

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

Monday, December 11, 2006

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

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session

Chairman Reckhow requested that everyone stand for the Pledge of Allegiance.

Agenda Adjustments

Chairman Reckhow noted the revised Agenda in the "Agenda Materials" folder and the revised Legislative Agenda (with one addition). She also noted the addition of two resolutions.

Announcements

Chairman Reckhow announced that:

- The Durham County Sheriff's Office is recruiting for Detention Officers and Deputy Sheriffs. If you are 21 years old and seeking an exciting career in law enforcement, call the Sheriff's Training Center at 919-560-0930.
- Durham Neighborhood College is seeking applicants for the spring term. Applications may be obtained from the Clerk to the Board's office or by visiting the Durham County website at www.durhamcountync.gov. The deadline is January 31, 2007. Chairman Reckhow encouraged all interested citizens to apply.
- In 2005, the Durham County Library spearheaded "Durham Reads Together", a communitywide reading program whose mission is to strengthen the community through a celebration of reading the same book. The Last Shot: City Streets, Basketball Dreams, by Darcy Frey, is the book selected for 2007. Durham County Library and the Title Selection Committee for Durham Reads Together encourage people from all walks of life, ages 13 and up, to read or listen to the book in preparation for programs and events, including a visit from the author, being planned for April and May of 2007.

Chairman Reckhow called on Susan Wright from the Library to speak about the upcoming event.

Ms. Wright, Main Library Services Division Manager, stated that over 5,000 residents participated in Durham Reads Together 2005. She read a few words from the press release as follows:

“One of the top 100 sports books of all time, according to Sports Illustrated, ‘The Last Shot is far from being just a sports book,’ according to David Carr, Associate Professor at the UNC-Chapel Hill School of Information and Library Science and a member of the Title Selection Committee. ‘It is a book about courage and character, dreams and consequences, economics and education that also happens to be about basketball,’ Carr said. The Title Selection Committee was drawn to the book because of the important themes it introduces: the opportunities and challenges that accompany being gifted and promising; the tensions of growing up in poverty, especially during adolescence; and how poor schools and poverty take their toll, even on hard-working youth. ‘This book excludes no reader, as far as I can see,’ Carr said. ‘I see all ages, both sexes, literary types, sports types, parents, educators, students—everyone—taking it up with satisfaction.’ The Last Shot follows four young athletes at Abraham Lincoln High School in the Coney Island projects as they struggle under the pressures of poverty, crime, drugs, and the expectations placed on them by their families, their coaches, and the community. All four see basketball as their ticket out of the ghetto—both for themselves and their families—and are being courted by colleges, but have difficulty meeting the minimum academic requirements for admission. One of the athletes featured is Stephon Marbury, now a two-time NBA all-star with a multimillion-dollar contract with the New York Knicks that runs through 2009.”

Ms. Wright invited all persons to participate in Durham Reads Together 2007 through book discussions and exciting events. Copies to read or to listen to could be obtained through the Durham County Library.

Chairman Reckhow encouraged citizens to check the book out of the Library or consider purchasing the book to give as a gift over the holidays.

Minutes

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to approve as submitted the November 27, 2006 Regular Session Minutes of the Board.

The motion carried unanimously.

Ben Ruffin Resolution

Chairman Reckhow announced that a resolution was prepared in recognition of Benjamin "Ben" S. Ruffin, a Durham native, known for his roles as an educator, civic leader, and humanitarian. Chairman Reckhow stated that she had the pleasure of becoming acquainted with Mr. Ruffin quite well when she served on the Human Relation Committee for the Chamber of Commerce in the 1980s; Mr. Ruffin was one of the co-chairs of that committee.

Commissioner Michael Page read the following resolution into the record:

RESOLUTION

WHEREAS, Mr. Benjamin “Ben” S. Ruffin was a native of Durham, NC, born in 1941, and became highly active while serving his community as an educator, civic leader, humanitarian, motivator, organizer, and visionary ; and

WHEREAS, Mr. Ruffin, an alumnus of Hillside High School, North Carolina Central University, and the University of North Carolina, made his mark during the civil rights protests of the 1960s and went on to chair the Durham Housing Authority, lead the North Carolina Human Relations Council, become a senior corporate official with North Carolina Mutual Life Insurance Company and R.J. Reynolds Tobacco Company, and later served two terms as the first – and only – African-American chairman of the UNC Board of Governors; and

WHEREAS, Mr. Ruffin also served as a special assistant to Gov. Jim Hunt for seven years, acting instrumentally in increasing the number of African-American judges in the state and expanding the number of Blacks employed in state government; and

WHEREAS, he was known by many as a trailblazer in North Carolina history, one who sought the full participation of all races in the life and leadership of our state; and

WHEREAS, Mr. Ruffin will always be remembered for his optimistic outlook on life, his great loyalty and determination, and his solid belief in the power of education to make North Carolina a better place; and

WHEREAS, his dedication to service and his commitment to the Durham community and the entire state of North Carolina will be greatly missed by all that knew him:

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

MR. BENJAMIN “Ben” S. RUFFIN

for his sincere dedication and commitment to the people of Durham and the state of North Carolina.

This the 11th day of December, 2006.

/s/ All Five Commissioners

Commissioner Page stated that yesterday he had the opportunity to attend the Durham Companions’ Annual Fundraiser Banquet where Mr. Ruffin was the scheduled speaker. “It was such a sad atmosphere. Many people remember him as being a community hero doing various things to help build a real community. I consider him a giant, particularly in the line

of work that we do. We want to extend our sincere condolences to his family during this difficult time.”

Vice-Chairman Heron commented that she remembers Mr. Ruffin from her first campaign when she solicited his advice. He offered her good advice and helped her during a few tough times. Vice-Chairman Heron had prepared a letter to Mr. Ruffin’s wife, recalling ways in which he assisted her during the campaign. “He was a giant.”

Chairman Reckhow stated that Mr. Ruffin’s passing away is a loss to Durham and to the State of North Carolina.

Bill of Rights Defense Resolution

Chairman Reckhow read the resolution into the record:

BILL OF RIGHTS DEFENSE RESOLUTION

WHEREAS, Durham County Government is committed to the human rights of its citizens and to actions that both protect and preserve those rights; and

WHEREAS, Durham County respects and recognizes the civil rights and liberties guaranteed to all by the Bill of Rights; and

WHEREAS, Durham County upholds the civil rights and liberties of all people in Durham County and their free exercise and enjoyment of all rights and privileges secured by the Constitutions and the laws of the State of North Carolina and the United States; and

WHEREAS, those rights include: freedom of religion, of speech, of press, and of association, the right to disagree with governmental policies; the right to privacy within one's own home, free of searches and seizures in the absence of probable cause or specific evidence of criminal behavior; the right to humane treatment in all circumstances, including when arrested or jailed; the right, if arrested, to be told the charges brought against one and to legally contest one's detention (habeas corpus), to access to legal counsel, and to a fair and speedy trial; and the right to be protected from cruel and unusual punishment; and

WHEREAS, the Bill of Rights Defense Resolution adopted by the Durham County Board of Commissioners on September 22, 2003, shall be reaffirmed.

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

The members of the Durham County Board of County Commissioners does hereby reaffirm our support of these civil rights and liberties for all residents of Durham County.

This the 11th day of December, 2006.

/s/ All Five Commissioners

Joan Walsh, Chairman of the Durham Bill of Rights Defense Committee, thanked the Commissioners for the affirmation of human and civil liberties at the local level. She offered the opportunity to everyone to learn more about current threats to civil rights and to work to preserve them by contacting her via email at walsh@intrex.net. She invited everyone to visit the National Bill of Rights Defense Committee website at www.bordc.org.

Consent Agenda

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

- a. Public Health—Approve the Establishment of a \$20 User Fee for Lead in Water Sampling for Residents with Private Wells;
- *b. Budget Ordinance Amendment No. 07BCC000034—Social Services—Additional Home and Community Care Block Grant Revenue (recognize \$83,987 in additional federal and state funds);
- *c. Extension of the Listing Period for Business Personal Property (authorize the Tax Assessor to grant extensions until April 15, 2007 for taxpayers who request an extension and show good cause during the month of January 2007 and file by means of the counties electronic listing of business personal property; and for all other taxpayers until March 15, 2007 who request an extension and show good cause during the month of January 2007);
- *d. Capital Project Amendment No. 07CPA000005—Durham Public Schools (DPS)—Applications to the Public School Building Capital Fund (approve \$400,000 to the Oak Grove Elementary paving project, \$240,000 to the Southwest Elementary asphalt project, \$360,000 to the Northern High asphalt project, \$200,000 to the Brogden Middle roofing project, and \$180,000 to the Smith Elementary plumbing project);
- *e. Offer to Purchase County Surplus Properties (pursue the upset bid process for the sale of 300 East Main Street [Eligibility Building] and 306 East Main Street [vacant] as a package; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process);
Chairman Reckhow announced that the property is at the intersection of Main and Roxboro across the street from the Social Services building.
- *f. Offer to Purchase County Surplus Properties (pursue the upset bid process for the sale of 2300 Fitzgerald Street, 800 Olive Branch Road, 2800 Sater Street, and 134 & 134½ Hillside Avenue; the Board has the authority to

- accept or reject any offer at the conclusion of the upset bid process);
- g. Acceptance of Donated Conservation Easement for Property Owned by Wade and Carolyn Penny (accept and direct the Manager to a prepare a resolution of appreciation to the Pennys for their conservation interest and support for the New Hope Creek corridor open space efforts);
Chairman Reckhow recognized and thanked Jane Korest for all of her work on this initiative.
- h. Acceptance of a Donated Conservation Easement for Impervious Surface Rights Transfer per Unified Development Ordinance Section 8.7.2.B.2 (accept the conservation easement from Philip Blalock to restrict impervious surfaces on Parcel #191579 on John Jones Road in the Little River watershed); and
Vice-Chairman Heron complimented Jane Korest for her work pertinent to this agenda item.
Chairman Reckhow stated that this new provision in the UDO provides greater flexibility for development in Durham's watershed areas by allowing the overall impervious surface for new projects to be calculated using both the land on which the new construction is located, as well as additional noncontiguous land provided addition requirements can be met.
- i. left blank intentionally
- j. left blank intentionally
- l. Approval of the Revised Memorandum of Agreement for the US 15-501 Transit Corridor.

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. b. Budget Ordinance Amendment No. 07BCC000034—Social Services—Additional Home and Community Care Block Grant Revenue (recognize \$83,987 in additional federal and state funds).

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000034

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 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	\$320,942,232	\$83,987	\$321,026,219
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Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$395,613,946	\$83,987	\$395,697,933

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

This the 11th day of December, 2006.

Consent Agenda Item No. c. Extension of the Listing Period for Business Personal Property (authorize the Tax Assessor to grant extensions until April 15, 2007 for taxpayers who request an extension and show good cause during the month of January 2007 and file by means of the counties electronic listing of business personal property; and for all other taxpayers until March 15, 2007 who request an extension and show good cause during the month of January 2007).

RESOLUTION TO AUTHORIZE THE USE OF ELECTRONIC LISTING PROGRAM

WHEREAS, the General Assembly has ratified Senate Bill 356 (Session Law 2001-279) amending G.S. 105-304 to authorize Counties to permit electronic listing of business personal property, and

WHEREAS, Session Law 2001-279 permits the Board of County Commissioners to extend the deadline for filing electronic listings of business personal property under G.S. 105-304 to June 1; and

WHEREAS, Session Law 2001-279 authorizes electronic signature of business personal property listings which are submitted electronically:

NOW THEREFORE, BE IT RESOLVED as follows:

Section 1. Durham County Board of Commissioner hereby authorizes business personal property listings to be submitted and signed electronically, and extends the deadline for receiving electronic business personal property listings to and until April 15 of any year.

Section 2. The following procedures will apply to electronic tax filings. Electronic listings must be submitted online; facsimiles will not be accepted as electronic listings. In order to file electronically, the taxpayer must use the electronic listing application and the Account Identification Number (Account ID) to file business personal property listings after January 1. The taxpayer must file an online or written request for extension of time during the month of January and must provide the account identification number (Account ID). Electronic filings must be received by the Durham County Tax Administration no later than April 15 in order to avoid late list penalties. The Account ID and other necessary information provided electronically with the submitted listing form, will constitute the taxpayers electronic signature.

Section 3. This resolution shall be recorded in the minutes of the Durham County Board of Commissioners and notice of the procedures and extension of time for electronic filing of business personal property listings shall be published as required by G.S. 105-296(c).

Section 4. This resolution is effective for all tax years after its adoption.

Consent Agenda Item No. d. Capital Project Amendment No. 07CPA000005—Durham Public Schools (DPS)—Applications to the Public School Building Capital Fund (approve \$400,000 to the Oak Grove Elementary paving project, \$240,000 to the Southwest Elementary asphalt project, \$360,000 to the Northern High asphalt project, \$200,000 to the Brogden Middle roofing project, and \$180,000 to the Smith Elementary plumbing project).

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Capital Project Ordinance
Amendment No. 07CPA000005

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 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>
Oak Grove Elementary	\$993,428	\$400,000	\$1,393,428
Southwest Elementary	\$ -0-	\$240,000	\$ 240,000
Northern High	\$177,830	\$360,000	\$ 537,830
Brogden Middle	\$ -0-	\$200,000	\$ 200,000
Smith Elementary	\$171,379	\$180,000	\$ 351,379

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

This the 11th day of December, 2006.

Consent Agenda Item No. e. Offer to Purchase County Surplus Properties (pursue the upset bid process for the sale of 300 East Main Street [Eligibility Building] and 306 East Main Street [vacant] as a package; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process).

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in Durham County, North Carolina and properly described as follows:

300 East Main Street
PIN #0831-09-06-0553
Parcel ID 102936

306 East Main Street
PIN #0831-09-06-0590
Parcel ID 102935

WHEREAS, Mark Properties Inc. has made an offer to the County to purchase the above property for \$137,000 and has made a bid deposit in the amount of \$10,000 which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within ten days after the date the notice is published;
3. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
4. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
5. When the bid has been successfully raised (upset), the new bid becomes the current offer;
6. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
7. When the bid has been successfully raised (upset), the procedure is repeated;
8. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
9. Should the Board of County Commissioners accept the final qualifying offer, a general warranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on December 11, 2006.

/s/ Vonda Sessoms
Clerk, Board of Commissioners

Consent Agenda Item No. f. Offer to Purchase County Surplus Properties (pursue the upset bid process for the sale of 2300 Fitzgerald Street, 800 Olive Branch Road, 2800 Sater Street, and 134 & 134½ Hillside Avenue; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process).

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in Durham County, North Carolina and properly described as follows:

2300 Fitzgerald Street
PIN #0820-08-78-9021
Parcel ID #116096

WHEREAS, Ms. Deedgra Lucas and Ms. Yasmin M. Fozard have made an offer to the County to purchase the above property for \$4,400 and has made a bid deposit in the amount of \$220 which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

10. Publication of the Notice of Sale;
11. Upset bids must be received within ten days after the date the notice is published;
12. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
13. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
14. When the bid has been successfully raised (upset), the new bid becomes the current offer;
15. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
16. When the bid has been successfully raised (upset), the procedure is repeated;
17. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
18. Should the Board of County Commissioners accept the final qualifying offer, a general warranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on December 11, 2006.

/s/ Vonda Sessoms
Clerk, Board of Commissioners

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in Durham County, North Carolina and properly described as follows:

800 Olive Branch Road
PIN #0860-03-44-2954

Parcel ID #193421

WHEREAS, Chad Perry has made an offer to the County to purchase the above property for \$21,000 and has made a bid deposit in the amount of \$1,050 which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

19. Publication of the Notice of Sale;
20. Upset bids must be received within ten days after the date the notice is published;
21. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
22. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
23. When the bid has been successfully raised (upset), the new bid becomes the current offer;
24. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
25. When the bid has been successfully raised (upset), the procedure is repeated;
26. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
27. Should the Board of County Commissioners accept the final qualifying offer, a general warranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on December 11, 2006.

/s/ Vonda Sessoms
Clerk, Board of Commissioners

Consent Agenda Item No. 1. Approval of the Revised Memorandum of Agreement for the US 15-501 Transit Corridor.

MEMORANDUM OF AGREEMENT
Regarding
THE US 15-501 TRANSIT CORRIDOR
Among

TOWN OF CHAPEL HILL, CITY OF DURHAM, COUNTY OF DURHAM, AND THE
DURHAM-CHAPEL HILL-
CARRBORO METROPOLITAN PLANNING ORGANIZATION

WHEREAS, the Durham-Chapel Hill-Carrboro Metropolitan Planning Organization (DCHC MPO) was created in 1994 through a Memorandum of Understanding signed by the Town of Chapel Hill, the City of Durham, the County of Durham (herein, the “local government parties”), other member governments in the region, and the State of North Carolina, through the Governor and Department of Transportation;

WHEREAS, the DCHC MPO, under the authority of federal and state law, and the 1994 Memorandum of Understanding, is recognized as the body responsible for coordinating transportation planning in the Planning Area defined by the Metropolitan Area Boundary (MAB) of the Durham-Chapel Hill-Carrboro Urban Area Metropolitan Planning Organization and the North Carolina Department of Transportation (NCDOT), and the MAB includes all of Durham County and portions of Orange County and Chatham County; and

WHEREAS, the Transportation Advisory Committee (“TAC”), created by the 1994 Memorandum of Understanding, is the duly recognized transportation decision-making body of the DCHC MPO, as required by 23 CFR Part 134; and

WHEREAS, the TAC consists of elected officials of member governments in the DCHC Planning Area, including the local government parties, and a representative of the North Carolina Board of Transportation; and

WHEREAS, the purpose of the TCC (Technical Coordinating Committee) of the DCHC MPO is to provide guidance on matters that encompass multiple jurisdictions and technical fields, facilitate coordination among the policy boards of the agencies represented in the TAC, and make recommendations to the TAC; and

WHEREAS, the Memorandum of Understanding states that:

- “Transportation policy decisions within the Planning Area are the shared responsibility of the Transportation Advisory Committee... and participating governments.”
- “The continuing transportation planning process will be a cooperative one, and all planning discussions will be reflective and responsive to... the comprehensive plans for growth and development of the Municipalities of Durham, Chapel Hill, Carrboro, and Hillsborough; and the Counties of Durham, Orange, and Chatham.”
- “The subscribing local governments shall coordinate zoning and subdivision approvals within its jurisdiction in accordance with the adopted Comprehensive Transportation Plan and mutually adopted Thoroughfare Plan.” and

WHEREAS, the DCHC MPO has adopted a Comprehensive Transportation Plan, called the Long Range Transportation Plan (LRTP), and, in addition, has adopted as part of that plan the US 15-501 Transit Corridor Plan; and

WHEREAS, the following studies have established and directly addressed the status of the US 15-501 Transit Corridor:

1. The “US 15-501 Major Investment Study, Phase I Report (Draft),” prepared by HNTB North Carolina, P.C., was completed on August 6, 1998;

2. The "US 15-501 Major Investment Study, Phase II Report," prepared by HNTB North Carolina, P.C., was completed in December 2001;
3. In 2003, concerned that the right-of-way preservation and land use occurring in the US 15-501 transit corridor might be detrimental to future transit development, the DCHC MPO requested that the Triangle Transit Authority (TTA) conduct a follow-up study of the status of the corridor and make recommendations, as appropriate;
4. This follow-up study made the following recommendations to the DCHC MPO for preserving right-of-way and land use in the US 15-501 transit corridor:
 - Evaluate alternatives and choose a preferred alignment through Southwest Durham;
 - Local and regional authorities adopt the alignment;
 - Analyze land use in and near the transit corridor;
 - Require cost, community/environmental, ridership and operational analysis of any future alignment changes; and,
 - Request that the Triangle Transit Authority (TTA) facilitate a strategy for transit service implementation in the corridor consistent with the memorandum of agreement between the TTA and DCHC MPO;

WHEREAS, the "US 15-501 Major Investment Study (MIS)" established an alignment for the transit corridor; and

WHEREAS, since the initial establishment of the US 15-501 Corridor Alignment, three modifications have been made to, or recommended for, the US 15-501 Corridor Alignment by action of one or more of the local government parties and/or the TAC, which modifications are depicted on the attached map:

1. The modified alignment near the former South Square Mall in the City of Durham;
2. A modified alignment near Glenwood Elementary School in Chapel Hill; and,
3. A modified alignment through Southwest Durham, moving the alignment away from Creekside Elementary School in the County of Durham, and closer to I-40, as recommended by the US 15-501 Corridor Alignment Analysis, and adopted by the TAC.

WHEREAS, it is important for the local government parties affected by the US 15-501 Corridor Alignment to establish clearer understandings and procedures regarding the above issues, and to affirm their general support for using land use policies and regulations within their jurisdictions in support of the adopted Comprehensive Transportation Plan, including the US 15-501 Corridor Alignment;

NOW THEREFORE, in consideration of the above premises and the common objective of planning for and implementing a high quality transit corridor between the City of Durham and Town of Chapel Hill, the parties hereto agree to the following:

A. Supportive Land Uses

The parties shall seek right-of-way dedication for the US 15-501 Corridor Alignment, rather than reservation, where possible, through their development review process, consistent with applicable ordinances of each jurisdiction and constitutional constraints. In addition, the parties shall use the provisions of their comprehensive plans and development ordinances to provide opportunities for high densities and mixed uses, and transit supportive design in proximity to planned station locations along the US 15-501 Corridor Alignment.

In particular, the parties to this Agreement will consider means of encouraging development in proximity to the US 15-501 Transit Corridor and stations, through local zoning and development ordinances, consistent with the guidelines set forth in the document "Station Area Development Guidelines for the Regional Transit Stations" (Triangle Transit Authority, December 1997). It should be noted that the Guidelines state:

"As individual local governments prepare plans for their regional transit station areas, they will select and refine the elements most appropriate for each station area and they will determine the extent to which these elements may be encouraged, discouraged, avoided or required."

B. Require Analysis of Proposed Major Changes to Alignment

The parties agree to consider adoption of ordinance revisions that will require that any development application proposing a major change in the adopted US 15-501 Corridor Alignment shall first require consideration and recommendation by the TAC as the official decision-making body of the DCHC MPO.

The parties understand that requirements for studies and analysis may be imposed by the DCHC MPO on parties seeking to make a Major Change, which requirements may include: 1) an analysis that meets or exceeds the technical level of corridor analysis in the current, or subsequently amended, "Chapel Hill-Durham Transit Corridor: Southwest Durham Alignment Evaluation" and that includes the impacts identified below; 2) preparation of such analysis in consultation with the DCHC MPO technical staff and compliance with current guidelines prepared by the staff; 3) review of any such analysis by the DCHC MPO staff.; and 4) addressing the impacts below in such analysis:

1. Cost – capital costs for building alignment and stations, and vehicle operations costs (developed in consultation with TTA); and,
2. Environmental – extent of negative environmental impacts including wetlands and stream crossings; and,
3. Community – extent of negative impacts including residential and business relocations, and street crossings; and,
4. Land Use Plans – consistency of existing and future land use and development with comprehensive plans, and,
5. Transportation Plans – consistency with local and regional transportation plans, including the Long Range Transportation Plan of the DCHC MPO; and,
6. Ridership – potential ridership estimates from TTA, based on housing and employment projections within one-quarter and one-half mile of proposed stations; and

7. Operations – feasibility of operations, and service quality impacts (developed in consultation with TTA).

C. Determination of Major Change

The parties agree to consider adoption of ordinance changes that defer to the Technical Coordinating Committee (TCC) of the DCHC MPO the determination of whether or not a proposed change in the US 15-501 Transit Corridor constitutes a Major Change, and as a result, makes the proposed development action susceptible to the analysis, notification, deferral and TAC comments stipulations in Part B and Part D. The TCC shall consider the following criteria in making a determination:

1. The distance the corridor is to be moved;
2. Likely impacts on capital and operational costs and service quality;
3. Likely changes in the physical and social environmental impacts;
4. Whether a station location is to be changed, and the likely ridership and design constraint impacts;
5. Proximity of the proposed corridor and station location to other transportation facilities; and,
6. Whether the change impacts the corridor or station location on adjacent parcels and sites.

D. Recommendations by the TAC

The parties agree to consider adoption of ordinance changes that:

1. Notification -- Require timely notification to the TAC of all proposed actions on development that would constitute a change to the US 15-501 Corridor Alignment, whether major or minor; and,
2. Deferral -- Require or allow deferral of approval of zoning, site plan and other development cases in which analysis of a major change is required under Paragraph B of this Agreement, until the Transportation Advisory Committee (TAC) of the DCHC MPO has had adequate time to review and comment on the analysis and make a recommendation on the proposed change. The TAC agrees to complete its review in an expeditious and timely fashion, upon submission of the required analysis by the applicants proposing the major change and to make a recommendation on the proposed major change; and,
3. Receive Comments – Require each local government party to include the TAC comments and supporting materials that have been submitted in materials going to the decision-making body of the local government.

E. Action Subsequent to TAC Recommendation

In the event that the TAC recommends approval of the proposed major change to the US 15-501 Corridor Alignment, and the local government party approves the land use decision embodying such change, the parties agree that the change may be included in the US 15-501 Corridor Alignment and the Comprehensive Transportation Plan without further action by the TAC.

F. Information from Local Government Parties

Upon request by the TAC, the local government parties will furnish timely information to the TAC regarding current and proposed land use development and decisions that affect the US 15-501 Corridor Alignment. Such information shall include but not be

limited to: copies of development approvals for development in proximity to the Corridor; relevant policies in plans adopted by the party, such as comprehensive plans; development actions that result in changes that do not constitute “major changes” under this MOU; relevant ordinance requirements that serve to further this MOU or the protection of the Corridor; and identification of land that has been protected through reservation or dedication for the Corridor.

G. Local Government Legislative Discretion.

Nothing in this MOA shall be construed to limit or impair the authority of the governing bodies of the local government parties from exercising or performing any legislative or governmental powers or functions pursuant to applicable law, or to bind the future legislative or governmental discretion of such governing bodies.

H. Additional Conditions of Agreement:

This Memorandum of Agreement:

1. Shall become effective when signed by all the parties and shall continue in force until terminated by any party;
2. May be terminated thirty (30) days after written notification by any party;
3. May be amended by mutual consent of the parties, which consent shall not be unreasonably withheld;
4. Shall be in addition to any specific agreements between the parties presently in place establishing specific practices for planning and implementing the US 15-501 Transit Corridor;
5. Shall not require any party to implement a practice or policy that is not in compliance with local ordinances or State statutes.

NOW, THEREFORE, BE IT RESOLVED that this Agreement is hereby formally approved by the City/Town Council of the City of Durham and Town of Chapel Hill, the Board of County Commissioners of Durham County, the Board of Directors of the Triangle Transit Authority, and the Mayor/Board Chairs and Clerk of these municipalities and county are hereby empowered to sign and execute the Agreement among these parties.

DURHAM-CHAPEL HILL-CARRBORO METROPOLITAN PLANNING ORGANIZATION (DCHC MPO)

Consent Agenda Item Removed for Discussion

Consent Agenda Item No. k. Execution of Professional Service Agreement with O'Brien/Atkins Associates, P.A for the Jail Bed Needs Assessment Study at the Durham County Detention Facility (authorize the execution of a contract for \$58,600 plus additional services and reimbursable expenses estimated at \$1,500, for a combined total of \$60,100).

Vice-Chairman Heron requested the removal of this item.

County Manager Mike Ruffin responded to a question posed by Vice-Chairman Heron. He stated that less than \$20,000 was spent three years ago to look at how the current jail facility was being operated in terms of efficiencies. Several recommendations were implemented as

a result of the study, including a major initiative that all detention officers would be trained in the area of indirect supervision. This consent agenda item is a planning study involving an architectural evaluation to determine if additional space is needed to house inmates. The capacity level of approximately 735 inmates is close to being reached in the Detention Facility.

Vice-Chairman Heron expressed that the results from the study done three years ago should be reviewed to ascertain that efficiencies and operations were put into place.

County Manager Ruffin stated that he would follow up on Vice-Chairman Heron's concern and send a relevant memo regarding implementation of the study's recommendations.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve consent agenda item No. k.

The motion carried unanimously.

Public Hearing—Zoning Map Change—Fayetteville Road Assemblage (Z05-41)

Steve Medlin, Assistant Planning Director, City-County Planning Department, stated that the Board is being requested to approve a zoning map change for a 144.72-acre site located on the east side of Fayetteville Road and north of Scott King Road. The applicant is proposing to construct 286 homes on this site. This item was continued from the November 27, 2006 Commissioner meeting to allow the applicant to meet with adjacent property owners to listen to and potentially address their concerns. This case has a valid protest petition (validated November 7, 2006). The applicant has submitted additional proffered elements, which have been evaluated by the Planning Department. The determination was made that the elements are in the correct form to be accepted. The revisions were sent to the Board via email on Friday, December 8. The revisions basically are: revisions to the buffering standards, lot size thresholds, indicating that grading will be done at a minimum of at least four phases, and that tree coverage will be provided via tree preservation areas. PINs 0717-02-55-7412, 0717-02-65-5887, 0717-02-66-8774, -6354, 0717-02-67-8912, -7189, 0717-02-75-4622, -1252, 0717-02-77-1635. Request: RR to PDR 2.000.

Vice-Chairman Heron inquired about the policy on accepting committed elements.

Mr. Medlin replied that committed elements must be submitted by the applicant prior to the public hearing and in sufficient time to be evaluated by staff to ascertain that they are in correct format to be enforced. Mr. Medlin informed Vice-Chairman Heron that Planning Director Frank Duke was ill and was unable to attend tonight's meeting.

Vice-Chairman Heron expressed concern that, in her opinion, the committed elements had been received at the last minute. On Wednesday, December 6, she had understood from Mr. Duke that the item would be delayed if the committed elements were not received by the Planning Department within the next few hours; nonetheless, the committed elements were not delivered to the Commissioners until Friday.

Mr. Medlin informed Vice-Chairman Heron that the committed elements were received on Wednesday (the established deadline); however, the Planning Director had to evaluate the elements before forwarding copies to the Commissioners.

Vice-Chairman Heron continued to express concern about the process whereby Commissioners are informed of revisions on Friday prior to the Monday night meeting.

Mr. Medlin informed Commissioner Page that a copy of the protest petition was attached to the staff report.

Vice-Chairman Heron also expressed concern that the Commissioners were not informed of the protest petition, which was filed in October, until the November 27 meeting.

Chairman Reckhow stated that the protest petition was dated October 27.

Mr. Medlin stated that, at the direction of the Joint City-County Planning Committee, the Planning Director has been coordinating with the City and County Managers and the Clerk's Office to work out a uniform process to make sure notification of protest petitions is accomplished.

Vice-Chairman Heron requested that County Manager Ruffin speak to the process.

Mr. Ruffin stated that the procedure for the protest petition is stated in the UDO. He summarized that (1) the protest petition (form) is available from the Planning Director or the City Clerk; (2) the completed petitions are submitted to the appropriate Clerk's Office at least four working days prior to the day of the public hearing; however, in this particular case, that did not happen; County staff was not advised of the filed and validated protest petition until the night of the meeting; (3) the Planning Director or his designee, in consultation with the County Attorney's office for the jurisdiction, shall determine if the petition meets the criteria for classification of valid protest petition. Once that determination is made, the Clerk informs the governing body that a petition has been filed and indicates the determination by the Planning Director or his designee whether the petition is valid or invalid. The Planning Director shall then notify the petitioner regarding the validity thereof; (4) where there is a substantial modification to a zoning map change that requires resubmission to the Planning Commission, the Planning Director shall notify the petitioner in writing that a new protest petition is required; and (5) petitions for a zoning map change in which a protest petition has been filed requires a 3/4-vote of the governing body for approval rather than a simple majority.

Mr. Medlin stated that the Planning Department did notify the Clerk's Office on November 7 of a valid protest petition in accordance with UDO standards.

Discussion ensued between Chairman Reckhow, Vice-Chairman Heron, and Mr. Medlin regarding the protest petition. Vice-Chairman Heron stated that the Clerk informed her that Clerk's Office did not receive the protest petition sent by the Planning Department on November 7.

Commissioner Cheek interjected that a procedural problem exists and should be resolved at a later time. The Board should move on and address the issue at hand.

Chairman Reckhow directed that a protocol be established so that the notification issue does not arise in the future.

Vice-Chairman Heron recommended that a policy be set so that every applicant is treated fairly.

Chairman Reckhow responded that the Board did not follow its policy when the motion was made at the November 27 meeting to allow for a two-week deferral as opposed to a four-week deferral. The intent of the motion was so the applicant would not be penalized by delaying the item until the January 9 meeting (as the second meeting in December was cancelled). Following the guidelines requires that items be deferred for two cycles (four weeks) to allow the applicants adequate time to meet with neighbors and submit the committed elements a full week prior to Commissioner meetings.

Chairman Reckhow stated that the public hearing was continued from the last meeting. She recognized the signed speakers.

Ken Spaulding, 2530 Meridian Parkway, Durham, NC 27713, representing the applicant, thanked the Commissioners for their wisdom and impetus regarding the additional meeting with the residents. He also thanked the Thomsons for working with him to help resolve most of the issues. He mentioned that the Thomsons have stated their intention to withdraw their protest petition concerning this particular rezoning.

At the request of Chairman Reckhow, Mr. Spaulding read the revised committed elements and reviewed the changes. The committed elements follow:

1. On portion of property east of Southwest Creek a maximum of 60 C.O. can be granted prior to a second access point being added.
2. Provide a 30 foot buffer with 60% opacity per Durham's UDO along the southern property line between Fayetteville Road and the proposed street stub to the parcel identified as 0717-04-64-1613. Vegetation will be added to existing wooded areas where required to meet the 60% opacity requirement. The supplemental plantings, where required, will be planted prior to the issuance for the first certificate of occupancy for any homes located on lots backing up to this buffer.
3. Provide a minimum 25 foot undisturbed buffer behind lot 19, east of boundary line identified as N32d35'27"E, 20.00' and at the rear of lots 21-30 that abut American Tobacco Trail.
4. Minimum lot size of homes along the southern property line between Fayetteville Road and the proposed street stub to the parcel identified as 0717-04-64-1613 shall be a minimum of 13,500 square feet with all lots along this property line located east of Fayetteville Road to Southwest Creek being at least 17,000 square feet, except for two lots that may be as small as 13,500 square feet.
5. A 100-foot greenway easement measured from the centerline of the stream will be located along the western bank of Southwest Creek. This will be recorded at the time of the final plat approval.

6. A 20 foot wide trail easement will connect to the proposed 100' foot greenway easement along Southwest Creek in the general vicinity of Lot 31 subject to the approval of the city. This will be recorded at the time of final plat approval.
7. Provide a 6 foot wide unpaved trail along the proposed north/south sanitary sewer easement from the American Tobacco trail south to the southern most east/west road subject to the approval of encroachment by the City. The trail shall be completed prior to the final Certificate of Occupancy of the 100th home.
8. Provide a 6 foot wide unpaved trail within the existing gas easement from the trail in the north/south sanitary sewer easement west to the proposed public right-of-way adjacent to the amenity area subject to approval of encroachment by the gas company. Trail shall be completed prior to the final certificate of occupancy of the 100th home.
9. Provide a 20 foot wide access easement with a 6 foot wide trail connection at grade to the American Tobacco Trail provided the NCDOT approves the connection. This trail shall be located in the vicinity of Lot 24 and shall be completed prior to the first certificate of occupancy of an adjacent lot.
10. Provide timber steps from the north/south sanitary sewer easement to American Tobacco Trail provided the NCDOT approves the connection. Steps shall be installed prior to the certificate of occupancy of the 100th home.
11. Provide a multi-purpose court and tot lot containing swings, climbing apparatus, benches, and picnic tables at the amenity area. The amenity area shall be completed prior to the issuance of the certificate of occupancy of the 100th home.
12. Dedicate 40 foot access easement to parcel identified as 0717-02-66-0641.
13. Provide erosion and sediment controls during construction that are consistent with the practices proposed for the updated N.C. State Design Manual using baffles and/or skimmers to increase sediment-trapping efficiency.
14. Dedicate 25 feet of additional right-of-way along Fayetteville Road for the project frontage.
15. Southbound left-turn lanes and northbound right-turn lanes will be provided at proposed street connections to Fayetteville Road.
16. Developer shall provide \$500.00 per dwelling unit at the time of each Certificate of Occupancy as a donation to the Durham Public School system.
17. The developer shall provide a bus stop as approved by DATA if public transportation is provided by DATA during the life of the construction of the project prior to final certificate of occupancy.
18. The maximum number of lots shall be 286, with all lots except those located on the southern property line, as specified in Committed Element #4 above, being at least 8,000 square feet in area. A minimum 50% of single-family lots developed shall be 12,000 square feet and larger and a minimum 70% of the single-family lots developed shall be 10,000 square feet and larger.
19. Grading shall be done in a minimum of four phases to be defined at the time of site plan submittal.
20. All tree coverage shall be provided through tree preservation.

Mr. Medlin informed the Board that committed element No. 13 is no longer required of the applicant because it is now a State requirement.

Judy Thomson, 8321 Fayetteville Road, Durham, NC 27713, affirmed the comments of Mr. Spaulding by stating that much time and effort was spent working with Toll Brothers and their representatives on this project. "It was definitely a collaborative effort." She expressed her opinion that the development is too dense for this area of the county but was pleased with the compromises. (She presented signed, notarized copies of the rescinded protest petition.) Ms. Thomson stated she would be happy to attend a worksession to discuss the protest petition policy. The protest petition procedure and rescinding needs to be clearly defined and made available on the County's website, in the Planning Department, and perhaps at a place of public interest such as the Durham Library for people without computer access.

Chairman Reckhow suggested that Ms. Thomson send an email to the Commissioners with her recommended changes. The item would be placed on a future Joint City-County Planning Committee agenda. Someone would contact Ms. Thomson to inform her of the date and time of the meeting.

Per a question by Chairman Reckhow, Mr. Medlin responded that the protest petition is still valid since the signature of Ms. Fadine Harris has not formally been rescinded. Pursuant to the information in the agenda package, Ms. Harris meets the threshold of 20% or more of the area of the lots.

Chairman Reckhow replied to a question by Commissioner Page by stating that the Board may legally move forward with the zoning map change, although Ms. Harris has not formally removed her name from the protest petition; however, approval requires a super-majority vote of four or five commissioners; it would not pass with a simple majority vote.

Ms. Thomson stated that she spoke with Ms. Harris, who agreed via telephone to rescind her protest. Ms. Thomson relayed this information to Toll Brothers, but they apparently did not send a notary to Ms. Harris' home as Ms. Thomson had suggested (due to Ms. Harris' illness).

Commissioner Page remarked that the Commissioners have a responsibility to consider a protest petition as being very serious. He expressed concern that Ms. Harris had not rescinded in writing.

Mr. Spaulding conveyed that his client did attempt to have someone go to Ms. Harris' home to obtain a notarized copy of her rescinding the petition; however, it was not accomplished. He respectfully requested that the Commissioners take the Thomsons at their word that Ms. Harris had stated in a direct conversation that she would rescind the petition. He also requested approval of the zoning map change, because the item was scheduled to go before the City Council next Monday for annexation.

Commissioner Page stated that he would support this item; however, he still had some reservations because Ms. Harris was unable to come to the meeting to communicate her concerns.

Chairman Reckhow closed the public hearing and placed the matter back before the Board.

Commissioner Cheek moved, seconded by Commissioner Page, to approve Zoning Map Change—Fayetteville Road Assemblage (Z05-41) with the addition of the committed elements as presented this evening.

The motion carried unanimously.

Chairman Reckhow thanked the developers and their representatives for working with the neighbors and achieving a satisfactory solution.

Public Hearing—Amend the 2002 CDBG Scattered Site Housing Program Grant and Approve Capital Project Ordinance Amendment No. 07CPA000006 to Increase the CDBG Housing Loan Project from \$400,000 to \$576,941

Wendell Davis, Deputy County Manager, requested that the Board hold a public hearing and approve an amendment to the 2002 CDBG Scattered Site Housing Program Grant in the amount of \$176,940.73. The purpose of the amendment is to close out the 2002 grant project. The Board is also requested to approve Capital Project Amendment No. 07CPA000006 to increase the CDBG Scattered Site Housing Program from \$400,000 to \$576,941.

Mr. Davis replied to questions by Commissioner Page by stating that this item is to close out the 2002 program. The 2005 program will be presented within the next several weeks to begin the process for the new applicants; advertisements will be placed in the newspapers. There is a current waiting list of 70+ people.

Chairman Reckhow opened the public hearing. As no one signed up to speak, she closed the public hearing, stating that the matter is back before the Board.

Commissioner Cheek moved, seconded by Commissioner Page, to approve the amendment to the 2002 CDBG Scattered Site Housing Program, and approve Capital Project Ordinance Amendment No. 07CPA000006.

The motion carried unanimously.

The Capital Project Ordinance Amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Capital Project Ordinance
Amendment No. 07CPA000006

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 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>
CDBG Housing Loan	\$400,000	\$176,941	\$576,941

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

This the 11th day of December, 2006.

2007 Durham County Legislative Agenda

Chairman Reckhow introduced this item by stating that on Monday, December 4, at the Board's Worksession, staff presented a draft listing of proposed legislative agenda items which the Board discussed extensively and considered for inclusion in its final 2007 Durham County Legislative Agenda. The goal is to prepare a tight package of legislative items that can be aggressively supported by members of the Durham Delegation. Following directions to staff, the agenda has been prepared for the Board's approval. Assistant County Manager Deborah Craig-Ray has done a good job putting the items in categories, emphasizing the priorities in boldfaced print, and including rationale statements. Chairman Reckhow stated that the Board appreciates all of her work.

Chairman Reckhow read the following resolution for the public record:

RESOLUTION REQUESTING AN INCREASE IN THE COMPULSORY SCHOOL ATTENDANCE AGE

WHEREAS, currently the compulsory school attendance requirements in North Carolina, N.C.G.S. § 115C-378, includes those children ages seven through sixteen years of age, and

WHEREAS, the predecessor statute to N.C.G.S. § 115C-378 was enacted in 1955; and

WHEREAS, for every 100 ninth-graders in North Carolina, only 60 graduate from high school within four years; and

WHEREAS, changing the years of age which children should be required to attend school to ages seven through eighteen would ensure that most students would complete the secondary education process and obtain a high school diploma; and

WHEREAS, dropouts earn 60% less than high school graduates, use drugs twice as frequently as high school graduates, are 50% more likely to be on welfare than graduates, and 80% of prison inmates are high school dropouts; and

WHEREAS, twenty-six states have higher compulsory school attendance age requirements including the states abutting North Carolina – Tennessee, Virginia, and South Carolina; and

WHEREAS, the High School Completion Plan for Durham: Dropout Prevention, Intervention, and Student Recovery includes an Action Step to advocate that the State review and raise the compulsory attendance age.

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

The Legislative Delegation representing the citizens of the County of Durham are called upon to introduce legislation to increase the compulsory school attendance age to 17 in school year 2008-2009, and to further increase the compulsory school attendance age to 18 or graduation in school year 2010-2011.

This the 11th day of December, 2006.

Teste: A true copy.

/s/ Vonda Sessoms
Clerk to the Board

Chairman Reckhow requested a motion to adopt the resolution.

Commissioner Cousin moved, seconded by Vice-Chairman Heron, to adopt the Resolution Requesting an Increase in the Compulsory School Attendance Age.

The motion carried unanimously.

Chairman Reckhow expressed a desire to “get an airing of this idea and perhaps a study commission formed. We have discussed this with the Schools’ Superintendent; he suggested phasing it in over a period of time so we can do it in a planned manner and bring programs on board that will keep the interests of these young people. The dropout prevention plan referenced in the resolution does call for the Commissioners to seek this authority in this year so this is implementing an action step in this plan. This is an issue of very grave concern. Our graduation rate in North Carolina is 10% less than the nationwide rate, which is still low, in my opinion, but it is 70% nationwide. Unfortunately, the estimate for Durham is even less than the statewide average of 60%; it’s estimated to be about 57% in Durham. We really have a lot of room for improvement, and I hope that this proposal gets some traction in the General Assembly.”

Chairman Reckhow referenced the proclamation requesting that the costs associated with repairs to I-40 between NC 147 and US 15-501 be exempted from the State’s Equity Formula. “This is also a very important initiative because this road construction originally cost \$44.8 million. If the repairs are paid for by the dollars coming to this area, another \$18.6 million will be expended to basically redo what has already been paid for. Very good discussions have taken place with Ken Spaulding who is taking a very strong position on this matter.’

Vice-Chairman Heron stated that a meeting had taken place this morning regarding this issue. If Durham did not have strong representation on the NCDOT Board through Ken Spaulding, Durham would get “stuck” with a portion of the repair costs, which would take money away from the Transportation Improvement Program.

Ms. Craig-Ray stated that it appears that the State Earned Income Tax Credit has very good support.

Chairman Reckhow interjected that she received an email late this afternoon from Lt. Governor Beverly Purdue who also is in favor of the State Earned Income Tax Credit.

Chairman Reckhow called signed speaker Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, forward for comments regarding the Legislative Agenda.

Chairman Reckhow responded to Ms. Peterson's comments by stating that the Commissioners should place an increase in the court cost fees in the support items, because if the County receives additional money to dedicate to capital, it would free up money to expand re-entry programs. Related to the prepared food tax, it seems that workforce training is not limiting and could be broad enough to include our re-entry program to get people into the hospitality industry. There is no specificity on how that money would be used.

Ms. Peterson interrupted by stating that a felon cannot be in the sales and services industry.

Commissioner Cheek stated that the County needs additional revenue from whatever source it can be obtained. "To the extent that the County can obtain additional revenue and it is dedicated to be used in certain places, also frees up money that otherwise would be used in those places that we can then take and use in other places, like the ones that Ms. Peterson is referring to. While in looking at the prepared food tax, it does carry with it some designated places where it can go. I think it would be remiss if we didn't keep in mind that what it also does is to free up other revenue that we could use for other purposes in unrestricted sorts of ways. For me, it doesn't really matter what the mix is and where it comes from, whether it is this pot or that pot or some other pot, the most important part of it is, let's generate the revenue so that we've got a bigger pot."

Vice-Chairman Heron asked if Work First monies could be used for training of persons coming out of prison.

Chairman Reckhow stated that Work First is a Social Services program where people are being moved into the workforce and off of welfare. She added that Social Services funds a person at the Chamber of Commerce who works directly on jobs for two areas—re-entry and Work First.

Vice-Chairman Heron suggested that the Board be kept informed about the expenditure of Work First money.

Commissioner Page opined that the Criminal Justice Resource Center plays a role in re-entry and is another entity that should be involved.

Ms. Craig-Ray stated that the Criminal Justice Resource Center receives re-entry funds from the Federal Government.

Vice-Chairman Heron suggested that the funds could be better utilized through coordination of services.

Commissioner Cousin recommended that at a worksession, the Board should look at the problems that face persons who are re-entering society from prison.

Vice-Chairman Heron agreed with the comments of Commissioner Cousin.

County Manager Ruffin stated that Commissioner Cousin's request would be placed on a January or February Worksession Agenda.

Chairman Reckhow stated that the Board will work actively with the School System and the City on the Compulsory School Attendance Age, which the City has tentatively endorsed at its worksession and will be taking final action on later. She added that the City has approved the prepared food tax in concept and has agreed to work with the Commissioners on the details. The City has included the Court personnel in its agenda; the County will be working with the City on that. These proposals will be taken to the Chamber of Commerce Governmental Meeting later this week to ask them to endorse these issues. Chairman Reckhow conveyed that she and Ms. Craig-Ray would be working with partner agencies. She also received interest from citizens to help as it relates to the Court needs and the prepared food tax. A strong effort will be made.

Commissioner Page asked whether Ms. Peterson's request would be addressed.

Chairman Reckhow responded that Ms. Craig-Ray will add one more item to the Association's list of proposals—to support an increase in court fees.

Chairman Reckhow explained to Commissioner Page that the hospitality training referred to by Ms. Peterson is in the prepared food tax where money will be made available for workforce training. The Workforce Development Board can target programs.

Commissioner Page expressed that many opportunities are available in Durham in the employment field of hospitality. He wished for the Board to pursue this entire arena. "This is a job area where there is a market of available jobs. We really need to keep pushing this."

Chairman Reckhow concurred.

Ms. Craig-Ray stated that the package would be finalized and transmitted to members of the Durham Delegation for the joint meeting with the BOCC and Delegation on January 17 at 8:00 a.m.

Commissioner Cheek moved, seconded by Commissioner Page, to approve the County's 2007 Legislative Package with the additional support item relating to court fees.

The motion carried unanimously.

Chairman Reckhow thanked Ms. Craig-Ray and County Attorney Kitchen for their work on the Legislative package.

Board and Commission Appointments

Commissioner Cheek asked that the Raleigh-Durham Airport Authority appointments be removed and that the vacancies be re-advertised. It had come to his attention that the Board previously adopted a rule or policy that persons will not be appointed to the Authority for more than two terms. One of the two applicants has served two terms; one has served four. Since the rule is in place, an effort must be made by the Commissioners to get persons who would fall within the framework of the rule to apply for and serve in those positions. "Maybe the rules should be re-examined; nonetheless, it is a rule."

Chairman Reckhow informed the Board that copies of the Board's Resolution for Establishment of Policy and Procedures for Appointments to County Boards, Commissions, Committees, or Authorities has been placed at each Commissioner's station with the original appointment date and number of terms served by Airport Authority members. The policy states that no citizen may serve more than three consecutive terms, but the policy may be waived by the Board of County Commissioners. Chairman Reckhow expressed that Commissioner Cheek had raised a good point, given the current situation in terms of an individual already serving four terms.

Commissioner Cheek restated his request that the two positions be re-advertised.

Per a request by Commissioner Page, Mr. Steve Toler (Airport Authority member) stated that he was currently serving his fourth, two-year term.

Commissioner Page inquired about the Board's previous actions regarding citizens who have served multiple terms. "If this rule is followed tonight, it should always be followed."

Commissioner Cheek explained his position about being uncomfortable with moving forward with the appointment. He reiterated his request to re-advertise the Airport Authority positions.

Chairman Reckhow stated that the Board has been more liberal with multiple appointments to the Airport Authority because the terms are for only two years. Also, Mr. Toler was in line for Chairman, which was another rationale for his last appointment; the Board made a conscious decision to go beyond the term limits. The Airport Authority may wish to change its term length, which seems amazingly short.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, that the Raleigh-Durham Airport Authority appointments be removed from the ballot and that the vacancies be re-advertised.

Chairman Reckhow stated that both of the current Airport Authority members have served with distinction; the Commissioners appreciate their service. The communication link from the Authority members has been wonderful. Any discussion by the Commissioners should not be construed as being unthankful to both Authority members for their excellent service. It appears that the Commissioners are simply struggling with their policy and the number of terms reasonable for a citizen to serve.

Commissioner Page stressed that continuity on these Commissioner-appointed boards is imperative. This issue has not been stressed before. Although he voiced respect for Commissioner Cheek's position, he would not vote in favor of Commissioner Cheek's motion. He hoped that future applicant information would include the number of terms those re-applying for positions have served.

Chairman Reckhow stated that, in the future, the Clerk will include, in addition to attendance information, the date of the first appointment and how many terms served.

Commissioner Cheek asked that term limitations specific to particular boards be included in the information package.

Chairman Reckhow asked the Clerk's office to highlight in yellow on the background sheets if an applicant has served three or more terms.

The motion carried with the following vote:

Ayes: Cheek, Heron, and Reckhow
Noes: Cousin and Page
Absent: None

As a point of clarification, Chairman Reckhow explained to Commissioner Page that once the positions are re-advertised, Steve Toler's name would be included on the ballot because he applied. If the Board feels that removal of the individual would be detrimental to the functioning of the board, the Commissioners can waive the policy. However, the policy may not be waived if the removal is prescribed by a statutory rule as to the number of terms a citizen may serve.

Commissioner Cheek requested a worksession agenda item to receive additional information about appointments so the Commissioners can better understand the rules.

Chairman Reckhow informed Commissioner Cheek that the policy resolution was adopted by the Commissioners and can be amended. Not re-appointing Mr. Toler to his last term would have been a detriment to the Authority, as he was ready to assume a leadership role as chairman.

Commissioner Page expressed that the ballots are disappointing because the Board basically does not even have to make appointments; two openings, two applicants; one opening, one applicant. He wished to strongly encourage citizens to apply for vacancies. He was in favor of encouraging persons who are making positive contributions to continue to serve in some capacity. The Board is not receiving a sufficient number of candidates.

Vice-Chairman Heron mentioned the difficulty in filling vacancies where positions are designated.

Chairman Reckhow agreed with Vice-Chairman Heron.

Chairman Reckhow stated that when she speaks with groups, she mentions the Boards and Commissions. She spoke with the Durham Chamber Leadership Group last week and told them that a great way to “get your feet wet” in local government is to serve on one of the County’s boards/commissions.

Angela McIver, Staff Specialist, Clerk to the Board, distributed ballots for the Commissioners to vote on appointments to boards and commissions.

The following appointments were made (incumbents are underlined):

Animal Control Advisory Committee:

Martha A. Traylor (At-large)

Bicycle & Pedestrian Advisory Board:

Scott Carter (Business; Recommended by the JCCPC)

Boxing & Wrestling Commission:

Jeffrey M. Elliot

Walter P. Keay III

Cable TV Advisory Board:

Rev. James Vaughan

Monique Velasquez

Criminal Justice Partnership Act Advisory Committee

Sandie Alger (Substance Abuse)

Deborah Schwartz (At-large)

Environmental Affairs Board:

Joyce Martin (Public Policy; Recommended by JCCPC)

Open Space & Trails Commission:

Glenn Bowles (“Triangle” Township)

Will Wilson (“Lebanon” Township)

Public Health Board:

John Thomas Daniel Jr. (Physician)

Sue E. McLaurin (At-large)

Lorraine S. Saloris-Deane (At-large)

Closed Session

Commissioner Cheek moved, seconded by Commissioner Page, to adjourn to Closed Session to discuss matters relating to the location or expansion of business or industry pursuant to G. S. 143-318.11(a)(4) and to consider the performance 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 review the performance of County Manager Mike Ruffin. The consensus of the Board was that the County Manager has performed admirably this past year; the Commissioners thanked him for his exemplary service to Durham County.

Commissioner Page moved, seconded by Commissioner Cousin, to set County Manager Mike Ruffin's salary effective January 1, 2007 at \$160,650.

The motion carried unanimously.

Adjournment

Chairman Reckhow adjourned the meeting at 10:03 p.m.

Respectfully submitted,

Vonda Sessoms
Clerk to the Board