

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

Monday, September 12, 2011

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 and Brenda A. Howerton

Absent: None

Presider: Chairman Page

Opening of Regular Session— Chairman Page announced that the Board met in Closed Session. No action was taken. He asked everyone to join in the Pledge of Allegiance.

Agenda Adjustments

There were no adjustments.

Announcements

Commissioner Howerton congratulated Chairman Page on receiving his Doctorate degree. The audience applauded the Chair's achievement.

Chairman Page made the following announcements:

- "In Touch with Durham County," the Durham County Television show, airs on Cable TV Channel 8 at 8:30 am and 12 noon on Mondays; and 8:30 am, 12 noon and 6:30 pm on Tuesday – Sundays. Our County Commissioners' meetings are also rebroadcast on Thursdays at 2:00 pm, Saturdays at 9:00 pm, and Sundays at 9:00 pm.
- The City-County Sustainability Office is now accepting applications for the Durham Home Energy Retrofit Program. This program is designed to save qualified homeowners and renters in Durham County energy and money by providing specific energy retrofits to the home, including attic insulation, sealing air ducts, and programmable thermostats. Approximately 200 homes will be accepted on a first-come, first served basis. There is no income requirement, but there is a fee to participate and there are certain restrictions on which types of houses can participate. For more information and to apply, go to

www.greenerdurham.net and click on the link at the top of the page that says “Home Energy Savings Program Applications Now Being Accepted.” Applications are also available through County Engineering and Environmental Services located at 120 E. Parrish St., 1st Floor, Durham, NC 27701 or by calling (919) 560-7999.

- On Monday, September 19, the Durham County Library features award winning artist and author **Kadir Nelson** as he discusses his new book: **Heart and Soul: The Story of America and African-Americans**. The program will be held at Hayti Heritage Center starting at 7:00pm.. Mr. Nelson is a winner of the **Coretta Scott King Illustrator Award** and the **NAACP Image Award**. His painting appears on the cover of Michael Jackson’s last released CD entitled “Michael.”

Commissioner Bowser requested a State investigation of the Board of County Commissioners, DSS Board members, and Director appointed in July regarding the events surrounding the dismissal of the former DSS Director. He specifically asked that the following issues be addressed:

- Look into the relationship between the previous director, the previous DSS Board chair, and the previous DSS Board members as to whether it was a buddy-buddy relationship;
- Any correspondence to or between (including the Board of County Commissioners) and the previous director be looked into;
- The situation that existed with the previous director in that a request was made for funds to be used for a private attorney.

Commissioner Bowser asked the Board to support him in this request.

Chairman Page asked for the Attorney’s advice in how to respond to the request. Attorney Siler recommended that the item be discussed as a regular agenda item. Chairman Page asked the Board whether anyone would be opposed to adding it as an agenda item. Commissioner Bowser opposed adding the item as a regular item.

Commissioner Howerton requested to make a statement. She stated that people probably wondered why her name had not been in the newspaper. She expressed concern about the sequence of events that led to the ouster of Gerri Robinson, the former DSS director. She stressed the importance of not harming the DSS employees or the clients served by the Department. She urged close monitoring of the situation moving forward, with guidance from County administration.

Commissioner Bowser clarified that by State statute, the DSS board governs the DSS department.

Vice Chair Reckhow commented that the DSS board is comprised of five members. Of those five members, only two are appointed by the Board of County Commissioners. Two are

appointed by the State, and one member is appointed by the DSS board. She added that the BOCC does not control the majority of the DSS board.

Vice Chair Reckhow moved, seconded by Commissioner Howerton to add item 14a, to discuss the investigation of DSS, be added to the agenda.

The motion carried unanimously.

Minutes

Vice Chair Reckhow moved, seconded by Commissioner Howerton, to approve the minutes of the August 22, 2011 Regular Session.

The motion carried unanimously.

Proclamation – Family Day

Chairman Page read the following proclamation recognizing September 26, 2011 as a family day to eat dinner with your children:

**Family Day-A Day to Eat Dinner with your Children
Proclamation
Durham County Board of Commissioners**

Durham County, North Carolina

WHEREAS, the use of illegal and prescription drugs and the abuse of alcohol and nicotine constitute the greatest threats to the well-being of America's children;

WHEREAS, 16 years of surveys conducted by The National Center on Addiction and Substance Abuse (CASA) at Columbia University have consistently found that the more often children and teenagers eat dinner with their families the less likely they are to smoke, drink and use illegal drugs;

WHEREAS, frequent family dining is associated with lower rates of teen smoking, drinking, illegal drug use and prescription drug abuse;

WHEREAS, the correlation between frequent family dinners and reduced risk for teen substance abuse is well documented;

WHEREAS, parents who are engaged in their children's lives – through such activities as frequent family dinners – are less likely to have children who abuse substances;

WHEREAS, family dinners have long constituted a substantial pillar of family life in America;

WHEREAS, family meals in which children and parents eat together is now a recommended strategy for childhood obesity prevention:

NOW, THEREFORE, BE IT RESOLVED THAT I, Michael D. Page, Chairman of the Durham County Board of Commissioners, do hereby proclaim Monday, September 26 as

FAMILY DAY – A DAY TO EAT DINNER WITH YOUR CHILDREN™

in Durham County. I urge all citizens in Durham County to make an effort to eat dinner together and to spend quality time with their families by engaging in other wholesome activities that help unite and strengthen the bonds between parents and children.

September 12, 2011

Michael D. Page, Chair
Durham Board of County Commissioners

Ms. Michele Easterling, Nutrition Director with the Public Health Department accepted the proclamation on behalf of Public Health and Mental Health.

Proclamation – Minority Enterprise Development Week

Chairman Page read the following proclamation recognizing October 4-8, 2011 as Minority Enterprise Development Week. Ms. Pamela Gales accepted the proclamation and highlighted events planned for the week.

WHEREAS, it is the policy of the County of Durham that purchasing by the County and contracts with the County be open to all people and be free of discrimination on the basis of race and gender; and

WHEREAS, the Durham County Minority and Women Enterprise Ordinance Section 8-132 provides minorities and women equal opportunity to participate in all aspects of the County's contracting program, including, but not limited to, employment, construction projects, and/or materials and service contracts, consistent with law.

WHEREAS, G.S. 143-128, provides for Good Faith Efforts to be made in an effort to ensure fair participation of minority and women business owners in all County projects.

WHEREAS, it is further the policy of the County to conduct its contracting programs so as to prevent such discrimination, correct present discrimination and to resolve claims of such discrimination.

WHEREAS, the County of Durham is a sponsor of the Minority Enterprise Development Week.

NOW, THEREFORE, BE IT RESOLVED that I, Michael D. Page, Chairman of the Durham County Board of Commissioners, do hereby proclaim that October 4 – October 8, 2010 be recognized as

Minority Enterprise Development Week

This the 12th day of September, 2011.

Michael D. Page, Chairman

**Presentation to BOCC “Ordinary Women Extraordinary Service” Coffee Table Book
Recognizing 100 Years of Family and Consumer Sciences Program**

Ms. Faye Lanier, Chair of Durham County’s Extension Community Association, and Ms. Delphine Sellars, Director of Cooperative Extension, presented books to the Board. Ms. Lanier thanked the Board for their continuing support of Cooperative Extension.

The Board thanked Ms. Lanier and recognized the ladies who were long time members of the Home Demonstration Club—Ms. Betty Evans, Ms. Minnie Bridges, and Ms. Dorothy Williams.

Consent Agenda

Chairman Page asked the Board if there were consent items they wished to pull. No items were pulled by the board or citizens.

Commissioner Howerton moved, seconded by Vice Chair Reckhow, to approve the following consent agenda items:

- a. *Approve Budget Ordinance Amendment No 12BCC000010 to appropriate \$3,900 in funding from the NC Cooperative Extension Service to support Durham County commercial mail;
- b. *Approve Budget Ordinance Amendment No. 12BCC000011 to appropriate \$500 in funding from the NC A&T State University to support Durham Extension Agriculture/Horticulture Program;
- c. *Approve Budget Ordinance Amendment No. 12BCC000012 in the amount of \$55,660 from TJCOG and authorize the County Manager to execute the grant agreement with TJCOG for the purpose of installing electric vehicle charging stations;
- d. *Approve Budget Ordinance Amendment No. 12BCC000013for 2010-2011 encumbrances rollover;
- e. Appoint Vice Chairman Ellen Reckhow as the main delegate to the UNRBA Board of Directors, and appoint Drew Cummings, Assistant County Manager, as alternate;
- f. *Approve the FY2011-2012 Warrant Control Office Interlocal Agreement with the City of Durham;
- g. Appoint Commissioner Brenda Howerton to serve on the Library Board of Trustees;
- h. Approve the receipt of a grant offer in the amount of \$3,419,134 from the Federal Aviation Administration to be utilized at the Raleigh-Durham International Airport;

- i. Approve the execution of a Rental Agreement between Durham County and JRuth, Inc for classroom space within the Criminal Justice Resource Center (CJRC) located at 326 E. Main Street.

The motion carried unanimously.

*Document(s) related to this item follow:

Consent Agenda Item No. a.

**DURHAM COUNTY, NORTH CAROLINA
2011-2012 Budget Ordinance
Amendment No 12BCC000010**

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2011-12 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	\$70,886,862	\$3,900	\$70,890,762

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Economic and Physical Development	\$5,089,301	\$3,900	\$5,093,201

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

This the 12th day of September, 2011.

Consent Agenda Item No. b.

**DURHAM COUNTY, NORTH CAROLINA
FY 2011-12 Budget Ordinance
Amendment No. 12BCC000011**

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2011-12 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	\$70,890,762	\$500	\$70,891,262

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Economic and Physical	\$5,093,201	\$500	\$5,093,701

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

This the 12th of September, 2011.

Consent Agenda Item No. c.

**DURHAM COUNTY, NORTH CAROLINA
 FY 2011-12 Budget Ordinance
 Amendment No. 12BCC000012**

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2011-12 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	\$70,891,262	\$55,660	\$70,946,922

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Environmental Protection	\$3,470,200	\$55,660	\$3,525,860

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

This the 12th of September, 2011.

Consent Agenda Item No. d.

**DURHAM COUNTY, NORTH CAROLINA
 FY 2011-12 Budget Ordinance
 Amendment No. 12BCC000013**

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2011-12 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	\$13,807,666	\$2,532,649	\$16,340,315
<u>RISK MANAGEMENT FUND</u>			

Other Financing Sources	\$0	\$166,923	\$166,923
<u>BENEFITS PLAN FUND</u>			
Other Financing Sources	\$15,543,020	\$53,716	\$15,596,736
<u>SEWER UTILITY FUND</u>			
Other Financing Sources	\$0	\$128,173	\$128,173
<u>Expenditures</u>			
<u>GENERAL FUND</u>			
General Government	\$76,031,615	\$1,059,199	\$77,090,814
Public Safety	\$44,297,922	\$410,306	\$44,708,228
Environmental Protection	\$3,525,860	\$129,294	\$3,655,154
Economic and Physical Development	\$5,093,701	\$77,878	\$5,171,579
Human Services	\$104,530,617	\$766,455	\$105,297,072
Cultural and Recreation	\$10,606,185	\$89,518	\$10,695,703

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

This the 12th of September, 2011.

Consent Agenda Item No. f.

**Interlocal Agreement
 Regarding the Central Warrant Control Office**

This is an Interlocal Cooperation Agreement between the CITY OF DURHAM, a North Carolina municipal corporation (hereinafter "City"), and the COUNTY OF DURHAM, a political subdivision of the State of North Carolina (hereinafter "County") and the SHERIFF OF DURHAM COUNTY, a constitutional office of the State of North Carolina (hereinafter "Sheriff"), collectively referred to as "Parties". This Agreement is made pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes. The Date of the Interlocal Cooperation Agreement is July 1, 2011(hereinafter "Agreement").

WHEREAS, prior to September 2009, warrants were tracked by the City Police Department ("Police"), the Sheriff's Office, and Clerk of the Court and Magistrate's Office through separate, incompatible databases; and

WHEREAS, the incompatible databases, which lacked shared access, created the potential for individuals stopped by one agency to avoid service of warrants which had been taken out for service by the other; and

WHEREAS, by November 2008, there was an estimated 50,000 to 60,000 inactive warrants (those over 180 days since issuance and commonly referred to as "backlog") being stored in cardboard boxes, arranged by case number, in the Magistrate's break room/locker room, with over 9,000 warrants being added to this backlog annually; and

WHEREAS, in order to address the lack of universal awareness of outstanding warrants and to try to reduce the growth of the backlog, in December 2008, the Parties entered into an Interlocal Cooperation Agreement to establish, operate and fund a Central Warrant Control Office which would, among other things, create an electronic repository of all warrants created in and held by Durham County law enforcement agencies, effectively functioning as a one-stop warrant repository; and

WHEREAS, there currently remains an estimated backlog of 21,733 paper warrants housed at the Central Warrant Control Office which have not been verified and converted to NCAWARE or entered into the electronic repository,

and over 2,000 new warrants being electronically generated each month which require entry into the electronic repository and routing to the appropriate law enforcement agency for service; and

WHEREAS, in order to continue entry of warrants into an electronic repository and to ensure the appropriate law enforcement agency is alerted to electronic warrants requiring service within their jurisdiction, the Parties desire to jointly fund staff to continue to manage and operate the Central Warrant Control Office.

NOW THEREFORE, for and in consideration of the mutual covenants contained herein and the mutual benefits to result there from, the parties hereby agree as follows:

SECTION 1. CENTRAL WARRANT CONTROL OFFICE. The County and Sheriff will maintain a Central Warrant Control Office as set forth in this Section 1 (hereinafter the "Warrant Control Office"). The Central Warrant Control Office shall be a secure facility which will house all physical misdemeanor and older felony warrants for both the County and City which have not been entered into NCAWARE and enter all warrants issued in Durham County into the electronic repository. The Warrant Control Office will also function as the communications office for the verification of outstanding warrants for both the Police and Sheriff. Office staff shall have access to two (2) 800 Mhz radios to facilitate such communications. The Warrant Control Office will be staffed with clerks, as set forth below, and available to local law enforcement 24-hours per day, 7-days per week.

SECTION 2. STAFFING.

A. Clerks. The Warrant Control Office shall be staffed with 9 full-time civilian clerks, to include 1 manager to supervise the remaining 8 clerks. The clerks will be hired as needed, and employed, by the Sheriff using appropriate County pay classifications.

B. Work To Be Performed. During the term of this Agreement, the Warrant Control Office staff identified in Section 2. A. above shall complete, at a minimum, the following work per month:

1. **Routing of New Warrants.** Route 100% of electronic warrants received during the reporting period to the appropriate law enforcement agency for service.
2. **Update of Dismissed/Vacated Warrants.** Update 100% of warrants dismissed/vacated by the Durham County District Attorney's Office from the electronic repository and forward the paper copy to the Clerk of Court following receipt of the dismissal/vacation from the Clerk of Court.
3. **Entry of Backlogged Paper Warrants.** Enter an average of 1,250 backlogged paper warrants into the electronic repository following verification by original warrant. A proportionally lower average will be acceptable only if the office is not at full staffing.
4. **Updating of Served Warrants.** Update 100% of warrants served by law enforcement in the electronic repository.

SECTION 3. REPORTING. During the term of this Agreement, by the 15th day of each month, or the next business day following same, the Sheriff shall provide to the City and County Manager's Offices as well as the Chief of Police a report that shall include the following information as it relates to the preceding month:

A. Routing and Entry of New Warrants.

1. Total number of new misdemeanor warrants received/entered;
2. Total number of new misdemeanor warrants routed by the Warrant Control Office clerks to appropriate law enforcement agencies for service;
3. Total number of new felony warrants received/entered;

4. Total number of new felony warrants routed by the Warrant Control Office clerks to appropriate law enforcement agencies for service;

B. Update of Dismissed/Vacated Warrants.

1. Total number of misdemeanor warrants from AOC/NCAWARE dismissed/vacated by the Durham County District Attorney's Office;
2. Total number of misdemeanor warrants dismissed/vacated by the Durham County District Attorney's Office updated by the Warrant Control Office clerks in the electronic repository;
3. Total number of paper misdemeanor warrants dismissed/vacated by the Durham County District Attorney's Office removed by the Warrant Control Office clerks from the paper backlog;

C. Entry of Backlogged Paper Warrants.

1. Total number of felony and misdemeanor warrants from the paper backlog which the Warrant Control Office clerks entered into the electronic repository.
2. Total number of felony and misdemeanor warrants remaining in the paper backlog;

D. Service of Warrants.

1. Total number of felony and misdemeanor warrants (distinguished in report) served by age (less than 30 days, 31 – 180 days, over 180 days), broken down as follows:
 - Total number served by Sheriff Deputies not assigned to the Sheriff's warrant squad;
 - Total number served by Sheriff Deputies assigned to the Sheriff's warrant squad;
 - Total number served by Durham Police Officers not assigned to the Police warrant squad;
 - Total number served by Durham Police Officers assigned to the Police warrant squad;
 - Total number served by other law enforcement officers;
 - Total number served in the Detention Facility;
 - Total number served at the Central Warrant Control Office;
 - Total number served in the Durham County Courthouse;
 - Of the above referenced warrants, total number considered City and total number considered County.

E. Warrant Control Office Staffing

Brief update on staffing levels in Warrant Control Office for the prior month.

F. Warrant Control Office Inquiry Data

Information on the number and sources of inquiries during the prior month at the Warrant Control Office (sources broken down by law enforcement agency, public, other, etc.).

SECTION 4. FUNDING

A. Amounts to be Paid. The City and County agree to share equally in the costs of the staff for the Warrant Control Office and operating expenses identified in Attachment A for the first year and then adjusted for subsequent years to reflect salary and benefits increases afforded to the Warrant Control Office clerks and operating expenses, same to be reflected in amendments to this Agreement. The City shall pay to the County pursuant to this Agreement, for the first year, an amount not exceed \$182,516.00. The City shall reimburse the County monthly upon receipt of an end-of-month report detailing personnel expenses incurred as further described above and below in Section 4A.

The County shall maintain one cost center for the shared costs in its SAP system to include all costs. This cost center should not include County-only budget or costs.

The City shall not be obligated to pay any payments, fees, expenses or compensation other than those authorized by this Section 4.

B. Billings and Payments. By the 15th day of each month, or the next business day following same, the County shall send an invoice to the City for the amounts to be paid pursuant to this Agreement. Each invoice shall have attached to it, at a minimum, the following: records of monthly expenditures from the aforementioned cost center; year-to-date figures from copy of SAP cost center printout; number of Central Warrant Control Office clerks paid pursuant to this Agreement; hours worked in preceding month by each clerk; and such other information as may be reasonably requested by the City. Invoices and attached documentation shall be sent to:

Durham Police Department
Fiscal Division
505 W. Chapel Hill Street
Durham, NC 27701

Contingent upon performance of the work detailed in Section 2.B., satisfactory completion and submission of all reports required by Section 3, and compliance by the Parties of all other duties and obligations that arise out of this Agreement, within 30 days after receipt of the invoice and its supporting documentation, the City shall send the County a check in payment for all undisputed amounts contained in the invoice.

SECTION 5. TERM AND TERMINATION. This Agreement shall be effective as of the date first written above and shall terminate on June 30, 2012 (12 month contract).

SECTION 6. APPOINTMENT OF PERSONNEL. Except to the extent provided otherwise in this Agreement, it is agreed that the City Manager shall designate persons to carry out the City's obligations under this Agreement, the County Manager shall designate persons to carry out the County's obligations under this Agreement, and the Sheriff shall designate persons to carry out the Sheriff's obligations under this Agreement.

SECTION 7. AMENDMENTS. This Agreement may be amended at any time upon mutual written agreement of the Parties. The City Council, Sheriff and County Commissioners shall be the final authority in approving all amendments.

SECTION 8. GOVERNING LAW. This Agreement shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Agreement shall be brought in the General Court of Justice in the County of Durham and the State of North Carolina.

SECTION 9. ENTIRE AGREEMENT and EFFECT ON PREVIOUS AGREEMENTS. The parties hereby terminate all previous agreements relating to the subject matter hereof including the Interlocal Agreement regarding Warrant Control dated July 1, 2010. This Agreement shall constitute the entire understanding between the Parties and shall supersede all prior understandings and agreements relating to the subject matter hereof.

SECTION 10. CONTRACT NOT DIVISIBLE. This Agreement is not divisible. The obligations exchanged by the Parties under each part of this Agreement constitute consideration for each and every part of this Agreement.

SECTION 11. HEADINGS. The subject headings of the paragraphs are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary.

IN WITNESS WHEREOF, the City and County have authorized this Agreement to be executed and attested by their undersigned officers, to be effective from and after the date first written above.

ATTEST:

COUNTY OF DURHAM

V. Michelle Parker-Evans, Clerk to the Board

Michael M. Ruffin, County Manager

By _____

THE SHERIFF of DURHAM COUNTY

Worth L. Hill, Sheriff

ATTEST:

CITY OF DURHAM

Ann D. Gray, City Clerk

Thomas J. Bonfield, City Manager

This instrument has been pre-audited in the manner required
by the Local Government Budget and Fiscal Control Act.

City of Durham Finance Officer

Public Hearing – FY2012 Rural Operating Assistance Program Grant

Chairman Page recognized Meg Scully, Mobility Manager with Cooperative Extension. Ms. Scully requested the Board to hold a public hearing on the FY 12 Rural Operating Assistance Program (ROAP) grant. The grant amounts follow:

Elderly and Disabled Transportation Assistance Program (EDTAP):	\$129,050
Employment Transportation Assistance Program (EMPL):	\$38,473
Rural General Public Program (RGP):	\$51,087
Total ROAP Grant:	\$218,610

Ms. Scully mentioned that this represents a 17.3% decrease to the EDTAP and a 27% decrease to the RGP from FY11 ROAP funding. EMPL realized a 0.05% increase from FY11 to FY12 funding.

Chairman Page opened the public hearing. There were no speakers signed up for the item. The Chair closed the public hearing.

Commissioner Howerton moved, seconded by Vice Chair Reckhow to approve the requested FY 12 ROAP grant.

The motion carried unanimously.

Public Hearing - TFDA Ultiplex (A1000006)

Public Hearing - Zoning Map Change - TFDA Ultiplex (Z1000006)

Chairman Page recognized Patrick Young, Assistant Planning Director. Mr. Young certified that the proper advertising requirements for the public hearings had been satisfied. He requested to present both items related to the Ultiplex at the same time.

Mr. Patrick Young certified that a protest petition had been filed and was deemed to be valid by the Planning Department. The request would require 3 out of 4 affirmative votes to be approved.

The Board was requested to approve the requested change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Low-Medium Density Residential (4-8 DU/Ac.) to Low Density Residential (4 DU/Ac. or Less).

The Board was also requested to approve a request for a zoning map change for a 22.58 acre site located at 207 Riley Drive, located on the west side of Riley Drive south of Hamlin Road from RS-20; F/J-B to RR(D); F/J-B.

Mr. Young indicated that this case was referred back to staff at the April 11, 2011 Board of County Commissioners' meeting. At the May 9, 2011 meeting, the item was deferred to allow the associated zoning case to be referred back to the Planning Commission for further review and recommendation. Two concerns were addressed:

- Reducing the number of playing fields from 8 to 6
- Significantly increasing the buffering provided along the western boundary

Additional commitments included allowing the fields to be used by Durham Public Schools and prohibiting any fixed seating, including bleachers, were added.

The Planning Commission recommended denial of the request; however, the staff recommended approval of the request.

Vice Chair Reckhow spoke about the neighborhood concerns regarding traffic on Riley Road. She asked for clarification about the traffic impact in the current zone vs. the proposed zone. Mr. Young responded that the City Transportation's analysis was used. The Transportation Department felt that three (3) soccer fields would be equivalent to six (6) multiplex fields and that there would be a reduction in traffic from the proposed zoning request.

Riley Road is a very low traffic road and there is no DOT traffic count. The nearest road for purpose of traffic count would be Hamlin Road. There is available capacity on Hamlin Road.

Chairman Page opened the public hearing for both items, but announced that a separate vote would be taken on the items.

Lewis Cheek, Loretta Regan (property owner), and Craigie Sanders spoke as representatives of the applicant. Attorney Cheek, representing Triangle Flying Disc Association, recapped the request made in April. He confirmed that the number of fields had been reduced from 8 to 6. Parking was not reduced. All buffers were increased. Lights were reduced to 50' with no light spillover. He added that the applicant made a good faith effort to look for other viable sites. There will not be parking on Riley Road. DOT would not put up No Parking signs on Riley Road until there was a proven problem. The representatives also held neighborhood meetings to explain the changes and try to ease concerns.

Changes in the text amendment included no public address system; the park would close before 10:00 pm; there would be a maximum of one soccer field; no fixed seating; and use of fields by Durham Public Schools. The project would be phased and not built all at one time. There would be three fields built in the first phase.

Loretta Regan, property owner, spoke. She stated that her family owned the property for more than 60 years. The property had been on the market since 2006. Most of the land will not perk for septic systems. She asked that the Board support the request.

Craigie Sanders spoke about DPS budget cuts. He stated that this project would provide public benefits with private dollars.

Chairman Page recognized the following opponents of the request. The citizens were given three minutes to speak:

- Carolyn Stokes, 233 Riley Drive
- Marie Stokes, 1322 Hamlin Road
- Jeffrey Danford, 271 Riley Drive
- Mary Pope, 224 Riley Drive
- Clyde Pope, 224 Riley Drive
- Rita Danford, 271 Riley Drive
- Teresa Couch, 2931 Franklin Road, Hillsborough NC
- Allen Pope, 1317 Hamlin Road
- Brian Henley, 1406 Hamlin Road
- Jim Stanfield, 33 Fellowship Drive
- Beth Stanfield, 33 Fellowship Drive
- Lorene Johnston, 1317 Thompson Road

The opponents spoke about parking in their yard; using driveways for turnaround; traffic; public safety concerns; noise; and the park being the wrong use for the site.

Chairman Page closed the public hearing.

Chairman Page asked for additional traffic clarifications. Attorney Cheek stated that the traffic would come from Hamlin Road and turn right to the parking lot. Departing traffic would turn left on Hamlin Road. There would be no need for anyone to use a private driveway.

Chairman Page expressed concern about the impacts on the elderly living in the vicinity.

Vice Chair Reckhow asked if the applicant would be willing to build three or four fields and other fields could be built if there was evidence to show sufficient parking.

Attorney Cheek was hesitant to do that because of the inflexibility that it would create. DOT has said they won't put No Parking signs along Riley Road until there was a problem. There may be improvements to Riley Road. He did not wish to lock in without the knowledge of what the future might bring.

Steve Medlin, Planning Director, was concerned that the committed element under discussion was not a committed element that would be legally enforceable. There cannot be a generated note.

Vice Chair Reckhow offered a suggestion for a committed element that prohibited parking along Riley Road. Attorney Cheek affirmed his commitment.

Mr. Medlin stated that there were two issues. If NCDOT placed No Parking signs along Riley Road, that would be enforceable. If the applicant agreed to no parking on Riley Road with a committed element, that would become a zoning violation and would be enforceable.

Attorney Cheek agreed to the committed element regarding parking on Riley Road.

Vice Chair Reckhow also requested that the applicant consider ending activities by 9:30 pm. Attorney Cheek agreed to end play by 9:30 pm and be off site by 10:00 pm. He reported that there would be no interim lighting between the field and the parking lot.

Commissioner Howerton inquired about comparison facilities. Attorney Cheek reported that he did not know of any similar facilities in North Carolina. Attorney Cheek also pointed out that one of the Planning Commissioners who voted in the affirmative the first time, was absent when the vote was taken for the second time.

Chairman Page recognized Mr. Danford. Mr. Danford shared his concerns about a 2000 sq. ft. picnic shelter that would be constructed on the site. He felt the picnic shelter use would have an impact on parking.

Vice Chair Reckhow posed a question to Planning staff regarding whether the shelter would increase the parking demand.

Mr. Young responded that the size and scope of the shelter, with restrooms being the only enclosed areas, would only require four additional spaces. He did not feel it would have a negative impact on parking at the facility.

Chairman Page reiterated his concern about noise.

If there were complaints, the zoning enforcement officials would have to make a determination about the event.

Vice Chair Reckhow asked whether the applicant would be willing to add a commitment that the shelter not be rented for parties and events.

Attorney Cheek responded that there would be an application process for renting the facility. The application would include the purpose of the use of the facility, the group requesting, the number of people, and someone from TFDA would be present during the event to monitor use. He agreed to add as a committed element.

Mr. Young recited the additional committed elements agreed to:

- No parking on Riley Road
- No play after 9:30 pm

- One member of TFDA will be all facility events during all times

Vice Chair Reckhow moved, seconded by Commissioner Howerton to approve the requested change to the land use designation on the Future Land Use Map from Low-Medium Density Residential to Low Density Residential.

The motion carried unanimously.

Vice Chair Reckhow moved, seconded by Commissioner Bowser to approve a request for a zoning map change for a 22.58 acre site located at 207 Riley Drive, located on the west side of Riley Drive south of Hamlin Road with the following additional committed elements:

- 1) No parking generated from FTDA on Riley Road;
- 2) No play after 9:30 pm;
- 3) One member of FTDA on site during events at all times to monitor the site.

Chairman Page and Commissioner Howerton remained concerned about the impact on the neighborhood.

Attorney Cheek commented that there was no good estimate of when other fields would be built. It could be as long as five years. The nonprofit would depend on members and donations received in order to build additional fields.

Vice Chair Reckhow noted a letter of support from Danielle Adams, 4128 Cobblestone Place. She commented that this was a healthy, wholesome sport.

The motion carried unanimously.

Naming Opportunities in Durham County Library Locations

Ms. Tammy Baggett, Library Director gave a brief history regarding the Library Foundation. In 2003, a fund raising subcommittee was formed to help create a world class library system. The funds supplement County funding and enhance the resources of the library system.

The Library Board of Trustees requests approval to name the following areas in the Durham County Library system:

- 1) Periodicals Room, South Regional Library in memory of Drs. Valerie and Anton Schindler. Both were research scientists in the Research Triangle Park and enjoyed quiet reflection while reading. Bequest-\$118,795.54;
- 2) Meeting Room, North Regional Library, in honor of Ms. Dorothy Gier. A frequent patron of North Regional Library, Ms. Gier used library resources to build and manage a significant portfolio. While now residing in St. Louis, Ms. Gier wanted to give back to

the Durham County Library through donating her home and its contents to Durham Library Foundation. Proceeds were netted in the amount of \$200,669.20;

- 3) Children's Program Room, Southwest Regional Library, in memory of Mrs. Frances Brinkley. As an elementary teacher, Mrs. Brinkley instilled, in many young children of Durham, the value of and love for reading. Bequest of \$70,143.02.

Commissioner Howerton moved, seconded by Vice Chair Reckhow to approve the recommendations from the Durham County Library Board of Trustees to proceed with naming opportunities in the above listed library locations.

The motion carried unanimously.

Medicaid 1915(b)(c) Waiver Update

Ellen Holliman, Area Director, acknowledged the Mental Health Board Chair, Lascel Webley, Jr; and Bryan Wardell, Assistant County Attorney for their assistance and support.

Chairman Page read a segment of the following Resolution (*italicized*) which highlighted the request before the Board of County Commissioners:

Resolution

At a meeting of the Durham County Board of Commissioners, duly called and held on the twelfth day of September, 2011, the following resolution was offered, seconded, and adopted:

Whereas the North Carolina Department of Health and Human Services (DHHS) has established criteria for entities to be selected to be designated as Prepaid Inpatient Health Plans (PIHP) for the purposes of the 1915(b) (c) waivers; and

Whereas the Area Authorities of Durham ("The Durham Center"), Johnston and Cumberland Counties collectively meet the threshold criteria for Local Management Entities to qualify to be designated as a PIHP; and

Whereas the Area Authorities desire and covenant to collaborate in the submission of a response to the DHHS Request for Application (RFA) to be designated as the PIHP for the three participating Area Authorities; and

Whereas the RFA specifies an Interlocal Agreement among the participating Area Authorities as an acceptable option to meeting state criteria to be designated as a PIHP; and

Whereas The Durham Center's proposed role as lead entity in the PIHP requires autonomy in its operations substantially separate from the policies and procedures of Durham County Government; and

Whereas at its meeting on the first day of September, 2011 the Area Board of The Durham Center expressed its unanimous support of this initiative and the requests made below:

Be it Resolved that the Durham County Board of Commissioners agrees to support The Durham Center by taking the following actions:

- *Support revision of North Carolina General Statute 122C-116 to allow The Durham Center to operate as an independent entity in a manner consistent with multi-county Area Authorities, and*
- *Initiate the process immediately to allow The Durham Center to apply to the NC Office of State Personnel to obtain “substantially equivalent” status with regard to human resources administration, and*
- *Allocate \$2,209,407 to a Special Reserve Fund to provide start-up funding for the PIHP.*

I hereby certify that the foregoing is a true and correct copy of a resolution passed by a majority of the Durham County Board of Commissioners on the date specified.

Michael D. Page, Chairman

The plan is due to the State by September 15. Chairman Page asked for clarification on the allocation of funds requested. Ms. Holliman indicated that the funds would be needed this year. Ms. Holliman stated that at this point, governance would remain the same on the Mental Health Board.

Vice Chair Reckhow moved, seconded by Commissioner Howerton to approve the Resolution to support The Durham Center in pursuing a policy for statewide expansion of an existing Medicaid 1915(b)(c) waiver.

The motion carried unanimously.

Added Item – Investigation of Department of Social Services’ Recent Actions

Commissioner Bowser spoke regarding the item. After reading some of the blogs related to actions at DSS, he felt there was a need to start from the top and work down to look at all phases of this issue to bring some closure.

The first action that people misunderstood was an action taken by Commissioners Heron, Reckhow and Bowser took on selecting board members. That needs to be addressed.

He felt the State needed to come in and confirm that everything was done right or wrong.

The second action that needed to be addressed dealt with alleged illegal meetings held between Stan Holt, Chair of the DSS Board; Gail Perry, Interim DSS Director; and Commissioner Bowser.

Ms. Perry’s actions as a Board member need to be looked into—there was nothing illegal. He noted that the vote to place Ms. Perry in the interim position did not happen immediately. He

stressed the need for continuity in that agency. State law requires the County to have a DSS director.

Salaries for both Ms. Whitfield and Ms. Perry need to be addressed. Commissioner Bowser made the motion for both salaries. The salary was the same salary that Ms. Robinson received. He acknowledged a mistake with indicating the salary was \$139,000 vs. \$129,000.

Anything other Commissioners need to look into should be added to the list. The relationship between Ms. Robinson and former DSS Board members Carver-Tann, and Gladys Dunston should be addressed. Was there a relationship prior to or after they came to the Board, and whether or not that relationship should have been reported to the State of North Carolina.

A letter that Ms. Robinson wrote to the County of Durham to solicit funds for outside legal assistance for unknown individuals should be addressed.

Vice Chair Reckhow added that the investigation should look at allegations that Gail Perry misused coupons while she was an employee of DSS before she retired in 2002.

Commissioner Bowser added that statements made by public officials, including the Chair of the Board of County Commissioners, be looked into. Commissioner Bowser stated that he was accused of using his influence to bring friends to the organization.

Commissioner Howerton agreed that the issues need to be cleared up for the public before the Board can move forward. She asked what the next steps would involve.

Attorney Siler stated that he and Manager Ruffin had a brief discussion regarding this matter. The Attorney asked for clarification of the "State." Commissioner Bowser responded that the Attorney General was his choice.

Attorney Siler recommended the School of Government, retired judges who have done some arbitration in the past, and other possibilities be considered.

Chairman Page stated his position. The Board serves over 247,000 citizens in Durham County. They have the right to question and ask the Board to look at any information that is brought before the Board. The Board should look at the issues ethically, morally, and with integrity. He supported the investigation.

There have been issues with DSS. There are over 400 employees and the agency is divided. Even if issues are brought to the Board without proof, they cannot be ignored by the Board.

Chairman Page referenced an outstanding evaluation given to Ms. Robinson. He stated that it raised a question for him when a board member was appointed and the same day, voted to fire the director. The same day that board member was hired as the director. That gave the appearance of something that was done unethically.

Commissioner Bowser admitted that the actions taken may have looked suspicious. He added that nobody gave him the opportunity to explain actions before talking. The actions were taken to save a department.

Commissioner Howerton reiterated that her concerns were for the employees and the citizens of the community. The rhetoric hurts the people served and the community. She hoped that in the future, communication with the Board members would occur.

Vice Chair Reckhow asked Manager Ruffin if he could, by the end of September, bring a plan to the Board on who was going to investigate with a timeframe and the goal of having it done by October. She asked that it be a priority.

Chairman Page added that whoever was selected to conduct the investigation should talk with everyone who was involved or implicated.

Commissioner Bowser moved, seconded by Vice Chair Reckhow that the points made by the Board members be addressed and investigated, as well as any other items added by the Manager, Attorney or BOCC member.

Chairman Page asked the Manager to read the points. Manager Ruffin recounted the following points:

- Appointment of Gail Perry to the DSS Board
- Having illegal meetings among DSS board members
- Gail Perry's decision to vote to dismiss Gerri Robinson
- Appointment of Gail Perry and Jovetta Whitfield as interim directors
- Salaries paid to Gail Perry and Jovetta Whitfield
- Relationship between Ms. Robinson and former DSS Chair Dunston and DSS Board member Carver-Tann
- Letter Ms Robinson wrote requesting funds to bring in an outside attorney
- Allegations that Ms Perry misused coupons at DSS while she was employed by DSS
- Statements made by the Chair and others that appeared in public records.

Chairman Page acknowledged Ms. Green and Ms. Dunston for their stellar service on the DSS Board.

- Commissioner Bowser added another point – any correspondence between Ms. Robinson and the Board chair or any other board members prior to her being hired to see if there was any influence.

The motion carried unanimously.

Closed Session

Chairman Page moved, seconded by Vice Chair Reckhow, to move into Closed Session to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee, pursuant to G.S. § 143-318.11(a)(6).

The motion carried unanimously.

Return to Open Session

Chairman Page announced that the Board met in closed session. No action was taken.

There being no further business, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michelle", followed by a long horizontal line extending to the right.

V. Michelle Parker-Evans
Clerk to the Board