfer of the funds from the contingency fund to the C.C. Spaulding Project.

Chairman Reckhow added that the other contingency funds cannot be spent until all of the 2003 bond projects are completed. This is to ensure that adequate funds are available for the projects.

Chairman Reckhow asked if DPS was operating at Northgate Mall without a lease since August.

County Manager Ruffin replied that the rental rate has been \$9 per square foot for the first year.

Chairman Reckhow stated that while attending the December graduation, she learned the all of the graduates had placements either at Durham Technical Community College or a four-year college.

Commissioner Cheek moved, seconded by Commissioner Heron, to approve Consent Agenda Item Nos. b and h.

The motion carried unanimously.

Commissioner Heron requested that DPS provide the Board with a breakdown of bond issuances passed by the Board within the past few years (i.e., how the monies have been spent, what monies are left over from each bond, how the monies are being used).

Chairman Reckhow noted that several capital school projects would be presented to the Board at its March 24 meeting.

Vice-Chairman Page inquired about scheduling a joint meeting with DPS.

Chairman Reckhow responded that she spoke with DPS Superintendant Carl Harris today about scheduling a meeting to be held prior to the Board's April 28 Regular Session.

DURHAM COUNTY, NORTH CAROLINA
FY 2007-08 Capital Project Ordinance
Amendment No. 08CPA000014

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2007-08 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects:

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
C.C. Spaulding Elementary School	\$7,871,360	\$234,411.50	\$8,105,771.50

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

This the 10th day of March, 2008.

RESOLUTION

WHEREAS, the Durham Public Schools Board of Education wishes to enter into an operational lease under G.S. § 115C-530 with Northgate Associates Limited Partnership, for certain portions of the real property located at Northgate Mall in Durham, North Carolina in order to secure appropriate space for the Performance Learning Center; and

WHEREAS, the lease could obligate the Durham Public Schools Board of Education to pay rental payments in the amount of seventy-three thousand six-hundred and two dollars (\$73,602) for the first year of the lease period; and

WHEREAS, the Durham Public Schools Board of Education has approved said lease; and

WHEREAS, G.S. § 115C-530 requires that operational leases entered into by a local board of education for terms of three years must be approved by the resolution adopted by the board of county commissioners:

NOW, THEREFORE, BE IT HEREBY RESOLVED that the Durham County Board of Commissioners hereby approves the proposed operational lease between the Durham Public Schools Board of Education and Northgate Associates Limited Partnership for certain portions of the real property located at Northgate Mall for the purposes required by G.S. § 115C-530.

Resolved, this 10th day of March, 2008 by the Durham County Board of Commissioners.

/s/ Ellen W. Reckhow
Chair

Public Hearing—Street Closing—Hanes Drive (SC07-07)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board conduct a public hearing on the permanent closing of Hanes Drive, a 1,129.05-linear-foot public right-of-way. The right-of-way is located west of Cornwallis Road, between East Institute Drive and West Institute Drive. He stated that this portion of right-of-way is improved and was removed from maintenance by the North Carolina Department of Transportation (NCDOT) on February 8, 2008.

Chairman Reckhow opened the public hearing that was properly advertised. As no one signed up to speak, she closed the public hearing and referred the matter back to the Board.

Commissioner Heron moved, seconded by Commissioner Cheek, to adopt an order to permanently close the Hanes Drive public right-of-way.

The motion carried unanimously.

Public Hearing—Street Closing—West Institute Drive (SC07-08)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board conduct a public hearing on the permanent closing of West Institute Drive, a 249.59-linear-foot public right-of-way. The right-of-way is located west of Cornwallis Road, north of Hanes Drive. He stated that this portion of right-of-way is improved and was removed from maintenance by NCDOT on February 8, 2008.

Mr. Medlin responded to Chairman Reckhow that the three street closings on tonight's agenda are associated with a Research Triangle Institute project to construct an additional office building and parking deck.

Chairman Reckhow opened the public hearing that was properly advertised. As no one signed up to speak, she closed the public hearing and referred the matter back to the Board.

Commissioner Heron moved, seconded by Commissioner Cousin, to adopt an order to close permanently the West Institute Drive public right-of-way.

The motion carried unanimously.

Public Hearing—Street Closing—East Institute Drive (SC07-09)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board conduct a public hearing on the permanent closing of East Institute Drive, a 338.95-linear-foot public right-of-way. The right-of-way is located west of Cornwallis Road, south of Hanes Drive. He stated that this portion of right-of-way is improved and was removed from maintenance by NCDOT on February 8, 2008.

Chairman Reckhow opened the public hearing that was properly advertised. As no one signed up to speak, she closed the public hearing and referred the matter back to the Board.

Commissioner Cousin moved, seconded by Commissioner Heron, to adopt an order to close permanently the East Institute Drive public right-of-way.

The motion carried unanimously.

Public Hearing—Zoning Map Change—Epcon Neighborhood (Z07-26)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board approve a zoning map change for a 32.84-acre site located on the west side of Farrington Road, south of Ephesus Church Road, and north of Wendell Road. Request: RS-20 to PDR 4.500. He stated that this item was continued from the February 25, 2008 Board of Commissioners' meeting. Mr. Medlin stated that Planning staff is recommending approval, based on consistency with the Comprehensive Plan and considering the information contained in the report. The Durham Planning Commission recommended and voted for denial, with a 7-5 vote, on December 11, 2007. The Commission found that the ordinance request is not consistent with the adopted *Comprehensive Plan*. The Commission does not believe this request is reasonable or in the public interest in light of the information in the staff report and comments received during the public hearing. The Commission recommended denial based on problems with traffic congestion and inadequate transportation infrastructure.

Chairman Reckhow opened the public hearing that was properly advertised. She called signed speaker Dr. E. Lavonia Allison, PO Box 428, Durham 27702, representing the Durham Committee for the Affairs of Black People, forward for comments.

Dr. Allison expressed concerns about 1) changes made to plans after the Planning Commission voted for denial, and 2) the formula that developers use to determine the impact on school capacity.

Chairman Reckhow addressed comments by Dr. Allison. She explained that one reason this project has been delayed is due to additional proffers made by the developer at the last Board meeting. The Board requested that the proffers be put in writing. Several of the proffers were in response to issues raised by the Planning Commission. For example, a proffer was made to address the covenant wording regarding age restriction, which now limits 90% of the units to be occupied by senior citizens.

Mr. Medlin confirmed for Chairman Reckhow that at the last Joint City-County Planning Committee (JCCPC) meeting, Planning staff stated that in the future, it will provide to the Planning Commission in written form the committed elements (including those that were added after the Planning Commission's consideration) adopted by the Durham City Council and Board of County Commissioners. In addition, staff will be compiling a comprehensive list to be grouped into comparative areas so that it will be readily available to applicants to see what kinds of proffered elements have been made on projects. This may assist applicants when considering proffers for their projects as well.

Chairman Reckhow conveyed that the Board would not be willing to approve masses of new committed elements the night of the hearing, which may result in delayed projects. Developers should work with the Planning Commission to resolve issues that have been raised.

Commissioner Heron commented that when new committed elements are proffered, the project should be reconsidered by the Planning Commission.

Mr. Medlin explicated the conditions per the Unified Development Ordinance that would require reconsideration of a project by the Planning Commission. He opined that with the new committed elements, the Epcon project is now a better project than what was presented to the Commission, requiring no reconsideration.

Chairman Reckhow asked Mr. Medlin to communicate the Board's thanks to the Planning Commission for its hard work and written comments.

Commissioner Heron disagreed with Mr. Medlin, stating that the project should be reconsidered by the Planning Commission.

Commissioner Cheek expressed opposition to Commissioner Heron's comments. He articulated that a plan does not need not to be reconsidered by the Planning Commission if the Board feels comfortable with it.

Chairman Reckhow directed Mr. Medlin to add to the next JCCPC meeting agenda an item to discuss the criteria whereby a project must be reconsidered by the Planning Commission.

Commissioner Heron reiterated her desire to have the Planning Commission review the added committed elements. She suggested that Mr. Medlin ask the Commission if it would prefer to reconsider projects where major changes were made after its initial review.

Vice-Chairman Page commented that while he is not opposed to Commissioner Heron's suggestion, he would like to clarify that the Board may not always agree with the Planning Commission's recommendations. "It's just what it is – recommendations." Vice-Chairman Page explained that the Board, as well as the Planning Commission, has a responsibility to research planning projects.

Chairman Reckhow continued the public hearing by calling the following citizens forward to speak:

Curtis Booker, 5419 Farrington Road, Chapel Hill 27517, spoke in favor of the project.

Attorney Patrick Byker, 2614 Stuart Drive, Durham 27707, representing Epcon Communities, stated for the record that it has been a privilege for him to work with two community leaders—Ms. Debbie McCarthy and Mr. Curtis Booker. He asked the Commissioners to support this project. Attorney Byker outlined the additional committed elements as follows:

6. Prior to annexation, the applicant will record the restrictive covenant enforcing the 90 percent age restriction. Such restrictive covenant will be reviewed by the County Attorney and a certified copy will be presented to the Planning Department prior to issuance of the first building permit.
7. The applicant shall construct five foot wide asphalt surface walking trails in the approximate locations shown on DP-2.0. Each trail shall be completed prior to issuance of any certificate of occupancy for the project phase adjacent to the trail.
8. The applicant shall provide a club house and a swimming pool in the approximate location shown on DP-2.0. The club house and the swimming pool shall be completed prior to issuance of a certificate of occupancy for the first building in the project.
9. The project will have a minimum of twenty percent open space.
10. The applicant shall provide a landscaped buffer along Farrington Road including a mix of 2.5 inch caliper deciduous trees, evergreens, and shrubs as shown on DP-2.1 prior to the approval of the first certificate of occupancy.
11. The applicant, Epcon communities, shall contribute \$25,000 to the DPS to assist in the construction of a traffic signal at the intersection of Farrington Road and Ephesus Church Road to be paid prior to the issuance of first building permit for the project.

Attorney Byker reiterated Committed Element No. 11 for Commissioner Heron.

Commissioner Heron inquired about the actual cost of the traffic signal.

County Manager Ruffin stated that he learned after speaking with Hugh Osteen, Assistant Superintendent, Durham Public Schools, that North Carolina Department of Transportation lists the cost as \$49,000; however, Mr. Osteen expressed that once the signal is installed, with wooden poles, the cost may increase to \$70,000.

Vice-Chairman Page asked about DPS' response to the developer's monetary contribution.

Chairman Reckhow responded that to her understanding, DPS welcomes all assistance as it currently does not have the money budgeted.

Vice-Chairman Page expressed his desire to receive an accurate amount for the cost of the signal.

Chairman Reckhow communicated that DPS will not know the exact cost until bids are received.

Chairman Reckhow informed Dr. Allison that she was out of order for speaking out from the audience.

Commissioner Heron asked Attorney Byker if the developer would be willing to commit to contributing a minimum of \$25,000 or at least half of the cost of the traffic signal.

Attorney Byker explained that the amount must be a fixed number in order to be considered as a committed element.

Mr. Medlin responded to Chairman Reckhow that he has received written language from Attorney Byker for the committed element of \$25,000 for the traffic signal.

Commissioner Cheek asked if the developer would be willing to commit to a fixed contribution of \$35,000 for the signal.

After consulting with the developer, Attorney Byker agreed to the \$35,000.

County Attorney Chuck Kitchen clarified that the \$35,000 agreement was not per Commissioner Cheek's request; Commissioner Cheek asked a question and a proffer was made.

Chairman Reckhow responded to Vice-Chairman Page that the deal is for DPS to add the additional trailers now, then build the addition later. Its plan also includes installing the traffic signal.

Chairman Reckhow thanked the developer for working with the Board to improve the project.

As no one else requested to speak on this item, Chairman Reckhow closed the public hearing and referred the matter back to the Board.

In response to a question posed by Commissioner Heron, County Attorney Kitchen replied that the document relating to Committed Element No. 6 has been written to make it as enforceable as possible; however, there is no guarantee that the homeowners' association will enforce it.

Commissioner Heron asked if the document would be stronger if the age restriction were 100%.

County Attorney Kitchen responded that the language would not be any stronger. The difference between 90% and 100% is that 1) no children would be allowed to live in the homes, and 2) it would be more of an administrative matter for the homeowners' association.

Vice-Chairman Page inquired about the parties responsible for enforcing the restriction.

County Attorney Kitchen stated that the homeowners' association, property owners within the development, and adjacent property owners may enforce the restriction.

Chairman Reckhow added that the new Creekside Elementary School would have the right to enforce the restriction as an adjacent property owner. The Board of Education may ask for an accounting of residents in the Epcon neighborhood if a significant number of students are being generated from the development, as well as take action if necessary.

Commissioner Heron inquired about utilizing 2005 traffic figures to anticipate traffic impact in 2008.

Mr. Medlin responded that 2005 figures are the best information available.

Chairman Reckhow concurred with Commissioner Heron that more current information should be used to estimate traffic impact (i.e., at least 18 months prior). She directed Mr. Medlin to relay their concern to the City Department of Transportation.

Mr. Medlin stated that he has already relayed the concern to City Transportation and will convey it to NCDOT.

Mr. Medlin responded to Commissioner Heron that the roads in the project are maintained by NCDOT; therefore, NCDOT is responsible for the traffic count.

Chairman Reckhow directed Mr. Medlin to write and send a letter to District Engineer Wally Bowman to communicate that in fast growing areas, more frequent traffic counts are needed.

Commissioner Heron emphasized that a response to the letter be requested.

Chairman Reckhow added that the letter should address the reviews and progress of the transportation assessments.

Commissioner Cheek thanked the developer for its cooperation with the Board to enhance the project. He explained components of the project that are important to him. The age restriction covenant is enforceable by the homeowners' association, property owners within the development, and adjacent property owners. The covenant has been constructed in a way that it cannot be amended to reduce the 90% age restriction. Commissioner Cheek stated that this project would reduce the number of students as opposed to a project of 57 single-family homes. In addition, the peak-hour traffic would decline with this project as opposed to a project with 57 single-family homes. He articulated that this project is a good development for the site.

Commissioner Cheek moved, seconded by Vice-Chairman Cousin, to approve Zoning Map Change—Epcon Neighborhood (Z07-26).

The motion carried unanimously.

Commissioner Heron commented that although her requests for a 100% age restriction and five-unit reduction were not honored, she gave the project more consideration due to the additional committed elements.

Attorney Byker thanked the Board for its support.

Commissioner Heron referenced a letter she received from a citizen regarding additional trailers to be located at Creekside Elementary School. She raised a concern about bathroom and cafeteria facilities being able to accommodate the increased capacity.

Chairman Reckhow informed Commissioner Heron that she and the County Manager met with Durham Public Schools today regarding longer-term capital improvements at Southwest Elementary School. The trailers at Creekside would be used for approximately one more school year as the addition to Creekside is expected to be completed by August 2009.

Commissioner Heron stressed that the Board should be apprised of what is going on at the schools.

Chairman Reckhow reiterated that a meeting with DPS has been tentatively scheduled for the Board's second meeting in April.

Public Hearing—Unified Development Ordinance (UDO) Text Change—Technical Changes IV (TC07-13)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board receive public comments on Text Change – Technical Changes IV (TC07-13) and adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 3, Applications and Permits, Article 4, Zoning Districts, Article 5, Use Regulations, Article 6, District Intensity Standards, Article 7, Design Standards, Article 8, Environmental Protection, Article 9, Landscaping and Buffering, Article 10, Off-Street Parking and Loading, Article 11, Sign Standards, Article 12, Infrastructure and Public Improvements, Article 13, Additional Requirements for Subdivisions, Article 14, Nonconformities, Article 15, Enforcement, and Article 16, Definitions.

Chairman Reckhow opened the public hearing that was properly advertised. As no one signed up to speak, she closed the public hearing and referred the matter back to the Board.

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve Unified Development Ordinance (UDO) Text Change—Technical Changes Iv (TC07-13).

The motion carried unanimously.

Board and Commission Appointments

Yvonne Gordon, Deputy Clerk to the Board, distributed ballots to the Board to make appointments to boards and commissions.

The following appointments were made:

Adult Care Home Community Advisory Committee
Robert D. Hickman
Denice M. Johnson

Larry G. Peters
Patricia Plummer

Public Health Board
James M. Miller (Veterinarian)

Closed Session

Commissioner Heron moved, seconded by Vice-Chairman Page, to adjourn to Closed Session to consider the initial appointment of a public officer or employee pursuant to G.S. § 143-318.11(a)(6).

The motion carried unanimously.

Reconvene to Open Session

Chairman Reckhow announced that the Board met in closed session to consider the appointment for Tax Administrator and had reached a decision.

Commissioner Heron moved, seconded by Vice-Chairman Page, to appoint Kimberly Simpson to a two-year appointment as Tax Administrator until June 30, 2010 at a salary of \$97,500 and provide credit for previous service in another jurisdiction in North Carolina for purposes of sick leave and vacation.

The motion carried unanimously.

Chairman Reckhow congratulated Ms. Simpson and stated that Ms. Simpson has agreed to accept the position.

Commissioner Heron expressed appreciation to Human Resources staff for its support in hiring a tax administrator.

Chairman Reckhow echoed Commissioner Heron's comments.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 9:25 p.m.

Respectfully Submitted,

Yvonne R. Gordon
Deputy Clerk to the Board