

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

Monday, February 23, 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

Chairman Page welcomed everyone to the Monday, February 23, 2009 Regular Session of the Board of County Commissioners. He requested that persons rise for the Pledge of Allegiance to the Flag.

Agenda Adjustments

Commissioner Heron asked that item No. 10, "Capital Project Amendment No. 09CPA00000014 for the Durham County Memorial Stadium Renovations and Additions Project", be moved up on the agenda because of the number of citizens in attendance who had requested to speak on the item; in addition, several school students were present to hear the item.

Vice-Chairman Reckhow suggested that Capital Project Amendment No. 09CPA00000014 be moved to follow the consent agenda items.

Commissioner Bowser requested that an item be added to the agenda concerning a 2003 murder case that was disposed of in the court system last week.

Chairman Page suggested that Commissioner Bowser's item regarding a murder case be heard prior to the closed session.

Chairman Page noted that consent agenda item No. n, "Revised Interlocal Agreement on Cable Television", had been deferred until a later date.

Commissioner Howerton moved, seconded by Vice-Chairman Reckhow, to approve the agenda adjustments.

The motion carried unanimously.

Announcements

Commissioner Bowser announced a public meeting to be held on February 26 2009, 6:30 p.m., at Operation Breakthrough's facility (the UDI facility at the corner of Mangum and Corporation Streets). The purpose of the public meeting is to obtain citizen input on the FY 2009-10 budget regarding services (weatherization, emergency heating, Head Start). Commissioner Bowser provided contact information and invited everyone to attend. He strongly encouraged persons who receive the services to attend.

Vice-Chairman Reckhow requested that Commissioner Bowser convey to Operation Breakthrough to consider applying to the federal government in Washington for funds to support Early Start. Currently, Durham does not have Early Start (birth to three years old); however, the stimulus package includes funds to expand Head Start, including Early Start.

Chairman Page proposed that the Commissioners hold two community meetings—"Conversations with Commissioners". The projected dates are March 3 and March 24 at 7:00 p.m. The location for the March 3 meeting will be the Museum of Life and Science. The location of the March 24 meeting has yet to be decided. This is an opportunity for citizens to provide input to the Commissioners on the FY 2009-10 Budget.

Minutes

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve as submitted the April 7, April 14, April 28, June 9, June 12, June 23, August 11, November 3, and November 10, 2008 Closed Session Minutes of the Board; and to approve as corrected the June 2, 2008 Closed Session, January 26, 2009 Regular Session, and the February 2, 2009 Worksession Minutes of the Board.

The motion carried unanimously.

Social Work Month Proclamation

On behalf of the Board, Chairman Page read the following proclamation:

PROCLAMATION

WHEREAS, social workers have the right education and experience to guide individuals, families, and communities through complex issues and choices; and

WHEREAS, social workers connect individuals, families, and communities to available resources; and

WHEREAS, social workers are dedicated to improving the society in which we live; and

WHEREAS, social workers stand up for others to make sure everyone has access to the same basic rights, protections, and opportunities; and

WHEREAS, social workers help people help themselves, whenever and wherever they need it most; and

WHEREAS, social workers have been the driving force behind important social movements in the United States and abroad; and

WHEREAS, social workers in the Durham County Department of Social Services invest in people so that they can contribute more to the economic and social wellbeing of our community; and

WHEREAS, social workers in the Durham County Department of Social Services ensure that families' basic economic needs are met; provide access to health care and nutrition; help people find jobs and develop strong work habits and a career path; keep children and families safe; and help children to be ready for and succeed in school:

NOW, THEREFORE, BE IT RESOLVED that I, Michael D. Page, Chairman of the Durham County Board of Commissioners, do hereby proclaim March 2009 as

“Professional Social Work Month”.

I commend this observance to our citizens and urge all citizens to join with the Department of Social Services in celebration and support of social workers and the social work profession.

This the 23rd day of February, 2009.

/s/ Michael D. Page, Chairman

Chairman Page asked for a round of applause to all of the social workers in the community as Professional Social Work Month is celebrated.

Sammy Haithcock, Director, DSS, thanked the Commissioners for the proclamation. He stated the proclamation mentions the Department of Social Services; it has been a celebration for approximately 25 years. He wished to recognize the social workers in many other institutions such as the Public Health and Mental Health Departments, hospitals, and many other in the community.

At the request of Chairman Page, Mr. Haithcock accepted the proclamation.

Commissioner Bowser, Vice-Chairman Reckhow, Commissioner Heron, and Commissioner Howerton individually thanked the Department of Social Services and the social workers in particular for all of their work.

Support of Community-Based Programs for Adult Offenders in Durham County and throughout North Carolina

Chairman Page stated that he asked that this resolution to be placed on the agenda because he is attending a news conference at the Capital on Wednesday, February 25 at noon in support of community-based programs. He read the resolution into the record.

RESOLUTION

WHEREAS, since 1995, the State of North Carolina and county governments have been partners in providing effective and necessary community supervision of adult criminal offenders; and

WHEREAS, all Boards of County Commissioners and Counties can work together to make a significant impact on crime, recidivism, substance abuse, and the associated costs by ensuring that community-based programs continue to play a critical role in North Carolina's efforts to reduce crime and save money; and

WHEREAS, Durham County is a leader in the State of North Carolina in regards to funding and supporting substance abuse treatment and other services for offenders who live in or return to our community; and

WHEREAS, Durham County funds the Criminal Justice Resource Center, Day Reporting Center, and Criminal Justice Partnership Program, which are meeting the goals for their programs as stated in the General Statutes; and

WHEREAS, Durham County has provided assistance to the Drug Treatment Court and continuously supports the Triangle Residential Options for Substance Abusers Inc. (TROSA); and

WHEREAS, Durham County's criminal justice programs diligently carry out their charge of establishing and delivering competent, effective, and necessary program assistance to augment community supervision of adult criminal offenders; and

WHEREAS, Durham County recognizes the critical role the Criminal Justice Partnership Program, Sentencing Services, Drug Treatment Court, residential programs, women's services, and re-entry play in the community; and

WHEREAS, the elimination of these programs and their funding would leave counties with an unfunded mandate; Counties would be required to continue absorbing offenders without funds to help; and

WHEREAS, Durham County is aware that full support of evidence-based programming on the community level will help to avoid the loss of rehabilitative services for offenders and additional costs of incarceration due to high failure rates of offenders:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby stand by our efforts in criminal justice and implore our legislative bodies to extend support of continued funding to help reduce crime and save money.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to Senator Marc Basnight, President Pro Tem of the N. C. State Senate, and Speaker of the House Joseph Hackney, along with members of the Durham County Legislative Delegation.

This the 23rd day of February, 2009.

/s/ All Five Commissioners

Gudrun Parmer, Director, Criminal Justice Resource Center, thanked the Commissioners. She stated that Durham County Government is a leader in North Carolina when it comes to funding and supporting substance abuse treatment and other services for offenders who live in or return to our community. Since 1995, the State of North Carolina and county governments have been partners in providing effective and necessary community supervision of adult criminal offenders. Durham County stands behind its efforts in criminal justice and seeks its legislative bodies to support funding for related programs. Counties working together with the State of North Carolina to support evidence-based programs can make a significant impact on crime, recidivism, substance abuse, and the associated costs.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, that the resolution be accepted and approved.

The motion carried unanimously.

Consent Agenda

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

- a. Approve the Durham County Local Emergency Planning Committee (LEPC) roster as presented;
- *b. Appointment of the 2009 E&R Board Members (appoint a special Board of Equalization and Review, designate membership to this Board, and appoint a Chair and Vice Chair);
- c. Approval of the Amendment to the 1987 Interlocal Agreement to Change the Name of the Durham Civic Center Authority to the Durham Convention Center Authority;

- d. Advertising of Tax Liens (approve the Interim Tax Administrator's request to begin advertising the 2008 tax liens in the month of March);
- *e. Budget Ordinance Amendment No. 09BCC000048—County Tax Service Inc.—Contract Amendment (amend the contract in the amount of \$35,000);
- *g. Budget Ordinance Amendment No. 09BCC000050—Public Health—Recognize Grant Funds in the amount of \$1,766 from the NC Department of Health and Human Services for the Family Planning Clinic;
- *h. Budget Ordinance Amendment No. 09BCC000051—Public Health—Recognize Grant Funds in the amount of \$2,000 from Project Direct, N.C. State Diabetes Program, Division of Public Health for the Health Education Division;
- *i. Budget Ordinance Amendment No. 09BCC000052—The Durham Center—Request for County Funds in the amount of \$1,868,354 from Fund Balance for The Durham Center;
- *j. Budget Ordinance Amendment No. 09BCC000053—The Durham Center—Recognize Revenue from the State of NC in the amount of \$304,713 to establish a three-way contract between the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and Duke Hospital to purchase local inpatient psychiatric beds for FY09;
- *l. Property Tax Releases and Refunds for Fiscal Year 2008-2009 (accept the property tax release and refund report for January 2009 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- m. AAA Transport Inc. Service Franchise Renewal (approve the three-year ambulance franchise renewal request);
- n. removed from the agenda; and
- o. Award of Contract for Purchase of Vehicles for Various Departments (authorize the Manager to enter into contracts with University Ford Inc. for \$79,152, Bobby Murray Chevrolet Inc. for \$194,846, and Hendrick Durham Auto Mall for \$42,838).

The motion carried unanimously.

*Documents related to these consent agenda items follow:

Consent Agenda Item No. b. Appointment of the 2009 E&R Board Members (appoint a special Board of Equalization and Review, designate membership to this Board, and appoint a Chair and Vice Chair).

George A. Scott, Chairman
909 Brandon Road
Durham NC 27713
596-8370

appointed by The Reverend Michael D. Page

Warren Robinson, Vice Chairman
705 Wellingham Drive
Durham NC 27713
730-7008

appointed by Joe Bowser

Kelly Matherly
2701 Pickett Road
Durham NC 27705
489-1740

appointed by Ellen Reckhow

Virginia E Thomas
1802 West MLK Parkway
Suite 208
Durham NC 27707
489-7147

appointed by Brenda Howerton

Martha Ann Traylor
PO Box 2752
Durham NC 27715
309-1255

appointed by Becky Heron

Consent Agenda Item No. e. Budget Ordinance Amendment No. 09BCC000048—County Tax Service Inc.—Contract Amendment (amend the contract in the amount of \$35,000).

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000048

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>			
Taxes	\$241,988,972	\$35,000	\$242,023,972

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
General Government	\$ 34,721,799	\$35,000	\$ 34,756,799

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

This the 23rd day of February, 2009.

Consent Agenda Item No. g. Budget Ordinance Amendment No. 09BCC000050—Public Health—Recognize Grant Funds in the amount of \$1,766 from the NC Department of Health and Human Services for the Family Planning Clinic.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000050

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	\$401,318,253	\$1,766	\$401,320,019

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$450,405,045	\$1,766	\$450,406,811

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

This the 23rd day of February, 2009.

Consent Agenda Item No. h. Budget Ordinance Amendment No. 09BCC000051—Public Health—Recognize Grant Funds in the amount of \$2,000 from Project Direct, N.C. State Diabetes Program, Division of Public Health for the Health Education Division.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000051

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	\$401,320,019	\$2,000	\$401,322,019

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$450,406,811	\$2,000	\$450,408,811

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

This the 23rd day of February, 2009.

Consent Agenda Item No. i. Budget Ordinance Amendment No. 09BCC000052—The Durham Center—Request for County Funds in the amount of \$1,868,354 from Fund Balance for The Durham Center.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000052

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	\$ 32,038,118	\$1,868,354	\$ 33,906,472

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$450,408,811	\$1,868,354	\$452,277,165

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

This the 23rd day of February, 2009.

Consent Agenda Item No. j. Budget Ordinance Amendment No. 09BCC000053—The Durham Center—Recognize Revenue from the State of NC in the amount of \$304,713 to establish a three-way contract between the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services and Duke Hospital to purchase local inpatient psychiatric beds for FY09.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000053

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	\$401,322,019	\$304,713	\$401,626,732

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$452,277,165	\$304,713	\$452,581,878

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

This the 23rd day of February, 2009.

Consent Agenda Item No. 1. Property Tax Releases and Refunds for Fiscal Year 2008-2009 (accept the property tax release and refund report for January 2009 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 January 2009.

Releases and Refunds for 2009 Taxes:

Personal	\$ 3,859.65
Total for 2009 Taxes and Fees	\$ 3,859.65

Releases and Refunds for 2008 Taxes:

Real Estate	\$204,553.73
Personal	\$ 28,048.59
Motor Vehicles	\$ 47,293.31
Vehicle Fees	\$ 510.00
Solid Waste	\$ 90.00
Total for 2008 Taxes and Fees	\$280,495.63

Prior years' (2001-2007) releases and refunds for January 2009 are in the amount of \$480,052.19. The total current year and prior years' releases and refunds amount to \$764,407.47.

(Recorded in Appendix A in the Permanent Supplement of the February 23, 2003 Regular Session Minutes of the Board.)

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. f. Budget Ordinance Amendment No. 09BCC000049—Public Health—Recognize Grant Funds from Family Health International (FHI) in the Amount of \$24,488 to Establish a Health Education Specialist I (1.0 FTE) Position for the Health Education Communicable Disease Program for HIV Prevention Research.

Dr. E. Lavonia Allison, representing Durham Citizens for the Affairs of Black People, 1315 McLaurin Avenue, Durham 27707, requested to speak on this item. She stated her support for the position and asked that a person be hired for the new position who will be sensitive to the communities where the needs are the greatest.

Gayle Harris, Public Health Director, shared the sentiments of Dr. Allison. The department plans to take advantage of the knowledge of community-based organizations and will work closely with North Carolina Central University and CAARE Inc. The health educator will be responsible for data collection and analysis.

Dr. Allison requested that the data be made available to the Health Committee of the Durham Citizens for the Affairs of Black People so that they can distribute the information to various communities.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000049

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	\$401,293,765	\$24,488	\$401,318,253
Other Financing Sources	\$ 32,041,851	-\$ 3,733	\$ 32,038,118

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$450,3834,290	\$20,755	\$450,405,045

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

This the 23rd day of February, 2009.

Consent Agenda Item No. k. Budget Ordinance Amendment No. 09BCC000054—FY2009 Budget Reductions and Capital Project Amendment No. 09CPA000013—Open Space Land Acquisition (move \$62,022 of Risk Management Fund and \$375,000 of Community Health Trust Fund funds to the General Fund; decrease the Open Space Land Acquisition capital project by \$550,000 and move those funds to the General Fund to help offset an estimated revenue shortfall in the General Fund; the total increase to the General Fund is \$987,022).

Dr. E. Lavonia Allison, representing Durham Citizens for the Affairs of Black People, 1315 McLaurin Avenue, Durham 27707, stated concerns about moving funds from Risk Management and Community Health. She stated appreciation to the Board for being able to speak on agenda items, raise questions, and receive responses.

County Attorney Chuck Kitchen responded to Dr. Allison’s concern regarding Risk Management. He stated that the \$62,022 was the excess from the actual cost budgeted for unemployment compensation; therefore, the funds were available for re-appropriation.

County Manager Mike Ruffin explained that the \$375,000 are additional funds from the amendment to the Duke lease. The funds must be reported in the General Fund, not in the Community Health Trust Fund. They are simply being moved to the appropriate fund.

DURHAM COUNTY, NORTH CAROLINA
 FY 2008-09 Budget Ordinance
 Amendment No. 09BCC000054

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>COMMUNITY HEALTH TRUST FUND</u>			
	\$ 4,534,892	\$375,000	\$ 4,909,892
<u>GENERAL FUND</u>			
Other Financing Sources	\$33,906,472	\$987,022	\$ 34,893,494

Expenditures:

<u>Function</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>COMMUNITY HEALTH TRUST FUND</u>			
	\$ 4,534,892	\$375,000	\$ 4,909,892
<u>GENERAL FUND</u>			
Other	\$27,816,219	\$987,022	\$28,803,241

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

This the 23rd day of February, 2009.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Capital Projects Ordinance
Amendment No. 09CPA000013

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

	<u>Current</u> <u>Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised</u> <u>Budget</u>
<u>Expenditures</u>				
Open Space Land				
Acquisition	\$8,507,755		(\$550,000)	\$7,957,755

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

This the 23rd day of February, 2009.

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, to approve consent agenda items f and k.

The motion carried unanimously.

Capital Project Amendment No. 09CPA00000014—Appropriation of \$3,706,833 for the Durham County Memorial Stadium Renovations and Additions Project (DC092) and Execution of the Construction Contract for the Durham County Memorial Stadium Renovations and Additions Project. Bid No: 09-017

Glen Whisler, P.E., County Engineer, explained that the Board is being requested to authorize the County Manager to authorize an interfund loan of \$3,706,833 to the Durham County Memorial Stadium renovations project, increasing the total project budget from \$4,500,000 to \$8,206,833; and to enter into a contract with Harrod and Associates Constructors Inc. (H&AC) for the construction of the Durham County Memorial Stadium renovations and additions in the negotiated amount of \$7,011,750 (Base Bid, Track, Alternates #3 and 6), and to execute any other related contracts including change orders, if necessary, not to exceed the construction budget of \$7,547,914. The Stadium is located at 750 Stadium Drive, Durham. The additional funding needed for this project will come from Certificates of Participation (COPS) financing occurring later in the fiscal year. General Fund dollars will fund purchases made before loan funds are available through an interfund loan of that amount per a reimbursement resolution once the COPS financing funds become available. The construction of the Durham County Memorial Stadium renovations and additions project was advertised in local newspapers on December 28, 2008. A pre-bid conference was held on January 7, 2009 and a bid opening was held on January 27, 2009. Seven bids were received. Harrod and Associates Constructors Inc. submitted the lowest bid of \$8,130,000 (Base Bid) which was \$1,600,000 over the construction budget, not including alternates. Value engineering efforts reduced costs by \$1,309,850, resulting in a contract

price of \$7,011,750 (base bid plus Alternate #3 and 6). The value engineering efforts resulted in the removal from project scope of the running track and field events, the new restroom buildings and concourse on the North side of the stadium, deferral of the Marquis at the corner of Stadium Drive and Duke Street, and the deletion of air conditioning of locker room space. In addition, general items, such as feature and finish substitutions, were included which did not impact project scope. To compensate for the elimination of new restroom facilities on the North side, Alternate #3 was accepted which provides for renovation of the existing restrooms under the North and South grandstands. It should be noted that the Stadium Authority's position on the value engineering efforts is that the running track should remain within the project scope. The additional funding required to keep the running track and related items within the project is \$506,833. This newly renovated facility will continue to be home to the "Northern Knights" High School football team and is intended also to be home to the new high school's football team, once the school is constructed. It is the intention of the Stadium Authority to increase the usage of the Stadium by offering a facility that will attract a much broader audience for football and other events. The construction will take place in three phases. The first phase will focus on the installation of the artificial turf (and track, should the additional funding be approved) with the objective of completion prior to the 2009 football season. The second phase will focus on the construction of the new restroom and concession buildings on the South Grandstand. This phase will begin at the start of phase one and continue through February 2010; however, construction activities will be fenced off and isolated from the public to allow use of the stadium during the 2009 football season. The third phase will begin upon the completion of phase two and will consist of renovation of the existing facilities under the grandstands. The contract completion time for this project is 17 months. This agenda item had been reviewed and approved by the Purchasing Division. After the review of IFB 09-017, Durham County Memorial Stadium Renovations and Additions, H&AC met the minimum 50 points required by GS 143-128 and satisfied the necessary Good Faith Efforts. H&AC identified 20.1% M/WBE participation of the total 27.57% M/WBE goal for construction subcontracting. However, the vendor has committed to work with Durham County to seek additional M/WBE participation if the opportunity prevails. The Engineering Department reviewed the bid proposals with Purchasing, General Services, County Manager staff, and DTW Architects & Planners, Ltd., the Project Architects, and recommended that the County proceed with base bid work plus Alternate #3 and award a contract to Harrod and Associates Constructors Inc. Completion of this project will provide a better facility for service delivery.

Commissioner Heron commented that the Memorial Stadium Authority is pleased with the proposed renovations and feels that the proposal will make the Stadium first-class, not only for football but for the community and high schools. The Stadium will also generate some revenue. "The Stadium has been neglected too long."

Vice-Chairman Reckhow, Commissioner Bowser, and Commissioner Howerton opined that the track should be included in the project. They spoke about the benefits of the track for Durham's youth and the citizens; they requested that it be added back to the project.

Mr. Whisler explained to Commissioner Howerton that the restroom facilities on the north side of the Stadium have been eliminated from the project; however, the existing restrooms would be renovated. In addition, the original proposal included air conditioning of the locker

rooms; the modified proposal includes mechanical ventilation. The modifications were made to reduce costs.

Chairman Page called the names of persons who had signed up to speak on the item, stating that each person would be given two minutes. The following citizens spoke in support of the athletic track:

Tommy Hunt, 1115 Donphil Road, Durham 27712, Chairman, Durham County Memorial Stadium Authority, requested that the Commissioners approve additional funds of approximately \$500,000 for the track and field component. He answered a question posed by Commissioner Bowser about citizens being able to use the track for walking. "The only problem may be a staffing issue."

Commissioner Bowser and Chairman Page strongly urged that the Stadium be opened to the public.

Mr. Hunt stated that he and the Authority would make every effort to do so.

Frank Davis, 309 Rippling Stream Road, Durham 27704, Head Coach and President of the Durham Striders Track Club; Head Coach of Southern High School's Track Team; NC USATF Chairman for Youth; and National USATF Chairman for Communications, spoke about the benefits of track to Durham's high school students.

Dr. Brenda Armstrong, 3019 Pump Station Lane, Durham 27712, physician at Duke Hospital; Dean of Admissions for the Medical School at Duke; and Vice President, Team Physician and Coach of the Durham Striders (six to 12 year olds). She informed the Commissioners that Durham Striders are considered the Premier Children's Youth Development Track Program in the U.S. She asked the Commissioners to spend the additional funds for the track "to keep our children on track instead of \$20,000 a year to incarcerate our children and adults".

Tecla McFadden, 2917 Firth Road, Durham 27704, spoke as an alumni, coach, and parent of a child on Durham Striders Track Club. She told how the track field would be a good source of revenue for the County.

Bryant Carthan, 232 Duckmill Circle, Cary 27519, echoed Coach Davis' point about the life lessons that his and other children have learned on the track field.

Ellington Carthan, 232 Duckmill Circle, Cary 27519, commented about how the Durham Striders have shaped his life and helped him grow as a young man.

Anita Hunt, 1005 Crete Street, Durham 27707, former Durham Strider and mother of several children on the track team, stated that track teaches children about working hard, resiliency, and perseverance.

Victoria Peterson, PO Box 101, Durham 27702, asked about MWBE participation in the contract and requested that staff list the minority businesses and their respective percentages of participation.

Dr. E. Lavonia Allison, representing Durham Citizens for the Affairs of Black People, 1315 McLaurin Avenue, Durham 27707, requested that the Commissioners support all items related to repairs and additions to the Stadium. She also echoed the concerns of Ms. Peterson regarding MWBE participation.

County Manager Ruffin asked Mr. Whisler to respond to the questions regarding bidders and the location of their firms.

Mr. Whisler stated that Harrod and Associates Constructors Inc. was the low bidder; the firm is located in Raleigh.

Pamela Gales, MWBE Program Manager, stated that on this particular project, a budget adjustment prevented her from having sufficient time to work with the contractor to get the numbers up to the 28% MWBE participation for subcontractors. The vendor has committed to work with Durham County to seek additional participation. She informed Ms. Peterson, Dr. Allison, and Commissioner Howerton that she would provide breakdowns of the MWBE companies for future contracts related to construction projects.

Vice-Chairman Reckhow asked questions regarding the dollar amounts on the revised agenda action form and the 7% contingency amount as opposed to the standard 5%. She expressed concern about having such a generous contingency amount.

Mr. Whisler explained that the value of the track, \$469,262, was deducted but would be added back if the track is approved. Another amount which must be added back for the track component is the Alternate #6 which is an alternate for the javelin runway, shot-put area, and discus area, bringing the total amount to \$539,262. The amount of additional funding required is \$506,833 because the initial value engineering was approximately \$35,000 under budget; therefore, the entire \$539,262 will not have to be added back.

Mr. Whisler explained that various contingency percentages are used for various projects. Consideration is given to the nature of the project to determine an appropriate amount. The Stadium project requires a significant amount of renovation work, which typically requires a higher contingency because of unanticipated conditions. Some of the contingency will be used for asbestos abatement. Mr. Whisler informed the Commissioners that the contingency is managed very closely and would be used very judiciously. In each prior project, with the exception of one, the entire contingency has not been expended.

Vice-Chairman Reckhow requested that the County Manager and staff review the contingency amount.

County Manager Ruffin echoed Mr. Whisler's comments about the contingency. He stated that this item has come back to the Board against his recommendation because of the contingency amount. He stated that the contingency would be monitored rigorously.

Per a question from Commissioner Heron, Mr. Whisler replied that if the entire contingency is not utilized when the project has been closed out, then the funds could be used to reduce debt; if funds have been borrowed, they would be allocated for the repayment of debt.

Per a question by Chairman Page, Mr. Hunt responded that future construction of high schools in Durham County will not include football stadiums. Instead, the schools will use the County Stadium, which will result in a considerable savings (construction and maintenance costs) to the County. The construction of the track will also eliminate the installation of tracks at each school.

Chairman Page requested that the Stadium be thoroughly marketed to keep it booked so it can sustain itself.

Mr. Hunt also addressed Vice-Chairman Reckhow's comment regarding the contingency amount. He stated that the professionals felt uneasy about accepting less than the approximate 7%.

County Attorney Chuck Kitchen responded to Commissioner Howerton's concern about liability for the use of the track. He stated that the liability issue is unclear.

Vice-Chairman Reckhow requested that General Services Director Mike Turner strongly consider adding back to the project the two additional flagpoles for the State and County flags.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to authorize an interfund loan of \$3,706,833 to the Durham County Memorial Stadium Renovations and Additions project for a total project budget from \$4,500,000 to \$8,206,833 and to enter into a contract with Harrod and Associates Constructors, Inc. for \$7,011,750 (Base Bid, Track, Alternates #3 and 6) for the construction of the Durham County Memorial Stadium Renovations and Additions project and to execute any other related contracts including change orders, if necessary, not to exceed the available construction budget of \$7,547,914. Funding for this project will come from a COPS financing loan and any General Fund funds spent towards these projects will be reimbursed once loan funds are secured.

The motion carried unanimously.

Commissioner Bowser supported Vice-Chairman Reckhow's comments regarding the addition of the flagpoles.

Chairman Page thanked all persons for their comments and for their attendance, especially the youth. He wished the youth well in their upcoming track season.

Commissioner Heron thanked everyone on behalf of the Stadium Authority.

The capital project amendment follows:

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Capital Projects Ordinance
Amendment No. 09CPA000014

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

	<u>Current Budget</u>	<u>Increase</u>	<u>Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>				
Durham County				
Memorial Stadium				
Renovations Project	\$4,500,000	\$3,706,833		\$8,206,833

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

This the 23rd day of February, 2009.

Execution of the Construction Contract for the Durham County Human Services Complex—Project No.: DC070, Bid No.: IFB 09-015

Glen Whisler, P.E., County Engineer stated that the Board is hereby requested to authorize the County Manager to enter into a contract with New Atlantic Contracting Inc. (NAC) for the construction of the Human Services Complex, located at the 400 and 500 blocks of East Main St., Durham, North Carolina in the combined total amount of \$54,665,000 (Base Bid Plus Alternates C-1, A-1, A-2, A-3); and to execute any other related contracts including change orders, if necessary, not to exceed the available construction budget of \$57,944,900 pending approval of financing. On October 24, 2005, the County Commissioners awarded the design contract to the Freelon Group Inc. to provide architectural design services for the Durham County Human Services Complex. This project is to build a 277,590 sq. ft. facility to house The Durham Center (formerly Mental Health), Social Services, and Public Health Departments, including a 404-space surface parking facility. This project consolidates delivery of human services and improves service delivery by providing adequate facilities for each agency. The construction of the Durham County Human Services Complex was advertised on November 9, 2008. The pre-bid conference was held on November 20, 2008; three bids were received, publicly opened, and read on January 15, 2009. NAC submitted the lowest bid price of \$54,665,000 (Base Bid plus Alternates C-1, A-1, A-2, and A-3). This agenda item has been reviewed and approved by the Purchasing Division. After the review of IFB 09-015, NAC has met the minimum 50 points required by G.S. 143-128 and has satisfied the necessary Good Faith Efforts. NAC has identified 28.13% M/WBE participation which exceeds the 27.57% M/WBE participation goal. The contractor has also committed to seeking additional M/WBE participation if the opportunity prevails. The Engineering Department reviewed the bid proposals with the Purchasing Department and The Freelon Group and recommended that the County proceed with base bid work plus

alternates C-1, A-1, A-2, and A-3 and award the contract to NAC. Funding for this project will be available in April 2009 through variable rate financing and then long-term certificates of participation (COPS) in the Human Services Complex Capital Project account. Construction is scheduled to be completed in 2012.

Mr. Whisler noted the revised agenda action form, which reduced the contingency amount from 10% to 6%.

Victoria Peterson, PO Box 101, Durham 27702, asked for additional information regarding MWBE subcontractors. She opined that Durham subcontractors should be employed.

Chairman Page informed the public that the Commissioners and staff would respond to questions either during the meeting or later, because staff may not have the answers to all questions. If not, the answers would be provided at a later date.

Dr. E. Lavonia Allison, representing Durham Citizens for the Affairs of Black People, 1315 McLaurin Avenue, Durham 27707, voiced concerns about the lack of MWBE participation and the lack of disaggregation of information for the public.

Pamela Gales, MWBE Program Manager, mentioned that the MWBE participation goal was exceeded on this project by 1+ percent. Durham County had a disparity study, and MWBE goals were put in place for each category under construction subcontracting. Ms. Gales informed Ms. Peterson and Dr. Allison that she would be happy to meet with them and explain how the entire program works. Ms. Gales stated that she would provide the disaggregated information with future agenda items. She also stated that a minority company is receiving \$5.8 million for the financing of this project.

Commissioner Bowser asked if any subcontractors from Durham had placed bids but were not awarded the contract.

Ms. Gales informed Commissioner Bowser that she and the contractor did outreach at the Durham County Library to solicit Durham County companies; however, the general contractor usually chooses the subcontractor with the lowest bid.

Commissioner Bowser directed that staff emphasize to the general contractors that Durham County subcontractors be selected, if possible.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to authorize the execution of the construction contract with New Atlantic Construction Inc. in the combined total amount \$54,665,000 (Base Bid Plus Alternates C-1, A-1, A-2, and A-3), and to execute any other related contracts including change orders, if necessary, not to exceed the available construction budget of \$57,944,900 pending approval of financing.

Commissioner Bowser stated, for the record, that this project will improve the working conditions of the Social Services, Mental Health, and Public Health employees, as well as their overall lives.

The motion carried unanimously.

Chairman Page thanked Mr. Whisler and Ms. Gales for providing the information.

Execution of Contract Amendment with System WorCx for the Enhanced LEED Commissioning Services during the Construction/Occupancy Phase of the Proposed Durham County Human Services Complex—Project No.: DC070-48

Glen Whisler, P.E. County Engineer, stated that the Board is requested to authorize the County Manager to amend the consulting service agreement with System WorCx to provide Enhanced LEED Commissioning Services during the Construction/Occupancy phase of the Durham County Human Services Complex (DCHSC), to be located on the 400 East Main Street in the amount of \$126,000 thus increasing the total compensation to \$160,000, pending approval of financing. The original consulting contract previously approved on May 14, 2007 related to design services only and assumed that certain supplemental services could be deferred for approval during the construction phase of the project. During the schematic design phase, it was determined that the Energy & Atmosphere credit for Enhanced Commissioning be targeted to help achieve the goal of a higher LEED certification level. The design team will submit 39-51 points to target certification at the LEED Gold level. Thus, a separate Commissioning Agent had to be contracted with the owner during the design and construction/occupancy phase to provide services for both fundamental and enhanced commissioning. The proposal includes the necessary scope for the project to qualify for the LEED Energy & Atmosphere (EA) Prerequisite 1 for Fundamental Building Systems Commissioning, EA Credit 3 for Enhanced Commissioning and includes creation of a Measurement and Verification Plan the will satisfy EA Credit 5. System WorCx was previously contracted during the design phase and the execution of the contract amendment will allow the commissioning agent to perform the services required by the United States Green Building Council (USGBC) during the construction/occupancy phase. In addition to satisfying the credits for Fundamental and Enhanced LEED Commissioning, the commissioning agent will provide measurement and verification of the buildings mechanical system, much of which is served by an under floor air distribution system. This type of system requires special attention with respect to the structural, envelope, partition, and floor construction that serve as components of the under floor plenum. The scope of work includes commissioning of these elements with respect to their function as part of the air distribution system. It is recommended that the County proceed with the work required during the construction/occupancy phase in the proposal dated September 8, 2006 in the total amount of \$126,000, thus, increasing the total compensation to \$160,000. Funding for this project will be available in April 2009 through variable rate financing and then long-term certificates of participation (COPS) in the Human Services Complex Capital Project.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to authorize execution of the amendment in the amount of \$126,000, thus, increasing the total compensation to

\$160,000 for additional consulting services with System WorCx, pending the approval of financing.

The motion carried unanimously.

Execution of Contract Amendment with The Freelon Group P.A. for the Proposed Durham County Human Services Complex—Project No.: DC070-48

Glen Whisler, P.E., County Engineer, stated that the Board is requested to authorize the County Manager to amend the design contract with The Freelon Group (TFG), P.A., pending approval of financing to include the Construction Administration (CA) Phase and related services for the Durham County Human Services Complex (DCHSC) and a surface parking facility to be located on the 400 and 500 blocks of East Main Street in the amount of \$4,120,397 plus reimbursable expenses and additional services (if necessary), estimated at \$206,020 for a total \$4,326,417, thus increasing the overall total compensation for basic design, construction administration, and additional services including reimbursement to \$8,141,417. The current design contract amount with TFG is \$3,815,000. On July 9, 2003, a request for qualifications (RFQ) for architectural services for the DCHSC project was advertised. On February 9, 2004, the Board authorized the County Manager to enter into a contract with TFG Inc. to provide professional services for the programming, master planning, and process analysis phase of the proposed complex. On October 24, 2005, the BOCC approved the original design contract without the contract for CA phase to TFG. The services to be rendered under this contract shall include Full Time Construction Administration; Basic Construction Administration (Includes Specialty Consultants); LEED Certification during Construction Administration; Interior Design - FFE Procurement and FFE Mock-up Services; Signage and Graphics including LEED Commissioning/Coordination and associated services. Construction is scheduled to begin in FY09 and be completed in FY12. This project consolidates delivery of Human Services and improves service delivery by providing adequate facilities for each agency along East Main Street. It is recommended that the County proceed with all work described in the proposal dated February 11, 2009 in the total amount of \$4,326,417. Funding for this amendment will be available in April 2009 through variable rate financing and then long term certificates of participation (COPS) in the Human Services Complex Capital Project account.

Mr. Whisler informed Commissioner Heron that the Freelon Group will ensure that the contractor performs the work in accordance with the plans and specifications. Freelon staff will be at the project site on a daily basis. A myriad of documentation will have to be completed from a general construction standpoint as well as all the LEED certification documentation. Formal meetings are held each month with the contractor where the progress of the work is monitored to ensure that it is moving as scheduled.

Commissioner Heron directed staff to provide quarterly progress reports to the Commissioners.

Commissioner Howerton asked about reimbursement expenses such as printing, local travel, etc.

Vice-Chairman Reckhow asked if the requested funds are consistent with typical architectural services and construction monitoring for a project this size. She also asked about the overhead multiplier.

Mr. Whisler explained why the level of services provided under this contract is much greater than the average level of services. The man hours were determined by looking at all the tasks to be performed and the number of hours necessary to perform the tasks. He stated that multiple Freelon staff may be on the job site at once, depending on the level of activity. In addition, Freelon staff would be in their offices working as well. Mr. Whisler did not have access to the information about the overhead multiplier at the meeting. He mentioned that this project would take place over a several-year period. A high level of attention needs to be placed on this project during the construction phase.

Vice-Chairman Reckhow stated that she would trust Mr. Whisler's judgment on the amount.

Commissioner Heron asked if the Freelon Group will oversee the demolition of the existing Public Health Department.

Mr. Whisler responded in the affirmative.

Commissioner Heron moved, seconded by Commissioner Howerton, to authorize the County Manager to amend the design contract with The Freelon Group (TFG), P.A., to include the Construction Administration (CA) Phase and related services for the DCHSC project in the amount of \$4,120,397 plus reimbursable expenses and additional services if necessary, estimated at \$206,020 for a total \$4,326,417, thus increasing the overall total compensation for basic design, construction administration and additional services including reimbursement to \$8,141,417, pending approval of financing.

The motion carried unanimously.

Public Hearing on Health and Human Services Financing

County Attorney Chuck Kitchen stated that the track for the Durham Memorial Stadium Authority has been added back to the financing.

George Quick, Finance Director, gave an overview of the financing plan for the Health and Human Services Complex (\$117,835,000). The financing plan for the Health and Human Services complex will include eight other County projects. The plan is expected to cover a period of forty-eight months due to the two-phase construction process. The plan will include public offerings of a fixed rate trunch and a variable rate trunch. Tranches will be in the amount of \$61,850,000 and \$56,040,000. The fixed rate trunch will be managed by RBC (\$34,000 million), assisted by Bank of America (\$11,000 million), Wachovia Bank, N.A. (\$11,000 million) and Jackson Securities (\$5,850 million). The variable rate trunch will be handled entirely by SunTrust (\$55,985M). The fixed rate trunch will be for a term of

22 years. The first two years will be interest only, with repayment to be in equal principal payments over the remaining 20 years. Staff expects that the rate will be in the 4% percent range. The variable rate will be for a term not to exceed 25 years, with repayment to begin at the completion of the project (4 to 5 years). Interest only will be paid during the first five years of this tranche. Staff expects that the interest rate will average in the 3% range during this period. At the completion of the project the variable rate tranche will be converted to a fixed rate and termed out. This transaction is expected to close with BOCC approval on or before May 1, 2009.

The financing will be secured by the Health and Human Services complex only.

Projects financed by this plan are as follows:

Justice Center	\$ 1,300,000
Civic Center	5,100,000
County Stadium	8,206,833
South Regional Library	4,700,000
Southwest Library	3,300,000
DPS/YMCA	8,250,000
Creekside Elementary	1,300,000
EMS Station #1	540,000
Health and Human Services	83,637,567 (will provide collateral for the entire project)
Administrative fees	1,500,600

The County is attempting to secure financing for the construction of the Health and Human Services Complex along with other projects. The financing will be in an amount not to exceed \$117,835,000. This request is for the BOCC to adopt the final resolution and documents for this transaction.

Vice-Chairman Reckhow asked why COPS, not bond monies, were being used for South Regional and Southwest Libraries.

County Manager Mike Ruffin explained that additional funding is needed for the libraries.

Vice-Chairman Reckhow asked about the off-setting revenue for South Regional Library due to the parcels of land to be sold to the State Employees Credit Union and Durham Public Schools.

Mr. Quick stated that the documents are in the process of being formulated and should be complete by May 1. Some of the debt is on a variable rate basis. As this revenue becomes available, a portion can be paid, which will result in a cost reduction to the County.

Vice-Chairman Reckhow directed the County Manager to work with the purchasers of the property and move quickly to consummate the deals so less interest will have to be paid.

Vice-Chairman Reckhow asked Mr. Quick about the financing, the term of the financing, and interest rates on the variable mortgage.

Mr. Quick explained that the financing would occur in phases.

County Attorney Chuck Kitchen explained that the first part of this item is a preliminary resolution in which the Board is announcing and adopting a resolution setting forth the projects that the Board intends to finance. In addition, the Board is requesting public comment. Typically, this is done in two separate meetings; however, with the short time frame for the financing, these are being combined into one meeting.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the preliminary resolution.

The motion carried unanimously.

Chairman Page opened the public hearing that was properly advertised.

Dr. E. Lavonia Allison, representing Durham Citizens for the Affairs of Black People, 1315 McLaurin Avenue, Durham 27707, asked when a public hearing would be held regarding the construction aspect of the schools and the libraries.

Victoria Peterson, PO Box 101, Durham 27702, expressed concern about the lack of minority participation, why Mechanics and Farmers Bank is not involved with the financing, the lack of a Durham labor force, and whether another public hearing would be held.

Mr. Quick stated that Mechanics and Farmers Bank is not equipped to deal with the type of financing that the County is being forced to use in this particular situation. On numerous other types of financing, Mechanics and Farmers Bank is on the vending list and is always given an opportunity to participate. In addition, Jackson Securities out of Atlanta is a minority firm.

County Manager Ruffin stated that the public hearing is on the financing, not the contracts; however, considerable discussion has taken place about the Health and Human Services contract. Also, the contract for the County Stadium has just been awarded. South Regional and Southwest Library contracts are underway. Information regarding MWBE participation was brought forward for the contracts. The Civic Center project will be handled by the City under its rules and policies. The DPS/YMCA project has not been commissioned, but will come before the Board for approval at which time the questions will be presented. Staff has agreed to provide additional information on MWBE participation in the future. The EMS Station #1 project has yet to be awarded. The Creekside Elementary project involves transportation improvements being required by the City of Durham but were unexpected by the school system when the project was being financed.

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

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, that the Board has determined to proceed with the proposed financing of a portion of the cost of the projects and

approve on a preliminary basis such proposed agreement to finance a portion of the cost of the projects in an amount not to exceed \$117,835,000 substantially as presented.

The motion carried unanimously.

**RESOLUTION MAKING CERTAIN DETERMINATIONS CONCERNING
A PROPOSED INSTALLMENT FINANCING AGREEMENT TO
FINANCE A PORTION OF THE COST OF VARIOUS PROJECTS AND
PROVIDING FOR CERTAIN RELATED MATTERS**

WHEREAS, the County of Durham, North Carolina (the "County") has determined to finance a portion of the cost of (a) constructing a Human Services Complex, including the construction of a building to house facilities for the provision of public health services, mental health services and social services, the construction of a related parking lot and the acquisition of any necessary land, furnishings and equipment, (b) clearing land for the construction of a new Justice Center and related facilities, (c) improving, renovating and repairing the Durham Civic Center, including the conversion of an exhibit hall to a ballroom, the construction of improvements to facilitate its use by disabled persons, the construction of partitions in the ballroom, the improvement of the pre-function corridor, the repair of the heating, ventilating and air-conditioning systems and the design of additional improvements, renovations and repairs, (d) renovating the County Stadium, including the replacement of the press box, the construction of improvements to the locker rooms and public restrooms, the installation of a regulation high school track, the installation of artificial field turf and the replacement of stadium seating covers, (e) constructing a new branch library and related parking facilities, (f) expanding and improving the existing Southwest Branch Library to accommodate additional material collections, provide additional or expanded public computing facilities, meeting rooms, quiet rooms and study spaces and facilitate better operations, (g) acquiring and renovating the property known as the Lakewood YMCA to

house a YMCA facility and a secondary school, (h) renovating EMS Station #1 to house additional emergency medical services staff and vehicles and constructing related parking facilities and (i) constructing an addition to Creekside Elementary School, related parking facilities and a related driveway (collectively the "Project"); and

WHEREAS, the County is considering entering into an installment financing agreement and certain related documents pursuant to G.S. §160A-20, as amended, for the purpose of providing funds in an amount not to exceed \$117,835,000, with other available funds, for the construction and other accomplishment of the Project, and it is necessary to provide for certain related matters at this time;

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

Section 1. The Board of Commissioners for the County (the "Board") hereby finds and determines in connection with such proposed agreement that (a) the proceeds of such proposed agreement will be used to finance a portion of the cost of the Project to meet an urgent need for additional and improved public facilities constituting the Project to serve the residents of the County and, accordingly, such proposed agreement is necessary or expedient for the County, (b) such proposed agreement, under current circumstances, is preferable to a bond issue of the County for financing the same purpose because there is not adequate time to hold a bond referendum, (c) the sums estimated to fall due under such proposed agreement are adequate and not excessive for its proposed purpose because they are based upon construction bids received by the County with respect to portions of the Project or the County's best estimate of the cost of portions of the Project, (d) the County's debt management procedures and policies are good and its debt will continue to be managed in strict compliance with the law, (e) any increase in taxes necessary to meet the sums estimated

to fall due under such proposed agreement will not be excessive because the County does not expect that it will be necessary to increase taxes by more than three and 24/100 cents (3.24¢) per one hundred dollars (\$100) of the appraised value of property subject to taxation by the County in order to provide funds to pay such sums and (f) the County is not in default regarding any of its debt service obligations.

Section 2. The actions of the Finance Director of the County in calling a public hearing on such proposed agreement and publishing a notice of such public hearing in the The Herald Sun, in accordance with the provisions of G.S. §160A-20, as amended, are hereby approved, ratified and confirmed.

Section 3. The County Manager, the Finance Director, and the County Attorney of the County are each hereby designated as a representative of the County to file an application for approval of such proposed agreement with the Local Government Commission of North Carolina and are authorized to take such other actions as may be advisable in connection with the negotiation of such proposed agreement and the development of the related financing; and all other actions heretofore taken by any of such officers or any other officer of the County relating to such matter on behalf of the County are hereby approved, ratified and confirmed.

Section 4. The Board hereby requests the Local Government Commission of North Carolina to approve such proposed agreement under Article 8 of Chapter 159 of the General Statutes of North Carolina, as amended.

Section 5. The Board hereby confirms or recommends the selection of the following parties and professionals to be on the financing team for such proposed agreement:

Special Counsel	Robinson Bradshaw & Hinson, P.A.
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Financial Advisor	DEC Associates, Inc.
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Nonprofit Corporation	Durham Capital Financing Corporation
Counsel to Nonprofit Corporation	Hedrick Murray Bryson Kennett Mauch & Connor PLLC
Trustee	First-Citizens Bank & Trust Company
Senior Underwriters	RBC Capital Markets
	SunTrust Robinson Humphrey, Inc.
Remarketing Agent	SunTrust Robinson Humphrey, Inc.
Liquidity Facility Provider	SunTrust Bank
Counsel to Underwriters, Remarketing Agent and Liquidity Facility Provider	Parker Poe Adams & Bernstein L.L.P.

Section 6. This resolution shall take effect immediately upon its passage.

Thereupon, the Chairman of the Board of Commissioners for the County of Durham, North Carolina (the "County") announced that this was the hour, day and place fixed for the public hearing for the purpose of considering whether the Board of Commissioners for the County should approve a proposed installment financing agreement and certain related documents pursuant to G.S. §160A-20, as amended, for the purpose of providing funds in an amount not to exceed \$117,835,000, with other available funds, for the construction and other accomplishment of the Project hereinafter described. The County would secure the repayment by it of moneys advanced pursuant to such proposed agreement by granting a security interest in a portion of the Project and certain related property.

The Project consists of (a) constructing a Human Services Complex, including the construction of a building to house facilities for the provision of public health services, mental health services and social services, the construction of a related parking lot and the acquisition of any necessary land, furnishings and equipment, (b) clearing land for the construction of a new Justice Center and related facilities, (c) improving, renovating and

repairing the Durham Civic Center, including the conversion of an exhibit hall to a ballroom, the construction of improvements to facilitate its use by disabled persons, the construction of partitions in the ballroom, the improvement of the pre-function corridor, the repair of the heating, ventilating and air-conditioning systems and the design of additional improvements, renovations and repairs, (d) renovating the County Stadium, including the replacement of the press box, the construction of improvements to the locker rooms and public restrooms, the installation of a regulation high school track, the installation of artificial field turf and the replacement of stadium seating covers, (e) constructing a new branch library and related parking facilities, (f) expanding and improving the existing Southwest Branch Library to accommodate additional material collections, provide additional or expanded public computing facilities, meeting rooms, quiet rooms and study spaces and facilitate better operations, (g) acquiring and renovating the property known as the Lakewood YMCA to house a YMCA facility and a secondary school, (h) renovating EMS Station #1 to house additional emergency medical services staff and vehicles and constructing related parking facilities and (i) constructing an addition to Creekside Elementary School, related parking facilities and a related driveway.

Notice of this public hearing was published in The Herald Sun not less than 10 days before the date of this public hearing.

Advance Public Comments on the FY2009-2010 Budget

Budget and Management Services Director Pam Meyer stated that the Board will hold an Advance Public Comment session to receive public comments for the FY2009-2010 Budget. As County staff begins preparing the fiscal year 2009-2010 budget, public input is being solicited on issues which may need to be addressed during the budget process. The County Manager's Recommended FY2010 Budget will be presented to the Board of Commissioners on May 26, 2009, with individual budget worksessions with the Board to be scheduled for the period May 27-June 12, 2009. Final adoption of the FY2009-10 Budget Ordinance is scheduled for Monday, June 22, 2009.

Chairman Page called forward the following citizens who had requested to speak:

Kathryn Spann, 4720 Bahama Road, Rougemont 27572, Chair of the Durham Farmland Protection Board, urged the Commissioners to ensure that funding for farmland preservation and open space is restored at a level that would make up for the losses suffered in the FY 2008-09 budget cuts.

Chairman Page asked Ms. Spann to present her written remarks to the Board, as she did not have sufficient time to finish her comments. In addition, he informed her that she would have another opportunity to speak to the Commissioners at the March 3 “Conversations with Commissioners”.

Robert Glenn, 3000 Montgomery Street, Durham 27705, asked the Commissioners to support the farmland monies for the upcoming budget year equal to the amount lost this current fiscal year.

Vicky Patton, 2525 Lanier Place, Durham 27705, President of the Board of Directors of the Central Park School for Children, a public elementary charter school in downtown Durham. She spoke in favor of funding for the Durham Open Space and Trails Matching Grants Program. “Matching grants such as DOST leverage public dollars for good public projects.”

Victoria Peterson, PO Box 101, Durham 27702, stated that the various minority groups get their fair share of the tax dollars. She asked the County to consider revising its policy regarding the MWBE participation goal and to make sure that Durham businesses are hired.

Dr. E. Lavonia Allison, representing Durham Citizens for the Affairs of Black People, 1315 McLaurin Avenue, Durham 27707, made a request that County staff provide more facts and information prior to the advanced public hearing so citizens can ask intelligent questions. She restated her request for disaggregated information.

Vice-Chairman Reckhow asked Dr. Allison about the type of facts and information she wished to be provided.

Dr. Allison replied that the State is receiving money from the President’s stimulus package; therefore, the County Commissioners should speak with the County’s legislative delegation to make sure Durham gets its share of the funding.

Chairman Page informed Dr. Allison that the first hearing on the budget gives citizens the opportunity to express their budget concerns. He stated that the Manager has created a document with specific budget cuts and she could request that information.

2003 Murder Case

Commissioner Bowser brought to the Commissioners’ attention a copy of the report from the News and Observer entitled *Three Men Get Sentences in 2003 Durham Shootings*, dated February 18, 2009. He gave information regarding the shooting incident, which resulted in one victim dying and three others being shot. Commissioner Bowser expressed outrage that

two of the persons involved in the actual shooting were given a minimum of ten years, another was sentenced to 24 to 31 years in prison. He spoke about leading efforts to end plea bargaining back in 2003, especially when a firearm is used, and had hoped that his advocacy would have an effect on the judicial system, “but it hasn’t”. Commissioner Bowser requested that the “Durham County Board of Commissioners look at establishing a committee that will follow such cases in hopes that enough data can be gathered to go to the State Legislature and get the laws changed in order to force our judicial system to do what it is supposed to do to protect us”. He stated that the Durham County Commissioners and the City Council has to responsibility to protect its citizens, even though they are not a part of the judicial system.

Vice-Chairman Reckhow stated appreciation for Commissioner Bowser for bringing this item forward. She suggested that he attend the upcoming Crime Cabinet meeting, where citizens share his concerns. A subcommittee of the Crime Cabinet could work on this issue.

Vice-Chairman Reckhow expressed a different concern related to the shootings—the fact that the crime occurred five years ago and the last person was tried five and one-half years later. She asked the County Manager to check and determine whether the person was held in the County jail until this case was disposed; and where were the persons who pled guilty in 2006 held during the delay in their sentencing until the Terry case was disposed. She expressed concern with the large number of persons waiting in the jail for many years until their cases are disposed. “This is not acceptable.” Valuable resources are going to be spent on an additional detention facility and some of it is related to people being in the jail too long.

Commissioner Howerton stated this issue is very sensitive to her. She was one of the originators of the “Parents Against Murdered Children”. People in the Durham community that have been personally affected by crimes can provide some data being requested by Commissioner Bowser. She agreed that too many plea bargains are taking place. She expressed a desire for the Commissioners to have a conversation with the District Attorneys about both the plea bargain issue and the delay in trials and sentencing.

Commissioner Bowser remarked that Vice-Chairman Reckhow brought up a great point; however, he wanted the Board to address his concern about plea bargaining.

Vice-Chairman Reckhow invited Commissioner Bowser to the next Crime Cabinet meeting on March 13.

Chairman Page spoke about a similar plea bargaining situation involving the murder of an 89 year old man. He opined that judges are giving sentences which are much too lenient. Chairman Page stated that the Commissioners should address this issue as a group. He asked Commissioner Bowser if he would like to present his concerns with the Crime Cabinet.

Commissioner Bowser commented that he would start with the Crime Cabinet; however, he would like for the County Commissioners to consider forming a committee sometime in the future.

Commissioner Howerton stated that it would take a groundswell of the community to get behind this. The plea bargaining issue did not just become a problem; it has been happening for a long time.

Chairman Page stated that the consensus of the Commissioners is support for Commissioner Bowser. He asked that Commissioner Bowser come back before the Board if he did not get a committee established at the Crime Cabinet. The Board wants a follow-up report from Commissioner Bowser to hear the progress being made.

Vice-Chairman Reckhow asked the County Manager to get a current census of the Detention Center with the length of stay for inmates, with the number in jail for more than three years.

Closed Session

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to adjourn to Closed Session pursuant to G.S. § 143-318.11(a)(6) to consider the performance of a public officer or employee.

The motion carried unanimously.

Reconvene to Open Session

Chairman Page announced that the Board met in closed session; direction was given to staff; no action was taken.

Adjournment

There being no further business, Chairman Page adjourned the meeting at 10:55 p.m.

Respectfully submitted,

Vonda Sessoms, CMC
Clerk to the Board