

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

Monday, September 25, 2006

7:00 P.M. Regular Session

MINUTES

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

Present: Chairman Ellen W. Reckhow, Vice-Chairman Becky M. Heron, and Commissioners Lewis A. Cheek—arrived late, Philip R. Cousin Jr., and Michael D. Page

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

Motion to Excuse Commissioner Cheek

Commissioner Cousin moved, seconded by Vice-Chairman Heron, to excuse Commissioner Cheek from the meeting.

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow

Noes: None

Absent: Commissioner Cheek

Announcements

Chairman Reckhow announced the following upcoming events:

- The North Carolina Department of Transportation (NCDOT) would hold a meeting to allow public comment on the East End Connector project on Tuesday, September 26, 2006, from 4:00 to 7:00 p.m. at Living Water Church (located at Lynn Road and US 70).
- The Durham Center is sponsoring a “Recovery Celebration Block Party” on Thursday, September 28, 3:00 to 7:00 p.m. at the Urban Ministries Center, 410 Liberty Street, Durham, in an effort to help build a stronger and healthier community. The event would include food, music, entertainment, and inspiring stories of recovery. (The Board of Commissioners declared September as “Alcohol and Drug Addiction Recovery Month” in Durham County.)

Heidi York, Assistant County Manager, announced that the Results Based Accountability Report would be published on Wednesday, September 27, 2006, in The Herald-Sun and The Triangle Tribune. The full report would be available on the City of Durham and Durham County websites.

Minutes

Commissioner Page moved, seconded by Vice-Chairman Heron, to approve as corrected the August 22, 2006 Worksession Minutes of the Board.

The motion carried with the following vote:

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

Consent Agenda

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

- *a. Tax Releases and Refunds for Fiscal Year 2006-2007 (accept the property tax release and refund report for August 2006 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- *b. Budget Ordinance Amendment No. 07BCC000008—Social Services—Recognize Additional Revenue (approve for a total increase of \$2,029,866);
- *d. Budget Ordinance Amendment No. 07BCC000010—Reappropriation of Unspent FY06 Vehicle Loan and Additional Appropriation for FY07 Vehicle Loan (approve budget amendment 07BCC000010 to authorize the reappropriation of the unspent FY06 vehicle loan proceeds in the amount of \$213,656; and authorize an additional appropriation in the amount of \$4,063 to reflect the full amount of the authorized FY07 vehicle and equipment loan);
- e. Sub-Recipient Agreement Related to the Sheriff's 800 MHZ Radio System Upgrade (authorize the County Manager to execute the agreement); and
- f. Service contract with Granicus Inc. for webcasting Durham County meetings (authorize the Manager to enter into a service contract with Granicus Inc.).

The motion carried with the following vote:

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

*Documents related to these items follow:

Consent Agenda Item No. a. Tax Releases and Refunds for Fiscal Year 2006-2007 (accept the property tax release and refund report for August 2006 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 August 2006.

Releases & Refunds for 2006 Taxes:

Real Estate	\$ 86,410.17
Personal	\$206,609.87
Registered Vehicles	\$ 28,077.86
Vehicle Fees	\$ 580.00
Solid Waste	\$ 320.00
Total for 2006 Taxes and Fees	\$321,997.90

Prior years' (2002-2005) releases and refunds for August 2006 are in the amount of \$32,714.05. The total current year and prior years' releases and refunds amount to \$354,711.95.

(Recorded in Appendix A in the Permanent Supplement of the September 25, 2006 Regular Session Minutes of the Board.)

Consent Agenda Item No. b. Budget Ordinance Amendment No. 07BCC000008—Social Services—Recognize Additional Revenue (approve for a total increase of \$2,029,866).

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000008

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 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	\$317,146,800	\$2,029,866	\$319,176,666
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Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$391,304,832	\$2,029,866	\$393,334,698

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

This the 25th day of September, 2006.

Consent Agenda Item No. d. Budget Ordinance Amendment No. 07BCC000010—
 Reappropriation of Unspent FY06 Vehicle Loan and Additional Appropriation for FY07
 Vehicle Loan (approve budget amendment 07BCC000010 to authorize the
 reappropriation of the unspent FY06 vehicle loan proceeds in the amount of \$213,656;
 and authorize an additional appropriation in the amount of \$4,063 to reflect the full
 amount of the authorized FY07 vehicle and equipment loan).

DURHAM COUNTY, NORTH CAROLINA
 FY 2006-07 Budget Ordinance
 Amendment No. 07BCC000010

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the
 FY 2006-07 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	\$20,555,798	\$217,719	\$20,773,517

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Other	\$5,639,183	\$217,719	\$5,856,902

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

This the 25th day of September, 2006.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. c. Budget Ordinance Amendment 07BCC000009—Durham
 County Sheriff’s Office—Interlocal Agreement for the Funding of a Countywide Gang
 Assessment (approve the Interlocal Agreement; authorize the Manager to execute the
 Agreement; and approve the budget amendment to recognize \$156,922 in reserved funds

into the Sheriff's Office FY 2006-07 operating budget appropriating \$30,000 to the gang assessment study).

Chairman Reckhow called signed speaker Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, forward for comments.

Chairman Reckhow informed Ms. Peterson that her concerns would be addressed with the study.

Vice-Chairman Heron expressed concern about funding a study to assess an existing problem in the County. She requested that the contract with Drs. Deborah L. Weisel and James C. Howell (gang assessment consultants) state additional recommendations for remedying gang activity in Durham County.

Per a request by Chairman Reckhow, Assistant County Attorney Carol Hammett elaborated on the contract to address Vice-Chairman Heron's concern. She remarked that additional wording is provided in the Interlocal Agreement.

Chairman Reckhow referenced Section 2. *Exceptions of the Gang Assessment* of the Interlocal Agreement, quoting "The Gang Assessment shall also identify realistic measures that the DCSO (Durham County Sheriff's Office), County and City should take to most effectively address gangs and respond to the needs of citizens, providing practical and cost-effective opportunities to refine, modify and/or extend current information and programming as needed to achieve identified and objectives." She explained that the study is not only to assess the number of gangs and gang members, but to research "practical and cost-effective" solutions.

County Manager Mike Ruffin informed Vice-Chairman Heron that finding solutions for the gang problem has been communicated to the consultants.

Vice-Chairman Heron moved, seconded by Commissioner Page, to approve Consent Agenda Item No. c.

The motion carried with the following vote:

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

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000009

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 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 Revenues	\$566,584	\$156,922	\$723,506

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$47,229,163	\$156,922	\$47,386,085

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

This the 25th day of September, 2006.

Public Hearing—Zoning Map Change—Barbee Chapel Road (Z06-18)

Assistant Planning Director Steve Medlin requested that the Board approve a zoning map change for a 36.729-acre site located on the south side of Barbee Chapel Road, across from Downing Creek Parkway, west of Short Street, and east of the Town of Chapel Hill corporate limits. PINs 9797-02-98-4210 and 9797-02-99-3627 Request: RR to PDR 2.000

This item was continued from the August 28, 2006 Commissioner meeting at the request of the applicant.

The Planning Department recommended approval, based on consistency with the *Comprehensive Plan* and the information contained in the report.

The Planning Commission recommended and voted 8-4 for denial on July 11, 2006. The Commission found that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission recommended denial based on increased traffic congestion, impacts on sensitive environmental areas and Durham Natural Inventory sites, and significant opposition from the community.

Mr. Medlin informed the Board that a previous protest petition submitted for this item had been withdrawn.

Vice-Chairman Heron inquired about recommendations made by the Durham Open Space and Trails Commission (DOST) in its June 5, 2006 memorandum to the Commissioners.

Mr. Medlin responded that a majority of the recommendations have been met. He stated that the developer would discuss the recommendation pertaining to stub-out roads in his presentation.

Chairman Reckhow asked the applicant to address Recommendation No. 4, "That best management practices be utilized to prevent possible damage to the inventory site when designing any storm water detention areas which will feed directly into the adjacent property."

Chairman Reckhow opened the public hearing that was properly advertised and called the following signed speakers forward for comments:

Rebecca Board, Downing Creek resident, 10 Winslow Place, Chapel Hill 27517, expressed concern about traffic congestion.

Ann Von Holle, Downing Creek resident, supported Ms. Board's comments.

Attorney Ken Spaulding, representing the applicant Neighborhood Development Associates LLC, 2530 Meridian Drive, Durham 27713, provided an overview of the plan. He urged the Board to approve the zoning map change.

George Stanziale, consultant, Neighborhood Development Associates LLC, 27 Falling Water Drive, Durham 27713, elaborated on the plan. He addressed DOST recommendations per a request by the Commissioners.

Mr. Stanziale answered questions posed by the Board.

Chairman Reckhow, Mr. Medlin, and Mr. Stanziale discussed environmental concerns with extending cul-de-sacs to the property line.

County Attorney Chuck Kitchen stated that Mr. Medlin informed him that Neighborhood Development Associates LLC may request changes before or after the Board approves tonight's item.

Vice-Chairman Heron asked questions pertaining to changes allowed per the Unified Development Ordinance (UDO).

Mr. Medlin communicated to Mr. Stanziale that although the Planning Commission recommended denial, the plan must be resubmitted to the Commission.

Mr. Stanziale asked if a connection can be made to the substation (a separate parcel in the same direction).

County Attorney Kitchen clarified that Neighborhood Development Associates may ask the Development Review Board (DRB), not the Planning Commission, for a variance. He stated that the Board may not approve this item subject to a change; it is at DRB's discretion. He suggested that the Board direct staff to recommend the change to DRB once the item is approved. If DRB does not approve the recommendation, the plan will remain unchanged.

Mr. Stanziale elaborated on the Board's recommendations, stating that either the plan should show a connection further towards South Highway 54 or ask DRB to disallow the

cul-de-sac extension. For the record, he assured the Board that the recommendations would be relayed to DRB.

Chairman Reckhow affirmed the recommendations.

Vice-Chairman Heron inquired about stub-out roads.

In response to a question posed by Vice-Chairman Heron, Mr. Medlin suggested that the Board approve the zoning map change with the condition that the applicant communicate the Board's recommendations to DRB.

Chairman Reckhow asked that either Attorney Spaulding or Mr. Stanziale keep the Board apprised of the progress.

Mr. Stanziale addressed concerns from DOST and Chairman Reckhow pertaining to storm water management and enhanced soil sedimentation during construction to protect Morgan Creek Bottom Lands.

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

Per a request by Commissioner Page, County Attorney Kitchen offered two issues with constructing speed humps in the Downing Creek area: 1) speed humps are not required by the UDO; 2) Downing Creek is within City limits; and 3) speed humps have not been added as a committed element [in writing] by the developer.

Mr. Stanziale explicated that 75 percent of the residents along Downing Creek Parkway must agree to have speed humps installed by signing the application to submit to the City. The developer would agree to add four speed humps as a committed element once the signatures have been obtained.

Mr. Medlin noted that the City has standardized language that captures the intent of the committed element, which says that the applicant commits to providing four traffic calming devices (speed humps) subject to receiving signatures from 75 percent of the property owners.

Commissioner Page inquired about elderly residents in the Downing Creek area.

Chairman Reckhow gave an overview of the committed elements and clarified the following: 1) Committed Element No. 2 (page 3 of the staff report) was revised to indicate that the trail would be constructed prior to the 55th certificate of occupancy; 2) a commitment from the developer (in standardized language) for enhanced sedimentation control measures to protect Morgan Creek Bottom Lands; 3) standardized language to state the developer's commitment to provide four traffic calming devices on Downing Creek Parkway consistent with City policy; and 4) the developer's commitment to apprise the Board of the cul-de-sac extension outcome.

Mr. Medlin asked that the County Attorney review the committed element for traffic calming devices before finalizing.

Vice-Chairman Heron moved, seconded by Commissioner Cousin, to approve Zoning Map Change—Barbee Chapel Road (Z06-18) with the additional committed elements.

The motion carried unanimously.

Chairman Reckhow recognized Commissioner Cheek as present.

Public Hearing—Zoning Map Change—Scott Mill (Z05-35)

Steve Medlin, Assistant Planning Director, requested that the Board refer this item back to staff pursuant to Section 15.3.6 of the Zoning Ordinance since the applicant has made changes to the development plan that have been determined previously by the Board to be significant changes requiring that a zoning map change be referred back to the Planning Commission for new hearings. The zoning map change is for a 44.336-acre site located on the south side of Scott King Road, east of Herndon Road, and west of Grandale Drive, back to staff PINs 0727-03-33-0274, 0727-03-33-3487, 0727-03-33-5136, and 0727-03-33-6917 Request: RR to PDR 1.680

The Planning Department recommended that this application be referred back to staff based on the following significant changes to the most recently submitted development plan: a significant reconfiguration of an external access point so that it requires further engineering review and a 54-percent increase in the density (from 13 to 20 lots) in the TUA. Additional changes that warrant further evaluation include 1) change in internal circulation; 2) non-compliance with infrastructure standards including right-of-way widths and sidewalks; 3) failure to comply with resource protection requirements; and 4) internal inconsistencies between the plan sheets and committed elements.

The Planning Commission recommended and voted 12-0 for denial on April 11, 2006. The Commission found that the requested revision to the zoning districts of the UDO is consistent with the adopted *Comprehensive Plan*. The Commission recommended that the request be denied based on finding that the project will adversely impact sensitive environmental areas, that there is significant opposition from the surrounding community, that the density of the project is inconsistent with the neighboring land uses and densities, and considering the information in the staff report and comments received during the public hearing.

County Manager Mike Ruffin asked if another continuance could be granted for the public hearing.

County Attorney Chuck Kitchen responded that the Board could continue the public hearing if the date is determined.

Mr. Medlin answered a question from Vice-Chairman Heron, responding that if the applicant submits a new plan that is consistent with the one reviewed by the Planning Commission, then it would proceed back to the Commissioners. If significant changes have been made during the evaluation, then the plan must be resubmitted to the Planning Commission for a new public hearing to have an opportunity to provide an updated recommendation.

For clarification, Commissioner Cheek recapped the progress of the Scott Mill plan since its first submission to Planning. He synopsized the request brought to the Board at tonight's meeting (to refer the item back to staff).

Chairman Reckhow opened the public hearing that was continued from the August 28, 2006 Commissioners' meeting to allow staff to evaluate the latest submitted development plan for conformance with Ordinance requirements.

The following citizens fervently opposed the committed elements:

Carol Young, representing Lake Park, 5808 Williamsburg Way, Durham 27713

Liz Pullman, representing DCIRC, 1114 Scott King Road, Durham 27713

Colleen Haithcock, representing Northeast Creek Stream Watch, 1304 Seaton Road #10, Durham 27713

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

Bill Ripley, representing the applicant Perimeter Development LLC, 504 Southpark Drive, Durham 27713, explained that the request is to refer the item to staff to review the plan and committed elements. No committed elements have been withdrawn or added, although some have been reworded to be in compliance with enforceable committed elements and UDO requirements.

Ms. Young rebutted Mr. Ripley's comments.

Vice-Chairman Heron asked Mr. Ripley to explain why the plan is being pulled when diligent work has been put into meeting residents' satisfaction.

Mr. Ripley responded that the plan is not being removed. The plan the Commissioners received in their previous agenda packets was the plan that was submitted and reviewed by staff. However, the revised plan was distributed to the Commissioners in error at the August 28 meeting before it was reviewed by staff.

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

Vice-Chairman Heron expressed dissatisfaction with the plan. She stated that referring it back to staff is unfair to the residents and Commissioners who have devoted time to getting the plan underway.

Chairman Reckhow concurred with Vice-Chairman Heron's concerns.

Commissioner Cheek made the motion to refer the plan back to staff for review; after staff has conducted its review, the findings then will be presented to the Board.

County Attorney Kitchen stated that if Planning staff finds no significant changes, then a new public hearing would be advertised. But if the plan must be returned to the Planning Commission, then it would not be advertised.

County Attorney Kitchen explained to Commissioner Page that North Carolina General Statutes (N.C.G.S.) state that a plan amendment must be submitted to the Planning Commission for a recommendation before the Board of County Commissioners can vote. Once the recommendation is made, the Board is free to vote for denial or approval, ask questions, etc.

Vice-Chairman Heron expressed aversion for the plan submittal procedure per N.C.G.S.

Commissioner Cheek reiterated the procedure required by N.C.G.S. and the reasons why the Scott Mill plan must be reviewed by Planning staff.

Commissioner Page seconded the motion.

Vice-Chairman Heron asked Mr. Medlin if committed elements added to the new plan are considered a significant change.

Mr. Medlin opined that most of the committed elements are not related to the nine "significant changes" in the development plan as defined by the UDO.

Vice-Chairman Heron disagreed with Mr. Medlin's response.

Chairman Reckhow commented that the staff considers "significant changes" to be changes to access points, building envelopes, and parking areas.

The motion carried unanimously.

Public Hearing—Zoning Map Change—Glenn View Station (Z05-40)

Assistant Planning Director Steve Medlin requested that the Board approve a request for a zoning map change for a 54.56-acre site located on the southeast quadrant of the I-85 and Glenn School Road, north of Geer Street. PINs 0843-04-60-7183; 0842-02-68-4731,

7887, 9897; --69-2332, 5728, 8951; --78-1734; --79-1330, 1470, 1499, 2586 Request: RR; F/J-B to CG(D); F/J-B

The Planning Department recommended approval, based on consistency with the *Durham Comprehensive Plan* and the information contained in the report.

The Planning Commission recommended and voted 10-3 for approval on August 8, 2006, based on finding that the ordinance is consistent with the adopted *Durham Comprehensive Plan*, and considering the information in the staff report and comments received during the public hearing.

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

Attorney Drew Marsh, representing Cimland LLC, 616 Nantahala Drive, Durham 27713, urged the Commissioners to approve the zoning map change.

Ron Horvath, representing the applicant Cimland LLC, 16 Consultant Place, Durham 27717, gave an overview of the item. He supported approval of the map change.

Chairman Reckhow inquired about *Building Design* in Attachment 5, *Design Guidelines Requires as per Section 15.3.6.2(q) – Glenn School Road & I-85 South Property Rezoning*.

Vice-Chairman Heron supported the project.

Commissioner Cousin moved, seconded by Commissioner Page, to approve Zoning Map Change—Glenn View Station (Z05-40).

The motion carried unanimously.

Request to Review and Discuss the Updated Draft FY 2005-2006 Consolidated Annual Performance and Evaluation Report (CAPER)

Mike Barros, Director of the City of Durham's Department of Community Development, requested that the Board of County Commissioners review and discuss the City's updated draft of its Consolidated Annual Performance and Evaluation Report (CAPER).

The City's FY 2005-2006 CDBG allocation was \$2,184,027 while the HOME allocation was \$1,387,951. As indicated in the FY 2005-2006 Annual Action Plan, these funds were primarily allocated for housing construction, housing rehabilitation, code enforcement, and public service activities. FY 2005-2006 was the City's first time administering ESG funds, whose allocation was \$85,888 and was used primarily for operations, essential services, and homeless prevention activities.

The initial draft of the CAPER was made available to the public on September 1, 2006 and was placed on the Department of Community Development's website (<http://ci.durham.nc.us/departments/housing>). In addition, copies were made available at City Hall – Customer Information Area, the City and County Clerks' Offices, the Department of Community Development, and the Durham County Main Library. A public hearing was conducted before the Board of County Commissioners on September 11, 2006 and a second public hearing was held before the Durham City Council on September 18, 2006. Federal regulations do not require a public hearing for the CAPER but the Department of Community Development welcomes these opportunities to gain additional public input.

The CAPER demonstrates the City's use of Community Development Block Grant (CDBG) funds, Home Investment Partnerships Program (HOME) funds, and Emergency Shelter Grant (ESG) funds between July 1, 2005 and June 30, 2006 (FY 2005-2006). These funds were provided by the U.S. Department of Housing and Urban Development (HUD) to address housing and community development needs throughout the City.

HUD requires the final document to be submitted to their office no later than 90 days after the end of the fiscal year.

Karmisha Wallace, Project Manager, Department of Community Development, responded to questions from Commissioner Cheek about 1-Year and 5-Year goals under Priority Need #1: Neighborhood Stabilization and Revitalization.

Chairman Reckhow asked the Department of Community Development staff to indicate on future CAPERs whether a goal has been "met" or "unmet".

Deputy County Manager Wendell Davis reported on ramp installation for the elderly and handicapped. He relayed that per North Carolina Department of Commerce, Division of Community Assistance, the County may allocate up to 10 percent of the Small Cities Program funds for emergency repairs.

The Commissioners consented to requesting fund allocation for the ramps.

Mr. Barros and Ms. Wallace discussed the 10-Year Plan to End Homelessness and the Emergency Shelter Grant (ESG) with the Commissioners.

County Manager Ruffin commended the Department of Community Development staff for their progress.

Per a request by Chairman Reckhow at the September 11 meeting, Commissioner Page reported that Operation Breakthrough has agreed to assist with ramp construction projects.

Interlocal Agreement for the Acquisition, Planning and Operation of the Hollow Rock Portion of the New Hope Creek Plan

Chairman Reckhow thanked Carol W. Hammett, Assistant County Attorney, and Jane Korest, Open Space and Real Estate Manager, for their hard work on the Interlocal Agreement.

The Board of County Commissioners was requested to approve the Interlocal Agreement for the Acquisition, Planning and Operation of the Hollow Rock portion of the New Hope Creek Plan between the County of Durham, the City of Durham, the County of Orange and the Town of Chapel Hill. The purpose of the proposed Interlocal Agreement is to set forth the undertakings of the parties with regard to their respective contributions, obligations, and participation in the multi-jurisdictional purchase and operation of the Property, as well as, to establish a Park Planning Advisory Committee to develop recommendations for an overall plan for the Property and adjoining properties in the Hollow Rock area, including the obligations of Orange County and Durham County as they relate to the Penny lands.

Ms. Hammett gave the following overview of this item:

The Agreement reflects the participating jurisdiction's resolutions in support of the acquisition of a 42.8 acre tract of land lying and being in Durham and Orange Counties near the intersection of Erwin Road and Pickett Road. As background, Durham County entered into a contract with Duke University to purchase the Erwin/Pickett Road property for \$1,500,000. Durham County has paid \$500,000 to Duke under the terms of the Purchase Contract. The remaining \$1,000,000 is due at closing which will be on or before April 8, 2008. A summary of the terms are as follows:

Financial

The participating governments and other agencies originally agreed to contribute the following amounts toward the purchase of the tract:

Durham County	\$900,000
Orange County	200,000
Erwin Area Neighborhood Group, thru TLC	200,000
Town of Chapel Hill	100,000
City of Durham	75,000
Triangle Land Conservancy	<u>25,000</u>
Total	\$1,500,000

Since that time, Durham County applied for and received notice of an award of a Clean Water Management Trust Fund Grant in the amount of \$1,112,000, conditioned upon the donation of additional conservation easements on property owned by Mr. and Mrs. Penny. However, Grant Funds are not obligated until a Grant Agreement is executed between Durham County and CWMTF.

The Grant provides \$1,000,000 for purchase of the Erwin/Pickett Road property. The first \$500,000 would be used to offset Durham County's contribution to the purchase of the Property. The remaining \$500,000 of Grant Funds would be used to off-set the agreed-upon financial contributions of all four participating governments on a pro-rata basis based on the total amount of the un-reimbursed contribution by each governmental unit. Each governing unit's total financial contribution will therefore be reduced to the following amounts:

- Durham County 52.5% contribution equals \$151,643
- Orange County 25.3 % contribution equals \$73,257
- Chapel Hill 12.7 % contribution equals \$36,629
- City of Durham 9.5 % contribution equals \$27,471

The remaining \$112,000 from the Grant was to be utilized solely to reimburse Orange County for expenses related to the acquisition of 23 acres of the Penny's property adjacent to New Hope Creek within Orange County. This portion of the grant award is no longer needed, as the property was acquired using an alternative funding source for the acquisition.

Distribution and Ownership of Property: The Property would initially be conveyed by Duke University to Durham County. Immediately following the closing, Durham County will deed portions of the Property as follows:

- Orange County will receive the 11 acres lying in Orange County.
- Chapel Hill will receive two acres, subdivided from Durham County's parcel at a location to be negotiated.

The Penny lands: The Penny family has pledged to grant a conservation easement to Durham and Orange Counties on additional land adjacent to the Penny Tract and the Property (hereinafter the "Penny Conservation Easement") at no cost to the Counties. Pursuant to the Grant Agreement, the Grant Funds are contingent upon the conveyance of these Conservation Easement(s). The portion of the Penny Conservation Easement within Durham County will be owned and managed by Durham County and the portion of the Penny Conservation Easement within Orange County will be owned and managed by Orange County. Orange County and Durham County shall cooperate with the Penny's to determine the boundaries of the Penny Conservation Easement as it crosses the county lines.

Master Park Planning: A Park Planning Advisory Committee ("Committee") is established in the Interlocal Agreement for the Property and surrounding area. The purpose of the Committee is to develop recommendations for an overall plan for the Property and adjoining properties that comprise the Hollow Rock/ Erwin Area portion of the New Hope Plan. The plan should include overall recommended uses and generalized locations for the proposed uses. The recommendations of the Committee will be presented to the public and approved by the participating governing bodies. The Park Planning Advisory Committee would consist of eleven (11) members appointed as

follows: Durham County - four members; Orange County - four members; Chapel Hill - two members; and the City of Durham - one member.

Use of the Property: Under terms of the Agreement the Property will be maintained in a natural scenic condition and restricted from any development or use that would impair or interfere with the conservation purposes of the Property. The following uses would be specifically allowed: open space, walking trails, parking, restroom facilities, environmental or scientific projects or studies, and other similar low-impact activities. The Property will be open to the public during daytime hours. If necessary to qualify for state or federal grants, the property may be subject in the future to further restrictions.

Unless otherwise terminated upon the agreement of all the parties, the Term of the Agreement is for 10 years. The Agreement has been approved by all of the other participating jurisdiction's governing bodies. With the Interlocal Agreement approved by all four jurisdictions, the next step is for each body to appoint their members for the Park Planning Advisory Committee so that group can begin its work.

Vice-Chairman Heron moved, seconded by Commissioner Cousin, to approve and authorize the County Manager to execute the Interlocal Agreement for the Acquisition, Planning and Operation of the Hollow Rock portion of the New Hope Creek Plan by and among the County of Durham, the City of Durham, the County of Orange and the Town of Chapel Hill.

The motion carried unanimously.

Chairman Reckhow directed the County Manager to inform the Managers of the City of Durham, Orange County, and Town of Chapel Hill that all jurisdictions have adopted the Interlocal and to urge them to proceed as outlined with the goal of having the Park Planning Advisory Committee members appointed by January 1, 2007.

The Board reached a consensus to ask the Durham Open Space and Trails Commission, Erwin Area Neighborhood Group, and New Hope Creek Advisory Committee to nominate one member from each committee to serve on the Park Planning Advisory Committee. Each nominated member must complete an application for authorities, boards, commissions, and committees, which is available in the Clerk to the Board's office. The nominations will be presented to the Board later this year.

Chairman Reckhow informed Commissioner Cheek that the Board has flexibility in appointing citizens to the Advisory Committee to ensure that positions are filled.

Board and Commission Appointments

Vonda Sessoms, Clerk to the Board, distributed ballots to the Board.

The Board deferred appointments to the Adult Care Home Community Advisory Committee until staff compiles the attendance records.

Chairman Reckhow directed the Clerk to the Board to submit attendance records for all board and commission incumbents to the Commissioners in the future.

The following appointments were made:

Citizen's Advisory Committee

Charles L. Recktenwald (At-large)

City-County Appearance Commission

Iona L. Hauser

Community Child Protection Team/Child Fatality Prevention Team

M. Clair W. Fair (Death of a Child)

Karlene Fyffe (Death of a Child)

Sandra Reddish (At-large)

Crystal L. Todd-Yelverton (At-large)

Criminal Justice Partnership Act Advisory Board

Fredricka A. Carver (At-large)

La Fonda General (At-large)

Historic Preservation Commission

Lewis A. Dancy (Lending Institution)

James L. Leis (At-large)

Lynn Richardson (Social Historian)

Industrial Facilities and Pollution Control Financing Authority

John F. Wily III (At-large)

Nursing Home Community Advisory Committee

Virginia A. Bass (At-large)

Closed Session

Commissioner Cheek moved, seconded by Commissioner Page, to adjourn to closed session pursuant to G.S. § 143-318.11(a)(3), (4), (5) & (7) to instruct the staff and negotiating agent on the position to be taken concerning the acquisition of the following real property: Ernest & Doris G. Brandt, owners of 111 S. Dillard Street, 515 E. Peabody St., and 519 Peabody St.; Betty A. Bunn, owner of 400 N. Elizabeth St., 525 E. Peabody St., and 507 Ramseur St.; Canadays Cab Company Inc., owner of 528 E. Main

Street; Church of God, owner of 520 E. Peabody St.; Azem Mansour, owner of 500, 502 and 504 E. Main St; and David Woodell, owner of 522, 522, 524, and 526 E. Main Street; and to hear a report on alleged criminal misconduct; to discuss matters relating to the location of businesses in the area served by the Board; and to consult with an attorney and preserve the attorney-client privilege and discuss the case of *County v. AREC 3, et al.*, 6 CVS 847.

The motion carried unanimously.

Reconvene to Open Session

Chairman Reckhow announced that direction was given to staff in Closed Session; no action was taken.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 11:05 p.m.

Respectfully Submitted,

Yvonne R. Gordon
Deputy Clerk to the Board