

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

Monday, October 12, 2009

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 Michael D. Page, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe W. Bowser, Becky M. Heron, and Brenda A. Howerton

Absent: None

Presider: Chairman Page

Opening of Regular Session—Pledge of Allegiance

Announcements

Chairman Page encouraged the public to watch "In Touch with Durham County", the Durham County television show, which airs on Cable TV Channel 8 at 8:00 a.m. and 12 noon daily, 5:00 p.m. on Mondays, and 6:00 p.m. Tuesday – Saturday.

Chairman Page also invited citizens to a public informational meeting on Durham's new middle school, which would be held Tuesday, October 13, 7:30 p.m., at the Northern High School auditorium.

Minutes

Vice-Chairman Reckhow moved, seconded Commissioner Heron, to approve as submitted the September 14, 2009 Regular Session Minutes of the Board.

The motion carried unanimously.

Consent Agenda

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

- *a. Approve Budget Ordinance Amendment No. 10BCC000021 to Recognize Grant Funds from the NC Department of Health and Human Services in the Amount of \$1,000 for Diabetes Education in the Nutrition Division of Public Health;
- d. Approve the Amendment of the Department of Social Services Contract with One Source;

- *e. Approve Capital Project Amendment No. 10CPA000006 to close Nine Durham County Completed Capital Projects and allow these Completed Projects to become Final Assets and begin Depreciation;
- *f. Capital Project Amendment No. 09CPA000007—Durham Public Schools General Obligation Bond Project Budget Adjustments (approve Capital Project Amendment No. 09CPA000007 moving \$1,434,250 from nine completed and almost completed 2003 GO Bond funded DPS capital projects [Playgrounds, Mobile Classrooms, New Middle School ‘B’ Land Purchase, Eno Valley Elementary School, Fayetteville Street Elementary School, Riverside High School, Southern High School, Neal Middle School, and Lakeview Secondary School] to nine other 2003 GO Bond funded DPS capital projects [C.C, Spaulding Elementary School, New Elementary ‘B’ - Spring Valley, Durham School of the Arts, Lowes Grove Middle School, Mangum Elementary School, Morehead Elementary School, Fuller Building, Jordan High School, and Northern High School]);
- h. Triangle Wastewater Treatment Plant—Resolution for State Loan Application (adopt the resolution as proposed and authorize the County Manager to execute and to file the loan application for the NCDENR State Revolving Loan); and
- j. Triangle Wastewater Treatment Plant-Amendment to Consultant Services Contract for Design of Reuse Wastewater Capital Project (authorize the County Manager to enter into a contract amendment to the referenced contract with Camp, Dresser, & McKee [CDM] for Professional Engineering Study and Report, Design, Bidding, and Construction Services by \$79,300, but not to exceed the total price of \$299,900).

The motion carried unanimously.

Chairman Page noted that consent agenda items removed for discussion would be placed at the end of the agenda due to the number of citizens signed up to speak on the Jordan Lake public hearings.

Commissioner Heron mentioned that the County Manager calls the Commissioners prior to a Board meeting to inquire about questions they may have regarding agenda items. She communicated that asking questions prior to a meeting may reduce the pulling of consent agenda items.

Commissioner Bowser explained that due to his hectic schedule, he was unable to relay his questions to the County Manager; therefore, he requested to remove the items.

*Document(s) related to this item follow:

Consent Agenda Item No. a. Approve Budget Ordinance Amendment No. 10BCC000021 to Recognize Grant Funds from the NC Department of Health and Human Services in the Amount of \$1,000 for Diabetes Education in the Nutrition Division of Public Health.

DURHAM COUNTY, NORTH CAROLINA
 FY 2009-10 Budget Ordinance
 Amendment No. 10BCC000021

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2009-10 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	\$445,554,217	\$1,000	\$445,555,217

Expenditures:

<u>Function</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Human Services	\$481,442,797	\$1,000	\$481,443,797

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

This the 12th day of October, 2009.

Consent Agenda Item No. e. Approve Capital Project Amendment No. 10CPA000006 to close Nine Durham County Completed Capital Projects and allow these Completed Projects to become Final Assets and begin Depreciation.

DURHAM COUNTY, NORTH CAROLINA
 FY 2009-10 Capital Project Ordinance
 Amendment No. 10CPA000006

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2009-10 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects:

<u>Project</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
Agricultural Building Renovations Project (DC068)	\$823,732.01	\$0	\$823,732.01
EMS – Relocation of Lincoln Community Health Center Project (DC069)	\$1,735,131.32	(\$4,705.28)	\$1,730,426.04
Senior Center Project (DC071)	\$5,660,561	(\$16,016.95)	\$5,644,544.05
American Tobacco South Parking Deck	\$14,502,000	(\$133,900)	\$14,368,100.00

Project (DC078)			
Head Start/YMCA Building Project (DC081)	\$1,105,602	\$0	\$1,105,602.00
Mental Health Crisis Center Project (DC091)	\$3,226,945	(\$86,495.19)	\$3,140,449.81
Open Space Acquisition Project (Old Version) (CD027)	\$19,647.98	(\$13,147.98)	\$6,500.00
DTCC Student Service Building Project (CC08)	\$3,000,000	(\$4,825.66)	\$2,995,174.34
East Regional Branch Library Project (DC077)	\$6,429,597.44	(\$15,637.48)	\$6,413,959.96

Consent Agenda Item No. f. Capital Project Amendment No. 09CPA000007—Durham Public Schools General Obligation Bond Project Budget Adjustments (approve Capital Project Amendment No. 09CPA000007 moving \$1,434,250 from nine completed and almost completed 2003 GO Bond funded DPS capital projects [Playgrounds, Mobile Classrooms, New Middle School ‘B’ Land Purchase, Eno Valley Elementary School, Fayetteville Street Elementary School, Riverside High School, Southern High School, Neal Middle School, and Lakeview Secondary School] to nine other 2003 GO Bond funded DPS capital projects [C.C, Spaulding Elementary School, New Elementary ‘B’ - Spring Valley, Durham School of the Arts, Lowes Grove Middle School, Mangum Elementary School, Morehead Elementary School, Fuller Building, Jordan High School, and Northern High School]).

DURHAM COUNTY, NORTH CAROLINA
 FY 2009-10 Capital Project Ordinance
 Amendment No. 10CPA000007

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2009-10 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects:

<u>Project</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
Playgrounds (SH074)	\$1,125,000	(\$42,406)	\$1,082,594.00
Mobile Classrooms (SH0128)	\$325,000	(\$268)	\$324,732.00
New Middle ‘B’ Land Purchase (SH084)	\$1,175,000	(\$593,019)	\$581,981.00
Eno Valley Elementary School (SH104)	\$330,000	(\$788)	\$329,212.00
Fayetteville Street Elementary School (SH096)	\$8,306,138	(\$125,912)	\$8,180,226.00
Riverside High School (SH091)	\$545,400	(\$135,193)	\$3,140,449.81
Southern High School (SH092)	\$543,180	(\$25,074)	\$6,500.00
Neal Middle School (SH0129)	\$510,000	(\$450,500)	\$2,995,174.34
Lakeview Secondary School (SH117)	\$460,000	(\$61,090)	\$398,910.00
C.C. Spaulding Elementary School (SH079)	\$9,117,964.64	\$350,000	\$9,467,964.64

New Elementary 'B' (Spring Valley)(SH103)	\$15,431,700	\$227,000	\$15,658,700.00
Durham School of the Arts (SH086)	\$6,885,250	\$97,000	\$6,982,250.00
Lowe's Grove Middle School (SH097)	\$9,882,400	\$315,000	\$10,197,400.00
Mangum Elementary School (SH106)	\$4,766,840	\$200,000	\$4,966,840.00
Morehead Elementary School (SH108)	\$4,670,304	\$73,000	\$4,743,304.00
Fuller Building (Central Services) (SH116)	\$273,600	\$85,000	\$358,600.00
Jordan High School (SH089)	\$1,078,510	\$60,000	\$1,138,510.00
Northern High School (SH090)	\$734,200	\$27,250	\$761,450.00

This the 12th day of October, 2009.

Public Hearing to Consider Allocating Economic Development Investment Funds to EMC Corporation

Carolyn Titus, Deputy County Manager, requested that the Board hold a public hearing to consider allocating economic development investment funds to EMC Corporation (EMC), a leading developer and provider of information infrastructure technology, solutions, and services.

Deputy County Manager Titus reported that Durham is competing with the states of New York, Washington, and Virginia, as well as Canada for an expansion to the current EMC operation in North Carolina. If Durham were to be selected, EMC would purchase a facility, construct a new data center, and establish a new research and development (R&D) laboratory. The total project investment would be approximately \$280 million with approximately 292 new jobs in Durham County. Company officials have stated that incentives from the local government are a key consideration in its final decision on locating the expansion.

As a world leader in information infrastructure solutions, EMC is the recipient of numerous awards, including the North Carolina Department of Environment and Natural Resources (DENR) Environmental Stewardship Award, the Triangle Business Journal's "Best Places to Work" award, and Fortune Magazine's "Most Admired Companies" award.

Deputy County Manager Titus stated staff's recommendation is that the County participate in this economic development project by providing up to \$1,200,000 over a period of seven years for the costs of expansion. \$200,000 of those funds would be reserved to pay for training expenses of employees who are Durham residents.

This public hearing was advertised on Friday, October 2, 2009, as required by law.

Chairman Page opened the public hearing that was properly advertised and called signed speakers forward for comments.

The following citizens spoke to the contributions EMC Corporation has made within Durham County and urged the Board to approve the incentive contract:

Joe Featherstone, representing the Durham YMCA, 218 West Morgan Street, Durham 27701

Ted Conner, representing Durham Chamber of Commerce, 300 West Morgan Street, Durham 27701

Doris Walker, representing Bethesda Elementary School, 2009 South Miami Blvd, Durham 27703

Keith Burns, representing Durham Chamber of Commerce, 300 West Morgan Street, Durham 27701

The following citizens requested additional information on the incentive contract and that the Board defer action on this item:

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702

Dr. E. Lavonia Allison, representing Durham Committee on the Affairs of Black People, PO Box 428, Durham 27702

Donald Hughes, PO Box 52598, Durham 27717, beseeched the Board to 1) request a 20-25% investment in job training for Durham residents hired by companies seeking incentives, and 2) better inform the public of the process in which incentives are awarded.

Chairman Page closed the public hearing and referred the matter back to the Board.

Chairman Page thanked the citizens for their comments and assured them that their comments would be taken seriously by the Board. He explained the Board's lack of questions to staff, stating that the Board had done considerable research on the matter.

Per Vice-Chairman Reckhow's request, Deputy County Manager Titus briefed the public on the incentive contracts and the "claw back" provisions to protect the County's interest.

Commissioner Bowser inquired about the types of jobs to be generated as a result of the incentive and how many Durham residents are currently employed by EMC.

Deputy County Manager Titus replied that a majority of the jobs would be computer related, with salaries ranging between \$60,000 and \$70,000 a year. She stated that she had no knowledge of the number of Durham residents employed by EMC.

Mr. Conner informed Commissioner Bowser that approximately 21-22% of EMC employees are Durham residents.

Commissioner Bowser expressed concern with the low amount of Durham residents hired by companies located in Durham County. He urged Deputy County Manager Titus and the Durham Chamber of Commerce to relay his concern to companies that locate to Durham County.

Per a question posed by Commissioner Howerton, Eric Wagner, Senior Director, EMC, discussed the training program and its providers.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve entering into an economic development

incentive contract between the County of Durham and EMC Corporation in the maximum amount of \$1,200,000.

The motion carried unanimously.

Public Hearings—Plan Amendment, Jordan Lake Critical Area (A0900004) and Zoning Map Change—Jordan Lake Critical Area (Z0900009)

Chairman Page made introductory remarks to inform the public of how the public hearings on Plan Amendment, Jordan Lake Critical Area (A0900004) and Zoning Map Change—Jordan Lake Critical Area (Z0900009) would be conducted. He announced that he would open both public hearings simultaneously, and citizens would be allowed to speak on both items concurrently if they wish.

Steven L. Medlin, AICP, City-County Planning Director, noted that a protest petition was filed on October 5, 2009 by the Haw River Assembly. The petition was evaluated by staff per the standards of Section 3.5.13 of the Unified Development Ordinance (UDO) and was deemed invalid due to its inability to meet the 20% threshold. Any appeal to the determination must be directed to the Superior Court. He relayed that staff certified the required notifications that had been carried out in compliance of the UDO and General Statutes. Mr. Medlin acknowledged that an inadvertent oversight in the notice sent out to property owners which referenced the City's protest petition standard instead of the County's protest petition standard. He opined that it was not a major error.

As per Section 3.5.7A.1 of the Unified Development Ordinance, this item was administratively deferred from the September 14, 2009 Board of Commissioners meeting at the request of an opponent.

Mr. Medlin requested that the Board approve the change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Very Low Density Residential (2 DU/Ac. or Less), Suburban Tier, and inside the Urban Growth Area to Rural Density Residential (0.5 DU/Ac. or Less), Rural Tier and outside the Urban Growth Area. He also requested that the Board approve the requested change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Rural Density Residential (0.5 DU/Ac. or Less), Rural Tier and outside the Urban Growth Area to Very Low Density Residential (2 DU/Ac. or Less), Suburban Tier, and inside the Urban Growth Area.

City-County Planning Department recommended approval, based on the request being justified and meeting the criteria for plan amendments. The Durham Planning Commission recommended denial, 12-0, on August 11, 2009, based on concerns about different survey methodologies for determining the normal pool; the need for a comprehensive, independent survey; and potential impacts on water quality.

Mr. Medlin further stated his request that the Board approve the Zoning Map Change—Jordan Lake Critical Area (Z0900009) for a zoning map change for approximately 835 acres, generally west of NC 751, east of Farrington Mill Road, south of Stagecoach Road, and north of the Chatham County line, and between NC 55 and Hopson Road, north of the Wake County line.

Staff recommended approval, should the plan amendment (Jordan Lake Critical Area A090004) be adopted, based on consistency with the Comprehensive Plan and considering the information contained in the report. The Durham Planning Commission recommended and voted 12-0 for denial on August 11, 2009. The Commission found that the ordinance request was not consistent with the adopted *Comprehensive Plan*. The Commission believed that the request was not reasonable nor in the public interest and recommends denial based on inconsistency with the neighboring land uses, concerns regarding impacts on the environment, opposition from the community, and inadequate policy direction for determining the normal pool location.

Commissioner Heron inquired about precautions the Planning Department would take to ensure that citizens receive accurate information.

Keith Luck, Assistant Planning Director, provided a brief overview of the watershed historical background and gave the following PowerPoint presentation:

Jordan Lake Critical Area
Plan Amendment A0900004
Zoning Map Change Z0900009

Overview

- Background
- Supplemental Information
- Proposed Plan Amendment and Zoning Map Change
- Staff Recommendation

Watershed Protection

- Regional water supplies:
 - Durham: Lake Michie, Little River
 - Raleigh: Falls Lake
 - Cary: Jordan Lake
- Durham enforces watershed protection overlay zones
- Durham reviews every development proposal for compliance

Two Levels of Watershed Protection

- Critical Area (F/J-A)
 - One mile from the normal pool
 - 6 to 9 % impervious surfaces
 - No industrial uses, no underground storage tanks
- Protected Area (F/J-B)
 - Between 1 and 5 miles from normal pool
 - 24 % impervious surfaces, up to 70% with engineered stormwater controls

Mapping

- 1980s and 1990s: Corps could not provide maps of lake
- County used USGS map to delineate Jordan Lake normal pool
- Paper maps: 1-mile and 5-mile arcs

- Any property crossed by the arc is included
- Zoning Ordinance provided for interpretation

Interpretation

- 2005, Property owner provided surveys, requested interpretation
- Survey provided eight survey points, one on the New Hope tributary
- Used water surface elevation definition

Interpretation

- 2006 Planning Director made interpretation
 - Normal pool location
 - Watershed protection Critical Area
 - Urban Growth Area (UGA)/Tier
- Under authority in UDO Section 4.11.3, Rules for Interpretation of Overlay Boundaries

Interpretation

- Survey depicts different normal pool than used by County in 1994
- Survey points result in deviations from adopted Critical and Protected Areas
- Paper maps not as accurate as GIS

County Response

- 2008, County Attorney opined that interpretation was invalid
 - Did not seek and secure approval by DWQ and/or EMC
 - Did not follow zoning map change process to change watershed protection overlay
 - Did not follow Comprehensive Plan amendment process to change UGA/Tier

State Review

- November 2008, Board of Commissioners directs staff to seek DWQ approval of survey and associated Critical and Protected Area based on surveys
- April 2009, DWQ responds that the survey, “represents the location of the normal pool elevation and associated watershed boundaries more accurately than the current map.”

Commissioner’s Directive

- April 2009, Board of Commissioners direct the staff to:
 - Initiate plan amendment
 - Initiate zoning map change
- Based on Hunter survey information

Planning Commission

- June 2009: continued plan amendment and deferred zoning map change to August
- Requested additional information:
 - Original County determination
 - Interpretation, maps
 - Haw River Assembly survey

Haw River Assembly Survey

- Provided to staff on June 29, 2009
- Stated purpose:
 - “..establish where the 216 foot elevation contour crosses the thalweg, the deepest part of the channel cross section, of New Hope Creek.”
- Conclusion:
 - 216 foot contour on creek bed is 6,200 feet upstream along New Hope Creek of the original normal pool determination

Normal Pool Definition

- Two under discussion
 - Water surface elevation
 - Stream bed elevation (thalweg)
- No formal policy on definition
- Ellerbee Creek survey in 2001 used water surface elevation
- DWQ:
 - Does not have standard method
 - “...We believe it would be appropriate to determine the critical and protected area boundaries for a reservoir based on the approximate location of the uppermost point in a tributary at which the elevation of a tributary’s water surface is equal to the elevation of the water surface of the reservoir.”

Commissioner’s Directive

- Initiate plan amendment and zoning map change based on:
 - Hunter survey information, and
 - DWQ approval of watershed protection areas resulting from Hunter survey information

Joe Carley, Planner, City-County Planning Department, continued the presentation as follows:

Summary of Proposed Recommendations

- Normal Pool location
- Adjust UGA boundary
- Adjust Tier boundary
- Adjust Future Land Use designations
- Adjust Critical and Protected Areas (County-only)

Plan Amendment Request

1. Adjust the UGA boundary to mirror the proposed location of the Jordan Lake Critical Area
2. Adjust the Rural/Suburban Tier boundary to mirror the proposed location of the Critical Area, in accordance with *Durham Comprehensive Plan Land Use Policy 2.3.1e*.

Durham Comprehensive Plan Land Use Policy 2.3.1e

- *Durham Comprehensive Plan Land Use Policy 2.3.1e*., Urban Growth Area, identifies the UGA as the boundary between the Suburban and Rural Tier

UDO Criteria for Moving UGA

- From Sec. 3.4.8:
 1. The site is contiguous to the proposed Tier;
 2. The site is not in the drainage basin for Lake Michie or Little River or in the one-mile critical area around Jordan or Falls Reservoirs;
 3. The extension does not violate any agreements with neighboring jurisdictions; and
 4. If the proposal is to expand the Suburban Tier, extending utilities to serve the site is determined to be technically feasible by the Public Works Director or designee and will not result inordinate cost to the City.

Zoning Map Change Request

1. Adjust the boundaries of the Critical Area (F/J-A) and Protected Area (F/J-B) Watershed Protection Overlay districts to reflect the prescribed distances (1-mile and 5-miles) from the lake
2. Adjust the boundaries of the Critical Area (F/J-A) and Protected Area (F/J-B) to reflect subdivision activity and improved mapping technology

Zoning Map Change Request

- Protected Area (F/J-B) to Critical Area (F/J-A): 352.6 acres
- Critical Area (F/J-A) to Protected Area (F/J-B): 257.6 acres
- No overlay to Protected Area (F/J-B): 95.6 acres
- Protected Area (F/J-B) to no overlay: 128.9 acres

Plan Amendment Request

1. Apply a Future Land Use designation of Very Low Density Residential (2 DU/Ac. or Less) to the area that would move inside of the UGA.
2. Apply a Future Land Use designation of Rural Density Residential (0.5 DU/Ac. or Less) to the areas that would move outside of the UGA that are not already designated Rural Density Residential.

West Side of the Lake Changes

- The changes on the west side are largely due to improved mapping capabilities and bringing parcels into compliance with UDO Sec. 4.11.3.

Plan Amendment Request

- Addition to UGA and Suburban Tier: 253.87 acres;
- Removal from UGA and addition to Rural Tier: 288.25 acres;
- Change from Rural Density Residential (0.5 DU/Ac. or Less) to Very Low Density Residential (2 DU/Ac. or Less): 234.37 acres; and
- Change from Very Low Density Residential (2 DU/Ac.) to Rural Density Residential (0.5 DU/Ac. or Less): 38.67 acres.

Proposed Acreages

- The lands that are designated Recreation and Open Space will not change FLUM designation, even if the Tier/UGA/Critical Area are changing.

Applicant's Justification

- “...(n)ow that the new survey information has been accepted by DWQ, this plan amendment, and the associated rezoning are necessary to bring Durham’s regulations into compliance with the intent of the UDO and *Durham Comprehensive Plan*.”

Staff Evaluation

- UDO Sec. 4.1.2B identifies the Rural Tier as the area that lies outside the UGA and largely within watershed critical areas.
- UDO Sec. 4.11.2A identifies the location of the Jordan Lake Critical Area as one mile from the 216-foot mean sea level (MSL) normal pool.
- This change is justified based on changed conditions.

Planning Commission Recommendation

- Recommended Denial of Zoning and Plan Amendment cases, 12-0, on August 11, 2009.
- Recommend to the City Council and Board of County Commissioners that they adopt guidelines for determining the normal pool elevation for backwaters of any water supply reservoir in Durham County, that these jointly-adopted guidelines for determining normal pool elevation be based on the advice and input of a panel of independent professionals qualified in hydrology and water resources, that once the policy guidelines are in place the City Council and Board of County Commissioners commission a publicly-funded, independent survey of the entire Durham portion of the Jordan Lake reservoir, and that updated Jordan Lake water supply watershed protection areas be based on this survey.
- Resolved that the Planning Commission request that Tom Miller communicate his ideas about revisions to the UDO regarding the delineation of the critical and protected watersheds to Joint City County Planning Committee, and further that JCCPC be requested to give those ideas careful consideration (12-0).

Staff Recommendations

- Plan Amendment
 - Approval, based on the request being justified and meeting the four criteria for plan amendments
- Zoning Map Change
 - Approval, should the plan amendment be adopted, based on consistency with the *Comprehensive Plan* and considering the information contained in the staff report.

Mr. Luck and Mr. Carley addressed questions by the Board regarding their presentation.

Chairman Page opened the public hearing for Plan Amendment, Jordan Lake Critical Area (A0900004) and Zoning Map Change—Jordan Lake Critical Area (Z0900009), which had been properly advertised, and called signed speakers forward for comments.

The following speakers spoke in support of the plan amendment and zoning map change:

Darius Little, 200 W. Woodcroft Parkway, Durham 27713

Frank Willis, representing Southern Durham Development, 1436 Peterman Drive, Alexandria, LA 71301

Patrick Byker, representing Southern Durham Development, 2614 Stuart Drive, Durham 27707

Thelma Glenn White, 1015 Jerome Road, Durham 27713

Donald Hughes, PO Box 52598, 27717

Tony Sease, 205 Watts Street, Durham 27701

Keith Burns, 21 Acornridge Court, Durham 27707

Cornell Cannady, 78 Edge Wood Drive Durham 27713

Jackie Wagstaff, 1940 Holloway Street, Durham 27703

Paul Harris, 8808 NC 751 Hwy, Durham

Dr. E. Lavonia Allison, representing Durham Committee on the Affairs of Black People, PO Box 428, Durham 27702

Mark Avitabile, 1003 Scholastic Circle, Durham 27713

Dan Jewell, representing Southern Durham Development, 1025 Gloria Avenue, Durham 27701

The following speakers spoke in opposition of the plan amendment and zoning map change:

Steve Bocckino, 7340 Abron Drive, Durham 27713

William P. Few, Chairman of Kendrick Estates Investment Corporation, 2621 Dover Road, Raleigh 27608

Jeff Hunter, 17 Woodgate Court, Durham 27713

Fred Royal, 254 Oakwood Drive, Pittsboro 27312

Stan Bukowski, 3817 Westcrest Street, Durham 27707

Helen Fischer, 3817 Westcrest Street, Durham 27707

Elaine Chiosso, representing Haw River Assembly, PO Box 187, Bynum 27228

Fran Hadden, 1102 Scholastic Circle, Durham 27713

Angela Brehmer, 1008 Professor Place, Durham 27713

Rebecca Board, 10 Winslow Place, Chapel Hill 27517

Mark Bright, 413 Intern Way, Durham 27713

Barry Saunders, 8110 Education Avenue,

Richard Nappi, 1303 Professor Place, Durham 27713

Lisa Adamson, 103 Education Avenue, Durham 27713

John Kent, 394 Cub Creek Road, Chapel Hill 27517

Nancy Cox, 4 Falcon Nest Court, Durham 27713

Melissa Rooney, 301 Spring Garden Drive, Durham 27713

Tina Motley Pearson, 2205 Olive Branch Road, Durham 27703

Richard Twigg, 2315 Huron Street, Durham 27707

Wendy Jacobs, 3 Streamley Court, Durham 27705

Susanne Gomolski, 141 Windsor Circle, Chapel Hill 27516

Charles McEachern, 2014 Ward Street, Durham 27707

Margaret Clemen, 3805 Westcrest Street, Durham 27707

Kathryn Spann, representing People's Alliance, 4720 Bahama Road, Rougemont 27572

David Krabbe, 4720 Bahama Road, Rougemont 27572

Milo Pyne, representing People's Alliance, 806 Vickers Avenue, 27701

Tom Miller, 1110 Virginia Avenue, Durham 27705

Deborah Giles, 1015 Benning St, Durham 27703

Chairman Page closed both public hearings and referred the matter back to the Board.

Commissioner Heron referenced President Barack Obama's position on protecting the environment and the planet as a whole.

Commissioner Bowser spoke about Ms. Motley's comment regarding the allegation that Durham contributes the most pollutants to Jordan Lake. He mentioned the graph presented by Mr. Jewell, which indicated Orange County as a larger polluter of Jordan Lake. He encouraged concerned citizens to direct their pollutant concerns to Orange County. Commissioner Bowser stated his support for the Planning staff's recommendation.

Commissioner Heron made the following statement: "Frank Duke, a non-elected official in the Planning Department, accepted the authority of elected officials when he changed the location of the normal pool of Jordan Lake based on a survey commissioned by a developer. He did this and did not notify the Board of County Commissioners or the City Council. The Planning Department continued this mistake by making another mistake. The present leadership with the Planning Department was knowledgeable about Duke changing the Jordan Lake line, yet did not notify the Board of County Commissioners or the City Council. The Institute of Government and other Planning departments said that the Planning Director does not have the authority to act in the place of elected officials. The latest error from the Planning Department was when they gave, in writing, the wrong information about how to present a protest petition. If the majority of this Board had voted to let the County conduct an independent survey of \$85,000, this issue would have been way laid to rest. We can't let land speculators call the shots. Maybe the speculator survey is right; maybe it's not. Why was the Board so afraid to check the work of the surveyor hired by the speculator? Did you have information that the speculator survey was wrong? Had the county approved an independent survey, the project would probably be underway. The County could save lawyer's fees anticipated to be hundreds of thousands of dollars of taxpayer money. The project could be underway, and the job so talked about created. Yet, here we are now, in a lengthy public hearing, a possible lawsuit, and a possible divided County Commission."

Commissioner Heron stated that she had a copy of her comments for the media.

Mr. Medlin address Mr. Miller's proposal per Vice-Chairman Reckhow's request. He stated that staff had indicated in the past that it would consider modifications to how watershed boundaries are delineated. Mr. Medlin added that staff may consider Mr. Miller's proposal at a more appropriate time.

Vice-Chairman Reckhow advised Mr. Medlin to consider alternatives to delineate watershed boundaries.

Vice-Chairman Reckhow commented as follows: "We've heard from the proponents that we should follow the Planning Department's recommendation tonight and change the maps. However, I would like to remind folks that at this time last year, the Planning staff was recommending that we do an independent survey of the entire Jordan Lake in Durham County, and that recommendation was supported by our County Engineer and our County Manager. RFPs were sent out to get bids for this survey; but unfortunately, the majority of the Board at that time, not this current board, decided not to follow the staff's recommendation. So now, we're back here again just about a year later, discussing what we should do. It has been noted that our Planning Commission, which is the body that we appoint to make recommendations to us on these matters, voted unanimously to advise us against making this change, with a very thoughtful recommendation about doing an independent survey, getting

advice from a panel of independent professionals, and we got another recommendation, that hasn't gotten much publicity, from our Environmental Affairs Board with a very similar recommendation. Both of these boards are appointed by us. So, I think that is very important advice, and something that I think we should listen to. There is also precedent for doing an independent survey. In 1999, property owners near Falls Lake were concerned about the boundary, and they brought the matter to us. We debated the issue, and we, the Board of County Commissioners, commissioned a survey of the Ellerbe Creek area of Falls Lake to determine where the Lake boundary was at that time. It was a very thoughtful and deliberate process. When we held a public hearing on changing the Lake boundaries, there was not dissention. It was a very easy issue, not controversial at all, and that is because we had independent, reliable information. One of the speakers, I believe it was Deborah Giles, referred to the fact that we have two surveys right now, but they're from people or groups who have vested interest. On one hand, the developers; they have a vested interest. On the other hand, the environmental group; they have a vested interest. I think to get to the core of the matter, it is incumbent upon us who have been elected to be the stewards of the environment and to protect the lake to do an independent survey and let the chips fall where they may. In yesterday's paper, there was an article in The Herald-Sun about the Jordan water lines being ready, and they indicated that a water line will be complete this coming summer that will be able to draw the full 10 million gallon a day allocation that Durham has from Jordan Lake. So, Jordan Lake is going to be a lake that we will be able to call on for water in addition to our neighbors. I thought it was also interesting that later in the article, it indicated that it gave the capacities and current lake levels for Little River and Lake Michie, which are the current drinking water supplies for the City of Durham. It said that in the past few months, the managers of Durham's drinking water have been drawing from Little River Lake exclusively because it's water has been a better quality. And then why have they been drawing from Little River because it's better quality? Because it helps hold down the treatment costs. It keeps their costs down b/c they don't have to put in as many chemicals or treat it as much. So, I would argue that it is very, very important, as some of our speakers have said. We're making a very important decision about our future, and there are many aspects that we need to consider. And I hope we'll be thoughtful and reject these items tonight and proceed as both our Planning Commission and our Environmental Affairs Board (and the staff originally a year ago recommended) that we commission a full study of the boundaries of Jordan Lake."

Commissioner Howerton asked staff to elaborate on its proposed attempt to start the process over.

Mr. Medlin responded to questions posed by Commissioner Howerton regarding the following:

- Details of starting the process over
- Additional background information on the watershed protection issue
- Why the delay in addressing the issue
- Consistency with the UDO

Commissioner Howerton echoed Vice-Chairman Reckhow's earlier comments regarding considering alternative methods to delineate watershed boundaries. She remarked that it would be good for the community and the developer if the Board could be unanimous with its decision.

Chairman Page informed the public that the request before the Board was not to consider development, businesses, or schools but to consider the plan amendment and zoning map change requested by the Planning staff. He concurred with a citizen's comment about a possible differing of opinion had he been made aware of the issue in 2005. Chairman Page stated his resentment towards emails he received that eluded to the plan amendment and zoning map change resulting in the polluting of Jordan Lake. He stated that he was advised by Mr. Medlin that this does not provide pollution. He reminded the public that the Board is elected by citizens to make sound decisions on their behalf, whether it is for or against an issue. He further stated, "...and Commissioner Heron, you just alluded to the point a few minutes ago, and I think you've been saying this all along, you said it to the TV, that we're creating a lawsuit because we didn't commission an independent survey. Unfortunately, when we leave here tonight, there is going to be a lawsuit either way; and so I don't think that's going to change anything as well. But I want to say to the Planning Department, I appreciate you coming forward, recognizing what is correct and what we really need to do, and that is placing these maps where it was from the original purpose, from the very beginning. I'm even more convinced tonight than ever that we're doing the right thing by placing these maps where they were, and whoever was in the middle of this, and I'm not pointing fingers, but there were a whole lot of hands in the middle of this. I just think the right thing to do for the sake of this community, whether you're for or against it, is place the maps where they were, and we will move from there."

Commissioner Bowser spoke to his interpretation of the UDO in regards to surveys. He stated, "It is designed to keep the burden off of taxpayers by asking a land owner to provide the funding for the surveys that they are so in need of. In a nutshell, if this UDO allowed for every land owner to come to the County Government and say to them that 'we feel that this watershed protection line is in the wrong place', it will cost the taxpayers of Durham County millions of dollars if we did that. So, the UDO is designed to protect the taxpayers by allowing the landowner to pay for that survey. I think that's very important, and I really think that if we're going to do like we did, I think Commissioner Reckhow alluded to, the Falls Lake one, and I was on the Board when we did this, we need to change the UDO and put specific language in there that would say 'whenever a land owner comes to the County Commissioners disputing a watershed line, that the taxpayers would bear the expense'. Then we won't have this problem anymore. It has been brought to us by many of you saying that we need an independent survey. It's not the land owner's problem with the survey; it is the County's. It is our UDO that asked that land owner to pay for that survey. I want to say that. I'm hoping Mr. Hunter can walk out of here tonight feeling better because I know you have taken a lot of heat from individuals who have spoken against this. But you were just following the rules that this Board and the City Council have put in place to protect the taxpayers of this community from having to do perhaps hundreds of these surveys."

Commissioner Bowser moved, seconded by Commissioner Howerton, to approve Plan Amendment, Jordan Lake Critical Area (A0900004).

Ayes: Bowser, Howerton, and Page
Noes: Heron and Reckhow

Commissioner Howerton stated her reservations and concerns about the process to occur regarding the watershed protection issue.

Commissioner Bowser moved, seconded by Commissioner Howerton, to approve Zoning Map Change—Jordan Lake Critical Area (Z0900009).

Ayes: Bowser, Howerton, and Page
Noes: Heron and Reckhow

**BOARD OF COMMISSIONERS RESOLUTION
AMENDING DURHAM COMPREHENSIVE PLAN
Jordan Lake Critical Area (A0900004)**

WHEREAS, The Durham County Board of Commissioners has adopted long range land use plans, to help guide the future development of land within the County's jurisdiction; and

WHEREAS, changed community conditions, the age of the adopted plan, development activity within the planning area, and other factors may warrant a change to an adopted plan; and

WHEREAS, the Durham County Board of Commissioners has adopted a resolution that requires that the Board consider changes to adopted land use plans when requested rezoning substantially conflicts with the adopted land use plan.

NOW THEREFORE BE IT RESOLVED BY THE DURHAM COUNTY BOARD OF COMMISSIONERS:

SECTION 1

That the Future Land Use map of the *Durham Comprehensive Plan* be amended by designating as Rural Density Residential (0.5 DU/Ac. or Less), Rural Tier, and outside the Urban Growth Area the following parcels, as shown on the attached map: 0707-02-58-9323, 0707-02-068-4315, 0707-01-36-0869, 0707-01-26-9733, 0707-01-36-1994, 0707-03-14-1390, 9797-01-93-4634.

That the Future Land Use map of the *Durham Comprehensive Plan* be amended by designating as Very Low Density Residential (2 DU/Ac. or Less), Suburban Tier, and inside the Urban Growth Area the following parcels, as shown on the attached map: 0717-03-40-3295, 0717-03-40-2109, 0717-03-44-0386, 0717-03-41-3705, 0717-03-41-2341, 0717-03-31-9934, 0717-04-51-0985, 0717-04-40-6984, 0717-04-33-5784, 0707-02-68-1148, 0717-03-30-5690, 0707-01-37-3459, 0707-03-04-8375, 0707-01-26-3117, 0717-03-31-6712.

That the Future Land Use map of the *Durham Comprehensive Plan* be amended by designating as Rural Tier and outside the Urban Growth Area the following parcels, as shown on the attached map: 0707-01-47-0505, 0707-01-47-6161, 0707-02-58-4320, 0707-02-58-6124, 0707-02-58-8026, 0707-02-58-7325, 0717-01-08-8006, 0707-02-87-1943, 0707-02-86-9306, 0707-02-57-3223, 0717-03-04-7954.

That the Future Land Use map of the *Durham Comprehensive Plan* be amended by designating as Suburban Tier and inside the Urban Growth Area the following parcels, as shown on the attached map: 0707-02-58-8179, 0717-04-50-1292, 0717-04-50-6793.

SECTION 2

This change shall become effective upon the adoption of this resolution.

This 12th day of October, 2009.

AN ORDINANCE AMENDING THE DURHAM CITY-COUNTY
UNIFIED DEVELOPMENT ORDINANCE BY AMENDING THE F/J-A AND F/J-B
OVERLAY DISTRICTS

BE IT ORDAINED BY THE DURHAM COUNTY BOARD OF COMMISSIONERS:

SECTION 1. THAT THE DURHAM COUNTY BOARD OF COMMISSIONERS HELD A PUBLIC HEARING ON ZONING CASE Z0900009 AND VOTED ON SEPTEMBER 14, 2009 TO APPROVE THE ZONING MAP CHANGE REQUEST DESCRIBED HEREIN.

SECTION 2. THAT THE DURHAM CITY-COUNTY ZONING ATLAS AND ORDINANCE ARE HEREBY AMENDED BY TAKING THE FOLLOING DESCRIBED PROPERTY OUT OF F/J-A AND ESTABLISHING THE SAME AS F/J-B OVERLAY DISTRICT ZONING.

0707-01-26-3117
0707-01-36-1994
0707-02-68-1148
0707-02-86-9306
0707-03-04-8375
0717-03-30-5690
0717-03-31-6712 (Partial)
0717-03-31-9934
0717-03-40-2109
0717-03-40-3295
0717-03-41-2341
0717-03-41-3705
0717-03-44-0386
0717-04-40-6984
0717-04-50-1292
0717-04-50-6793
0717-04-51-0985
0707-01-37-3459
0707-02-58-8179
0717-04-33-5784 (Partial)

SECTION 3. THAT THE DURHAM CITY-COUNTY ZONING ATLAS AND ORDINANCE ARE HEREBY AMENDED BY TAKING THE FOLLOING DESCRIBED PROPERTY OUT OF F/J-B AND ESTABLISHING THE SAME AS F/J-A OVERLAY DISTRICT ZONING.

0706-01-19-6634
0707-01-26-9733
0707-01-47-6161
0707-02-57-3223
0707-02-58-6124
0707-02-58-8026
0707-02-77-0944
0707-02-87-1044
0717-03-04-7954
9797-01-90-5232
9797-01-93-4634
0707-01-36-0869
0707-01-47-0505
0707-02-58-4320
0707-02-58-7325
0707-02-58-9323
0707-02-68-4315
0707-02-87-1943
0707-03-14-1390
0717-01-08-8006
9796-01-89-4365

SECTION 4. THAT THE DURHAM CITY-COUNTY ZONING ATLAS AND ORDINANCE ARE HEREBY AMENDED BY ESTABLISHING F/J-B DISTRICT ZONING ON THE FOLLOWING DESCRIBED PROPERTY.

0737-01-47-1037
0737-04-66-4405
0737-04-51-1278

SECTION 5. THAT THE DURHAM CITY-COUNTY ZONING ATLAS AND ORDINANCE ARE HEREBY AMENDED BY REMOVING F/J-B DISTRICT ZONING ON THE FOLLOWING DESCRIBED PROPERTY.

0737-03-32-7258
0737-03-33-6415
0737-04-32-9728
0737-04-62-1186
0737-04-53-6236
0737-04-63-3394

0737-04-73-2121

SECTION 6. THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE.

SECTION 7. ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE ARE HEREBY REPEALED.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. b. Approve Budget Ordinance Amendment 10BCC000022 to appropriate \$133,192 in fund balance from the General Fund for payment to Bahama Volunteer Fire Department for unreimbursed paramedic services provided in FY 2009.

Commissioner Bowser asked if the funds would be transferred from the Community Health Trust Fund (CHTF).

County Manager Mike Ruffin responded in the affirmative.

Commissioner Bowser stated his position of opposition for this item. He explained that the CHTF was created in 1998 to fund upgrades for Durham Regional Hospital.

Chairman Page asked Commissioner Bowser if he would be opposed to using CHTF funds for health-related services.

Commissioner Bowser replied that he is against using the funds for purposes other than for upgrades to Durham Regional.

County Manager Ruffin clarified that Consent Agenda Item No. c is to request that the budgeted transfer amount from the CHTF to the General Fund be reduced. He advised Commissioner Bowser not to vote against Consent Agenda Item No. b based on his reasoning for voting against this item.

In response to a question posed by Commissioner Bowser, Pam Meyer, Director of Budget and Management Services, replied that amounts have been spent above the interest earned on the CHTF funds.

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, to approve Consent Agenda Item No. b.

Ayes: Heron, Howerton, Page, and Reckhow

Noes: Bowser

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2009-10 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	\$13,496,051	\$133,192	\$13,629,243

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Public Safety	\$43,881,608	\$113,192	\$44,014,800

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

This the 12th day of October, 2009.

Consent Agenda Item No. c. Approve Budget Ordinance Amendment 10BCC000023 to reduce the Transfer from the Community Health Trust Fund to the General Fund in FY 2010 for Unspent FY 2009 Health Related Program Funds.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve Consent Agenda Item No. c.

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2009-10 Budget Ordinance
Amendment No. 10BCC000023

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2009-10 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>COMMUNITY TRUST FUND</u>			
	\$8,514,180	(\$186,483)	\$8,327,697

Expenditures:

<u>Function</u>			
<u>COMMUNITY TRUST FUND</u>			
	\$8,514,180	(\$186,483)	\$8,327,697

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

This the 12th day of October, 2009.

Consent Agenda Item No. g. Approve the Triangle Wastewater Treatment Plant Interlocal Agreement with the Town of Cary for Reclaimed Water Supply and First Amendment to the Interlocal Agreement with Wake County and the Town of Cary regarding Reclaimed Water Facilities (subject to non-substantive changes by the County Attorney or County Manager) and Authorize the County Manager to execute the Agreements.

County Engineer Glen Whisler addressed Commissioner Bowser's question pertaining to the lack of upfront costs from the Town of Cary. Mr. Whisler referenced Section 6.e., which breaks down contributions from Wake County, Durham County, and the Town of Cary; Cary's contribution would be \$3,822,301. He opined that the Agreement would benefit each party.

Commissioner Bowser expressed reluctance to vote in favor of this item due to conflicting information regarding each party's contribution.

Mr. Whisler elaborated on the Triangle Wastewater Treatment Plant.

Vice-Chairman Reckhow emphasized that businesses within Durham County (i.e. EISAI, EPA, NIEHS, SSA, JMC, undeveloped properties in RTP-North) would benefit as they would be able to purchase reclaimed water from the water facilities. She commended staff for the hard work and research invested in constructing reclaimed water facilities.

Commissioner Bowser asked if the Agreement would allow pulling of raw water from Jordan Lake.

Mr. Whisler responded in the negative.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve Consent Agenda Item No. g.

The motion carried unanimously.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to extend the meeting to 11:15 p.m.

The motion carried unanimously.

Consent Agenda Item No. i. Triangle Wastewater Treatment Plant—Amendment to Consultant Services Contract for Phase III and Reuse Projects Design Coordination and Loan Application Support Document Preparation (authorize the County Manager to enter into a contract amendment for a contract increase of \$211,000, with a total not to exceed \$1,271,600 to the referenced contract with McKim & Creed, P.A.).

County Engineer Glen Whisler explicated for Commissioner Bowser the contract amounts for "Permitting for the Phase III and Reclaim Water Project, including reimbursable expenses (Printing, Postage, Permit Fees). He noted that only amounts needed would be spent.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve Consent Agenda Item No. i.

The motion carried unanimously.

Consent Agenda Item No. k. Adopt the Falls Lake Water Quality Resolution.

Commissioner Howerton requested to pull this item; however, she declined to ask questions.

Commissioner Howerton moved, seconded by Vice-Chairman Reckhow, to approve Consent Agenda Item No. i.

The motion carried unanimously.

**A RESOLUTION BY THE DURHAM COUNTY BOARD OF COMMISSIONERS
REGARDING WATER QUALITY IMPROVEMENTS FOR FALLS LAKE**

WHEREAS, Falls Lake was created by the Army Corps of Engineers primarily as a flood control device; and

WHEREAS, Falls Lake, by accident of geography, was created just downstream from a major urbanized area; and

WHEREAS, Falls Lake now also serves, among other purposes, as a water supply source for the citizens of Wake County and the City of Raleigh; and

WHEREAS, beginning several decades ago, the City and County of Durham have adopted numerous measures protecting not only the water quality in their own drinking water supply but also protecting general water quality at levels equal to or exceeding those seen in neighboring jurisdictions; and

WHEREAS, Falls Lake, despite the above efforts, has been placed on the North Carolina list of impaired waters (303(d) list) for failure to meet the water quality standards for chlorophyll *a* and turbidity, and

WHEREAS, the North Carolina General Assembly has adopted legislation establishing a deadline of January 15, 2011 for the Environmental Management Commission (EMC) to adopt final Falls Lake nutrient management strategy rules; and

WHEREAS, the Department of Environment and Natural Resources (DENR) have created a stakeholder process to inform the eventual nutrient management strategy rules:

NOW THEREFORE BE IT RESOLVED that:

(a) Water quality for Falls Lake and all other water bodies in Durham County has been and continues to be a priority for the citizens of Durham County;

- (b) Durham County will continue to enforce its strict water quality protection ordinances and standards, and Durham County will continue to evaluate, and adopt as appropriate, the Environmental Enhancements to the Unified Development Ordinance (EEUDO);
- (c) Durham County Government will work with NCDENR and other local government jurisdictions in the Falls Lake watershed throughout the stakeholder and rulemaking processes to establish effective water quality protection measures that balance available resources, equity concerns, and other community needs;
- (d) Durham County strongly encourages NCDENR to establish a nutrient management strategy that equitably distributes the cost of improving Falls Lake water quality among all political jurisdictions either contributing to the impacts or benefiting from the improvements;
- (e) As the most likely means to achieve some form of equity in both the content and application of the rules, Durham County supports uniform rules throughout the Falls Lake Watershed;
- (f) Durham County encourages NCDENR to establish rules that encourage or enable cost sharing among sectors;
- (g) Durham County supports additional evaluation of the various nutrient reduction options designed to achieve the overall nutrient reduction goal;
- (h) Durham County supports adoption of an adaptive management plan clearly supported by more monitoring locations and increased frequency of monitoring throughout the Falls Lake Watershed;
- (i) Durham County supports an evaluation of the feasibility to achieve the nutrient reduction goals in the upper reaches of the Falls Lake Watershed as part of the second stage of implementation.

This the 12th day of October, 2009.

/s/ All Five Commissioners

Consent Agenda Item No. 1. Durham Public Schools Shepard Middle School Addition and Renovation Project (approve the owner/contractor agreement with Bar Construction Co. Inc. for the Addition and Renovation project at Shepard Middle School in the amount of \$8,255,600.00 and authorize the Manager to execute the agreement pursuant to the terms of the Interlocal Agreement with Durham Public Schools).

Commissioner Bowser asked Tim Carr, Program Director for Durham Public Schools (DPS), if DPS had conducted business with Bar Construction Company Inc.

Mr. Carr responded that DPS did not have previous history with Bar Construction. However, Bar Construction has identified approximately 25.3% M/WBE participation.

Commissioner Bowser inquired about a method to track M/WBE participation.

Mr. Carr stated that DPS reports on M/WBE participation on a monthly basis via the payment application process.

Commissioner Bowser stressed the need to establish a mechanism to track M/WBE participation.

County Manager Mike Ruffin informed Commissioner Bowser that staff had begun negotiations with the City per the Board's direction and would follow up with DPS.

Vice-Chairman Reckhow reiterated her previous request for data on DPS construction projects in relation to original bond amount, how much has been expended, and design costs.

Mr. Carr addressed Vice-Chairman Reckhow's requests.

Mr. Carr responded to Chairman Page that Bar Construction is not a minority firm; however, the M/WBE participation would be monitored monthly.

County Manager Ruffin mentioned that Bar Construction submitted and signed an affidavit, committing to subcontract with minority-owned businesses. He referenced the affidavit which details the participation for each minority category.

Commissioner Bowser moved, seconded by Commissioner Heron,
to approve Consent Agenda Item No. 1.

The motion carried unanimously.

Chairman Page reminded the Commissioners to attend the public informational meeting on Durham's new middle school the following night at 7:30 p.m. at the Northern High School auditorium.

Adjournment

There being no further business, Chairman Page adjourned the meeting at 11:11 p.m.

Respectfully submitted,

Yvonne R. Jones
Acting Clerk to the Board