

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

Monday, May 11, 2009

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman Michael D. Page, Vice-Chairman Ellen W. Reckhow, and
Commissioners Joe W. Bowser (arrived at 7:05 p.m.), Becky M. Heron, and
Brenda A. Howerton

Absent: None

Presider: Chairman Page

Opening of Regular Session—Pledge of Allegiance

Announcements

Chairman Page made the following announcements:

- On May 4, the City and County of Durham began sharing Time Warner Cable Channel 8 for all government programming, which means Durham has an all-government, all-the-time channel for its citizens. Citizens are encouraged to view the various meetings, programs, and important announcements that will be aired 24 hours a day. In addition, local community programmers now have a new, separate channel for their local shows. Durham Public Access TV Channel 18 has been launched as the home of Durham area community programs. Look for your favorite locally developed shows on this new Channel 18.
- The County Manager's recommended budget will be presented at the May 26, 2009 Regular Session of the Board of County Commissioners.

Commissioner Heron invited citizens to attend the APS Walk for the Animals fundraiser at Duke University's East Campus on Saturday, May 16, 2009, from 9:00 a.m. to 1:00 p.m. The event will include a free breakfast for all participants, demonstrations, contests, children's activities, rescue group booths, a raffle, and other great prizes.

Minutes

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve as submitted the April 6, 2009 Worksession and April 13, 2009 Regular Session Minutes of the Board.

The motion carried with the following vote:

Ayes: Heron, Howerton, Page, and Reckhow
Noes: None
Absent: Bowser (arrived late)

Consent Agenda

Commissioner Heron suggested that consent agenda items be placed on the screen for public viewing.

Vice-Chairman Reckhow noted that consent agenda items are scrolled across the screen as they are read by the Board Chairman.

Deputy Clerk to the Board Yvonne Jones affirmed for Chairman Page that consent agenda items are placed on the screen for the public.

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

- a. Approve the FY 2009-2010 Annual Action Plan for the use of CDBG, HOME/ADDI, and ESG funds for submission to the U.S. Department of Housing and Urban Development;
- b. Cooperative Extension—Approval of the Durham Annual Funding Plan for FY 2009-2010 as Recommended by the Durham County Juvenile Crime Prevention Council (JCPC);
- *c. Amendment to the Durham County Animal Control Ordinance (enact the Ordinance Amending Chapter 4 Article II, section 4-38 of the Durham County Code of Ordinances);
- *d. Interlocal Cooperation Agreement between the County of Durham and the City of Durham Regarding Durham Government TV (authorize the consummation of this agreement to ensure shared local government programming as stated in the agreement);
- e. Durham Public School Design Contract for Lakewood YMCA (approve the Design Consultant agreement with Little Diversified Architectural Consulting Inc. for the design of the renovation of Lakewood YMCA building in the amount of \$846,800 and authorize the Manager to execute the agreement);
- f. Raleigh-Durham Airport Authority Grant Offer (accept the \$4,500,000 grant offer from the Federal Aviation Administration);
- *g. Budget Ordinance Amendment No. 09BCC000064—Social Services—Recognizing Additional Revenue (Food and Nutrition Services Administrative ARRA Funds\$78,470 increase; Subsidy Child Care Funds—\$400,000 increase;

Triangle United Way [TUW] Child Care Funding through Child Care Services Association [CCSA] Contract—\$31,900; Special Children Adoption Fund—\$30,000 increase; and State Adult Day Care Fund—\$7,173 increase);

- *h. Budget Ordinance Amendment No. 09BCC000065—Cooperative Extension—Recognition of \$7,500 in Grant Funding for the Kids Voting Durham Program from Z. Smith Reynolds Foundation and the NC Civic Education Consortium to Support Youth Voice: Building Capacity for Young People’s Civic Engagement;
- *i. Budget Ordinance Amendment No. 09BCC000066—Cooperative Extension—Appropriate \$1,400 in Grant Funding for the Parent & Family Advocacy and Support Training Program from a Making a Difference Grant Award administered by Exchange Club to Support Durham Cooperative Extension’s Parent & Family Advocacy and Support Training (PFAST) Program through April 30, 2010 for the Implementation of a Middle School Pilot Training Program;
- *j. Budget Ordinance Amendment 09BCC000067—Appropriation of \$110,000 to Durham Convention Center from the BOCC Contingency for Additional End-of-Year Operating Deficit;
- k. Annual Report—Receive the Annual Report of the Design District Review Team;
- l. Annual Report—Receive the Annual Report of the Durham City-County Appearance Commission;
- m. Annual Report—Durham City-County Planning Commission 2008 Annual Report;
- n. Department of Social Services—Approve the One Source Contract Amendment; and
- *o. Board of Commissioners Rules of Procedure (adopt the amendment to the Rules of Procedure as approved at the May 4 Worksession).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. c. Amendment to the Durham County Animal Control Ordinance (enact the Ordinance Amending Chapter 4 Article II, section 4-38 of the Durham County Code of Ordinances).

ORDINANCE AMENDING
DURHAM COUNTY ANIMAL CONTROL ORDINANCE

WHEREAS, counties have the authority to enact an animal tax pursuant to N.C. Gen. Stat. §153A-153.

WHEREAS, the Board of County Commissioners wishes to amend the Animal Control Ordinance to provide an exemption for non-profit animal welfare organizations operating under 501(c)3 of the Internal Revenue Code for a charitable purpose as defined by N.C. Gen. Stat. §105-278.6(b).

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

1) That Section 4-38 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 4-38. Exemptions.

(a) The following persons or organizations shall be exempt from the licensing tax:

(1) Any person owning, possessing or utilizing an animal primarily for the purpose of serving the public, or that has been certified to assist handicapped individuals, upon showing proof that the animal has been certified by a duly authorized agency as a service animal. This shall include retired service animals upon proof of service record.

(2) An owner 65 years of age or older upon showing proof that his/her animal, for which the owner is seeking an exemption, has been spayed or neutered.

(3) Research institutions owning dogs and/or cats solely for research purposes.

(4) A nonprofit animal welfare entity organized and operated under 501(c)3 of the Internal Revenue Code for a charitable purpose as defined by N.C. Gen. Stat. §105-278.6(b). A member of the nonprofit organization who has possession of the animal for which an exemption has been granted shall provide written notification to the Durham County Tax Administrator within sixty days of any transfer of the animal. Transfer of an animal means any transfer of an animal to an owner.

(b) An owner may apply at the time of listing for an exemption by making application to the Durham County Tax Administrator. The Durham County Tax Administrator shall have the authority to grant the requested exemption upon showing proof of one or more of the conditions described above. But in no event shall an exemption be granted for a dog that has been declared dangerous or potentially dangerous pursuant to section 4-191.

(c) The Durham County Tax Administrator shall maintain a master file designated by year to contain all applications for an exemption and any documentation relating to action taken on the application.

(d) Nothing in this section shall relieve an owner of any animal from the licensing or vaccination requirements set forth in this article.

(e) All animal fees which are due and owing as of the effective date of this ordinance amendment shall continue in full force and effect as if this amendment had not been made.

2) Section 4-38, as amended, is effective upon enactment.

This the 11th day of May, 2009.

Consent Agenda Item No. d. Interlocal Cooperation Agreement between the County of Durham and the City of Durham Regarding Durham Government TV (authorize the consummation of this agreement to ensure shared local government programming as stated in the agreement).

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

INTERLOCAL COOPERATION AGREEMENT
BETWEEN THE COUNTY OF DURHAM AND THE CITY OF DURHAM
REGARDING DURHAM GOVERNMENT TV

This is an Interlocal Cooperation Agreement (hereinafter "Agreement") between County of Durham, a political subdivision of the State of North Carolina, (hereinafter "County" and City of Durham, a North Carolina municipal corporation, (hereinafter "City"). This Agreement is made pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes.

Section 1. Purpose. The purpose of this Agreement is to allow the County and the City to jointly air programming on the PEG channel (Durham Government TV) and to provide for a public access PEG channel. The City and County propose collaborating to air relevant local government programming on Channel 8 for the term of this Agreement. The City shall be solely responsible for the programming for public access on Channel 18, or such substitute channel as provided by Time-Warner Cable.

Section 2. Durham Government TV. With technical assistance from the City, the County will collaborate with the City to facilitate programming of:

- (c) Live Broadcasting of Durham County Board of Commissioners (BOCC) meetings on each second and fourth Monday nights;
- (d) Replays of all BOCC meetings;
- (e) Durham County Government TV Show; and
- (f) Bull City Streets (Office of the Sheriff).
- (g) Other occasional shows, as the need arises.

The County will provide all programs in DVD format to the City's Government TV Operations Manager ("Operations Manager") on a mutually agreed upon schedule.

All shows will run in a weekly rotation designed by the Operations Manager and accepted by the Assistant County Manager and City's Public Affairs Director.

The City will provide advertising for all County programming as part of the overall government television schedule to promote Durham Government TV. Other specific advertising will be the responsibility of each entity. The County may use City broadcast production resources to include equipment, staff, and space at times and under terms agreed to by the Operations Manager the City's Public Affairs Director.

The Operations Manager and/or the City's Public Affairs Director and the Assistant County Manager will meet bimonthly to discuss relevant issues that ensure the success of the operation.

Section 3. Public Access Channel. During the term of this Agreement, the City shall provide, or cause to be provided, a public access channel. This channel shall be solely the responsibility of the City; however, the City agrees that the access to this channel shall be on a nondiscriminatory basis, and open to all citizens of Durham County. Should the City decide, in its sole discretion, to charge access fees or other fees for access to the channel, any fees not used to provide for this public access channel shall be divided equally with the County. Should the City charge access or other fees for access to this channel, the Finance Officers for the City and County shall determine whether or not any payments are due the County as soon after the close of the fiscal year as practicable. If any payments are due the County, these monies shall be promptly remitted to the County.

Section 4. Funding. The County will pay to the City reasonable costs commensurate with the responsibilities of providing a public access channel and preparing and airing County produced TV shows using the City's broadcast facility, in an amount not to exceed seventy-seven thousand five hundred dollars (\$77,500) . The City will provide an accounting of the time and tasks involved in producing the County's shows. The City shall submit a monthly itemized invoice to the County Public Information Office for payment. Payment will be made within thirty (30) days of receipt of the City's invoice for all uncontested charges, and the Operations Manager will be notified within ten (10) days of invoice of any charges that the County contests.

Section 5. Term. This Agreement shall be effective April 21, 2009, and shall terminate on October 1, 2010.

Section 6. Termination. Either party may terminate this Agreement by giving at least thirty (30) days prior written notice to the other party. Upon termination, the City shall invoice the County any outstanding costs associated with this Agreement. No further broadcasting of County shows shall be required of the City, unless otherwise agreed to in writing.

Section 7. Amendments. This Interlocal Agreement may be amended at any time by execution by both parties of a written amendment.

Section 8. Appointment Of Personnel. Except to the extent provided otherwise in this

Agreement, it is agreed that the County Manager shall designate Persons to carry out the County's obligations under this Agreement, and that the City Manager shall designate persons to carry out the City's obligations under this Agreement.

Section 9. Governing Law. This contract shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this contract shall be brought in the General County of Justice in the County of Durham and the State of North Carolina.

Section 10. Entire Agreement. This Agreement shall constitute the entire understanding between the County and the City with respect to the funding and shall supersede all prior understandings and agreements relating to the subject matter hereof and may be amended only by written mutual agreement of the parties.

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

In Testimony Whereof, the County has caused this Agreement to be signed in its name by its County Manager, and the City by its City manager, and they, acting under and by virtue of the authority in them vested, have hereunto set their hand and seal, the days and year written below.

Consent Agenda Item No. g. Budget Ordinance Amendment No. 09BCC000064—Social Services—Recognizing Additional Revenue (Food and Nutrition Services Administrative ARRA Funds \$78,470 increase; Subsidy Child Care Funds—\$400,000 increase; Triangle United Way [TUW] Child Care Funding through Child Care Services Association [CCSA] Contract—\$31,900; Special Children Adoption Fund—\$30,000 increase; and State Adult Day Care Fund—\$7,173 increase).

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000064

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>			
Intergovernmental	\$400,070,662	\$515,643	\$400,586,305
Contributions & Donations	\$2,458,139	\$31,900	\$2,490,039

Expenditures:

Activity

GENERAL FUND

Human Services	\$450,264,843	\$547,543	\$450,812,386
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 11th day of May, 2009.

Consent Agenda Item No. h. Budget Ordinance Amendment No. 09BCC000065—
Cooperative Extension—Recognition of \$7,500 in Grant Funding for the Kids Voting
Durham Program from Z. Smith Reynolds Foundation and the NC Civic Education
Consortium to Support Youth Voice: Building Capacity for Young People’s Civic
Engagement.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000065

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> Intergovernmental	\$400,586,305	\$7,500	\$400,593,805

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u> Economic and Physical Development	\$7,638,584	\$7,500	\$7,646,084

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

This the 11th day of May, 2009.

Consent Agenda Item No. i. Budget Ordinance Amendment No. 09BCC000066—
Cooperative Extension—Appropriate \$1,400 in Grant Funding for the Parent & Family
Advocacy and Support Training Program from a Making a Difference Grant Award
administered by Exchange Club to Support Durham Cooperative Extension’s Parent &
Family Advocacy and Support Training (PFAST) Program through April 30, 2010.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000066

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>			
Intergovernmental	\$400,593,805	\$1,400	\$400,595,205

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Economic and Physical Development	\$7,646,084	\$1,400	\$7,647,484

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

This the 11th day of May, 2009.

Consent Agenda Item No. j. Budget Ordinance Amendment 09BCC000067—Appropriation of \$110,000 to Durham Convention Center from the BOCC Contingency for Additional End-of-Year Operating Deficit.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000067

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>			

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Cultural and Recreation	\$12,235,856	\$110,000	\$12,345,856
Other	\$29,960,050	(\$110,000)	\$29,850,050

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

This the 11th day of May, 2009.

Consent Agenda Item No. o. Board of Commissioners Rules of Procedure (adopt the amendment to the Rules of Procedure as approved at the May 4 Worksession).

RULES OF PROCEDURE FOR DURHAM COUNTY COMMISSIONERS TO GOVERN WORKSESSIONS

INTRODUCTION

The following rules of procedure were developed for use by the Durham County Board of Commissioners in conducting Worksessions. Since Worksessions have been initiated for the purpose of discussion only with the intent of reducing the amount of time for consideration of items at regularly scheduled meetings, it is intended that no action will be taken on any item during the Worksession, other than that of giving directions to the administration and staff as to preparation and presentation of the item at a scheduled regular meeting. However, since notices of the sessions are given as required by the Open Meetings Law, they constitute an Official Meeting of the Board, and action can be taken. It is recommended however, that actions not be taken unless necessary to address an issue which is time-sensitive and which cannot wait until a regularly scheduled meeting of the Board. In the event action is required to be taken on a time-sensitive issue, those Rules of Procedure adopted by this Board on March 13, 1989 and as amended relate to motions and votes shall be followed.

To the extent the Rules of Procedure adopted by this Board on March 13, 1989 as amended govern discussions of items and materials, they shall apply to discussions at the Worksession.

I. MEETING TIME

The Worksessions will be held on the first Monday of each month unless the meeting time is changed to avoid conflicts with regularly scheduled holidays, or unless changed or canceled by majority vote of the Board. The meetings will be held in the County Commissioners' Meeting Room beginning at 9:00 a.m.

II. AGENDA

The Clerk to the Board shall prepare the agenda for the meeting. Agenda packages will be distributed on the Wednesday preceding the meeting date. All agenda materials must be submitted to the Clerk to the Board on Monday, two weeks preceding the meeting date. Any board member may, by a timely request, have an item placed on the agenda.

A complete copy of the agenda with attached material shall be available for public inspection as soon as distribution to Commissioners has been completed. Each Board member shall receive a copy of the agenda with the agenda materials by the end of the Wednesday preceding the day of the meeting.

At least one copy of the complete agenda package shall be available for public inspection and reference at the rear of the Commissioners' Meeting Room during the meeting.

The Board may, by majority vote, add an item that is not on the agenda.

III. CITIZEN COMMENT

Any citizen of Durham County shall have the right to request, in writing to the Clerk to the Board, that any item be placed on the agenda for consideration by the Board at a Worksession. The request should include a summary of the issue being presented and such background material as the requester deems relevant. Upon such request in writing, the Clerk shall forward the request to the County Manager and Chairman of the Board who shall determine whether, in their discretion, to place the item on an appropriate agenda, or whether the matter can be handled by the County Administration. If the item is placed on an agenda, the person making the request shall have up to five minutes to speak on the item. The request must be submitted to the Clerk to the Board at least two weeks preceding the meeting date as provided on Page 9, Agenda.

IV. POWERS OF THE CHAIRPERSON

The Chairperson shall preside at the Worksessions. In the Chairperson's absence, the Vice-Chairperson shall preside and shall have all the powers specified herein. A member must be recognized by the Chairperson in order to address the Board. The Chairperson shall have those powers specified in the Board's Rules of Procedure related to discussion of items and materials on the agenda for the Worksession, and specifically

1. To establish time restraints for discussion;
2. To determine whether a speaker has gone beyond reasonable standards of courtesy in his/her remarks and to entertain and rule on objections from other members on this ground;
3. To entertain or refer to the County Attorney questions of parliamentary law or procedure;
4. To call a brief recess when needed; and
5. To adjourn in an emergency.

V. DISCUSSION BY THE BOARD

The Board shall proceed to discuss an item, including receipt of comment from the staff, when the item is announced by the Chairman. Upon completion of discussion, the Board shall give the staff and administration direction as to preparation for and presentation of the item at a regularly scheduled meeting. This may take the form of expressed consensus among the members, but if necessary to establish the Board's intent, may be expressed in the form of a motion and voted upon. These rules may be suspended by a majority vote of the Board.

Quorum

A majority of the membership of the Board shall constitute a quorum. In the event it is necessary to vote on any item which is time-sensitive, a quorum must be present for the motion and vote. For purposes of such votes in the Worksessions, if a member is absent or has withdrawn from a meeting without being excused by a majority vote of the remaining

members, he/she shall be counted as present for the purposes of determining whether a quorum is present.

VI. MINUTES

Minutes of the Worksessions shall be prepared by the Clerk to the Board to the same extent as a regular meeting and as required by law.

These Rules of Procedure to Govern Conduct of Worksessions were adopted by the Durham County Board of Commissioners on January 14, 1991, and became effective on that date. They have amended from time to time, and said amendments are reflected in this revision adopted January 27, 1997, February 10, 2003, January 10, 2005, and May 11, 2009.

Durham Public Schools—Acquisition of Real Property for New Elementary School “C” and Middle School “A”

Hugh Osteen, Assistant Superintendent of Operational Services, Durham Public Schools, gave a brief report on the acquisition of real property for New Elementary School “C” and Middle School “A”. He stated that on January 22, 2008, the Durham Public Schools Board of Education approved the purchase of multiple parcels in Southern Durham to provide a site for future schools Elementary “C” and/or Middle “A” as identified in Durham Public Schools Long-Range Facilities Plan. Funding would be provided by 2003 Bond funds and Two-Thirds Bonds previously designated for land acquisition. Purchase price is \$2,710,610 for six contiguous parcels totaling approximately 47 acres. The properties appraised for \$3,100,000. Mr. Osteen also elaborated on environmental issues to be addressed. He relayed the Board of Education’s request for approval of the purchase price of these properties.

Commissioner Heron stated the following conditions for DPS to commit to during its project planning phase:

- One school only with a good faith effort to reduce the footprint of the disturbance, placing the school on the north central and northwestern section of the property.
- DPS will leave at least 80% of the forested area on the eastern side (the ~7.5 acre Galifianakis property) undisturbed. The remaining northern portion will be disturbed only for constructing the traffic access from opposite Lyon's Farm Rd. This access road will curve a radius to accommodate safely the turning radius of school buses.
- Leave land south of the power line easement undisturbed by reducing the number of ball fields to one.
- Provide 100 foot undisturbed buffers adjacent to Army Corps of Engineers/NC Game land property.
- Provide 100 foot stream buffers per the EEUDO.
- Leave undisturbed the far western portion of the tract that extends south into Army Corps of Engineers/NC Game Lands property.
- Size water/sewer pipes to accommodate school only.
- Allow Northeast Creek Streamwatch representative to serve on the design team for the school site and facility.

Commissioner Heron mentioned that the conditions would be taken into serious consideration when the Board reviews the site plan.

Mr. Osteen informed Commissioner Heron that Streamwatch representatives were invited to provide input on the schools' designs.

Chairman Page clarified that Commissioner Heron's views were not stated on behalf of the Durham County Board of Commissioners.

Commissioner Howerton expressed interest in proceeding with a vote if no one had other questions.

Chairman Page communicated to Commissioner Howerton that three citizens had signed up to speak on this item.

Chairman Page called the following signed speakers forward for comments:

Randal Haithcock, representing Northeast Creek Streamwatch, 1304 Seaton Road, #10, Durham 27713

Hunter Metz, representing Lyons Farm Subdivision, 208 Silver Pine Court, Durham 27713

James E. Kerr, representing IUKA Corporation, 3706 Suffolk Street, Durham 27707

County Attorney Chuck Kitchen suggested that if the Board concurs to incorporate the conditions listed by Commissioner Heron into its motion, then the Board could request that the deed including a covenant be transferred directly to the County and then transferred to the Schools. In addition, conservation easements should be placed on areas desired to be left in a natural state.

County Manager Mike Ruffin noted that Durham Public Schools was not in agreement with the request that states, "DPS will leave at least 80% of the forested area on the eastern side (the ~7.5 acre Galifianakis property) undisturbed. The remaining northern portion will be disturbed only for constructing the traffic access from opposite Lyon's Farm Rd. This access road will curve a radius to accommodate safely the turning radius of school buses."

Vice-Chairman Reckhow inquired about making a motion to approve the purchase of the land for a school with the development plan consistent with the plan presented to the Board.

County Attorney Kitchen expressed concern that the motion may not be enforceable.

Vice-Chairman Reckhow stated, for the record, her support for the project after raising concerns about environmental issues in earlier discussions. She commended DPS for addressing the issues by reducing the number of schools to be built on the site to one and reducing the original purchase price of \$2,935,000 by \$225,000.

County Attorney Kitchen explained to Commissioner Bowser that the Board may not have the authority to enforce an action put forward in a motion; however, it would likely be enforceable if the action is included in a deed transferred from the County to DPS.

Commissioner Howerton requested a copy of the email sent to Commissioners that listed the conditions stated by Commissioner Heron.

Mr. Osteen explained DPS's response to the request for DPS to leave 80% of the forested area on the eastern side. He stated that DPS expressed caution should both the DPS Board of Education and the Board of County Commissioners decide that a middle school is a higher priority, then some part of the Eastern area may be needed. However, DPS intends to construct an elementary school, considering the immediate need.

Commissioner Howerton inquired about the request to "Allow Northeast Creek Streamwatch representative to serve on the design team for the school site and facility."

County Attorney Kitchen informed the Board that the request to allow a Northeast Creek Streamwatch representative to serve on the design team must be done as an interlocal agreement.

Mr. Osteen expressed concern regarding County Attorney's Kitchen advice in terms of transferring the deed. He suggested developing an interlocal agreement to validate the commitments.

Vice-Chairman Reckhow concurred with Mr. Osteen's suggestion of an interlocal agreement as County Attorney Kitchen's approach may increase transaction costs.

County Attorney Kitchen reiterated caution that once the deed is obtained by DPS, the Board may only restrict DPS by what is provided by statute; therefore, an interlocal agreement may not be enforceable as he is unaware of a court case to substantiate. County Attorney Kitchen added that the County and DPS routinely switch deeds at no cost; commitments incorporated into a deed are enforceable.

Mr. Osteen articulated that without DPS legal representation present to speak to transferring the deed, he would feel comfortable agreeing to an interlocal agreement.

Commissioner Howerton recommended excluding the following conditions from the motion:

- DPS will leave at least 80% of the forested area on the eastern side (the ~7.5 acre Galifianakis property) undisturbed. The remaining northern portion will be disturbed only for constructing the traffic access from opposite Lyon's Farm Rd. This access road will curve a radius to accommodate safely the turning radius of school buses; and
- Allow Northeast Creek Streamwatch representative to serve on the design team for the school site and facility.

Vice-Chairman Reckhow suggested that the motion be amended to request that the interlocal agreement require that key stakeholders be included in the design review process.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to include a restrictive covenant in the deed and request that DPS sign a conservation easement to preserve the areas requested to be in their natural area.

Commissioner Bowser spoke to the Board's responsibility per State Statute in regards to approving this item. He expressed concern with forcing a written agreement with Durham Public Schools (DPS) as it may create a non-cordial working relationship between DPS and the Board of County Commissioners.

The Commissioners discussed their views about establishing a written interlocal agreement.

Vice-Chairman Reckhow made a substitute motion to approve the purchase price of multiple parcels in Southern Durham for a future school with the purchase price of \$2,710,610 for six contiguous parcels totaling approximately 47 acres; direct staff to develop an interlocal cooperation agreement between the Board of County Commissioners and DPS Board of Education, consistent with Board discussion to delete condition no. 2 and amend condition no. 8 to require in the interlocal agreement that key stakeholders be included in the design review process.

Commissioner Bowser seconded the motion.

Commissioner Bowser stated for the record, "I do not have the legal authority to tell the school system what to do with this property. So, when you say 'only build one school', I don't have that authority. I want the record to reflect that and will be vote for this motion."

Chairman Page clarified that an interlocal cooperation agreement between the Board of County Commissioners and DPS Board of Education would inevitably be developed.

The motion carried unanimously.

Chairman Page thanked Mr. Osteen and DPS representatives for providing additional information per the Board's request.

Board and Commission Appointments

Angel McIver, Administrative Assistant, Clerk to the Board's office, distributed ballots to the Board to make appointments to boards and commissions.

Commissioner Bowser raised a concern about recognizing "recommended" applicants on the ballots. He opined that such recognition is unfair to applicants who do not receive recommendations.

The Commissioners discussed processes used by various boards and commissions to recommend applicants to the Board of County Commissioners.

Vice-Chairman Reckhow explained why boards and commissions began making recommendations to the Board.

The Board reached a consensus to add a discussion of board/commission recommendations to the June 1 Worksession agenda.

Chairman Page called signed speaker Victoria Peterson, PO Box 101, Durham 27702, forward for comments.

The Board held a discussion regarding appointees who are not residents of Durham County.

Vice-Chairman Reckhow suggested that the Board obtain a copy of the consortium agreement that guides the County's involvement in a joint City-County board/commission to receive understanding of how appointments are made.

Commissioner Bowser added that if a consortium agreement does not exist, then the County should work with state and national legislators to obtain equal authority with the City.

The following appointments were made (incumbents are underlined):

Adult Care Home Community Advisory Committee
Chandra Banner (recommended by ACHCAC)

Area Mental Health Board
Monique E. Holsey-Hyman (recommended by AMHB)

City-County Planning Commission
Jackie Brown (recommended by JCCPC)
Frederick A. Davis II

Hospital Corporation
Carolyn E. Henderson (recommended by DCHC)
Barbara Knopp (recommended by DCHC)
Jane Nichols-Redoble (recommended by DCHC)
Craig M. Savage (recommended by DCHC)
James Weaver (recommended by DCHC)

Memorial Stadium Authority
Dan Moushon

Nursing Home Community Advisory Committee
Tiffany Washington (recommended by NHCAC)

Women's Commission
Julie Omohondro

Closed Session

Commissioner Howerton moved, seconded by Vice-Chairman Reckhow, to adjourn to closed session pursuant to G.S. 143-318.11 (a) (5) to instruct staff on the position to be taken concerning the acquisition of easements on real properties. The properties and owners are Edna and Van Ellis, owners of 9511 Hampton Road; the Carrington siblings, owners of 6724 Isham Chambers Road; Jimmy Ray Coates, owner of 2223 Ellis Chapel Road; and Ann Ross Tschirhart, owner of 5214 Glenn Road.

The motion carried unanimously.

Reconvene to Open Session

Chairman Page announced that the Board met in closed session and were given recommendations by staff.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to authorize the County Manager to sign an option to purchase a conservation easement on 74 acres of the Carrington family farm, located on 6724 Isham Chambers Road, Parcel No. ID193211. The terms of this option will specify a closing by December 31, 2010 and include a contingency that the County receives a grant for at least 50% of the appraised value of the property. The price per acre will be based on an appraisal that meets FRPP program guidelines with a minimum value of no less than \$4,000 per acre and a maximum value of \$6,000 per acre.

The motion carried unanimously.

Commissioner Howerton moved, seconded by Commissioner Heron, to authorize the County Manager to sign an option to purchase a conservation easement on 70 acres of the Ellis family farm, located at 9511 Hampton Road, Parcel No. ID192151 and ID192152. The terms of this option will specify a closing by December 31, 2010 and include a contingency that the County receives a grant for at least 50% of the value of the property. The price per acre will be based on 75% of an easement appraisal that meets FRPP program guidelines with the value paid to be no less than \$3,000 per acre and no more than \$4,500 per acre.

The motion carried unanimously.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to authorize the County Manager to sign an option to purchase a conservation easement on 46.5 acres of the Ellis family farm, located on 5214 Glenn Road, Parcel No. ID192240 and ID192291. The terms of this option will specify a closing by December 31, 2010 and include a contingency that the County receives a grant for at least 50% of the value of the property. The price per acre will be based on 75% of an easement appraisal that meets FRPP program guidelines with the appraisal value of no less than \$4,000 per acre and the price paid no less than \$3,000 per acre and more than \$4,500 per acre.

The motion carried unanimously.

Adjournment

There being no further business, Chairman Page adjourned the meeting at 8:57 p.m.

Respectfully Submitted,

Yvonne R. Jones
Deputy Clerk to the Board