

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

Monday, April 13, 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, Becky M. Heron, and Brenda A. Howerton

Absent: None

Presider: Chairman Page

**Opening of Regular Session**—Pledge of Allegiance

**Announcements**

Commissioner Bowser clarified a statement written about him in The Herald-Sun in regards to the Hwy. 751 project. He explained that he is not “in the camp” of the developer but an advocate for the side he feels is right, which is the developer. Commissioner Bowser communicated that his position is always in favor of benefiting the community, not a particular person or group.

Chairman Page echoed Commissioner Bowser’s comments in regards to being in support of a decision that benefit the community.

Commissioner Heron announced that the Animal Protection Society (APS) of Durham will hold its “Tails at Twilight” gala and benefit auction at the Washington Duke on Saturday, April 25, at 6:00 p.m.; proceeds will provide support for the APS. She invited citizens to attend.

Chairman Page relayed an invitation to the Commissioners from the Lincoln Community Health Center (LCHC) Board of Directors to attend a special session on Thursday, May 14, at 7:30 a.m. to formally announce the formation of a foundation to support LCHC efforts.

**Minutes**

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve as submitted the following minutes of the Board:

- a. January 23, 2009 Special Session—Legislative Breakfast

- b. February 23, 2009 Special Session—Capital Improvement Program
- d. March 12, 2009 Special Session—Capital Improvement Program
- e. March 12, 2009 Regular Session
- f. March 23, 2009 Special Session—Jordan Lake

The motion carried unanimously.

The following minutes of the Board were pulled for correction; once corrected, they would be placed on the April 27, 2009 Regular Session agenda for approval:

- c. March 5, 2009 Worksession
- g. March 23, 2009 Regular Session
- h. March 24, 2009 “Conversations”

**Proclamation Declaring April 19 – 25, 2009 as Week of the Young Child**

Chairman Page read the following proclamation into the record:

PROCLAMATION

WHEREAS, the Durham's Partnership for Children, a Smart Start Initiative, and other local collaborating organizations, are celebrating the Week of the Young Child from April 19 to April 25; and

WHEREAS, the organizations are working to improve early learning opportunities, which are crucial to the growth and development of young children, and to build better futures for everyone in Durham County; and

WHEREAS, Durham's Partnership for Children has increased the number of quality childcare facilities in Durham County; and

WHEREAS, Durham's Partnership for Children has increased the number and total percentage of children enrolled in high quality childcare facilities and increased the percentage of children receiving subsidies in quality programs in Durham County; and

WHEREAS, Durham's Partnership for Children has helped to decrease teacher turnover by improving incentives for teachers to stay in early childhood education; and

WHEREAS, Durham's Partnership for Children has collaborated with Durham Public Schools and Head Start to increase school readiness for pre-kindergarten students to help close the preparation gap; and

WHEREAS, Durham's Partnership for Children has increased the community collaborative efforts continuing to build the early childhood system working with Durham Connects and other community partners and initiating a new evidence-based parenting program; and

WHEREAS, Durham's Partnership for Children has increased awareness of school readiness issues with the local business community and advocated for family friendly workplaces; and

WHEREAS, Durham's Partnership for Children has increased support for Spanish-speaking families, helping them to overcome isolation and language barriers in order to become better parents and to access high quality child care and education for their children.

NOW, THEREFORE, BE IT RESOLVED that we, the Durham County Commissioners, do hereby proudly recognize

**DURHAM'S PARTNERSHIP FOR CHILDREN, A SMART START INITIATIVE**

on the celebration of the Week of the Young Child, April 19 - 25, and for the exemplary model of collaboration which continues to change the landscape of early childhood care for Durham County residents and benefits present and future generations of young children and their families.

This the 13<sup>th</sup> day of April, 2009.

/s/ Michael D. Page, Chairman

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Michael Palmer, Chair, Durham's Partnership for Children Board of Directors, thanked the Board for the proclamation and for continued support. He also thanked the following Durham County Commissioner and staff for their time to help lead the organization: Vice-Chairman Reckhow; Carolyn Titus, Deputy County Manager; Delphine Sellars, Cooperative Extension Director; Rebecca Freeman, Nutrition Director, Public Health; Rob Robinson, Assistant Area Director, Public Health; Sammy Haithcock, Department of Social Services Director; and Skip Auld, Library Director. Mr. Palmer briefly spoke to the importance of honoring and giving to young children.

Marsha Basloe, Executive Director, Durham's Partnership for Children, thanked the Board for recognizing the Week of the Young Child. She also extended thanks to Mr. Palmer for his comments.

Chairman Page recognized Commissioner Bowser as a representative of the Operation Breakthrough Board.

Vice-Chairman Reckhow asked Ms. Basloe to comment on the State Senate's proposed budget that substantially reduces the allocation for the More at Four program.

Ms. Basloe expressed desire for the Board to relay concern to the Durham Delegation regarding the State's allocation reduction. She discussed changes to occur for the More at Four and Smart Start programs due to budget reductions.

Vice-Chairman Reckhow requested that Chairman Page work with Smart Start and Child Care Services Association to draft a letter with the attached proclamation to the Durham Delegation urging them to be judicious to cuts and changes to early childhood programs.

Chairman Page suggested that other programs that target Durham youth (i.e. Operation Breakthrough) be included in the letter.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to proceed with a written letter to the Durham Delegation and General Assembly regarding the budget cuts for More at Four and Smart Start.

The motion carried unanimously.

Chairman Page asked Ms. Basloe to email the Commissioners a list of the Week of the Young Child events and activities.

Ms. Basloe and Mr. Palmer accepted the proclamation.

### **Recognition for Food and Nutrition Services Achievement of 100% Accuracy**

During February 2009, a record 26,687 people in Durham had food on their tables due to the hard work of the Food and Nutrition Services staff. Achieving a 100% accuracy rate for two consecutive years represents attention to detail and a high level of accountability under extraordinary circumstances. During the same time period, Durham has seen major increases in the number of people served in the program.

Chairman Page recognized the Department of Social Services' Food and Nutrition Services (Food Stamps) for maintaining a 100% quality accuracy rate.

Sammy Haithcock, DSS Director, noted that this is the second year for this major accomplishment on behalf of DSS clients and the taxpayers of Durham County. He thanked the Board for the recognition and the Food and Nutrition Services staff for their hard work.

Pinkie Davis-Boyd, Food and Nutrition Services Program Manager, also extended thanks to the Board. She commended Food and Nutrition Services staff for its diligent work in achieving a 100% accuracy rate.

Chairman Page thanked Ms. Davis-Boyd for her continuous work at DSS. He asked that Ms. Davis-Boyd convey to staff that the Board is proud of their hard work.

Commissioner Bowser expressed appreciation to Ms. Davis-Boyd and the Food and Nutrition Services Team for its extraordinary accountability and management under such circumstances.

Chairman Page asked the public to join him in applause to thank the staff for the achievement and impressive work.

### **Consent Agenda**

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

- \*a. Adopt a Resolution Designating County Official to Represent the BOCC in State Aid for Mosquito Control/Matching Grant Applications;
- b. Approve the Contract Amendment between Manatron Inc. and the County of Durham (authorize the Manager to execute the contract amendment not to exceed the amount of \$43,250.00);
- \*c. Durham Cooperative Extension—Approve the Memorandum of Understanding between the Board of County Commissioners (BOCC), North Carolina Cooperative Extension Service (NCCES), North Carolina State University (NCSU), North Carolina Cooperative Extension Program (NCCEP), and North Carolina A&T State University (NCA&T);
- d. Removed prior to meeting;
- \*e. Budget Ordinance Amendment No. 09BCC000057—Hazardous Materials Emergency Planning Grant Agreement (recognize \$5,400 in grant funding from the NC Department of Crime Control and Public Safety and authorize the execution of the grant agreement so that it can be forwarded to the NC Department of Crime Control and Public Safety, and the LEPC can conduct its project);
- \*f. Budget Ordinance Amendment No. 09BCC000058—Public Health—Recognize One-Time Funding in the amount of \$2,585 from N.C. Healthy Start Foundation (RICHES Grant) to Support Centering Pregnancy Off-Site Care;
- \*g. Budget Ordinance Amendment No. 09BCC000059 Appropriate Lottery Funds (\$1,156,809) for Debt Service Support and Transferring an Equal Amount from the Debt Service Fund to the General Fund to Support an Agreement between Durham Public Schools and Durham County;
- h. Execution of Consulting Service Agreement in the amount of \$332,885 with Heery International, P.C. for the Enhanced LEED Commissioning Services for the Durham County Justice Center. Project No.: DC066; and
- j. Encroachment Agreement with DOT and City of Durham at Creekside (approve the Three-Party Right-of-Way Encroachment Agreement on Primary and Secondary System and authorize the Manager to execute the agreement).

The motion carried unanimously.

Consent Agenda Item No. a. Adopt a Resolution Designating County Official to Represent the BOCC in State Aid for Mosquito Control/Matching Grant Applications.

RESOLUTION TO BE ADOPTED BY THE BOARD OF COMMISSIONERS  
DESIGNATING OFFICIAL TO SIGN PAPERS AND TO OTHERWISE REPRESENT  
THE BOARD IN CONNECTIONS WITH MOSQUITO CONTROL

Upon motion of Commissioner Ellen Reckhow

Seconded by Commissioner Becky Heron

It is here by ordered that MICHAEL M. RUFFIN

as agent for COUNTY OF DURHAM

is hereby authorized and empowered to sign and execute all papers and documents necessary in connection with the request made to the Division of Environmental Health, North Carolina Department of Environment and Natural Resources, for aid in control of mosquitoes. (S) He is further authorized and required to carry out all agreements stipulated in the project application submitted by us to the Division of Environmental Health, North Carolina Department of Environment and Natural Resources, and to perform other acts that are proper and necessary in connection with the operation of this project. Acts of said person on behalf of said County of Durham, are in all respects validated, approved and confirmed.

The undersigned Vonda Sessoms, Clerk to the Durham Board of County Commissioners, hereby certifies that the foregoing is a true copy of the resolution of the County of Durham at a meeting held on the 13<sup>th</sup> day of April, 2009.

/s/ Vonda C. Sessoms  
Clerk

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Consent Agenda Item No. c. Durham Cooperative Extension—Approve the Memorandum of Understanding between the Board of County Commissioners (BOCC), North Carolina Cooperative Extension Service (NCCES), North Carolina State University (NCSU), North Carolina Cooperative Extension Program (NCCEP), and North Carolina A&T State University (NCA&T).

Addendum to the Memorandum of Understanding  
By and Between the North Carolina Cooperative Extension Service at North Carolina State University, And North Carolina Cooperative Extension Program at North Carolina A&T State University And The Board of County Commissioners

WHEREAS, the County of Durham, hereinafter “the County,” is a political subdivision of the state of North Carolina; and

WHEREAS, the adoption of the Smith-Lever Act of 1914 created the North Carolina Cooperative Extension Service (NCCES) and provides for a partnership among Federal, State, and County levels of government; and

WHEREAS, the County entered into the above referenced Memorandum of Understanding on March 12, 2009, in order to detail the relationships and mutual obligations among the parties, hereinafter the “MOU”; and

WHEREAS, the County has a Personnel Ordinance and a system of personnel management and administration for County employees as authorized by North Carolina General Statute Chapter 153A; and

WHEREAS, the County’s Personnel Ordinance and personnel system apply automatically only to those designated in the ordinance; and

WHEREAS, the North Carolina Cooperative Extension County Extension Director (CED) and other cost-shared employees of North Carolina Cooperative Extension Service (NCCES) and North Carolina Cooperative Extension Program (NCCEP) in Durham County are currently exempt from the provisions of the County’s Personnel Ordinance; and

WHEREAS, there is evidenced a need to clarify the MOU with respect to the employment relationship between cost-shared employees of NCCES, NCCEP, and Durham County under the MOU;

NOW THEREFORE, North Carolina Cooperative Extension Service at NC State University, North Carolina Cooperative Extension Program at NC A&T State University, and the County of Durham mutually agree as follows:

Section 1. Pursuant to the terms of the MOU, there are employees that are deemed “cost-shared” employees that are employees of one party, but paid for jointly by one or more parties. For purposes of the MOU and this addendum, a “NCCES/NCCEP cost-shared employee” is an employee of NCCES/NCCEP, with salary and benefits cost shared by the County.

Section 2. Upon hire of a NCCES/NCCEP cost-shared employee, the Durham County Board of Commissioners shall provide the County’s share of salaries for NCCES/NCCEP cost-shared employees at a level not to exceed 50% of the total salary of each cost-shared employee.

Section 3. Upon hire of a NCCES/NCCEP cost-shared employee, NCCES/NCCEP shall provide the University’s share of salaries for the NCCES/NCCEP cost-shared employee at a level not below 50% of the employee’s total salary.

Section 4. NCCES/NCCEP cost-shared employees shall take part in the NC State University’s benefits, classification, and compensation programs, and will be eligible for certain County benefit programs, including County-provided supplemental retirement and longevity programs as may be determined by the County from time to

time. Likewise, NCCES/NCCEP employees who are in positions funded in any portion by the University will be paid through the University payroll system and shall be solely in the University's benefits, classification and compensation programs and not the County's benefits and compensation programs. Employees who are supervised by NCCES/NCCEP and are funded totally by the County and paid through the County payroll system shall be included in the County's benefits and compensation programs and not the University's benefits and compensation program.

Section 5. NCCES/NCCEP shall establish minimum requirements and qualifications for position classification, receive and examine applications for employment, interview and screen applications to determine qualifications, and recommend to the County qualified applicants for appointment to vacant or new cost-shared NCCES/NCCEP positions.

Section 6. NCCES/NCCEP cost-shared employees shall follow the University's disciplinary and grievance procedures. County employees who are in positions funded 100% by the County and paid through the County payroll system shall follow the County's disciplinary and grievance procedures.

Section 7. This Addendum shall not apply to and specifically excludes the salaries of current and future employees serving in multi-county positions, which will be negotiated on a case by case basis. The County and North Carolina Cooperative Extension shall negotiate cost share for multi-county positions based on the proportional number of counties participating or the expected percentage of time the individual works in Durham County.

This Addendum to the Memorandum of Understanding (MOU) is incorporated as part of the MOU, and shall be effective April 1, 2009. The MOU and this Addendum represent the full extent of the agreement between the parties. In the event that there is a conflict between the Memorandum of Understanding and this Addendum, the MOU shall control. The MOU may be modified or terminated at any time by mutual consent of the parties hereto or may be terminated by either party alone by giving a minimum of one-hundred-twenty (120) days notice in writing to the other.

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Consent Agenda Item No. e. Budget Ordinance Amendment No. 09BCC000057— Hazardous Materials Emergency Planning Grant Agreement (recognize \$5,400 in grant funding from the NC Department of Crime Control and Public Safety and authorize the execution of the grant agreement so that it can be forwarded to the NC Department of Crime Control and Public Safety, and the LEPC can conduct its project).

DURHAM COUNTY, NORTH CAROLINA  
FY 2008-09 Budget Ordinance  
Amendment No. 09BCC000057

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	\$402,126,732	\$5,400	\$402,132,132

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Public Safety	\$50,836,355	\$5,400	\$50,841,755

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

This the 13<sup>th</sup> day of April, 2009.

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Consent Agenda Item No. f. Budget Ordinance Amendment No. 09BCC000058—Public Health—Recognize One-Time Funding in the amount of \$2,585 from N.C. Healthy Start Foundation (RICHES Grant) to Support Centering Pregnancy Off-Site Care.

DURHAM COUNTY, NORTH CAROLINA  
FY 2008-09 Budget Ordinance  
Amendment No. 09BCC000058

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	\$402,132,132	\$2,585	\$402,134,717

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$452,581,878	\$2,585	\$452,584,463

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

This the 13<sup>th</sup> day of April, 2009.

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Consent Agenda Item No. g. Budget Ordinance Amendment No. 09BCC000059 Appropriate Lottery Funds (\$1,156,809) for Debt Service Support and Transferring an Equal Amount from the Debt Service Fund to the General Fund to Support an Agreement between Durham Public Schools and Durham County.

DURHAM COUNTY, NORTH CAROLINA

FY 2008-09 Budget Ordinance  
Amendment No. 09BCC000059

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	\$34,893,494	\$1,156,809	\$36,050,303
<u>DEBT SERVICE FUND</u>			
Other Financing Sources	\$43,353,853	\$1,156,809	\$44,510,662

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Other	\$28,803,241	\$1,156,809	\$29,960,050
<u>DEBT SERVICE FUND</u>			
Other	\$43,659,307	\$1,156,809	\$44,816,116

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

This the 13<sup>th</sup> day of April, 2009.

**Consent Agenda Item Removed for Discussion**

Consent Agenda Item No. i. Execution of Consulting Services Agreement with Kleinfelder Inc. in the amount of \$379,000 pending the approval of financing for the Construction Materials and Testing and Special Inspection Services for the Durham County Human Services Complex. Project No.: DC070-48.

Commissioner Bowser asked Glen Whisler, County Engineer, to elaborate on the request.

Mr. Whisler explained that the \$379,000 request was included in the initial budget for the Human Services Complex project. He added that \$379,000 was the lowest bid submitted to the County.

Commissioner Bowser inquired about the normalcy of including travel in the cost.

Mr. Whisler responded in the affirmative. He proceeded to explain the travel costs.

Commissioner Bowser moved, seconded by Commissioner Heron, to approve Consent Agenda Item No. i.

Commissioner Heron stated her appreciation for Commissioner Bowser's observation and travel cost concerns; however, she spoke in favor of financing a special inspection to ensure that proper materials are used.

Commissioner Bowser agreed with Commissioner Heron's comments and stated that he pulled the item to receive clarification.

The motion carried unanimously.

### **Public Hearing to Receive Citizen Comments on the Draft FY 2009-2010 Annual Action Plan**

Larry Jarvis, Assistant Director, City of Durham Department of Community Development, reported that the Citizen Participation Plan contained in the adopted 2005-2010 Consolidated Plan requires that two public hearings be held prior to the submission of the Annual Action Plan to the U.S. Department of Housing and Urban Development (HUD). He stated that the purpose of the first public hearing is to receive citizen comments on housing and community development needs; the public hearing was held on January 26, 2009. The purpose of the second public hearing is to receive citizen comments on the City's Draft Annual Action Plan, which specifies the allocation of CDBG, HOME, and ESG funds. Of these three allocations, only HOME funds may be used outside of the corporate city limits.

The Annual Action Plan is Durham's application to the U.S. Department of Housing and Urban Development for the upcoming fiscal year's funding and outlines the actions Durham is taking with HUD-awarded funds to meet the goals as described in the 2005-2010 Five Year Consolidated Plan. HUD regulations require that the City submit the Council-approved Annual Action Plan by May 15. Department of Community Development is requesting that the Commissioners to approve the Annual Action Plan.

Commissioner Heron requested an accounting of how the HOME funds are utilized.

Commissioner Bowser asked Mr. Jarvis to consider increasing the recommended funding (\$40,000) for Operation Breakthrough; Operation Breakthrough received \$75,000 last year and requested \$100,000 this year.

Mr. Jarvis explained that the recommended funding is less than last year's due to the anticipated stimulus funding to be received by Operation Breakthrough.

Vice-Chairman Reckhow inquired about the amount of the stimulus funds for Operation Breakthrough.

Mr. Jarvis stated that he had no knowledge of the amount.

Commissioner Bowser emphasized that Operation Breakthrough needs the additional funds.

Commissioner Heron inquired about funds to be allocated from the HUD Emergency Shelter Grant.

Mr. Jarvis responded that \$84,000 would be received.

Per a question posed by Commissioner Howerton, Mr. Jarvis explained the recommended funding (\$25,000) for Urban Ministries.

Chairman Page asked about funds for Neighborhood Improvement Services.

Commissioner Heron asked about applying for HOME funds.

Chairman Page opened the public hearing that was properly advertised. He called signed speaker Donald Hughes, PO Box 52598, Durham 27717 forward for comments.

Mr. Hughes suggested including opportunities to incorporate vocational and technical education and training in the FY09-10 Annual Action Plan.

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

Vice-Chairman Reckhow concurred with Mr. Hughes' comments regarding inclusion of vocational and technical education and training in the Annual Action Plan. She indicated that Project Restore, a Criminal Justice Resource Center initiative that teaches construction skills to newly released offenders, received funding from the City; however, such a resource could be expanded.

Commissioner Bowser echoed Vice-Chairman Reckhow's comments.

### **Public Hearing—Jordan Lake Boundary Watershed Line Amendments**

The Board requested a public hearing to receive public comment before reaching a decision about the process for amendment to the Official Zoning Map(s) to reflect an approved change to the normal pool elevation of Jordan Lake. The action is precipitated by a February 4, 2009 decision by the Division of Water Quality (DWQ) to approve a survey submitted by Durham County on November 13, 2008. The County Attorney and the School of Government have opined that any maps delineating the approved changes are a part of the Unified Development Ordinance (UDO), and as such, require approval by the Board of County Commissioners in accordance with the process outlined in Section 3.5 of the UDO. Mr. William J. Brian Jr., attorney for the Southern Durham Development Company, has opined that the UDO expressly delegates the authority to make the changes to the Official Zoning Map(s) to the City-County Planning Director.

Chairman Page opened the public hearing that was properly advertised. Due to the large number of speakers, he allotted two minutes per speaker.

The following speakers supported the survey submitted to the Division of Water Quality (DWQ) by Neal Hunter, which resulted in map corrections made by former Planning Director Frank Duke:

Kay Bond, 200 West Franklin Street, Chapel Hill 27516

Jack Steer, representing Durham Citizens Coalition, 729 Quiet Woods Place, Durham 27712

Shane Kink, 1305 Professor Place, Durham 27713

Melissa Rooney, representing Fairfield Neighborhood Association, 301 Spring Garden Drive,  
Durham 27713

Kim Griffin Jr., 1816 Front Street, Suite 110, Durham 27705

Thelma Glenn White, representing Emorywood Committee, 1015 Jerome Road, Durham  
27713

Bennie Glenn, Route 42 Box 280, Rougemont 27572

Donald Hughes, PO Box 52598, Durham 27717

David Berry, representing Neal Hunter, 2500 Wachovia Capital Center, Raleigh 27601

Lacy Reaves, representing Neal Hunter, 150 Fayetteville Street, Raleigh 27601

Stephen D. Puckett, representing Seven Five One Investments, 11 Gloucester Court, Durham  
27713

Jonathan Murphy, representing Seven Five One Investments, 6308 J Richard Drive, Raleigh  
27617

Neal Hunter, 89 Crooked Creek Lane, Durham 27713

Jeff Hunter, representing Seven Five One Investments, 17 Woodgate Court, Durham 27713

Bill Brian, representing Southern Durham Development Company, 430 Davis Drive, Suite  
400, Durham 27709

Tony Sease, representing Southern Durham Development Company, 205 Watts Street,  
Durham 27701

Milt Rhodes, representing Southern Durham Development Company, 2910 Barmettleue  
Street, Raleigh 27607

Jonathan Ford, representing Southern Durham Development Company, 132 Irving Avenue,  
Providence, RI 02906

Lucy Gallo, representing Southern Durham Development Company, 2530 Meridian  
Parkway, Suite 200, Research Triangle Park 27713

Tyler Morris, representing Southern Durham Development Company, 410 North Boylan  
Avenue, Raleigh 27603

Alex Mitchell, representing Southern Durham Development Company, 1717 Colvard Farms  
Road, Durham 27713

Patrick Byker, representing Southern Durham Development Company, 2614 Stuart Drive,  
Durham 27707

Antoinette Hawes, 7035 Chanticleer Drive, Durham 27713

Deborah G. Giles, 1015 Benning Street, Durham 27703

Pastor Rachel Green, representing Kentington Heights, 1007 Alma Street, Durham 27703

Preston C. Edwards, 5317 Highgate Drive, Suite 211, Durham 27713

E. Lavonia Allison, representing Durham Citizens for the Affairs of Black People, PO Box  
428, Durham 27702

John White, representing the Greater Durham Chamber of Commerce, 300 West Morgan  
Street, Durham 27701

The following speakers spoke in support of obtaining a private survey of the watershed boundaries:

Judy Teague, 2416 Dawn Trail, Durham 27712

Cat Warren, 1414 Norton Street, Durham 27701

Julia Borbeley-Brown, 1013 Watts Street, Durham 27701

Linda Wilson, representing Trinity Park Neighborhood Association, 302 Watts Street, Durham 27701

Dabney Hopkins, representing People's Alliance, 1700 Sprunt Avenue, Durham 27705

Page McCullough, representing People's Alliance, 110 West Lavender Street, Durham 27704

Ronald Naponie, 231 Buxberry Lane, Durham 27712

Ed Harrison, 58 Newton Drive, Durham 27707

Elaine Chiosso, representing Haw River Assembly, 1076 Rock Rest Road, Pittsboro 27312

Will Wilson, 16 Sunny Oaks Place, Durham 27712

Lynn Kohn, 1014 Shepherd Street, Durham 27707

Kathi Beratan, 1708 Woodburn Rd, Durham 27705

Tina Motley-Person, 2205 Olive Branch Road, Durham 27703

George McGinn, 10 Drummond Court, Durham 27713

E. Jezierski, 1101 Norwood Avenue, Durham 27707

Kathryn Spann, 4720 Bahama Road, Rougemont 27572

Colin Crossman, Vice President, Durham Interneighborhood Council, 762 Ninth Street, #591, Durham 27705

Steve Cohn, representing Ellerbe Creek Watershed Association, 1406 Pennsylvania Avenue, Durham 27705

Sally Kost, Chatham County Commissioners, 1101 New Hope Church Road, Apex 27523

David Harris, representing the People's Alliance, 609 Saddle Ridge Avenue, Durham 27704

Tom Miller, representing the People's Alliance, 1110 Virginia Avenue, Durham 27705

Dave Austin, representing the People's Alliance, 813 Lancaster Street, Apt. #2, Durham 27707

John Kent, 394 Cub Creek Road, Chapel Hill 27517-6327

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

County Manager Mike Ruffin gave a report on Buncombe County Planning Director's opinion on the Jordan Lake watershed boundary issue. County Manager Ruffin had also requested opinions from other planning directors in Vance, Mecklenburg, and Cumberland Counties; no response had been received.

County Attorney Chuck Kitchen relayed the opinion of David Owens, School of Government, on the UDO regarding the watershed boundary map changes.

The Commissioners held discussions regarding the following questions and concerns:

- Reverting the maps to reflect changes made by former Planning Director Frank Duke
- The County Manager's recommendation to follow the procedure as outlined in Section 3.5 of the UDO.
- Possibility of litigation against the County
- Water quality perimeters
- Process for moving the watershed line
- Independent survey
- Failure to inform property owners of the map changes

- Surveys provided by Mr. Hunter

Vice-Chairman Reckhow voiced her support for the County Manager's recommendation.

Chairman Page stated his position to reject an independent survey and change the map to its original state.

Commissioner Bowser echoed Chairman Page's position.

Commissioner Bowser made the following motion:

The County to accept the letter dated February 4, 2009 from the State Division of Water Quality (DWQ) as the definitive determination of the accurate location of the 216msl normal pool of Jordan Lake. He further moved that the County confirm the interpretation made by the City-County Planning Department dated January 6, 2006 in which the Planning Department acted within the proper scope of its legal authority in accordance with Durham's UDO as written administratively determined the location of the 216msl normal pool of Jordan Lake and corrected boundaries under Durham's UDO and Comprehensive Plan which are measured from point. He moved further that staff be directed to correct all County maps to the extent necessary to make them consistent with the terms of the January 6, 2006 Planning Department interpretation with respect to the property identified therein that no public hearing be held on this issue and also that staff be directed to forward to the DWQ the information requested in its February 4, 2009 letter.

Chairman Page seconded the motion.

Commissioner Heron asked for clarification of Commissioner Bowser's motion in regards to not allowing a public hearing.

Vice-Chairman Reckhow offered the following substitute motion:

That staff be directed to follow the process outlined in the State Statute and UDO in processing the map amendments as recommended by the County Manager, County Attorney, and Planning Director.

Commissioner Heron seconded the motion.

Commissioner Howerton stated for the record that she understands the need for the project, which would produce jobs for Durham citizens; however, she agreed with Vice-Chairman

Reckhow and Commissioner Heron to follow the procedures outlined in Section 3.5 of the UDO.

The motion carried with the following vote:

Ayes: Heron, Howerton, and Reckhow

Noes: Bowser and Page

Vice-Chairman Reckhow suggested that the Board consider funding a survey of the New Hope Creek arm.

Chairman Page supported Vice-Chairman Reckhow's suggestion provided it is a compromise to help enhance development in Durham.

The Commissioners reiterated their positions on the matter.

### **Adjournment**

There being no further business, Chairman Page adjourned the meeting at 10:32 p.m.

Respectfully submitted,

Yvonne R. Jones  
Deputy Clerk to the Board