

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

Monday, July 28, 2008

7:00 P.M. Regular Session

MINUTES

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chairman Ellen W. Reckhow, Vice-Chairman Michael D. Page, and Commissioners Lewis A. Cheek and Becky M. Heron

Absent: Commissioner Philip R. Cousin Jr.

Presider: Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

Motion to Excuse Chairman Reckhow

Commissioner Cheek moved, seconded by Vice-Chairman Page, to excuse Chairman Reckhow from the August 4, 2008 Worksession.

The motion carried with the following vote:

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

Announcements

Chairman Reckhow recapped the dedication ceremony and ribbon cutting for the new Durham Access Center on the Durham Regional campus. The Durham Access Center substantially expands services to citizens with substance abuse and mental health issues. She thanked Ellen Holliman, The Durham Center Director, and Glen Whisler, County Engineer, for their hard work with the project.

Chairman Reckhow made the following announcements:

National Bio and Agro-Defense Facility:

The Department of Homeland Security will hold a public meeting for comments on the proposed National Bio and Agro-Defense Facility on Tuesday, July 29, 2008, from 12:30 p.m. to 4:30 p.m. and from 6 p.m. to 10 p.m. at Butner-Stem Middle School, 501 East D Street in Butner, N.C. The meeting will take place in the gymnasium.

Durham Neighborhood College:

The Fall 2008 deadline for Durham's Neighborhood College is Friday, August 1. Interested citizens should submit their applications to the Durham County Clerk to the Board of Commissioners at 200 East Main Street, second floor. Applications can be downloaded from the County website at www.durhamcountync.gov or the City website at www.durhamnc.gov. Those selected for this unique opportunity will learn more about the operations and services of local government.

Public Meeting at Main Library:

On Tuesday, July 29, from 5:30 to 7:00 p.m., Durham County Library will host a public meeting to gather citizen input on the renovation of the Main Library. To determine the needs of the community, the library staff desires to hear your ideas on what you want in your new library. The public meeting will be held in the auditorium of the Main Library at 300 N. Roxboro Street in Durham.

Minutes

Commissioner Cheek moved, seconded by Commissioner Heron, to approve as submitted the May 28, 2008 Budget Worksession, May 29, 2008 Budget Worksession, and June 23, 2008 Regular Session Minutes and as amended the May 30, 2008 Budget Worksession Minutes of the Board.

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

Recognize Tax Administration Staff for Excellent Collections Year

Chairman Reckhow introduced this item to recognize Tax Administration staff for outstanding collections for fiscal year 2007-2008. She stated that the Board invited the City Council to tonight's meeting as Tax Administration is a department that serves the City and County. Present were City Council Members Cora Cole-McFadden, Mike Woodard, and Farad Ali. Chairman Reckhow reported that Tax Administration has achieved a collection rate of 98.87% for fiscal year 2007-2008 compared to a collection rate from the previous year of 98.74% for the County. It also accomplished a collection percentage of 98.70% for the City of Durham compared to the previous year collection rate of 98.59%. Durham County finished second among the Top 10 counties in the state. Of the Top 10 counties, only three had a tax collection rate increase from the previous year.

Kim Simpson, Tax Administrator, thanked the Commissioners for their support, Durham citizens for contributing greatly towards tax collections, and Tax Administration staff for its hard work. She asked Tax supervisors and staff in attendance to stand and be recognized.

Chairman Reckhow invited Mayor Pro Tempore Cole-McFadden to come forward for comments.

Mayor Pro Tempore Cole-McFadden commented as follows:

“Good evening citizens of Durham. Indeed, great things are happening in Durham. County Commissioners Reckhow, Page, Heron, and Cheek, and Reverend Cousin in his absence, and County Manager Ruffin in his absence, and staff, Tax Administer and the rest of our awesome, talented, effective Tax Department staff. I am indeed honored to join with you in recognizing the outstanding achievements of our Tax Department staff, many of whom I know from the days when the City performed our own tax collection service. Thank you so much for doing this for us.

First, let me recognize and thank Kim and her staff for the good working relationship that she developed with our City staff over years. That means an awful lot to us. And thank you, Kim, for keeping our staff abreast of your progress on a very continuous basis. We really, truly appreciate what you have done. And thank you for keeping staff on task and providing a workplace environment conducive to getting things done and staying on task. We sincerely appreciate you, as I’ve said before, keeping us abreast of your collections on an ongoing basis. Also, addressing the concerns raised by citizens in a timely fashion. That is so important.

Durham, according to our finance director, has the highest collection rate of all major cities in North Carolina. I haven’t checked that, but I believe he knows what he is talking about. Ninety-eight percent collections total \$107.4 million, an increase from the prior year of \$98.59 million. On behalf of the citizens of Durham, we thank you and honor you and respect the work that you do. In addition, thank you for working so diligently with our taxpayers to avoid as many tax foreclosures as possible. Job well done. Thank you so very much.”

Chairman Reckhow thanked Mayor Pro Tempore Cole-McFadden for her comments.

Commissioner Cheek praised the efforts of Tax Administration staff, especially due to Fiscal Year 07-08 being a revaluation year.

Chairman Reckhow commended Ms. Simpson for her work with avoiding tax foreclosures. Chairman Reckhow stated that Ms. Simpson attended a press conference and a workshop, which was held last weekend at North Carolina Central University, and has made a commitment to work with citizens, who are having difficulty making mortgage and tax payments, to structure payment plans and provide counseling. Chairman Reckhow thanked Ms. Simpson and staff for attending the events.

Consent Agenda

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

- a. Little Mountain Farm Clean Water Management Trust Fund Grant Agreement (authorize the execution of the CWMTF Grant Agreement, approve the acquisition of CWMTF conservation easements for the riparian buffer portions of the farm at the full appraised value, and

- authorize an interfund loan from the General fund to the capital project until the reimbursement funds for the project are received from CWMTF and the FRPP program);
- b. Matthews Road Open Space Clean Water Management Trust Fund Grant Agreement (authorize the execution of the CWMTF Grant Agreement and approve the conveyance of conservation easements to the State of North Carolina on the North Triangle Realty property);
 - c. Modification to NCHFA Loan Documents (approve the modifications to the Installments Financing Agreements with NCHFA dated April 9, 2001 and the corresponding modifications to the Deeds of Trust; authorize the execution of the modifications to the loan documents);
 - d. Approval of a Grant Agreement to Project Access of Durham County for a Coordinated Specialty Care Access Program for the Uninsured (authorize that the County enter into a grant agreement in the amount of \$451,000 to support operational costs for July 1, 2008 – June 30, 2009);
 - e. Contract—Turner Business Appraisers Inc. (approve the renewal of the contract to conduct audits and consulting; the contract amount is not to exceed \$50,000);
 - f. Contract—County Tax Services Inc. (approve the renewal of the contract to conduct audits and consulting; the contract amount is not to exceed \$77,000);
 - g. Contract—American Solutions for Business (approve the contract to design, print, and mail forms for the Tax Administration Department; contract amount is not to exceed \$132,000 for design, printing, and mailing and \$200,000 for postage);
 - *h. Property Tax Releases and Refunds for Fiscal Year 2007-2008 (accept the property tax release and refund report for June 2008 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
 - i. Appointment—NCACC Annual Conference Voting Delegate (appoint Commissioner Becky M. Heron as the voting delegate for the annual conference and Assistant County Manager Deborah Craig-Ray as the alternate);
 - *k. Budget Ordinance Amendment No. 09BCC000002—Appropriation of General Fund Fund Balance (\$850,000) to Durham Public Schools for City of Medicine School Academy Lease Payments (to support lease payments through June 30, 2011);
 - *l. Budget Ordinance Amendment No. 08BCC000077—Bethesda and Lebanon Fire Districts—Appropriation of Fire District Fund Balance (approve in the amount of \$24,400 for FY2008 to appropriate fire district fund balance to Bethesda and Lebanon Fire Districts in order to

- satisfy the final payment to the General Fund for reimbursement of volunteer salaries);
- m. Revised Interlocal Agreement for Little River Regional Park (approve the Interlocal Agreement between Durham and Orange Counties for the management and operation of the Little River Regional Park);
 - n. Approve the Sale of County Surplus Property (approve the sale of 2230 N. Oak Ridge Boulevard to P.A.P.'s Custom Home Building for \$15,000, 1908 Essex Road to P.A.P.'s Custom Home Building for \$6,500, 1750 & 1756 Ruffin Street to P.A.P.'s Custom Home Building for \$6,000, 1200 Grant Street to Sweet Ivory CDC Inc. for \$1,020, and 1101 Hazel Street to Sweet Ivory CDC Inc. for \$728);
 - o. Third Amendment to Interlocal Agreement with Durham Public Schools (approve the amendment and authorize the execution of said amendment);
 - *p. Resolution for Issuance of Bond Anticipation Notes (BANs) (approve this resolution and authorize the execution of the required documents); and
 - *q. Approve the Work First Planning Committee as recommended by the Department of Social Services.

The motion carried with the following vote:

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

*Documents related to these items follow:

Consent Agenda Item No. h. Property Tax Releases and Refunds for Fiscal Year 2007-2008 (accept the property tax release and refund report for June 2008 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details releases and refunds for the month of June 2008.

Releases & Refunds for 2008 Taxes:

Personal	\$ 2,459.63
Motor Vehicles	\$ 11,876.51
Vehicle Fees	\$ 380.00
Total for 2008 Taxes and Fees	\$ 14,716.14

Releases & Refunds for 2007 Taxes:

Real Estate	\$ 73,372.97
Personal	\$ 1,092.35
Registered Vehicles	\$ 25,404.69

Vehicle Fees	\$ 540.00
Solid Waste	<u>\$ 85.00</u>
Total for 2007 Taxes and Fees	\$100,495.01

Prior years' (2003-2006) releases and refunds for June 2008 are in the amount of \$1,582.63. The total current year and prior years' releases and refunds amount to \$116,793.78.

(Recorded in Appendix A in the Permanent Supplement of the July 28, 2008 Regular Session Minutes of the Board.)

Consent Agenda Item No. k. Budget Ordinance Amendment No. 09BCC000002—Appropriation of General Fund Fund Balance (\$850,000) to Durham Public Schools for City of Medicine School Academy Lease Payments (to support lease payments through June 30, 2011).

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000002

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 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	\$24,665,835	\$850,000	\$25,515,835

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Education	\$110,014,051	\$850,000	\$110,864,051

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

This the 28th day of July, 2008.

Consent Agenda Item No. l. Budget Ordinance Amendment No. 08BCC000077—Bethesda and Lebanon Fire Districts—Appropriation of Fire District Fund Balance (approve in the amount of \$24,400 for FY2008 to appropriate fire district fund balance to Bethesda and Lebanon Fire Districts in order to satisfy the final payment to the General Fund for reimbursement of volunteer salaries).

DURHAM COUNTY, NORTH CAROLINA
FY 2007-08 Budget Ordinance
Amendment No. 08BCC000077

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

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Other Financing Sources	\$30,969,173	\$24,400	\$30,993,573
<u>SPECIAL REVENUE FUND</u>			
Other Financing Sources	\$238,221	\$24,400	\$262,621

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$48,655,877	\$24,400	\$48,680,277
<u>SPECIAL REVENUE FUND</u>			
Other	\$1,412,285	\$24,400	\$1,436,685

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

This the 28th day of July, 2008.

Consent Agenda Item No. p. Resolution for Issuance of Bond Anticipation Notes (BANs) (approve this resolution and authorize the execution of the required documents).

RESOLUTION PROVIDING FOR THE ISSUANCE OF
\$80,000,000 GENERAL OBLIGATION PUBLIC IMPROVEMENT
BOND ANTICIPATION NOTES, SERIES 2008

WHEREAS, the County of Durham, North Carolina (the "County") in the past has issued its general obligation bonds to provide funds for capital projects in advance of the incurrence of the project costs to be paid from such funds; and

WHEREAS, the County desires to provide funds for certain capital projects on a more efficient basis under appropriate circumstances by issuing its general obligation bond anticipation notes from time to time as needed to pay project costs that have been actually incurred or to reimburse itself for the payment of such costs and by issuing its general obligation bonds from time to time to pay such notes when due and not otherwise paid,

thereby borrowing fewer funds and borrowing a portion of such funds at interest rates which are generally lower than interest rates for such bonds; and

WHEREAS, the Bank of America, N.A. (the "Bank") has offered to purchase such notes as hereinafter provided;

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County, as follows:

The Board of Commissioners for the County (the "Board of Commissioners") has determined and does hereby find and declare:

That orders authorizing \$8,680,000 Community College Bonds, \$4,180,000 Museum Bonds and \$194,240,000 School Bonds of the County were adopted by the Board of Commissioners on July 23, 2007, each of which orders was approved by the vote of a majority of the qualified voters of the County who voted thereon at a referendum duly called and held on November 6, 2007.

That none of said Community College Bonds, said Museum Bonds or said School Bonds has been issued, that no notes have been issued in anticipation of the receipt of the proceeds of the sale of any of said Community College Bonds, said Museum Bonds or said School Bonds and that it is necessary to provide for the issuance of not exceeding \$80,000,000 notes in anticipation of the receipt of the proceeds of the sale of all of said Community College Bonds, all of said Museum Bonds and \$67,140,000 of said School Bonds.

That it is convenient to consolidate for the purpose of their issuance the notes referred to hereinabove in an aggregate principal amount not exceeding \$80,000,000 outstanding at any time as provided in this resolution (this "Resolution").

In anticipation of the receipt of the proceeds of the sale of a like amount of the respective bonds referred to hereinabove, the issuance of notes of the County in an aggregate principal amount not exceeding \$80,000,000 outstanding at any time is hereby authorized. Such notes shall be issued as a single note of the County registered as to principal and interest in the name of the Bank, shall evidence an initial advance of funds by the Bank to the County in the amount of \$ 250,000 (the "Initial Advance") as well as each Additional Advance (as hereinafter defined), shall be designated "General Obligation Public Improvement Bond Anticipation Note, Series 2008" and shall be dated the date of delivery thereof (the "Note"). The Note shall mature on August 1, 2011 (the "Maturity Date"), subject to the right of prior redemption as hereinafter provided, and shall bear interest at a variable rate as hereinafter provided. Both the principal of and the interest on the Note shall be payable in any coin or currency of the United States of America that at the time of payment is legal tender for the payment of public and private debts.

The County may request the Bank to make advances of funds to it to be evidenced by the Note in addition to the Initial Advance. Each such additional advance by the Bank (each, an "Additional Advance") shall constitute the purchase by the Bank of a portion of the principal amount of the notes authorized to be issued by this Resolution. For each request for an Additional Advance, the County shall submit to the Bank, at least four (4) Business Days (as hereinafter defined) prior to the requested date of disbursement, a completed written disbursement request (an "Advance Request"). Each Advance Request may be delivered by electronic mail and shall state the amount of the Additional Advance and the requested date of delivery thereof, provide such other information and be in such form as required by the Bank and be executed by the manual or electronic signature of the County Manager, the Finance Director of the County, the Deputy Finance Director of the County or the Assistant

Finance Director of the County (each, an “Authorized Officer”). The proceeds of each Additional Advance shall be used by the County solely to pay or to reimburse itself for the payment of the project costs to be funded by the notes authorized to be issued by this Resolution. The County shall not submit Advance Requests to the Bank more frequently than monthly. Subject to compliance by the County with the terms and conditions of this Resolution, the Bank shall make an Additional Advance to the County and send a written confirmation thereof (which may be delivered by electronic mail) to the Commission within four (4) Business Days of the receipt by it of an Advance Request. The Initial Advance and Additional Advances shall not exceed \$80,000,000 on a cumulative basis. The term “Business Day” means a day on which the Bank, at its principal corporate offices in Charlotte, North Carolina, is not required or authorized by law to remain closed.

The Initial Advance and Additional Advances shall be evidenced by the Note. The County hereby authorizes the Bank to endorse on the schedule attached to the Note the amount of each Additional Advance made by the Bank to the County hereunder and the date that such Additional Advance is made; provided, however, that any failure by the Bank to make any such endorsement shall not affect the obligations of the County hereunder or under the Note in respect of such Additional Advance. The County shall pay to the Bank the aggregate amount of the Initial Advance and all Additional Advances (collectively, the “Amount Advanced”) on the Maturity Date, subject to the right of prior redemption, as hereinafter provided.

The Note shall bear, and the County shall pay, interest from the date of the Note on the outstanding principal amount thereof equal to the Amount Advanced at the Interest Rate (as hereinafter defined).

Accrued (and theretofore unpaid) interest on the outstanding principal of the Note shall be due and payable (i) in arrears on the first Business Day of each calendar month, beginning with the first such day to occur after the date of delivery of the Note and (ii) on the date when the principal of the Note shall be due (whether at maturity or by redemption prior to maturity), but only to the extent accrued. Each such date for the payment of interest is herein called an "Interest Payment Date."

The term "Interest Rate" means a floating rate of interest based on 60.515% of LIBOR (as hereinafter defined) plus .78% per annum calculated on a 30/360 accrual basis from and including the date of the Note. The Interest Rate shall not exceed twelve percent (12%) per annum. For the purpose of this definition, "LIBOR" means the rate per annum equal to the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by the Bank from time to time) at approximately 11:00 a.m. London time two (2) London Banking Days (as hereinafter defined) before the day this Resolution takes effect and before the first day of each subsequent month for deposits in United States dollars of amounts equal to or comparable to the outstanding principal of the Note (for delivery on the first day of each interest period) with a thirty-day term. If LIBOR is not available at such time for any interest period for any reason, then another rate for such interest period will be determined by such alternate method as reasonably selected by the Bank. A "London Banking Day" is a day on which banks in London are open for business and dealing in offshore dollars. The Interest Rate shall be adjusted on the first day of each month to include the applicable LIBOR rate at the time of such adjustment. Interest shall continue to accrue on the principal of the Note until such interest is paid. In the event that the County fails to pay the interest on or principal of the Note within fifteen (15) days of the due date thereof,

the County shall pay to the Bank a late payment charge equal to four percent (4%) of the delinquent payment.

Upon determining the applicable Interest Rate for each interest period commencing on the first day of a month following the date of delivery of the Note, the Bank shall immediately notify the County of such Interest Rate by electronic mail addressed to the Assistant Finance Officer of the County. The Bank shall also notify the County not less than fifteen (15) days before each Interest Payment Date of the amount due on such Interest Payment Date, such notice to be given in writing by first-class mail, postage prepaid, and addressed to the Assistant Finance Officer of the County.

The principal of the Note shall be payable to the Bank as the registered owner of the Note on the registration books of the County hereinafter provided for upon the presentation and surrender thereof at the office of the Note Registrar (as hereinafter defined) as the same shall become due and payable on the Maturity Date or any prior redemption date and the interest on the Note shall be payable to the Bank as the registered owner of the Note as the same shall become due and payable on the respective Interest Payment Dates as hereinafter provided.

Unless otherwise instructed by the Bank, the County shall pay the principal of and the interest on the Note as they become due and payable by 5:00 P.M. on the respective payment dates, by wire transfer to Bank of America, N.A., as custodian, in accordance with wire transfer instructions to be provided to the County by the Bank.

The County acknowledges that the Bank is providing the Amount Advanced at the Interest Rate based on the premise that the interest on the Note received by the Bank under this Resolution is excludable from the gross income of the Bank for purposes of federal income taxation and exempt from all State of North Carolina ("State") income taxes based on federal

and State laws in effect as of the date of delivery of the Note. The Bank understands, however, that the interest on the Note may be included in certain computations (including those used in calculating the alternative minimum tax liability of corporations). If, as a result of any action or failure to take any action by the County, the interest on the Note received by the Bank shall be finally determined to be included in the gross income of the Bank by the Internal Revenue Service, any federal administrative agency or any court, then the Interest Rate and the remaining interest payments on the Note will be adjusted upward to provide for the payment of interest by the County at taxable rates which will preserve the Bank's after-tax economic yield with respect to the obligation of the County to make payments of principal of and interest on the Note. Such increased interest shall be due from and after the date as of which the Internal Revenue Service or any such agency or court determines that the interest received by the Bank is included in the gross income of the Bank.

If an event specified above in the immediately preceding paragraph occurs, the County agrees, to the extent permitted by law, to indemnify and hold harmless the Bank from any cost and expense incurred as a result thereof, specifically including without limitation all administrative expenses arising in connection with the amendment of the Bank's income tax returns. The Bank shall deliver to the County a certificate as to the amounts of such adjustments of the Interest Rate and the remaining interest payments on the Note or cost or expense incurred by the Bank as a result of an event specified in the immediately preceding paragraph, setting forth in reasonable detail the basis therefor and the manner of calculation thereof, as soon as practicable after the Bank becomes aware of such event, which certificate shall be conclusive (absent manifest error) as to the amounts set forth therein. In determining such amounts, the Bank may use any reasonable averaging and attribution methods.

The County may, at its option, with any available funds, redeem prior to the Maturity Date the Note in whole on any Interest Payment Date, at a redemption price equal to one hundred percent (100%) of the outstanding principal of the Note, plus accrued interest thereon to the date of such redemption, upon not less than thirty (30) days prior written notice of such redemption to the Bank by electronic mail, confirmed by first-class mail, postage prepaid.

The Note shall bear the manual or facsimile signatures of the Chairman of the Board of Commissioners and the Clerk to the Board of Commissioners and the corporate seal or a facsimile of the corporate seal of the County shall be impressed or imprinted, as the case may be, on the Note.

The certificate of the Local Government Commission of North Carolina (the "Commission") to be endorsed on the Note shall bear the manual or facsimile signature of the Secretary of the Commission and the certificate of authentication of the Note Registrar to be endorsed on the Note shall be executed as provided hereinafter.

In case any officer of the County or the Commission whose manual or facsimile signature shall appear on the Note shall cease to be such officer before the delivery of the Note, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery, and the Note may bear the manual or facsimile signatures of such persons as at the actual time of the execution of the Note shall be the proper officers to sign the Note although at the date of the Note such persons may not have been such officers.

The Note shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under this Resolution until it shall have been authenticated by the execution by the Note Registrar of the certificate of authentication endorsed thereon.

The Note and the endorsements thereon shall be in substantially the following forms:

No. R-1

United States of America
State of North Carolina

COUNTY OF DURHAM

GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND
ANTICIPATION NOTE, SERIES 2008

The County of Durham, in the State of North Carolina (the "County"), is justly indebted and for value received hereby promises to pay to BANK OF AMERICA, N.A. (the "Bank") or legal representative, upon the presentation and surrender hereof, at the office of the Finance Director of the County (the "Note Registrar"), the principal sum of \$80,000,000 or so much thereof as may be disbursed and remain outstanding from time to time hereafter as the Amount Advanced (as defined below) on the Maturity Date (as defined below) or the date of any redemption of this note prior to the Maturity Date with interest thereon until paid in full at the Interest Rate (as defined below) as provided in the Resolution (as defined below). The Amount Advanced includes the Initial Advance (as defined below) and each Additional Advance (as defined below). The Initial Advance has been endorsed on the schedule attached hereto and each Additional Advance may be endorsed by the Bank on the schedule attached hereto and by this reference incorporated herein (provided, however, that any failure by the Bank to make any such endorsement shall not affect the obligations of the County hereunder). Accrued interest on the principal balance hereof from time to time outstanding shall be due and payable (i) in arrears on the first Business Day (as defined below) of each calendar month, beginning with the first such day to occur after the date of delivery of this note and (ii) on the date when the principal of this note shall be due (whether at maturity or by redemption prior to maturity), but only to the extent accrued. All principal

hereunder shall be due and payable on the Maturity Date or the date of any redemption hereof prior to the Maturity Date.

Both the principal of and the interest on this note shall be paid in any coin or currency of the United States of America that is legal tender for the payment of public and private debts on the respective dates of payment thereof. For the prompt payment hereof, both principal and interest as the same shall become due, the faith and credit of the County are hereby irrevocably pledged.

This note is given for money borrowed in the amount of the Amount Advanced in anticipation of the receipt of the proceeds of the sale of a like amount of \$8,680,000 Community College Bonds, \$4,180,000 Museum Bonds and \$67,140,000 School Bonds constituting a portion of \$194,240,000 School Bonds duly authorized by orders adopted by the Board of Commissioners for the County on July 23, 2007 and approved by the vote of a majority of the qualified voters of the County who voted thereon at a referendum duly called and held on November 6, 2007. This note is issued pursuant to and in full compliance with The Local Government Bond Act, as amended, Article 9, as amended, of Chapter 159 of the General Statutes of North Carolina and a resolution duly passed by said Board on July 28, 2008 (the "Resolution").

This note is registered as to principal and interest in the name of the Bank. The Note Registrar shall keep at his office the books of the County for the registration of this note and the payment of the principal of and interest on this note as provided in the Resolution.

This note is subject to redemption prior to the Maturity Date as provided in the Resolution.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of North Carolina to happen, exist and be performed precedent to and

in the issuance of this note have happened, exist and have been performed in regular and due form and time as so required and that the total indebtedness of the County, including this note, does not exceed any constitutional or statutory limitation thereon.

This note shall not be valid or become obligatory for any purpose or be entitled to any benefit or security under the Resolution until this note shall have been authenticated by the execution by the Note Registrar of the certificate of authentication endorsed hereon.

As used herein, the terms "Amount Advanced", "Maturity Date", "Interest Rate", "Initial Advance", "Additional Advance" and "Business Day" shall have the meaning given each such term in the Resolution.

IN WITNESS WHEREOF, the County, by resolution duly passed by its Board of Commissioners, has caused this note [to be manually signed by] [to bear the facsimile signatures of] the Chairman of said Board and the Clerk to said Board and [a facsimile of] its corporate seal to be [printed] [impressed] hereon, all as of the 28th day of July, 2008.

/s/ Ellen W. Reckhow
Chairman of the Board of Commissioners

/s/ Vonda C. Sessoms
Clerk to the Board of Commissioners

SCHEDULE
AMOUNT OF
INITIAL ADVANCE
DATE OR ADDITIONAL ADVANCE

The person in whose name the Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of or on account of the principal of and the interest on the Note shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Note and interest thereon, to the extent of the sum or sums so paid.

The County shall appoint such registrars, paying agents or other agents as may be necessary for the registration of the Note and the timely payment of principal and interest with respect to the Note. The Finance Director of the County is hereby appointed the registrar and paying agent for the Note (collectively, the "Note Registrar"), subject to the right of the Board of Commissioners to appoint another Note Registrar, and as such shall keep at his office the books of the County for the registration and payment of the Note as provided in this Resolution.

The County shall send to the Bank a copy of the County's audited financial statements for each fiscal year within two hundred seventy (270) days of the completion of such fiscal year.

The County covenants that, to the extent permitted by the Constitution and laws of the State of North Carolina, it will comply with the requirements of the Internal Revenue Code of 1986, as amended, relating to the issuance of the Note, except to the extent that the County obtains an opinion of bond counsel to the effect that noncompliance would not result in interest on the Note being includable in the gross income of its owner for purposes of federal income taxation.

The Commission is hereby requested to sell the Note at private sale without advertisement to the Bank, subject to the approval of the Finance Director of the County, in accordance with the Note Purchase Agreement between the Commission and the Bank in the form presented to the Board of Commissioners (the "Note Purchase Agreement"). The Note Purchase Agreement is hereby approved and the Finance Director of the County is hereby authorized to execute and deliver the Note Purchase Agreement in substantially such form, with such changes, additions and omissions as may be approved by the Finance Director of the County, such approval to be conclusively evidenced by such execution.

The County Manager and the Finance Director of the County and their designees are hereby authorized and directed to take such other actions and to execute and deliver such other documents, certificates, undertakings, agreements or other instruments as may be necessary or appropriate to effectuate the issuance of the Note.

This resolution shall take effect upon its passage.

Consent Agenda Item No. q. Approve the Work First Planning Committee as recommended by the Department of Social Services.

PROPOSED WORKFIRST PLANNING COMMITTEE
2008-2010

The proposed membership of this committee consists of the following persons:

Jim Polk	Chair
Tamala McDowell	Department of Juvenile Justice Delinquent Prevention
Gayle Harris	Durham County Health Department
Aurelia Sands Bell	Durham Crisis Response
Terrance Gerald	Durham Housing Authority
Matthew Ramadan	Durham Regional Financial Center
Sue Jackson	Durham Technical Community College
Erroll Reese	Easy Web, Inc.
Jimmie Modlin	Employment Security Commission
Rev. Pebbles Lindsay-Lucas	Families First Coordinator
Kathy Hoffmeier	Greater Durham Chamber of Commerce
Delphine Sellers	North Carolina Cooperative Extension
Brenda Scurlock	NC Department of Vocational Rehabilitation
Kevin Dick	Office of Economic & Workforce Development, Durham

Representatives from Department of Social Services

Charles	Director of Children Services
Antonia Pedroza	Director of Accountability and Program Support
Rhonda Stevens	Director for Family Economic Independence
Gail Angle	Child Protective Services
Angela Bellamy	Child Support
Sharon Roane	Durham's Alliance for Child Care Access
Wiloda Carter-Neville	Family Crisis Unit
Pinkie Davis-Boyd	Food and Nutrition
John Myklebust	Work First

Consent Agenda Item Removed for Discussion

Consent Agenda Item No. j. Budget Ordinance Amendment No. 09BCC000001 and Capital Project Amendment No. 09CPA000001—\$426,945 Appropriation of General Fund Mental Health Designated Fund Balance to Increase the Mental Health Crisis Center/Oakleigh Building Renovation (No.: DC091) from \$2,800,000 to \$3,226,945.

Chairman Reckhow pulled this item to ask County Engineer Glen Whisler to justify the resurfacing of the parking lot.

Mr. Whisler explained that resurfacing should expand the life of the parking lot up to 20 years and would avoid having to make spot repairs and patches over the next several years. The total cost for resurfacing is approximately \$50,000.

Mr. Whisler informed Commissioner Heron that the parking lot has deteriorated significantly; therefore, a concrete sealant cannot be used.

Commissioner Cheek moved, seconded Commissioner Page, to approve Consent Agenda Item No. j.

The motion carried with the following vote:

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

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000001

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 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	\$24,238,890	\$426,945	\$24,665,835

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Other	\$27,501,423	\$426,945	\$27,928,368

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

This the 28th day of July, 2008.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Capital Project Ordinance
Amendment No. 09CPA000001

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects:

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
Mental Health Crisis Center Renovation Project	\$2,800,000	\$426,945	\$3,226,945

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

This the 28th day of July, 2008.

Public Hearing to Consider Allocating Economic Development Investment Funds to Merck & Co. Inc.

Acting County Manager Carolyn Titus gave the following introductory remarks:

“Merck & Co. Inc. is considering an expansion to its pharmaceutical manufacturing facility on its existing 257-acre site located in Treyburn Corporate Park. A new bulk production building would be constructed, as well as additions to the warehouse and lab. Administration and utility buildings would be constructed to house this expansion. Merck develops, manufactures, and commercializes pharmaceutical products.

The proposed new investment for the Treyburn campus is estimated to be approximately \$300 million. Upon completion, Merck would manufacture a vaccine for chicken pox. In addition to the capital investment associated with the construction of the building, it is anticipated that there would be approximately 150 new jobs established in Durham County.

Merck officials have stated that Durham County’s financial support for the project is a key consideration in finalizing the decision. Merck is requesting that the County participate in the costs of site preparation activities, such as site clearing and grading, and extension of utilities. The competing site in Pennsylvania would not incur such expenses.

Staff is recommending that the County participate in this economic development project by reimbursing Merck & Co. Inc. up to \$2 million for the costs of site preparation activities and extension of utilities.

This public hearing was advertised on Friday, July 18, 2008 as required by Statute.”

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

Ralph McKinney, 3104 Winston Road, Durham 27704, was not present when his name was called.

The following citizens spoke in support of this item:

Casey Steinbacher, President and CEO, Durham Chamber of Commerce, 300 West Main Street, Durham 27701, introduced signed speakers who would comment in support of the Merck economic incentive. She thanked Merck for its contribution to Durham County.

Jerry O’Keeffe, Immediate Past Chair/PSNC Energy, Durham Chamber of Commerce, 300 West Morgan Street, Durham 27701, discussed economic development due to this project.

Dr. Bill Ingram, President, Durham Technical Community College (DTCC), 1637 Lawson Street, Durham 27703, discussed DTCC’s capability to train Durham citizens.

Andrea Harris, representing the North Carolina Institute of Minority Economic Development, 114 West Parrish Street, Durham 27701, discussed the positive impact of minority and women-owned businesses on growth, development, and jobs in Durham County.

City Council Member Farad Ali, representing the North Carolina Institute of Minority Economic Development, 114 West Parrish Street, Durham 27701, discussed his role in the work to development a successful minority procurement program

Warren Arrington, owner of American Safety Products, Parrish Street, Durham 27701, urged the Board to approve the Merck incentive and, if approved, keep track of the progress.

Dr. Li-An Yeh, representing North Carolina Central University, 1801 Fayetteville Street, Durham 27707, discussed Merck’s involvement and collaboration with NCCU.

Pam Senegal, Dean of Corporate Education, Durham Technical Community College (DTCC), 1637 Lawson Street, Durham 27703, discussed an innovative training program being developed with the life science manufacturing cluster in Durham

Keith Burns, Chair-Elect, Durham Chamber of Commerce, explained the business effect and importance of the Merck project.

Chairman Reckhow recognized Agnes Speight, Merck Inc. Public Affairs Manager, and Tom Berna, Operations Lead for the Treyburn Corporate Park. She expressed appreciation for their efforts in reaching out to the community.

Commissioner Heron asked Acting County Manager Titus to explain the Incentives Policy.

Acting County Manager Titus explained that if Durham is awarded the vaccine plant, the County would then enter into a performance-based contract with Merck. The contract would require that they complete the facility, obtain a certificate of occupancy, begin manufacturing the vaccine, and put new dollars on the tax books of Durham County. Once the requirements are met, then payments would be made over a five- or seven-year period. Jobs would be monitored to ensure that Durham County residents are hired. Every year, tax records are verified. If the company does not meet the terms of the contract, then the County can recoup all payments made to date to the company.

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

Commissioner Heron moved, seconded by Commissioner Cheek, to approve the reimbursement contract between the County of Durham and Merck & Co. Inc. in an amount up to \$2,000,000 to allow for the reimbursement of costs associated with the site preparation, such as site clearing and grading, and the extension of utilities.

The motion carried with the following vote:

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

Public Hearing—Unified Development Ordinance (UDO) Text Change—Commercial Neighborhood Minor Special Use Permit (CN mSUP) (TC0700018)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board receive public comments on Text Change – Commercial Neighborhood Minor Special Use Permit (CN mSUP) (TC0700018) and adopt an ordinance amending the Unified Development Ordinance (UDO), incorporating revisions to Article 3, Applications and Permits, and Article 6, District Intensity Standards. Mr. Medlin reported that Planning staff recommends approval. The Durham Planning Commission recommended and voted for approval with an 8-5 vote. He certified that the required notification and advertising have been made in accordance with the appropriate UDO standards.

Commissioner Cheek asked Mr. Medlin if “impacted neighborhoods” is formally defined in the UDO.

Mr. Medlin replied in the negative.

Mr. Medlin responded to Commissioner Cheek’s question regarding whether a neighborhood is impacted and whether it should be engaged in the formal discussion process.

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

Commissioner Cheek moved, seconded by Vice-Chairman Page, to approve Unified Development Ordinance (UDO) Text Change—Commercial Neighborhood Minor Special Use Permit (CN mSUP) (TC0700018)

The motion carried with the following vote:

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

**AN ORDINANCE TO AMEND PROVISIONS OF THE UNIFIED DEVELOPMENT
ORDINANCE REGULATING SPECIAL USE PERMITS
AND COMMERCIAL NEIGHBORHOOD DISTRICT (TC0700018)**

WHEREAS, the Durham County Board of Commissioners wishes to amend certain provisions regarding special use permits and the Commercial Neighborhood District in the Unified Development Ordinance; and

WHEREAS, it is the objective of the Durham County Board of Commissioners to have the UDO promote the health, safety, and general welfare of the community.

NOW, THEREFORE, be it ordained that Article 3, Applications and Permits, and Article 6, District Intensity Standards, of the Unified Development Ordinance are amended to make the following changes:

SECTION 1

Modify Section 3.9, Special Use Permit, paragraph 3.9.1, Applicability, paragraphs B and C; and paragraph 3.9.8, Criteria for Approval of Major and Minor Special Use Permits, paragraph B, Review Factors, paragraph 10, Effect on Adjacent Property, paragraph 11, Compatibility, and paragraph 12, Other Factors, by renumbering as paragraph 13, and add new paragraph 12, as set forth below.

Sec. 3.9 Special Use Permit

3.9.1 Applicability

Special uses within the zoning districts are considered to be uses which are appropriate in a particular zoning district but because of their potential for incompatibility with adjacent uses may require individual review.

A minor special use permit shall be required for all minor special uses as set forth in the use table in Sec. 5.1, Use Table, and as may be specified elsewhere in this Ordinance. Minor special use permits require approval by the Board of Adjustment.

A major special use permit shall be required for all major special uses as set forth in the use table in Sec. 5.1, Use Table, and for fill or development in Special Flood Hazard Areas and Future Conditions Flood Hazard Areas pursuant to Sec. 8.4.4D, Development Requiring Governing Body Approval, and as may be specified elsewhere in this Ordinance. Major special use permits require approval by the appropriate governing body.

Projects within the Downtown Tier that require both minor and major special use permits may have the use permits consolidated into a single hearing for a major special use permit before the appropriate governing body so long as all required findings for both the minor and major special use permits are made.

3.9.8 Criteria for Approval of Major and Minor Special Use Permits

A. General Findings

Applications for major or minor special use permits shall be approved only if the approving authority finds that the use as proposed, or the use as proposed with conditions, is:

1. In harmony with the area and not substantially injurious to the value of properties in the general vicinity;
2. In conformance with all special requirements applicable to the use;

3. Will not adversely affect the health or safety of the public; and
4. Will adequately address the review factors identified below.

B. Review Factors

The applicant shall demonstrate that the review factors listed below have been adequately addressed. If an application is denied, the approving authority shall specify which of these review factors, if any, were not adequately addressed.

1. *Circulation*

Number and location of access points to the property and the proposed structures and uses, with particular reference to automotive, bicycle, mass transit and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.

2. *Parking and Loading*

Location of off-street parking and loading areas.

3. *Service Entrances and Areas*

Locations of refuse and service areas with particular reference to ingress and egress of service vehicles.

4. *Lighting*

Locations of exterior lighting with reference to glare, traffic safety, economic effect and compatibility with other property in the area.

5. *Signs*

Appropriateness of signs considering location, color, height, size, and design within the context of other property in the area.

6. *Utilities*

Location and availability of utilities.

7. *Open Spaces*

Location of required yards and other open spaces and preservation of existing trees and other natural features.

8. *Environmental Protection*

Preservation of tree cover, Durham Inventory Sites, floodplain, stream buffers, wetlands, steep slopes, open space and other natural features, and protection of water quality.

9. *Screening, Buffering and Landscaping*

Installation of screening, buffering, fencing and landscaping where necessary to protect adjacent property.

10. *Effects on Nearby Properties*

Effects of the proposed use on nearby properties, including, but not limited to, the effects of noise, odor, lighting, and traffic.

11. *Compatibility*

The level of general compatibility with nearby properties and impacted neighborhoods, including but not limited to the appropriateness of the scale, design, and use in relationship to other properties.

12. *Consistency with Policy*

Consistency with the Comprehensive Plan and applicable development tier guidelines, overlay purposes, and zoning district intent statements in Article 4, Zoning Districts.

13. *Other Factors*

Any other review factors which the approving authority considers to be appropriate to the property in question.

SECTION 2

Modify Section 6.10, Nonresidential District Development Intensity, paragraph 6.10.1, Nonresidential Development Standards, paragraph A, Rural Tier, paragraph B, Suburban Tier, paragraph C, Urban Tier, and paragraph D, Compact Tier, Downtown Tier, and CBD District, paragraph 1, Compact Tier and Downtown Tier, as set forth below.

Sec. 6.10 Nonresidential District Development Intensity

6.10.1 Nonresidential Development Standards

A. Rural Tier

All nonresidential development in the Rural Tier as designated in the Comprehensive Plan shall comply with the standards in the table below:

Dimensional Standard	CN		CG		I	
	Min.	Max.	Min.	Max.	Min.	Max.
Site Area (acres)	2	---	3	---	10	---
Project Floor Area (square feet)	---	20,000 ⁴	---	50,000	---	---
Lot Width (feet)	100	---	150	---	250	---
Street Yard (feet)	25	---	25	---	40	---
Side Yard (feet)	25 ¹	---	25 ¹	---	50	---
Rear Yard (feet)	25	---	25	---	50	---
Building Coverage (%)	---	23 ²	---	35 ²	---	30 ²

Height (feet)	---	25	---	25	---	50 ³
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¹ Side yard may be reduced to a minimum of 15 feet if adjacent to a nonresidential district or use.

² Building coverage may be further restricted by the impervious surface requirements of Sec. 8.7.2B, Impervious Surface Limits.

³ Additional height, up to 145 feet, may be approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

⁴ A development with new project floor area over 5,000 square feet, no development plan, and residential zoning districts adjacent (including directly across a public right-of-way) to two or more property lines requires a minor special use permit pursuant to Sec. 3.9, Special Use Permit. The applicant shall hold a neighborhood meeting pursuant to Sec. 3.2.3, Neighborhood Meeting, unless it previously held one for the development at issue.

B. Suburban Tier

All nonresidential development in the Suburban Tier as designated in the Comprehensive Plan shall comply with the standards in the tables below:

Dimensional Standard	CN		OI		CG	
	Min.	Max.	Min.	Max.	Min.	Max.
Site Area (square feet)	5,000	---	20,000	---	20,000	---
Project Floor Area (square feet)	---	20,000 ⁴	---	---	---	---
Lot Width (feet)	50	---	60	---	100	---
Street Yard (feet)	25	---	25	---	25	---
Side Yard (feet)	15	---	20 ¹	---	25 ¹	---
Rear Yard (feet)	25 ¹	---	25 ¹	---	25 ¹	---
Building Coverage (%)	---	60 ²	---	60 ²	---	60 ²
Height (feet)	---	35	---	50 ³	---	50

¹ Side and rear yard may be reduced by up to 50% if adjacent to a nonresidential district or use or a railroad right-of-way.

² Building coverage may be further restricted by the impervious surface requirements of Sec. 8.7.2B, Impervious Surface Limits.

³ Additional height, up to 145 feet, may be approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

⁴ A development with new project floor area over 5,000 square feet, no development plan, and residential zoning districts adjacent (including directly across a public right-of-way) to two or more property lines requires a minor special use permit pursuant to Sec. 3.9, Special Use Permit. The applicant shall hold a neighborhood meeting pursuant to Sec. 3.2.3, Neighborhood Meeting, unless it previously held one for the development at issue.

Dimensional Standard	SRP		IL		I	
	Min.	Max.	Min.	Max.	Min.	Max.
Site Area (square feet)	---	---	25,000	---	30,000	---
Lot Width (feet)	400	---	100	---	150	---
Street Yard (feet)	150 ^{6,7}	---	40	---	40	---
Side Yard (feet)	150 ^{1,7}	---	30 ²	---	50 ²	---
Rear Yard (feet)	150 ^{1,7}	---	25 ³	---	40 ³	---
Building Coverage (%)	---	15	---	60 ⁴	---	65 ⁴
Height (feet)	---	120 ⁵	---	50 ⁵	---	90 ⁵

¹ Side and rear yard may be reduced to a minimum of 30 feet if adjacent to permanently protected open space that results in a building separation of at least 150 feet or eliminated if adjoining a railroad right-of-way.

² Side yard may be reduced by 10 feet if adjacent to a nonresidential district or use.

³ Rear yard may be reduced by up to 50% if adjacent to a railroad right-of-way.

⁴ Building coverage may be further restricted by the impervious surface requirements of Sec. 8.7.2B, Impervious Surface Limits.

⁵ Additional height, up to 145 feet, may be approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

⁶ The street yard in the SRP shall be increased by one foot for each acre of land in the site, up to a maximum of 250 feet,

⁷ No parking, loading, or storage shall be permitted within the required yard areas.

C. Urban Tier

All nonresidential development in the Urban Tier as designated in the Comprehensive Plan shall comply with the standards in the tables below:

Dimensional Standard	CN		OI		CG	
	Min.	Max.	Min.	Max.	Min.	Max.
Site Area (square feet)	5,000	---	20,000	---	20,000	---
Project Floor Area (square feet)	---	20,000 ⁵	---	---	---	---
Lot Width (feet)	50	---	50	---	100	---
Build-To Line						
From ROW (feet)	---	15 ¹	---	15 ¹	---	15 ¹
% of Frontage	60 ¹	---	60 ¹	---	60 ¹	---
Side Yard (feet)	10	---	10	---	15	---
Rear Yard (feet)	25 ²	---	25 ²	---	25 ²	---
Building Coverage (%)	---	60 ³	---	60 ³	---	60 ³
Height (feet)	---	35	---	90 ⁴	---	50 ⁴

¹ Build-to line may be modified using the provisions of Sec. 6.10.1E, Street Yard Variations.

² Rear yard may be reduced by up to 50% if adjacent to a railroad right-of-way.

³ Building coverage may be further restricted by the impervious surface requirements of Sec. 8.7.2B, Impervious Surface Limits.

⁴ Additional height, up to 145 feet, may be approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

⁵ A development with new project floor area over 5,000 square feet, no development plan, and residential zoning districts adjacent (including directly across a public right-of-way) to two or more property lines requires a minor special use permit pursuant to Sec. 3.9, Special Use Permit. The applicant shall hold a neighborhood meeting pursuant to Sec. 3.2.3, Neighborhood Meeting, unless it previously held one for the development at issue.

Dimensional Standard	IL		I	
	Min.	Max.	Min.	Max.
Site Area (square feet)	5,000	---	25,000	---
Lot Width (feet)	50	---	100	---
Setback (feet)	---	---	40	---
Build-To Line				
From ROW (feet)	---	20 ¹	---	---
% of Frontage	60 ¹	---	---	---
Side Yard (feet)	15	---	40	---
Rear Yard (feet)	25 ²	---	40 ²	---
Building Coverage (%)	---	60	---	65 ³
Height (feet)	---	50 ⁴	---	90 ⁴

¹ Build-to line may be modified using the provisions of Sec. 6.10.1E, Street Yard Variations.

² Rear yards may be reduced by up to 50% if adjoining railroad rights of way.

³ Building coverage may be further restricted by the impervious surface requirements of Sec. 8.7.2B, Impervious Surface Limits.

⁴ Additional height, up to 145 feet, may be approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

D. Compact Tier, Downtown Tier, and CBD District

1. Compact Tier and Downtown Tier

- a. All nonresidential development in the Compact and Downtown Tiers as designated in the Comprehensive Plan other than development on property designated CBD shall comply with the standards in the tables below:

Dimensional Standard	CN		OI	
	Min.	Max.	Min.	Max.
Project Floor Area (square feet)	---	20,000 ⁴	---	---
Lot Width (feet)	50	---	50	---
Build-To Line				
From ROW (feet)	---	15 ¹	---	15 ¹
% of Frontage	60 ¹	---	60 ¹	---
Side Yard (feet)	10	---	10	---

Rear Yard (feet)	15	---	15	---
Height (feet)	---	35	---	120 ^{2,3}

¹ Build-to line may be modified using the provisions of Sec. 6.10.1E, Street Yard Variations.

² Additional height, up to 145 feet, may be approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

³ Height shall be capped at 45 feet for any structures located within 150 feet of the perimeter of the Compact Neighborhood Tier where the Tier adjoins residentially used and designated property.

⁴ A development with new project floor area over 5,000 square feet, no development plan, and residential zoning districts adjacent (including directly across a public right-of-way) to two or more property lines requires a minor special use permit pursuant to Sec. 3.9, Special Use Permit. The applicant shall hold a neighborhood meeting pursuant to Sec. 3.2.3, Neighborhood Meeting, unless it previously held one for the development at issue.

Dimensional Standard	CG		IL	
	Min.	Max.	Min.	Max.
Lot Width (feet)	50	---	50	
Build-To Line				
From ROW (feet)	---	15 ¹	---	15 ¹
% of Frontage	60 ¹	---	60 ¹	
Side Yard (feet)	10	---	15	---
Rear Yard (feet)	15	---	15	---
Height (feet)	---	90 ^{2,3}	---	50 ³

¹ Build-to line may be modified using the provisions of Sec. 6.10.1E, Street Yard Variations.

² Additional height, up to 145 feet, may be approved through the issuance of a Minor Special Use Permit pursuant to Sec. 3.9, Special Use Permit.

³ Height shall be capped at 45 feet for any structures located within 150 feet of the perimeter of the Compact Neighborhood Tier where the Tier adjoins residentially used and designated property.

- b. Areas designated CBD shall utilize the standards established in Sec. 4.8, Downtown Design Overlay, or the requirements of the Downtown Historic District, as appropriate.

2. *CBD District*

Nonresidential development in the CBD District in the Downtown Tier shall comply with the standards established in Sec. 4.8, Downtown Design Overlay, as modified by the requirements of the Downtown Historic District, where applicable.

E. Street Yard Variations

A new structure or modifications to an existing structure shall not be required to conform to the minimum street yard requirements of the district in the following circumstances:

1. Where 50% or more of the lots on the same linear block as the lot in question are developed with less than the required street yard, the average setback of the buildings on the developed lots on the block with less than the required street yard shall be observed as the minimum setback for a new structure;
2. Where the lot on which the new structure is proposed is between two adjacent existing developed lots with less than the required street yard, the average setback of the buildings of both adjacent lots shall be observed as the minimum street yard;
3. Where a linear block of less than 500 feet is split into more than one zoning district, the zoning district with the most frontage shall determine the minimum street yard setback. However, this provision shall not apply if the street right-of-way is less than 50 feet wide and property on the opposite side of the street is residentially used or zoned, in which case the provisions of Sec. 6.8.3A, Street Yards, shall be applied;
4. In the Urban, Compact Neighborhood, and Downtown Tiers, where a lot has multiple frontages, the Planning Director, or designee, shall determine the most significant street frontage and apply the required build-to lines to that frontage, permitting greater setbacks on other frontages; or
5. In the Urban, Compact Neighborhood, and Downtown Tiers, to accommodate the location of those limited vehicular-dependent uses (such as, but not limited to, convenience stores with gas sales, automobile sales, and service) that are allowed in these tiers, or if the design requirements of Sec. 10.4.1A, Location of Parking, are satisfied.

SECTION 3

That the Unified Development Ordinance shall be renumbered as necessary to accommodate these changes and clarifications.

SECTION 4

That this amendment of the Unified Development Ordinance shall become effective upon adoption.

Resolution Calling an Advisory Referendum on Imposing a Local Prepared Food Tax

County Attorney Chuck Kitchen reported that the General Assembly has enacted Session Law 2008-116, which authorizes the Durham County Board of Commissioners to call an advisory referendum on levying a prepared food tax of one percent. He stated that the Board of Commissioners and the Durham City Council have previously adopted an interlocal agreement which sets forth the expenditures of revenues which would be generated by the

tax. In addition, the County has procured an opinion poll which indicates that a majority of the voters in the County are in favor of a prepared food tax. Presumably, part of this support is because 40 percent of the proceeds of the prepared food tax proceeds are expected to come from out-of-county residents. If the referendum is favorable, then the Board of Commissioners could subsequently levy the tax.

Assistant County Manager Deborah Craig-Ray gave the following PowerPoint presentation:

Durham County Meals Tax

Distribution of Proceeds

- 80% for civic and cultural amenities
- 10% for marketing
- 5% for workforce training
- 5% for community cleanup

Proposed Projects

- County Stadium
- Parrish Street Museum, Without Walls
- Civic Center Upgrade
- Durham Minor League Baseball Fan Experience and National Museum
- Hayti Heritage Center
- Durham Central Park, East
- Durham Armory Upfitting
- Museum of Life and Science
- American Tobacco Trail Upgrade
- New Hope Trail
- Environmental Education Center
- Little River Corridor Acquisition and Facilities

*Additional projects found in the complete proposal.

Impact of Prepared Food Tax

- 40% of the Revenue will be generated by visitors and non-resident commuters
- Average income households will pay about \$1.74/monthly
- Reduce pressure on property tax— revenue raised would be the equivalent of a 1-cent tax increase by both the City and County

Durham Prepared Food Tax Referendum—November 4, 2008

Chairman Reckhow provided the following additional information regarding funding for Lincoln Community Health Center (LCHC):

“Last year, well actually it has been 18 months ago, we had a citizens’ group working on a proposal that we took to our legislators for the long session, which did not go forward. At

that time, there was some money set aside for LCHC and childcare subsidies. This time, that type of funding was not included, and it has been asked 'what has happened; what about the needs at LCHC'. Part of the reason money was in for Lincoln was that there was extensive discussion about expanding the access to specialty care for Lincoln patients, and we knew that this would probably cost four to five hundred thousand dollars. As the project unfolded and a proposal was brought to us last year, we approved the startup funding, which was just under \$100,000. But now, on a yearly basis, actually, it was on our agenda tonight, we will be spending \$451,000 a year. This is really a long-term commitment to fund Project Access for LCHC patients. That will be coming out of our Health Trust Fund. So, the need was there. We didn't know whether we would have access to this fund for the prepared food tax, and we wanted to proceed anyway. So, bottom line is, the monies that we had planned to spend for Lincoln have been provided for; we just found another revenue source. In addition beyond that, we have hired an architect to help design an expansion at LCHC where the ambulance service used to be in the back, which is now moved to a separate building near Hayti Heritage Center. And once the plans are done, a full inspector board will fund the expansion of LCHC. So, we are committed to LCHC, both in terms of capital improvements and helping to expand access to health care. I didn't want there to be any lingering doubt about our commitment to health care; that's front and center. That's why it got high priority and was funded in this budget without waiting to see whether the referendum will pass."

Commissioner Cheek pointed out that the money generated by the prepared food tax can be used for debt service.

Vice-Chairman Page asked for clarification regarding the Environmental Education Center. He cautioned the Board and County staff to monitor their expenses for the upcoming year. Revenue generated by the prepared food tax is to be used for significant needs in the County.

Chairman Reckhow informed Vice-Chairman Page that the Environmental Education Center is a City project. She asked a City Council Member to come forward to explain the Center's services.

Mayor Pro Tempore Cole-McFadden stated that the Environmental Education Center will be designed as a "green" education center with classroom and meeting spaces at West Point on the Eno. This center will serve to enhance our children's knowledge.

Vice-Chairman Page expressed appreciation to the Durham Delegation for advocating for Durham County.

Chairman Reckhow concurred with Vice-Chairman Page's comments.

Chairman Reckhow added that if the County cannot obtain access to a new revenue source to complete capital projects, then property taxes may be increased.

Commissioner Heron commented on the numerous revenue sources in other counties. She stated that this is Durham County's first success at obtaining a revenue source to avoid raising property taxes.

Chairman Reckhow called signed speakers forward for comments.

The following speakers spoke in support of the prepared food tax:

Jerry O’Keeffe, Immediate Past Chair/PSNC Energy, Durham Chamber of Commerce, 300 West Morgan Street, Durham 27701

Casey Steinbacher, President and CEO, Durham Chamber of Commerce, 300 West Main Street, Durham 27701

Matthew Coppedge, representing Durham Downtown Inc., 115 Market Street, Suite 213, Durham 27701

Mayor Pro Tempore Cora Cole-McFadden, representing Durham City Council, 101 City Hall Plaza, Durham 27701

Robin Jacobs, representing the Eno River Association, 4404 Guess Road, Durham 27712

Ellie Torre, President of Durham Arts Council Board of Trustees, 2 Innisfree Drive, Durham 27707

Peter Coyle, representing the Cultural Master Plan Advisory Board, 4312 Lazyriver Drive, Durham 27712

Chairman Reckhow thanked the citizens for their comments and stated that the matter is back before the Board.

Chairman Reckhow communicated that the City and County will be attempting to educate citizens on the prepared food tax. She and Mayor Bill Bell will appoint co chairs of a new steering committee to lead an effort similar to a bond campaign. The County will not run a marketing campaign as it is not allowed to advocate, only educate. The steering committee can raise money and run an advocacy campaign.

Commissioner Cheek moved, seconded by Vice-Chairman Page, to adopt the resolution calling for a referendum on the prepared food tax.

The motion carried with the following vote:

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

**RESOLUTION CALLING AN ADVISORY REFERENDUM
ON IMPOSING A LOCAL PREPARED FOOD TAX**

WHEREAS, Session Law 2008-116 authorizes an advisory referendum on the imposition of a local prepared food tax up to one percent (1%) of the sales price in addition to any other State and local sales and use taxes; and

WHEREAS, the Board of Commissioners has determined that it is desirable and expedient to call a referendum on a local prepared food tax; and

WHEREAS, the County of Durham and the City of Durham have adopted an Interlocal agreement adopting the percentages set forth in Session Law 2008-116 for the expenditure of the taxes collected thereby.

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

Section 1. An advisory referendum is hereby called to be held between 6:30 A.M. and 7:30 P.M., on Tuesday, November 4, 2008, at which there shall be submitted to the qualified voters of the County of Durham the following question which shall appear on the ballots and in the instructions to voters for said referendum substantially in the form as follows:

LEVY OF A PREPARED FOOD TAX

One percent (1%) local prepared food tax, in addition to the current local sales and use taxes.

FOR

AGAINST

Section 2. For said referendum, (i) the regular registration books for elections in Durham County shall be used and the registration books, process or records shall be open for the registration of qualified persons and for public inspection in the manner, under the conditions and at the times and places as provided by statute, (ii) the chief judges, judges and other officers of election appointed by the Durham County Board of Elections for the precincts and voting places in said County shall be the election officers for such precincts and voting places and (iii) the precincts and voting places for said referendum shall be those fixed by the Durham County Board of Elections, subject to change as provided by law. The Durham County Board of Elections is hereby requested to conduct said referendum and to take all necessary steps to that end in accordance with Chapter 163 of the General Statutes of North Carolina.

Section 3. Legal notice of this advisory referendum shall be published by the Durham County Board of Elections at least 45 days prior to the referendum. The notice published by the Board of Elections shall state the date and time of the referendum, the issue to be submitted to the voters, and the precincts in which the referendum will be held.

Section 4. The Clerk to the Board of Commissioners is hereby directed to mail or deliver a certified copy of this resolution to the Durham County Board of Elections within three days after the passage hereof.

Section 5. This resolution shall take effect upon its passage.

This the 28th day of July, 2008.

Major Site Plan and Preliminary Plat—Bhangoo Property (D06-929)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board approve a major site plan and preliminary plat for “Bhangoo Property”, submitted by Coulter Jewell

Thames, PA on behalf of Bhangoo Development Company LLC, to develop 51 single-family lots on 25.12 acres zoned Planned Development Residential 2.09 (PDR 2.09) and Rural Residential (RR) and Eno Protected Area (E-B) watershed overlay. [The site is located on the east side of Guess Road between St. Albans Court and Prologue Road. PINs 0825-01-15-3374, 0825-01-05-9160, and 0825-03-04-6658.]

Mr. Medlin stated that Planning staff recommends approval. The Development Review Board also recommended approval of the site plan on November 30, 2007 by a vote of 8-0.

Commissioner Heron expressed concern regarding developers being permitted by the State to make a payment of \$53,125.63 to offset 1873.92 pounds of Nitrogen.

Commissioner Heron inquired about the statement, "Payment in lieu of public, passive open space will be required at the time of final plat." She asked if adequate open space is provided.

Mr. Medlin responded in the affirmative; however, public open space is required to be reserved in addition to the required normal open space for public improvements for trails, greenways, etc. if they fall within the normal parameters of the guidelines established. The developers are providing 1.36 acres of open space.

Chairman Reckhow inquired about mass grading for this project.

Mr. Medlin replied that mass grading is not allowed. The developer will not be able to do more than one acre of disturbed area at any one time other than the infrastructure necessary to install the roads and utilities.

Chairman Reckhow commented that this project is an overall good plan. She indicated that no one signed up to speak; the matter was referred back to the Board.

Commissioner Cheek moved, seconded by Vice-Chairman Page, to approve Major Site Plan and Preliminary Plat—Bhangoo Property (D06-929).

The motion carried with the following vote:

Ayes: Cheek, Heron, Page, and Reckhow

Noes: None

Absent: Cousin

Settlement of 2007 Property Taxes and the Charge of 2008 Property Taxes to the Tax Collector

Tax Administrator Kim Simpson presented the following data on the 2007 property taxes:

- Introduction
 Per N.C. General Statute 105-273 the Tax Collector must make a report of settlement for the fiscal Year 2007-2008 and prior years. The Tax Collector has delivered a list of persons owing taxes to the Clerk to the Board of County Commissioners.

- 2007 Levy

Real/Personal Property

<i>Total Billed</i>	<i>Actual Collections</i>	<i>Uncollected</i>	<i>% Collected</i>
\$179,449,843.15	\$178,486,300.18	\$963,542.97	99.46%

Public Service

<i>Total Billed</i>	<i>Actual Collections</i>	<i>Uncollected</i>	<i>% Collected</i>
\$4,294,241.87	\$4,294,241.87	0	100%

Motor Vehicles

<i>Total Billed</i>	<i>Actual Collections</i>	<i>Uncollected</i>	<i>Collected</i>
\$14,316,110.41	\$13,048,696.06	\$1,267,414.35	91.15%

- Total Levy

<i>Total Billed</i>	<i>Actual Collections</i>	<i>% Collected</i>
\$198,060,195.43	\$195,829,238.11	98.87%

- 5-Year Comparison By Category

Real/Personal

6/30/04	6/30/05	6/30/06	6/30/07	6/30/08
98.87%	98.94%	99.20%	99.37%	99.46%

Public Service

6/30/04	6/30/05	6/30/06	6/30/07	6/30/08
100% 100%	100%	100%	100%	

Motor Vehicles

6/30/04	6/30/05	6/30/06	6/30/07	6/30/08
87.77%	88.45%	89.64%	90.57%	91.14%

- 5 Year Comparison Overall Collection Rate

6/30/04	6/30/05	6/30/06	6/30/07	6/30/08
98.06%	98.23%	98.50%	98.74%	98.87%

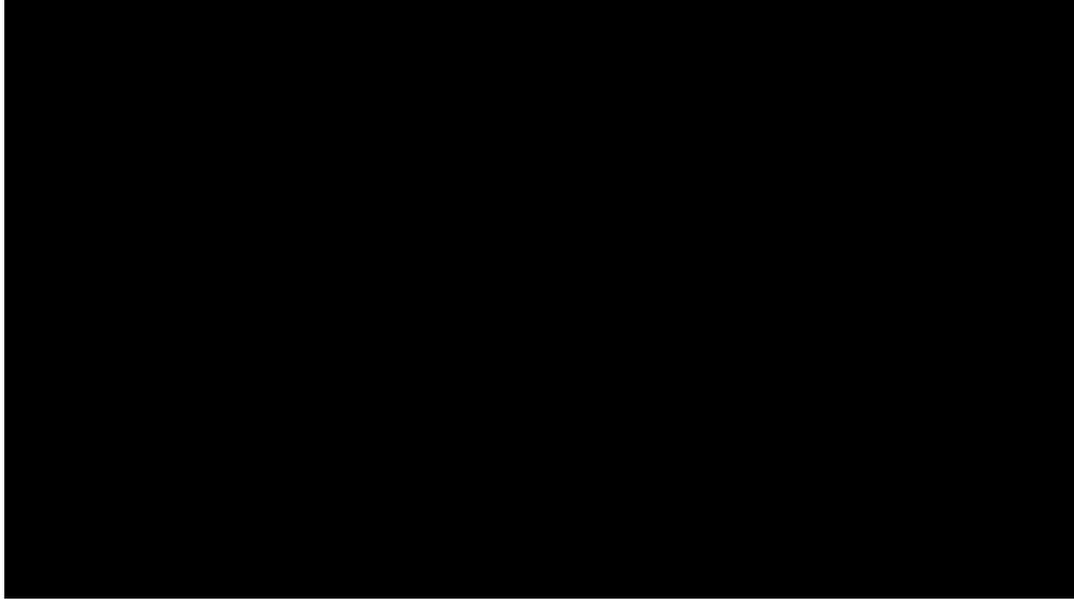
- 5 Year Comparison Prior Year Collections

6/30/04	\$3,236,319.38
6/30/05	\$3,000,376.23
6/30/06	\$3,098,052.46
6/30/07	\$2,877,975.89
6/30/08	\$2,477,884.50

- How do we compare with other Counties?

- Information compiled from top ten counties in population.
- Durham's rank in the top ten counties.
- Comparison of collection rate growth.

- How We Rank In The Top Ten Counties



Ms. Simpson recognized Robie McLamb, Collection Division Manager, and Herman Alston, Deputy Tax Collector, for their outstanding contribution to the successful tax collection rate. She informed the public that citizens may set up payment plans to be able to pay their taxes throughout the year.

Chairman Reckhow thanked Ms. Simpson and staff for their success.

Commissioner Cheek moved, seconded by Commissioner Heron, to approve the 2007 Property Tax Settlement Report; charge the Tax Collector with 2008 Property Taxes; and authorize the relieving of taxes that are more than 10 years past due and motor vehicles taxes that are more than two years past due.

The motion carried with the following vote:

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

Ms. Simpson addressed a question posed by Commissioner Heron regarding the Board of Equalization and Review. She stated that the Board will be meeting until September, and staff is currently working on cases. The Board has heard approximately 150 cases thus far and has 700 more cases to hear.

Board and Commission Appointments

Vonda Sessoms, Clerk to the Board, distributed ballots to the Board to make appointments to boards and commissions.

Vice-Chairman Page indicated that on the ballot under Library Board of Trustees, the name “Ednace Roberts” should be “Al Roberts”.

The following appointments were made (incumbents are underlined):

Alcoholic Beverage Control Board

Kimberly Shaw

Area Mental Health Board

Nancy Henley (Clinician; recommended by AMHB)

Civic Center Authority

Billy R. Ruffin

EMS Advisory Council

Rich Serra (EMS Medical Doctor)

Library Board

Marian Dillahunt-Andrews

Mohammad S. Rashdi

Ednace “Al” Roberts

Joyce Sykes

Nursing Home Community Advisory Committee

Barbara Lofton (Recommended by NHCAC)

Women’s Commission

Bridgette Hal

Closed Session

Vice-Chairman Page moved, seconded by Commissioner Cheek, to adjourn to closed session to consult with an attorney regarding claims and to preserve the attorney-client privilege pursuant to N.C. General Statute § 143-318.11(a)(3) and to discuss matters relating to the location or expansion of business or industry pursuant to 143-318.11(a)(4).

The motion carried with the following vote:

Ayes: Cheek, Heron, Page, and Reckhow

Noes: None

Absent: Cousin

Reconvene to Open Session

Chairman Reckhow announced that the Board met in Closed Session; directives were given to staff; no action was taken.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 10:23 p.m.

Respectfully Submitted,

Yvonne R. Gordon
Deputy Clerk to the Board