

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

Monday, October 10, 2005

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 welcomed everyone to the Board of County Commissioners' October 10, 2005 Regular Session. She asked all in attendance to rise for the recitation of the Pledge of Allegiance.

Agenda Adjustments

Budget Amendment No. 06BCC000018a—Revenue Category Changes Due Implementation of New Enterprise Resource Planning (ERP) System: Chairman Reckhow removed this item from the consent agenda for discussion later in the meeting, as a more thorough explanation was required.

Vice-Chairman Heron requested the addition of an item concerning a News & Observer article about a child left on a bus operated by Head Start.

Announcements

Chairman Reckhow announced an upcoming forum on the Ten-Year Plan to End Homelessness in Durham. The event was scheduled for October 20, 2005, 7:00 to 9:00 p.m., at Triangle Presbyterian Church. The title of the forum is, "*Buddy, Can You Spare a Job?*" Chairman Reckhow encouraged persons to attend who are interested in the issue of providing employment for the homeless.

Chairman Reckhow made an announcement regarding an award presented to Durham County Government at the Downtown Durham Inc. (DDI) Annual Meeting on October 7. The "Outstanding Visionary" award was given to Durham County Government for electing to

remain downtown, for its plans to expand its downtown presence, and for being a longtime and valued partner in progress with DDI.

Minutes

Vice-Chairman Heron moved, seconded by Commissioner Cousin, to approve as submitted the September 26, 2005 Regular Session Minutes of the Board.

The motion carried unanimously.

Resolution Opposing Proposed Budget Cuts by the Department of Health and Human Services (DHHS)

Chairman Reckhow stated that Carmen Hooker-Odom, Secretary, DHHS, has proposed the consolidation of local administrative duties into regional constructs to address a deficit in the Mental Health, Developmental Disabilities, and Substance Abuse (MH/DD/S) services' budget. The Board of Commissioners was made aware of this situation on Monday, October 3, at which time the Board discussed several strategies to address the issue and requested a resolution opposing the budget cuts.

Chairman Reckhow noted that copies of a letter to Governor Michael Easley (to be signed by the Durham System of Care Initiative leadership) had been placed at each Commissioner's station. The letter addressed the proposed state budget cuts, which may have a deleterious affect on Durham's System of Care.

Chairman Reckhow read the resolution into the record:

RESOLUTION ON PROPOSED DHHS PLAN
FOR RESTRUCTURING MENTAL HEALTH SERVICES

WHEREAS, the Board of Commissioners has been informed by The Durham Center that the North Carolina Department of Health and Human Services (DHHS) has indicated that a serious fiscal problem currently exists within the mental health, developmental disabilities and substance abuse (mental health) service delivery system; and

WHEREAS, due in part to the State's continued contracts with counties and mental health authorities (referred to collectively as Local Management Entities, "LMEs") with a population of less than 200,000 and the failure of the State to enforce its required divestiture of service delivery programs by local mental health authorities, the State's cost models, based on these population assumptions and divestitures, and reimbursement to providers policies have resulted in a deficit of \$28,000,000; and

WHEREAS, as a result of this deficit, the DHHS is proposing to consolidate and regionalize responsibilities for certain management functions (i.e., utilization review [UR] and screening, triage, and referral [STR]); and

WHEREAS, this proposal was not presented until after the Legislature adjourned for the year; and

WHEREAS, Durham County has embraced the Mental Health Reform effort including the LME model developed by DHHS; and

WHEREAS, the Board of Commissioners also strongly supports the desire to maintain local public clinical responsibilities for service management; and

WHEREAS, Durham County will continue to work with the State to provide needed mental health and substance abuse services to the residents of the County in the most cost efficient manner possible.

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

1. That the Legislative Oversight Committee fully investigate and consider the DHHS proposal with input from representatives of the North Carolina Association of County Commissioners (Association) and the North Carolina Council of Community Programs (Council) in order to assure that solutions to the current (and potential long-term) funding shortfall be well-planned, strategically-implemented and consumer-oriented.
2. That, if the final decision is to move forward with the DHHS proposal, the projected deadlines for implementation be extended to July 1, 2006 to permit time to accommodate numerous logistical issues.
3. That no reduction in State funding be considered for Durham County for Fiscal Year 2005-2006 as is guaranteed by its contract with DHHS. If Durham County is selected as a regional LME UR/STR manager, additional funding must be made available to carry out the added responsibilities mandated by the DHHS proposal.
4. That Association and Council representatives define the composition of the ten regions (rather than DHHS) using a collaborative decision-making process that considers proximity, culture, geopolitical ideology, and consumer needs as a basis for membership.
5. That the Secretary of Health and Human Services be requested to meet with the Durham Legislative Delegation and representatives of the Board of Commissioners, together with County staff, to discuss the issues presented in this resolution.

This the 10th day of October, 2005.

Chairman Reckhow recognized persons in the audience who attended the meeting due to their concerns related to the DHHS proposal.

Ellen Holliman, Area Director, The Durham Center, reported that the Local Management Entity (LME) model being used in Durham County and throughout North Carolina was designed by the Mental Health, Development Disabilities, and Substance Abuse Division,

along with a cost model for LMEs providing services for people over 200,000 or for LMEs with at least five counties. The model was designed for Medicaid to pay a portion of the administration costs; therein lies the problem. Medicaid funds were not forwarded to the division as agreed, which caused a \$28 million deficit. Ms. Holliman thanked the many board members, staff, and providers who attended the meeting. She read a portion of the letter to be sent to the Governor. She noted that the agencies are especially concerned about the lack of adequate funding for services, insufficient provider capacities in some areas, and other issues that must be addressed before management functions are arbitrarily combined.

Brian Letourneau, Public Health Director, spoke about the enormous benefits of the System of Care services. He encouraged all persons in the audience to be extremely vocal in their opposition to any funding reduction.

Chairman Reckhow recognized the following signed speakers for comments:

Frank Edwards, 414 E. Main Street, Durham 27701, representing Area Services and Programs (a Durham County provider of both adult and children's mental health services and a provider in eight other LMEs)

Pat Amaeuchi, Executive Director of CAARE Inc., 205 Broadway Street, Durham 27701

Gloria Turner, staff member of CAARE Inc., 205 Broadway Street, Durham 27701

Beth Lewis-Sorensen, Program Director of the Caring Family Network (emergency services provider for The Durham Center youth), 5720 Fayetteville Road, Durham 27713

Marti Wagner, Director, Durham Center Access Program (crisis program for Durham County), 2609 N. Duke Street, Durham 27704

Karen Crumbliss, LME Board member, 2820 Dekalb Street, Durham 27705

All speakers voiced opposition to DHHS's proposal to consolidate and regionalize responsibilities for certain management functions. Comments included:

- Appreciation to the Durham County Commissioners for their advocacy of Mental Health services in Durham County.
- Thanks to the Durham County Commissioners for the letter to Governor Easley in opposition to the proposed alteration in the mental health reform model and the reduction in LME funding.
- Concern about the poorly planned proposal without receiving input from County Commissioners, Legislators, LME consumers, or providers.
- Support for the excellent mental health, developmental disabilities, and substance abuse system currently in place in Durham County.
- Apprehension about changing to a regional authority.
- Durham County should remain a community-oriented provider
- Consider other remedies for the fiscal issues.

- Durham considered a leader among all LMEs and programs; LMEs statewide visit Durham and use Durham's thriving system as a model.
- System of Care is producing outstanding results and successes
- Resources have increased and quality services are being provided.

Chairman Reckhow announced that an attempt is being made to schedule a meeting with Secretary Hooker-Odom, Durham's local delegation, and other representatives. Chairman Reckhow had been asked to represent the North Carolina Association of County Commissioners at a meeting with the Secretary and other stakeholder groups. The Commissioners will try, at a minimum, to defer this proposal, but will work very hard to prevent any budget cuts. The state has not followed through with the commitment it made three years ago when the restructuring began. Durham County has done an outstanding job in working with fewer resources than were promised.

Commissioner Cheek expressed concern that the problems at the state level are once again being transferred to the counties. From a practical point of view, money is the issue, not restructuring. He requested that everyone place every pressure possible on the Governor and the Legislators. "This is something worth fighting for. We cannot let this happen. These programs are too important."

Vice-Chairman Heron thanked all who came to the meeting in support of the current LME and mental health reform model. She requested that citizens send written comments to Secretary Hooker-Odom and the Governor.

Commissioner Cheek moved, seconded by Commissioner Page, to approve the resolution opposing proposed budgets cuts by the Department of Health and Human Services.

The motion carried unanimously.

The Commissioners received applause from the audience for unanimously approving the resolution.

Consent Agenda

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

- a. Public Health—Approve the Restructuring of User Fees in the Environmental Health Division and Immunization Clinic and Establishing a Fee for Vaccine in the Immunization Clinic and a Minimum Fee for Services in the Dental Health Clinic;
- *d. Budget Ordinance Amendment No. 06BCC000020—The Durham Center (approve the budget increase by \$5,549,631

- due to the Medicaid revenue increase and net increase in state revenue);
- *e. Budget Ordinance Amendment No. 06BCC000021—~~Criminal Justice Resource Center (approve to reduce CJPP grant revenue by \$1,324; recognize \$30,000 in revenue from the Durham Drug Treatment Court and create a .4 FTE substance abuse counselor position [continued funding dependent on future grant availability]; and, recognize \$9449.19 in grant revenue for the New Day program [a net change of \$38,125]);~~
 - *f. Budget Ordinance Amendment No. 06BCC000022—Recognize Reserved Funds for the Departments of Fire Marshal, Sheriff, Criminal Justice Resource Center, DSS, Public Health, Cooperative Extension, General Services, Risk Management, and Tax Administration (approve for \$1,395,760 [previously classified in prior years as deferred revenue]);
 - g. Lease Agreement for 706 Rigsbee Avenue with Rainbow 66 Storehouse Inc. (approve to lease 706 Rigsbee Avenue for a 31-month term for \$1 per year; authorize the Manager to execute the lease agreement);
 - h. Appointment—Criminal Justice Partnership Act Advisory Board (reappoint Antoinette Hilliard to the board as the Public Defender designee); and
 - i. Durham Public Schools—Surplus Property at Morris Street Facility (decline the offer for purchase of a 17' x 18' corner of property at Morris Street to facilitate the City of Durham's widening of Hunt Street. The property must first be offered to the County before dedication to the City for right-of-way).

Deleted:

Deleted: budget amendment

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. d. Budget Ordinance Amendment No. 06BCC000020—The Durham Center (approve the budget increase by \$5,549,631 due to the Medicaid revenue increase and net increase in state revenue).

DURHAM COUNTY, NORTH CAROLINA
FY 2005-06 Budget Ordinance
Amendment No. 06BCC000020

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2005-06 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	\$295,071,722	\$ 445,631	\$295,517,353
Service Charges	\$ 30,507,428	\$5,000,000	\$ 35,507,428
Other Revenues	\$ 396,121	\$ 104,000	\$ 500,121

Expenditures:

<u>Activity</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Human Services	\$357,692,813	\$5,549,631	\$363,242,444

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

This the 10th day of October, 2005.

Consent Agenda Item No. e. Budget Ordinance Amendment No. 06BCC000021—Criminal Justice Resource Center (approve to reduce CJPP grant revenue by \$1,324; recognize \$30,000 in revenue from the Durham Drug Treatment Court and create a .4 FTE substance abuse counselor position [continued funding dependent on future grant availability]; and, recognize \$9449.19 in grant revenue for the New Day program [a net change of \$38,125]).

Deleted:
 Deleted: budget amendment

DURHAM COUNTY, NORTH CAROLINA
 FY 2005-06 Budget Ordinance
 Amendment No. 06BCC000021

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2005-06 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	\$295,517,353	\$ 38,125	\$295,555,478

Expenditures:

<u>Activity</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Public Safety	\$ 42,624,818	\$ 38,125	\$ 42,662,943

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

This the 10th day of October, 2005.

Consent Agenda Item No. f. Budget Ordinance Amendment No. 06BCC000022—

Recognize Reserved Funds for the Departments of Fire Marshal, Sheriff, Criminal Justice Resource Center, DSS, Public Health, Cooperative Extension, General Services, Risk Management and Tax (approve for \$1,395,760 [previously classified in prior years as deferred revenue]).

DURHAM COUNTY, NORTH CAROLINA
 FY 2005-06 Budget Ordinance
 Amendment No. 06BCC000022

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2005-06 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	\$295,517,353	\$1,011,497	\$296,528,850
Donations	\$ 368,865	\$ 2,606	\$ 371,471
Other Revenues	\$ 500,121	\$ 184,345	\$ 684,466
Other Financing Sources	\$ 21,694,177	\$ 122,213	\$ 21,816,690
<u>SELF INSURANCE FUND</u>			
Other Financing Sources	\$ 10,085	\$ 75,099	\$ 85,184

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
General Government	\$ 26,197,845	\$ 605,845	\$ 42,662,943
Public Safety	\$ 42,624,818	\$ 295,754	\$ 42,920,572
Human Services	\$363,242,444	\$ 419,062	\$363,661,506
<u>SELF INSURANCE FUND</u>			
General Government	\$ 2,092,661	\$ 75,099	\$ 2,167,760

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

This the 10th day of October, 2005.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. c. Budget Ordinance Amendment No. 06BCC000019—Sheriff's Office—Homeland Security Grant (approve and authorize the County Manager to sign the Memorandum of Agreement; appropriation of funds will not exceed the amount of the grant award [\$64,235.00]).

Vice-Chairman Heron stated that she removed this item from the consent agenda to inform the public that the Sheriff's Office Hazardous Devices Unit (HDU) has received accreditation through the FBI to serve as one of 15 regional response bomb squads in North Carolina. The

HDU serves 19 area law enforcement agencies and provides back-up coverage when the SBI response team is out of the area.

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to approve Budget Ordinance Amendment No. 06BCC000019—Sheriff's Office—Homeland Security Grant.

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2005-06 Budget Ordinance
Amendment No. 06BCC000019

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2005-06 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	\$295,007,487	\$ 64,235	\$295,071,722

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$ 42,560,583	\$ 64,235	\$ 42,624,818

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

This the 10th day of October, 2005.

Consent Agenda Item No. j. Durham Public Schools—Surplus Property near Shepard Middle School (decline the offer for purchase of a small, vacant, unused sliver of land separate from the school campus; in keeping with state statutes, the property must first be offered to the County prior to being sold to the public.).

Per a question by Vice-Chairman Heron, Hugh Osteen (Assistant Superintendent of Operational Services, Durham Public Schools) responded that the surplus property is barely one-tenth of an acre. A house exists on the adjacent property.

Vice-Chairman Heron requested that Durham Public Schools ask a legitimate price for the surplus property.

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to decline the offer for purchase of the surplus property near Shepard Middle School.

The motion carried unanimously.

Public Hearing and Adoption—2004-2005 Consolidated Annual Performance Evaluation Report

Chairman Reckhow announced that the Durham County Board of County Commissioners had been requested to hold the annual public hearing to receive citizen comments related to the Consolidated Annual Performance Evaluation Report (CAPER). (The purpose of this public hearing was to provide citizens with the opportunity to review and comment on the use of Durham HOME Consortium Investment Partnership [HOME] and American Dream Downpayment Assistance [ADDI] programs funds during the previous year to address housing and community development needs in Durham, as required by the U.S. Department of Housing and Urban Development [HUD]).

Chairman Reckhow recognized Michael Barros, Director, City of Durham Department of Housing and Community Development (DHCD). Mr. Barros congratulated the Commissioners for receiving the “Outstanding Visionary” award at the Downtown Durham Inc. Annual Meeting on October 7. “The Board’s commitment to Durham’s downtown area is exemplary.”

Katherine Simmons, Associate Director of Planning Administration, stated that the Durham Consortium, composed of the City and County of Durham, has been the recipient of HOME funds since 1992. HOME Consortium funds have been used for affordable housing activities as required by HOME program regulations. These funds have been a primary funding source for city neighborhood revitalization activities. The FY 2004-2005 HUD entitlement allocation was \$1,387,850 in HOME and \$198,888 in ADDI funds. The FY 2004-2005 Consolidated Action Plan allocated these funds primarily for housing construction, housing rehabilitation, and public service activities in Durham with focus in target neighborhoods.

Ms. Simmons gave a brief overview of accomplishments achieved by the Durham Consortium using HOME/ADDI funds during the July 1, 2004 – June 30, 2005 program year as follows:

- \$1,379,868 total HOME/ADDI expenditures (includes prior allocations)
- \$100,000 has been encumbered for The Durham Center, County Initiative
- \$198,888 ADDI, 16 minority families became homeowners
- \$441,759 Housing-Existing Homeowner Rehabilitation/Emergency Repair
- \$62,125 Housing-Rental Rehabilitation to Rebuild Durham
- Housing-Special Needs
 - \$69,050 to CAARE Inc.
- Housing-Homebuyers Assistance Programs
 - \$333,470 to First-Time Homebuyers
 - \$90,000 to Section 8 Homeownership

- 29 households received first-time homebuyer assistance
- Developer Homeownership Assistance Programs
 - \$10,000 to Walltown Housing Loans
 - \$100,000 to Habitat Homebuyer Loans
 - \$60,000 to Hayti Housing Loans
- \$39,256 Housing-Relocation
- \$174,208 Planning and Administration, includes \$60,000 for DHCD staff to receive professional guidance and technical assistance on loan underwriting from National Development Corporation
- Housing Bond, General Fund, Non-City Agency, and Economic Development Incentive (EDI) funds in the amount of \$5,462,340 were used to leverage \$3,644,260 CDBG and HOME funds.

Commissioner Cheek congratulated DHCD for using most of the money from the FY 2004-05 entitlement grant. He asked whether the \$3+ million balance in CDBG funds and the \$2+ million balance in HOME funds would carry over and if so, would they be expended.

Ms. Simmons responded that many of the funds have been committed but not drawn down as a reimbursement. At Commissioner Cheek's request, she would provide a breakdown of HOME and CDBG unspent and encumbered monies since July 1, 2005.

Vice-Chairman Heron requested that a determination be made as to whether a representative from the County Manager's office should serve on the Citizens Advisory Committee (CAC).

Ms. Simmons and Mr. Barros explained the following for Vice-Chairman Heron:

- Homeownership Education programs provided by the Durham Affordable Housing Coalition
- Operation Breakthrough Weatherization process
- Housing Code Enforcement (minimum Housing Code does not apply in the county)

Chairman Reckhow echoed comments of Commissioner Cheek regarding satisfaction that the allocation from this year had largely been spent. The current challenge is for DHCD to put the remaining dollars to work in the community. Chairman Reckhow asked that in future CDBG activities' reports, staff insert a column to show proposed accomplishments.

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

Vice-Chairman Heron noted that the development of a more effective performance measurement system is one of DHCD's priorities.

Vice-Chairman Heron moved, seconded by Commissioner Cousin, to adopt the 2004-2005 Consolidated Annual Performance Evaluation Report.

The motion carried unanimously.

Major Site Plan—Coley Road Substation (D05-219)

Frank M. Duke, AICP, Planning Director, stated that this request by Davis-Martin-Powell & Associates, Inc., on behalf of Progress Energy, is for approval of a major site plan for a public utility facility on an 89.84-acre site, zoned RD and F/J-B. The property is located at 3014 Coley Road, on the west side of Coley Road between Kemp and Carpenter Pond Roads. (PIN 0870-03-41-4757) The request was originally heard at the September 12, 2005 Regular Session and was continued to the October 10, 2005 regular meeting to give Progress Energy an opportunity to meet with area residents. As the request meets all Ordinance requirements, both Planning staff and the Development Review Board recommended approval of the site plan.

Chairman Reckhow called on the following persons who had signed to speak on this matter:

Marty Clayton, Community Relation Manager, Progress Energy, 3000 Spring Forest Road, Raleigh 27616, stated that Progress Energy met with four property owners on September 26 and made significant progress in understanding their issues and concerns. Progress Energy would continue to work with the neighbors throughout the project to make sure the impact on their property would be minimal.

Marsha Travers, 3010 Carpenter Pond Road, Raleigh 27613, stated that she owns property adjacent to Mr. Poplin's land, which houses a grading business. Her concern was that removal of the tree buffer between the two properties would decrease the value of her property.

Mike Poplin, resident and business owner at 2901 Carpenter Pond Road, Raleigh 27613, voiced concern about property damage and the decline of property value due to the installation of the transmission line.

Steve Wilson, Project Manager for Progress Energy, 412 S. Wilmington St., Raleigh 27610, gave background information on the project, which began in the early 1980s. The 230kv switching station was built at that time. Plans were made to later install an additional transmission line and build a 500kv power substation. The land and right-of-ways were purchased. Completion of the project is essential to meet the increased demand for power. The new Durham Falls 230kv transmission line must be installed to receive the power and prevent overloading the current lines. Mr. Wilson assured that Progress Energy would continue to work with property owners to address their concerns.

Gwendolyn Stone, 3301 Coley Road, Durham 27703, employee of Renegade Farms (owned by Mr. Fife), spoke about the value of Renegade Farms to the community and region.

Robert S. Fife, 3301 Coley Road, Durham 27703, stated that he is a horse breeder and owner of Renegade Farms Inc. He fervently opposed the addition of a second set of H-poles on his

30 acres of land, opining that the line will overburden the easement and interfere with his business. He expressed his efforts to be a good steward of land, stating that the project will also interfere with the creek barrier, which is within the bounds of the Falls Lake Watershed.

The Commissioners discussed the transmission line issue.

Mr. Wilson and Mr. Clayton stated that Progress Energy would meet with Mr. Fife and attempt to arrange the structures to achieve minimal impact on his property and the operation of his horse ranch. They would work with Mr. Fife regarding compensation if damage is done due to clearing of the right-of-way or if Mr. Fife suffers a tangible loss of business. Mr. Wilson and Mr. Clayton also conveyed that they would meet with Mr. Poplin to assure him that no requirements would be placed on him because of the transmission line. Progress Energy would work directly with Mr. Harris to minimize the impact of clearing the easement on his property and to landscape to minimize the visual impact.

County Attorney Kitchen advised that construction of the substation meets the technical requirements of the Ordinance.

The Commissioners held a discussion about why major site plans are presented to them.

County Attorney Kitchen stated that the Board's only responsibility is to take administrative action based on technical compliance.

Commissioner Page expressed his concern that no "real" community meeting had been held. Progress Energy should inform the residents of its plans and commitments. Commissioner Page commented about his concern that no agreement has been reached between Progress Energy and area residents.

Vice-Chairman Heron concurred with Commissioner Page. Her impression was that Progress Energy had agreed to present a definite plan at tonight's meeting.

Commissioner Cheek remarked that the Board is required to vote in favor of the major site plan, as it meets all Ordinance requirements. The Board is going beyond its authority when it "gets into things" other than the site plan.

At the request of Chairman Reckhow, Mr. Clayton and Mr. Wilson agreed that they would put certain commitments in writing and present regular updates to the Board regarding the project. They both gave personal and professional commitments to continue to work with the residents.

Mr. Wilson explained that Progress Energy must adhere to federal and state regulations relative to the environmental impact of the project (i.e. streams, wetlands, endangered species). First, an environmental survey must be completed.

Discussion continued about the commitments that Progress Energy would proffer.

Mr. Wilson agreed to minimize the cutting of trees during the construction period. He offered to take a greater liability risk by promising to remove fewer danger trees (trees outside the right-of-way that could fall and endanger safe operations of the transmission line). He proffered that Progress Energy would plant low-growing trees, 12 feet or so in height, and even lower-growing vegetation as a buffer. The company must do preliminary engineering work over the next 12 months before a formal plan could be submitted. He appealed to the Commissioners to approve the site plan so that grading and site work for the substation could begin.

Chairman Reckhow requested that Progress Energy send all residents to be affected by the transmission line a copy of the commitment letter.

Discussion ensued about the methods that would be used for clearing the easement.

Commissioner Cheek moved for approval of the site plan.

Commissioner Page continued to reiterate his concern for the property owners. He expressed that elected officials should help work through this situation.

Commissioner Cheek called the question on his motion.

Chairman Reckhow pointed out that there did not appear to be sufficient Commissioner support to carry the motion. She suggested the following substitute motion: Action be deferred for two weeks so Progress Energy could hold a community meeting with all interested area residents. Subsequently, Progress Energy would write a letter to the Board (copied to the residents) committing to a general process that will mitigate the impact of the transmission line on the area. (Specifics could not be committed to until the environmental survey is performed, which will take several months.) Following completion of the environmental survey, Progress Energy will develop a more detailed draft plan and present it at a community meeting in the spring. The final plan would be completed in early summer and presented to the Commissioners.

Vice-Chairman Heron moved, seconded by Commissioner Cousin, that the Board approve the motion offered by Chairman Reckhow.

Commissioner Cheek stated that he would vote against the motion, as he could not justify its appropriateness under the law.

The motion carried with the following vote:

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

Consent Agenda Item No. B.

Budget Amendment No. 06BCC000018a—Revenue Category Changes Due Implementation of New Enterprise Resource Planning (ERP) System (approve to realign revenue categories for the SAP software).

Chairman Reckhow stated that this item was removed from the consent agenda so Pam Meyer, Budget & Management Services Director, could explain the issue of redesignating the budget categories.

Ms. Meyer clarified that as part of the County's transition to the new ERP System for budget, finance, and human resources, a revised chart of accounts was developed in the SAP software system to reflect better the revenue categories. Changes were made to the revenue categories for the following funds: General Fund, Debt Service, Special Revenue Funds, Capital Financing Fund, Enterprise Fund, and Enterprise Debt Service Fund as part of the transition from the previous AMS system to the SAP system. This amendment is a **technical adjustment** that is required to ensure that the County's Budget Ordinance reflects the new revenue categories. These changes do not increase or decrease the total revenues in these funds. One notable change is sales tax revenues, previously categorized under Licenses and Permits, which now will be budgeted under the Taxes category. A complete list of the revenue category changes is reflected in the Budget Amendment.

Per a question posed by Chairman Reckhow, Ms. Meyer assured the Commissioners that the amounts in the budget ordinance amendment are the same by fund.

County Manager Ruffin communicated that the budget appropriations approved by the Board in June 2005 had not been altered.

Vice-Chairman Heron requested that a greater level of detail be given to show how the categories were combined. She asked if staff is being trained on the new system.

Ms. Meyer stated that more detail could be given, but it would involve a great deal of work. She reiterated that the amendment simply reflects new revenue categories that are more consistent with the way that the Finance Department reports them in the CAFR (Combined Annual Financial Report). Ms. Meyer informed the Board that staff training has occurred for months and will continue.

County Manager Ruffin restated that the budget amounts approved in the FY 2005-06 Budget Ordinance had not changed. Only the revenue categories have been changed because of the new SAP software.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve Budget Ordinance Amendment No. 06BCC000018a—Revenue Category Changes Due Implementation of New Enterprise Resource Planning (ERP)

System (approve to realign revenue categories for the SAP software).

The motion carried unanimously.

Durham County, North Carolina
 2005-2006 Budget
 Amendment Number 06BCC000018a

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the 2005-2006 budget ordinance is hereby amended to reflect budget adjustments.

GENERAL FUND	<u>AMS</u>	<u>SAP</u>
Taxes	\$151,381,669	\$183,865,338
Licenses and Permits	\$33,445,969	\$982,300
Intergovernmental	\$295,496,752	\$295,007,487
Contributions and Donations	\$0	\$368,865
Investment Income	\$0	\$1,213,935
Rental Income	\$0	\$1,530,716
Service Charges	\$30,038,128	\$30,507,428
Enterprise Charges	\$3,300	\$0
Sewer Connection Fees	\$0	\$501,300
Other Revenues	\$4,007,672	\$396,121

DEBT SERVICE	<u>AMS</u>	<u>SAP</u>
Service Charges	\$0	\$254,526
Enterprise Charges	\$254,526	\$0

SPECIAL REVENUE FUNDS	<u>AMS</u>	<u>SAP</u>
Licenses and Permits	\$1,168,222	\$0
Service Charges	\$0	\$1,168,222

CAPITAL FINANCING FUND	<u>AMS</u>	<u>SAP</u>
Taxes	\$19,647,025	\$36,045,450
Licenses and Permits	\$16,398,425	\$0
Investment Income	\$0	\$49,904
Rental Income	\$0	\$60,000
Other Revenues	\$473,147	\$363,243

ENTERPRISE FUND	<u>AMS</u>	<u>SAP</u>
Investment Income	\$0	\$376,000
Services Charges	\$10,400	\$0

Enterprise Charges	\$8,110,640	\$7,620,000
Sewer Connection Fees	\$0	\$496,880
Other Revenues	\$382,240	\$10,400

ENTERPRISE DEBT SERVICE FUNDS	<u>AMS</u>	<u>SAP</u>
Investment Income	\$0	\$5,000
Other Revenues	\$5,000	\$0

Cablevision Ordinance

County Attorney Chuck Kitchen reported that the Commissioners discussed a new Cable Communications Ordinance at its October 3, 2005 Worksession. Per the Board’s directive, Sec. 25-151 was changed to reflect the requirement for two educational channels with the possibility to reduce it to one in the franchise should the need not develop. The Ordinance was sent to the Cable Advisory Committee and changes were incorporated. A copy of the proposed ordinance was also sent to Time-Warner for comment. A meeting was held on Friday, October 7 with Time-Warner.

The proposed ordinance would provide the basic requirements for any cable provider supplying cable television services in the County. The details of the franchise would then be negotiated with the provider and approved by the Board of Commissioners. This would allow for multiple cable providers if interest were shown by other companies.

Chairman Reckhow asked if County and City staff had discussed the possibility of a joint government channel (which was a directive at the September Joint City-County Committee meeting).

County Manager Ruffin replied that concerns were expressed to the City about having more than one government channel. A desire was expressed to City Manager Patrick Baker to work on a common channel. In addition, the public access channel, Cable 8, should remain and the government channel could be located elsewhere. This proposal is currently under review by the City.

Commissioner Cheek moved, seconded by Commissioner Page, to approve the Cable Communications Ordinance.

The motion carried unanimously.

(Cable Communications Ordinance recorded in Ordinance Book _____, page _____).

Personnel Ordinance Amendment

When the Durham County Personnel Ordinance was adopted, the intent of the ordinance was that no property rights would be conferred by adoption of the Ordinance. However, the term “permanent employee” was used throughout. This term was the common term generally

used at that time in typical personnel ordinances. Since the adoption of the ordinance, the courts have generally held that the adoption of a personnel ordinance grants property rights. This is especially true when terms such as permanent employee are used.

The proposed amendments would change the terminology used in the ordinance from "permanent employee" to "regular employee" and would specifically delineate that property rights are not being created by the ordinance. This change would bring Durham County into line with other local government jurisdictions, including the City of Durham.

This proposed change would not affect employees covered by Chapter 126 of the General Statutes, e.g. Mental Health, DSS, Public Health, and Emergency Management. It also would not affect departments with elected department heads or Board of Elections' employees.

Marqueta Welton, Human Resources Director, stated that she reviewed the proposed amendments to the Personnel Ordinance and agreed with the County Attorney. Amending the language would be appropriate for consistency with general human resource practices both in public and private industry, changing the term from "permanent" to "regular" employee. "The word 'permanent' does create some ambiguity as to the intent."

Commissioner Page thanked Ms. Welton for reviewing the proposed changes to the Personnel Ordinance. In addition, he thanked the Commissioners for agreeing to the review.

Commissioner Page moved, seconded by Commissioner Cousin, to approve the Ordinance Amending the Durham County Code of Ordinances Regarding Personnel.

The motion carried unanimously.

**ORDINANCE AMENDING THE
DURHAM COUNTY CODE OF ORDINANCES REGARDING PERSONNEL**

WHEREAS, at the time of the adoption of the Durham County Personnel Ordinance, it was the intent of the Durham County Board of Commissioners for all employment with Durham County, except for employees covered by the State Personnel Act, to be "at will"; and

WHEREAS, the language used in the Personnel Ordinance could now be construed in a manner which was not intended; and

WHEREAS, the Board of Commissioners wishes to clarify the language used in the Ordinance so that there are no misunderstandings as to the nature of employment with Durham County.

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

1. That section 18-32 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 18-32. Regular positions.

Regular positions shall be established to meet continuing needs for an indefinite duration as resources or needs permit. All positions are contingent on the County's need for services and the availability of funding.

2. That section 18-83 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 18-83. Probationary period.

Newly hired employees being considered for a regular appointment shall serve a probationary period for a designated amount of time determined by the county manager. Failure to complete successfully the probationary period shall result in the employee's separation from County employment without any appeal unless otherwise provided by the policy adopted by the county manager pursuant to section 18-4 of this Code of Ordinances.

3. That section 18-84 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 18-84. Regular appointments.

A regular appointment shall follow the satisfactory completion of a probationary period and shall be made to a regular position. All employment shall be "at will", and no employee shall have any property rights in employment. Notwithstanding this section, any employee covered by the State Personnel Act shall be subject to the provisions of that Act to the extent that the State Personnel Act or regulations promulgated thereunder conflict with this section.

4. That section 18-117 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 18-117. North Carolina Local Governmental Employees' Retirement System.

All probationary and regular employees working at least 1,000 hours annually are required to join the North Carolina Local Governmental Employees' Retirement system on the first day of employment. Rules and regulations are set forth by the retirement system.

5. This amendment shall be effective on ratification. This the 10th day of October, 2005.

Benefits Plans for 2006

Debbi Davidson, Benefits Manager, Human Resources Department, requested that the Board grant approval for the County Manager to enter into contracts with recommended vendors for the 2006 Benefits year. All rates and plans would be effective January 1, 2006. The recommendations were Health Insurance—Wellpath and North Carolina Association of County Commissioners (NCACC) and Blue Cross/Blue Shield (BC/BS); Dental Insurance—NCACC/BCBS; Short Term Disability—The Standard Insurance Company (increase in rates only); and ASI TRICARE Supplement Insurance (for qualified retired military and their families). Other benefit vendors have not changed from last year and do not require new contracts.

Commissioner Cousin moved, seconded by Commissioner Cheek, to authorize the County Manager to enter into contracts with the vendors presented by the Human Resources Department.

The motion carried unanimously.

Article in News and Observer Regarding Child Left on Bus Operated by Head Start

Vice-Chairman Heron referred to an article in The News & Observer about a three-year old child left unattended on a bus operated by Head Start. A Durham Area Transit Authority bus driver spotted the child as he passed the bus that had been “abandoned” due to mechanical problems. The Head Start bus driver and monitor failed to transfer the child to the new bus and failed to follow procedures requiring them to count the children and walk through the bus after unloading. Forms stating that all students were accounted for were signed by both the driver and the monitor a day in advance of the incident. Vice-Chairman Heron sought advice from the County Manager on appropriate action that should be taken as a result of the negligence.

County Manager Ruffin recommended that he meet with Executive Director Matthew L. Ramadan of Operation Breakthrough Inc. to learn about the incident firsthand rather than relying on the newspaper article. County Manager Ruffin would also inquire about future measures that could be implemented to prevent such errors. He would report those findings to the Board.

Commissioner Page, liaison to the Operation Breakthrough Board, conveyed that Mr. Ramadan’s office contacted Operation Breakthrough Board members to inform them of the incident. Director Ramadan has acknowledged the mistake and has assured that the persons responsible will be dealt with appropriately.

Chairman Reckhow suggested that Commissioner Page present this matter at the next Operation Breakthrough Board meeting and report back to the Commissioners as to the following questions raised by Vice-Chairman Heron:

- How are the bus drivers and the bus monitors screened?
- How will Operation Breakthrough assure that incidents such as this do not re-occur?

- How were the employees responsible for the incident reprimanded?

Commissioner Page agreed to bring this matter to the attention of the Operation Breakthrough Board and subsequently report back to the Commissioners.

Board and Commission Appointments

Vonda Sessoms, Clerk to the Board, distributed ballots so the Commissioners could vote to make appointments to various boards and commissions. The following appointments were made:

Adult Care Home Community Advisory Committee

Christa C. Gaston

Criminal Justice Partnership Advisory Board

Riley Butler (Community-based Corrections)

Fredricka A. Carver (At-large)

LaFonda General (At-large)

Joyce Odom (Employment & Training)

Marcia Owen (Victim of a Crime)

Juvenile Crime Prevention Council

Keith Lamar Pryor Howard (Citizen)

Nursing Home Community Advisory Committee

Ada F. Most

Triangle J Water Resources Committee

Norberto Quezada

Adjournment

There being no further business to come before the Board, Chairman Reckhow adjourned the meeting at 9:47 p.m.

Respectfully submitted,

Vonda C. Sessoms
Clerk to the Board