

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

Monday, November 10, 2008

5:30 P.M.

MINUTES

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

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

Absent: None

Presider: Chairman Reckhow

Greenfire Development—Phase II Downtown Re-Development Project

Carl Webb, Partner, Greenfire Development introduced this item stating that on May 5, 2008, the Board of County Commissioners received a presentation from Greenfire Development regarding its Phase II Downtown Re-Development Project. A request was submitted to the County for assistance with the provision of public parking to support the re-development of the City center. After reviewing the request and evaluating it in conjunction with the parking needs of the public utilizing County office buildings, the administration determined that a public-private partnership to provide for the parking needs was both cost efficient and beneficial to both parties.

Mr. Webb, Partner, Greenfire Development, gave an update on the following:

- Roger's Alley Project
- Revolution (Baldwin Building)
- Legacy Towers (NC Mutual Life Insurance)
- The Pinhook
- Parrish Street
- The Crest Building

Michael Lemanski, Founding Partner, Greenfire Development, continued the presentation by discussing the following:

- Parking Deck Design
- Reinforce Parrish Street Corridor
- Maintain the Authentic Durham
- Sustainable Development
- Progressive Durham Design
- Research
- Plan Diagrams
- Massing Studies

Carolyn Titus, Deputy County Manager, informed the Board that when Phase II is complete, it has been projected that the overall project will represent a minimum private investment by Greenfire of \$295 million. The project will also create approximately 1,300 jobs at full build out and provide 430 new housing units to downtown Durham. Upon completion in 2019, Phase II will result in approximately 1 million square feet of space, estimated to produce \$307.4 million in new property tax value. The County anticipates receiving approximately \$15.993 million in accumulated tax revenues over the next ten years as a result of Phase II.

Ms. Titus notified the Board that staff has been working with Greenfire Development on the request for public parking to assist in the development and redevelopment of downtown properties in Phase II. She presented the following:

- Private Development Commitments
 - Chapel Hill Street (Commercial wrapper)
 - The Woolworth Office Building
 - 109 S. Corcoran Street
 - Smaller Properties
- Parrish Street Parking Garage and Wrapper
 - County commitment to provide structured parking
 - Pre-conditions to the County's commitment
 - Financing Commitment
 - Real Estate
 - Subdivision
 - Regulatory Approvals
 - Construction of Parrish Street Wrapper
 - Cost
- Greenfire's commitment to construct Parrish Street Wrapper
- Design and Construction of the Parrish Street Garage and Wrapper
- Lease of Parking Spaces

Chairman Reckhow thanked Deputy County Manager Titus for the overview. She stated that the garage construction is contingent upon the property development that has been outlined.

Ms. Titus responded to Commissioner Heron's question regarding the rate for the lease of parking spaces. She stated that a discussion had been held with Greenfire about paying the same monthly rate. However, it has not been recommended that the Board agree to a specific monthly rate at this time. The monthly rate will depend on market conditions.

Commissioner Heron expressed appreciation with the work that has been done with the Greenfire project.

Commissioner Cheek concurred with Commissioner Heron's comments. He acknowledged the preconditions in terms of timing, as opposed to increased tax value, as well as incurred cost.

Commissioner Cousin expressed admiration that Greenfire reached an agreement with the County prior to his departure from the Board of County Commissioners. He stated that this is a signature opportunity for Durham to reestablish itself.

Vice-Chairman Page thanked staff for their hard work. He stated that this project is a win-win for Greenfire and the Durham community.

Deputy County Manager Titus thanked the Board for allowing her to be part of the Greenfire project as well as allowing her to recognize staff that assisted her with the endeavor.

Chairman Reckhow stated that a public hearing will be held during tonight's Regular Session on the concept of providing public parking. She recessed the meeting until 7:00 p.m.

7:00 P.M. Regular Session

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

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

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session

Chairman Reckhow welcomed everyone to the Monday, November 10, 2008 Regular Session of the Board of County Commissioners. She requested that persons rise for the Pledge of Allegiance to the Flag.

Agenda Adjustments

Chairman Reckhow noted the revised "Closed Session" agenda item.

Announcements

Chairman Reckhow—

- Veterans Day—Tuesday, November 11. The public was reminded to thank all veterans in the community who have served the United States and have helped keep its citizens safe.
- Veterans Service—Tuesday, November 11, Courthouse steps, 11:00 a.m.
- Job Fair for Veterans—Wednesday, November 12, 11:30 a.m., Civic Center

- Public Hearing on the Long-Range Transportation Plan—Wednesday, November 12, 7:00 p.m., City Hall
- Ground Breaking for the New South Regional Library—Tuesday, November 18, 2:30 p.m., site of the old Lowe’s Grove School at the intersection of Alston Avenue and Highway 54

Vice-Chairman Page

- Durham Youth Summit—Tuesday, November 11, Lyon Park Facility, 10:00 a.m. to 3:30 p.m.

Minutes

Commissioner Heron moved, seconded by Commissioner Cousin, to approve as submitted the October 13, 2008 Worksession Minutes of the Board.

The motion carried unanimously.

Introduction of Assistant County Manager

County Manager Mike Ruffin introduced Andrew “Drew” Cummings, who was appointed Assistant County Manager for Special Projects effective November 3, 2008. Mr. Cummings, a Michigan native, has an Undergraduate Degree in Government from Harvard University and a Master’s Degree in Public Policy from Duke University. He was formerly Assistant to the Town Manager for the Town of Carrboro. He resides in Durham County, is married, and has two children. County Manager Ruffin stated that Mr. Cummings was chosen from a pool of 60 applicants who underwent a rigorous selection process.

Mr. Cummings thanked County Manager Ruffin for the introduction. He stated he was happy and excited about working for Durham County Government.

Chairman Reckhow welcomed Mr. Cummings.

Recognition for Robb Teer, Sylvia Kerckhoff, and Chuck Watts, Chair of “A Taste for Durham’s Future” Committee

Chairman Reckhow stated that it is a pleasure to recognize the Prepared Foods Tax Steering Committee members for their hard work. She asked the Committee members in attendance to stand for recognition. She particularly thanked business leader Robert “Rob” D. Teer Jr., former Durham Mayor Sylvia S. Kerckhoff, and Attorney Charles “Chuck” D. Watts Jr., who enthusiastically served as Cochairs of “A Taste for Durham’s Future” Committee responsible for voter education and marketing of the campaign to support the Prepared Meals Tax Referendum on November 8, 2008. These individuals, along with a large committee of community and civic representatives, led the private fundraising efforts to support the successful marketing campaign.

Chairman Reckhow also recognized Melvin Whitley as the community outreach person.

Chairman Reckhow stated that although the tax was not approved, she was impressed that the Committee gained the support of 31 groups throughout the community, which took much time and effort.

Chairman Reckhow presented tokens of appreciation and plaques to Ms. Kerckhoff, Mr. Teer, and Mr. Watts.

Recognition of Durham County Reserve Deputies Program

Major Paul Martin, Durham County Office of the Sheriff, stated that on behalf of Sheriff Worth Hill, he wished to thank the County Commissioners for recognizing the reserve officers. He explained that each year, Durham County citizens receive thousands of hours of public safety from a special group of law enforcement officers. Reserve officers in the Durham County Sheriff's Office provide a myriad of free services throughout the community. These state-certified officers come from various agencies. They are required to work at least 12 hours a month and undergo the same training as regular deputies.

Major Martin introduced Reserve Deputies Jeff Aldridge (who has been a reserve officer for 30 years) and Captain Will Berry (retired after 30 years of service; now a reserve officer). He also mentioned reserve officer Bill Pickard, a Colonel in the U.S. Army Reserves and professor of Pharmacy at Campbell University. Mr. Aldridge and Mr. Pickard were recently recognized in the local media for their community service.

Chairman Reckhow asked the reserve deputies to stand for a round of applause. She stated appreciation for their service to the community.

Recognition of the Board of Elections

Chairman Reckhow recognized the Durham County Board of Elections and Elections Department employees for outstanding performance during the general election. Durham County had a record turnout; the Board of Elections implemented a process for the general election that was prepared for the heavy turnout.

Chairman Reckhow thanked Ron Gregory, Chairman of the Board of Elections, and Director Mike Ashe for their wonderful leadership. She then read a few sentences from a newspaper editorial entitled "Election Runs Smoothly", which complimented the Board of Elections for their great work.

Mr. Gregory thanked the County Commissioners for this recognition and for their support throughout the years. He spoke of the "magnificent, wonderful, and amazing" Elections Department, headed by Director Mike Ashe and Deputy Director Michael Perry.

Consent Agenda

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

- *a. Budget Ordinance Amendment No. 09BCC000023— Budget Changes Related to Capital Finance Program Dedicated Revenues (appropriate \$1,886,525 of FY 2007-08 capital project funds interest and unspent Debt Service Fund expenditures [now FY 2008-09 fund balance] to the Debt Service Fund per Durham County’s Policy on financing capital projects);
- *b. Budget Ordinance Amendment No. 09BCC000026— Social Services—Recognizing Additional Revenue (LIEAP and CIP Administration Funds—\$13,419 increase; Child Care and Smart Start Subsidy—\$1,896,249 increase; Triangle United Way [TUW] Child Care Funding through Child Care Services Association [CCSA] Contract—\$74,035; TANF Domestic Violence—\$8,661 decrease; Work First Demonstration Grant—\$123,500; and Work First Functional Assessment—\$2,800 increase);
- *c. Budget Amendment No. 09BCC000027—Sheriff’s Office—Recognize Revenue in the amount of \$141,563 from the Bureau of Justice Assistance (BJA);
Chairman Reckhow commended the Sheriff’s Office and requested that other County Departments consider using this consultant, since he seems to “have a good touch in finding grant revenues;
- *d. Budget Ordinance Amendment No. 09BCC000028— Public Health—Recognize Grant Revenue in the amount of \$13,427 from the N.C. Department of Health and Human Services for operational expenses for the Eat Smart, Move More Program in the Health Education Division;
- *e. Budget Ordinance Amendment No. 09BCC000029— Durham Emergency Communications Center (DECC) Technology Grant in the amount of \$65,550 (appropriate landline surcharge fund balance for use in conjunction with the US Department of Justice grant to purchase oblique imagery technology from Pictometry International);
- *f. Approval of the First Amendment to the Interlocal Cooperation Agreement between the County and City of Durham for Emergency Management;
- *g. Capital Project Amendment No. 09CPA000009— Appropriation of \$1,300,000 for the Durham County

Justice Building and Parking Deck [Capital Project (No: DC066)] for a total project budget of \$15,596,455 and amendment of the design contract with O'Brien/Atkins Associates, P.A., by \$1,419,939 for the additional architectural & engineering design services of the proposed Durham County Justice Building and Parking Deck from \$6,435,090 to a revised contract amount of \$7,855,029, which include Basic Services, additional services and reimbursable expenses;

- *h. Adopt the Resolution Amending the Economic Development Policy;
 - i. Approve the Contract to Show "Durham: A Self-Portrait;
- *m. Adopt the Reimbursement Resolution related to the Lakewood YMCA;
 - n. Designation of Voting Delegate to the Legislative Goals Conference (appoint Chairman Reckhow as the voting delegate and Vice-Chairman Page as the alternate delegate); and
- *o. Resolution in Support of Funding for Red Mill Road Improvements (approve the Resolution enthusiastically, endorsing improvements to Red Mill Road by the NC Department of Transportation.

The motion carried unanimously.

*Documents related to the consent agenda items follow:

Consent Agenda Item No. a. Budget Ordinance Amendment No. 09BCC000023—Budget Changes Related to Capital Finance Program Dedicated Revenues (appropriate \$1,886,525 of FY 2007-08 capital project funds interest and unspent Debt Service Fund expenditures [now FY 2008-09 fund balance] to the Debt Service Fund per Durham County's Policy on financing capital projects).

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000023

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>CAPITAL FINANCING FUND</u>			
Other Financing Sources	\$ 23,590,677	(\$113,511)	\$ 23, 477, 166

Expenditures:

<u>Activity</u>			
<u>CAPITAL FINANCING FUND</u>			
Other	\$ 37,748,630	(\$113,511)	\$ 37,635,119

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

This the 10th day of November, 2008.

Consent Agenda Item No. b. Budget Ordinance Amendment No. 09BCC000026—Social Services—Recognizing Additional Revenue (LIEAP and CIP Administration Funds—\$13,419 increase; Child Care and Smart Start Subsidy—\$1,896,249 increase; Triangle United Way [TUW] Child Care Funding through Child Care Services Association [CCSA] Contract—\$74,035; TANF Domestic Violence—\$8,661 decrease; Work First Demonstration Grant—\$123,500; and Work First Functional Assessment—\$2,800 increase).

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000026

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 Contributions & Donations	\$397,236,623	\$2,027,307	\$399,263,930
	\$ 2,334,104	\$ 74,035	\$ 2,408,139

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$446,801,006	\$2,101,342	\$448,902,348

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

This the 10th day of November, 2008.

Consent Agenda Item No. c. Budget Amendment No. 09BCC000027—Sheriff's Office—Recognize Revenue in the amount of \$141,563 from the Bureau of Justice Assistance (BJA).

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000027

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	\$399,263,930	\$141,563	\$399,405,493

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$ 50,492,751	\$141,563	\$ 50,634,314

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

This the 10th day of November, 2008.

Consent Agenda Item No. d. Budget Ordinance Amendment No. 09BCC000028—Public Health—Recognize Grant Revenue in the amount of \$13,427 from the N.C. Department of Health and Human Services for operational expenses for the Eat Smart, Move More Program in the Health Education Division.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000028

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	\$399,405,493	\$13,427	\$399,418,920

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$448,902,348	\$13,427	\$448,915,775

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

This the 10th day of November, 2008.

Consent Agenda Item No. e. Budget Ordinance Amendment No. 09BCC000029—Durham Emergency Communications Center (DECC) Technology Grant in the amount of \$65,550 (appropriate landline surcharge fund balance for use in conjunction with the US Department of Justice grant to purchase oblique imagery technology from Pictometry International).

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000029

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>SPECIAL REVENUE FUND</u>			
Other Financing Sources	\$1,223,175	\$65,550	\$1,288,725

Expenditures:

<u>Activity</u>			
<u>SPECIAL REVENUE FUND</u>			
Public Safety	\$4,338,885	\$65,550	\$4,404,435

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

This the 10th day of November, 2008.

Consent Agenda Item No. f. Approval of the First Amendment to the Interlocal Cooperation Agreement between the County and City of Durham for Emergency Management.

NORTH CAROLINA
DURHAM COUNTY

FIRST AMENDMENT TO THE
INTERLOCAL FOR EMERGENCY
MANAGEMENT

THIS FIRST AMENDMENT is made and entered into this 10th day of November, 2008 by and between the COUNTY OF DURHAM (hereinafter referred to as “County”) and the CITY OF DURHAM (hereinafter referred to as “City”).

WITNESSETH:

THAT WHEREAS, the County and City entered into an Interlocal Agreement dated July 1, 1998, to establish a service agreement to provide county-wide administration of emergency

management, including all of the City of Durham, (hereinafter the “Original Agreement”); and

WHEREAS, the County and City desire to amend the Original Agreement to modify the review period, while keeping in effect all terms and conditions of the Original Agreement not inconsistent with the terms and conditions set forth below.

NOW THEREFORE, for and in consideration for the mutual covenants and agreements made herein, the parties agree to amend the Original Agreement as follows:

1. Section V, subsection 1 of the Original Agreement is amended as follows:

“The terms of this Agreement shall begin July 1, 1998 and shall continue until terminated. This Agreement will be reviewed once every five (5) years and may be amended by written amendment by the City and County.”

2. Except for the changes made herein, the Original Agreement shall remain in full force and effect to the extent not inconsistent with this First Amendment. In the event that there is a conflict between the Original Agreement and this First Amendment, this First Amendment shall control.

IN TESTIMONY WHEREOF, the City of Durham and County of Durham, acting under and by virtue of the authority in them vested, have hereunto set their respective hands and seal, the day and year first written above.

ATTEST:
/s/ Vonda C. Sessoms
Clerk to the Board

THE COUNTY OF DURHAM
BY: /s/ Michael M. Ruffin
County Manager

ATTEST:
/s/ D. Ann Gray
City Clerk

THE CITY OF DURHAM
BY: /s/ Thomas J. Bonfield
City Manager

Consent Agenda Item No. g. Capital Project Amendment No. 09CPA000009–Appropriation of \$1,300,000 for the Durham County Justice Building and Parking Deck [Capital Project (No: DC066)] for a total project budget of \$15,596,455 and amendment of the design contract with O’Brien/Atkins Associates, P.A., by \$1,419,939 for the additional architectural & engineering design services of the proposed Durham County Justice Building and Parking Deck from \$6,435,090 to a revised contract amount of \$7,855,029, which include Basic Services, additional services and reimbursable expenses.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Capital Project Ordinance
Amendment No. 09CPA000009

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

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
New County Courthouse Project	\$14,296,455	\$1,300,000	\$15,596,455

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

This the 10th day of November 2008.

Consent Agenda Item No. h. Adopt the Resolution Amending the Economic Development Policy.

RESOLUTION AMENDING ECONOMIC DEVELOPMENT POLICY

WHEREAS, the Board of Commissioners finds that expenditures for economic development of industrial and commercial plants stimulate the local economy, increase the tax base, promote business, and result in the creation of jobs for the citizens of Durham County; and

WHEREAS, the Board of Commissioners desires to amend its consolidated, uniform plan for providing economic development funds which will not duplicate the investment efforts of other governmental units; and

WHEREAS, the Board of Commissioners intends to implement its workforce development plans to allow Durham County residents to compete for jobs which pay a liveable wage; and

WHEREAS, the Board of Commissioners desires to provide for the option of constructing structured parking in lieu of other appropriations in the Downtown Government Services District; and

WHEREAS, the County may make these appropriations pursuant to N.C.G.S. § 158-7.1.

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

1. The prior Resolution entitled "Resolution Adopting Economic Development Policy" is hereby amended by the adoption of this Resolution.
2. Appropriations will be considered for developers of commercial facilities in strategic economic areas, which shall be such areas as are designated from time to time by the Board of Commissioners, and industrial facilities, companies with a presence in or to be located in Durham County which meet the new investment and new jobs thresholds. In no event will appropriations be made for residential development.
3. Appropriations shall only be considered for:

a) developers or companies which produce new capital investment of at least \$50 million in assessed valuation as determined by the tax value placed on the property by the Durham County Tax Administrator or expansion investment of at least \$30 million in assessed valuation as determined by the tax value placed on the property by the Durham County Tax Administrator. These minimum amounts shall be calculated in 2008 schedule of values. Only capital invested within five years of the date of the incentive contract will be counted in determining the investment amount.

or

b) companies or developers of facilities which create a minimum of 200 new jobs. New jobs are defined as a net increase in the company's number of full-time employees working in Durham County. A full-time employee is defined as a person who is employed by the company for at least 35 hours per week and whose wages are subject to withholding. The average wage for new jobs must equal the average wage as to each category of employee hired, as defined by the Employment Security Commission, for Durham County. The company must also agree to provide health insurance in at least the minimum amount required for tax credits under the Article 3J credits, as it existed on the date of the approval of this Resolution. Under these provisions, a company must offer to provide health insurance for full-time positions and pay a minimum of 50% of the premiums.

4. Developers or companies seeking to qualify for an appropriation pursuant to this policy shall provide Durham County with a written statement which includes the following information:
 - a) estimated value and square footage of the facility or facilities to be constructed;
 - b) estimated value and type of equipment to be installed;
 - c) estimated costs of the design and construction of any activity related to preparing land for use if such activity is being proposed to be paid for by the County;
 - d) explanation of what product or service the developer or company will be producing or providing;
 - e) name and address of developer or company seeking an appropriation;
 - f) estimated number of jobs to be created and corresponding salaries expected to be paid for such jobs;
 - g) location of the proposed facility or company;
 - h) schedule of construction or relocation of the company;
 - i) statement as to whether or not there will be on-site child care; and
 - j) statement as to whether or not the building will have a sustainable design, construction, and operating practices.
5. The Board of Commissioners reserves the right to require a study to be performed by a consultant to establish that the proposed commercial development would not materialize at the proposed level of taxable investment without incentives paid pursuant to this policy. The costs of the study shall be paid in advance by the company or developer requesting the incentive grant.

6. The Board of Commissioners is not obligated to make any appropriations for a company or developer. If an appropriation is made, the amount of the appropriation shall be determined including, but not limited to, the following factors:

Base factors:

- The need for the appropriation or transfer as a deciding factor for the construction of the facility or the relocation or expansion of the company in Durham County
- Amount of new investment
- Number of new jobs
- Type of business relative to the tax base
- Reputation of the company
- The presence of competition for the project
- Location in the community
- Capacity of available infrastructure
- Whether or not the incentives in any given year exceed the amount of taxes collected by the County
- Whether in the case of a company, a prior appropriation has been made to a developer of the facility

Optional factors:

- Location in the community
 - Capacity of available infrastructure
 - Availability of on-site child care
 - Sustainable building design, construction, and operating practices
7. Notwithstanding the foregoing, in no event shall an appropriation be made to a developer or company for property which has been or is proposed to be classified as historic for purposes of *ad valorem* taxation pursuant to N.C.G.S. § 105-278 or any successor statute.
8. a) The maximum appropriation which may be made for a developer of a facility and a company locating in Durham County shall be 2.25%, or 2.75% based on the developer of company satisfying one of the optional factors in paragraph 6(b), of the total new or expansion capital investment of such developer or company, as determined by the tax value placed on the property by the Durham County Tax Administrator, less the amount of the existing tax value of the subject property. For companies which are requesting incentives due to job creation, the following guidelines shall apply:
- a) 200-500 jobs – up to \$1,000 per job;
 - b) 501-1000 jobs – up to \$1,500 per job;
 - c) 1001 or more jobs – up to \$2,000 per job.
- A portion of the funding for jobs may be provided for the training of Durham County citizens.
- b) In lieu of the appropriation provided in subparagraph “a” above, the Board of Commissioners, in its sole discretion, may elect to provide structured parking which would serve both the property or properties proposed to be developed and the public parking needs of Durham County government buildings. Any structured parking provided pursuant to this policy shall be located in and limited to the Government Services District of downtown Durham.

9. The payments shall be made based on a schedule which is acceptable to the developer or company and the Board of Commissioners of up to eight years.
10. All funds appropriated or spent pursuant to this policy shall be used only for the purposes as stated in N.C.G.S. § 158-7.1 (a) or (b). Whenever funds are provided for training of personnel, the incentive agreement shall provide that the developer or company shall post the job openings with the North Carolina Employment Security Commission, with the Durham County Department of Social Services, and with the Durham County Workforce Development Board.
11. Any appropriations or transfers pursuant to this policy may only be made following a public hearing before the Board of Commissioners, which notice of such hearing shall be published at least ten days before the hearing is held. The notice shall contain the information as required by N.C.G.S. § 158-7.1(c).
12. The developer or company seeking funds pursuant to this policy must receive approval from the Board of Commissioners after a public hearing prior to undertaking construction of a new facility or facilities.
13. Developers and companies receiving funds or transfers pursuant to this policy shall enter into an incentive contract with Durham County. All incentive contracts shall be subject to performance criteria as set forth therein. If for any reason, the developer or company fails to fulfill its obligations under the contract, it will be required to remit to the County any funds received pursuant to the contract and this policy.
14. If an appropriation is to be made to a developer or company, a provision in the agreement referenced above shall contain, among other provisions, a “claw-back” provision which will require a repayment, in full, of any appropriation to the developer or company from the County should: a company, fail to make the investment as stated in the economic development agreement, close its operations in Durham County, or fail to employ at least 90% of the number of employees agreed to in the incentive contract or reduce the number of employees by more than 10% below the number agreed to in the contract after initially hiring the number of employees agreed to in the incentive contract within five years of the date of the signing of the incentive contract; or a developer close the facility which is the subject of the appropriation or fail to make the investment as stated in the incentive contract within five years of the date of the signing of the agreement. The agreement shall further provide that, if a company closes its operations in Durham County or reduces the number of employees by more than 10% below the number agreed to in the incentive contract after initially hiring at least 90% of the number of employees agreed to in the incentive contract within 10 years of the date of the signing of the agreement; or if a developer closes the facility which is the subject of the appropriation within 10 years of signing of the agreement, the company and/or the developer shall repay the County any appropriation in the amount of 80% of the total appropriation to the developer and/or the company if the removal or closing occurs during year six after the signing of the contract, and an amount for years seven through ten which shall be equal to a declining amount of 20% per year of the total appropriation with the amount being 0% of the amount of the appropriation in year ten and thereafter.

15. The provisions of this policy do not create and are not intended to create any property interest or legal expectation by any developer or company. Additionally, this policy is not intended to limit the discretion given to the Board of Commissioners for the promotion of local economic development under applicable laws. Any assistance provided to a developer or company will be limited to the availability of funds by Durham County.

This the 10th day of November, 2008.

Consent Agenda Item No. m. Adopt the Reimbursement Resolution related to the Lakewood YMCA.

RESOLUTION OF THE BOARD OF COMMISSIONERS OR THE COUNTY OF
DURHAM, NORTH CAROLINA, DECLARING ITS INTENTION TO REIMBURSE
SAID COUNTY FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT
FINANCINGS FOR CERTAIN EXPENDITURES IN CONNECTION WITH ACQUIRING
AND RENOVATING THE PROPERTY KNOWN AS THE LAKEWOOD YMCA

WHEREAS, the County of Durham, North Carolina (the "County"), is a political subdivision organized and existing under the laws of the State of North Carolina; and

WHEREAS, the County will pay, on and after the date hereof, certain expenditures in connection with acquiring and renovating the property known as the Lakewood YMCA, located at 2119 Chapel Hill Road, Durham. The project shall include the acquisition of the property, and renovation of the buildings to house a YMCA facility and Secondary School (the "Project"); and

WHEREAS, the Board of Commissioners for the County (the "Board") has determined that certain moneys of the County to be advanced on and after the date hereof by the County to pay such expenditures (the "Expenditures") are available only for a temporary period and it will be necessary to reimburse the County for the Expenditures from the proceeds of one or more tax-exempt financings of the County in the form of one or more installment financings that are expected to be authorized by the Board (collectively, the "Tax-exempt Financings");

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1. The Board hereby declares the County's intent to reimburse the County with the proceeds of the Tax-exempt Financings for the Expenditures made on and after the date hereof. The County reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Tax-exempt Financings.

Section 2. Each Expenditure will be (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Tax-exempt Financings, (c) a nonrecurring item that is not customarily payable from current revenues or (d) a grant to a

party that is not related to or an agent of the County so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the County.

Section 3. The maximum principal amount of the Tax-exempt Financings expected to be entered into with respect to the Project is \$8,260,000.

Section 4. The County will make a reimbursement allocation, which is a written allocation by the County that evidences the County's use of proceeds of the Tax-exempt Financings to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The County recognizes that exceptions are available for certain preliminary expenditures, costs of issuance, certain de minimis amounts, expenditures by small issuers (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least five years.

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

Consent Agenda Item No. o. Resolution in Support of Funding for Red Mill Road Improvements (approve the Resolution enthusiastically, endorsing improvements to Red Mill Road by the NC Department of Transportation.

RESOLUTION SUPPORTING NCDOT ROAD IMPROVEMENTS
TO RED MILL ROAD IN DURHAM COUNTY

WHEREAS, the North Carolina Department of Transportation is pursuing funding for the extension of Red Mill Road from the intersection of Old Oxford Highway to International Drive and the construction of turn lanes at the intersection of Red Mill Road and Old Oxford Highway; and

WHEREAS, these infrastructure improvements, projected to cost \$1.6 million, will provide crucial, improved road access; and

WHEREAS, Merck & Company, Inc. is a global research-driven pharmaceutical company which is also a valued and contributing corporate citizen of Durham; and

WHEREAS, Merck & Company, Inc. has plans to invest roughly \$300 million in an expansion of their facilities in northern Durham; and

WHEREAS, it is projected that this expansion will create an additional 150 to 180 well-paying jobs; and

WHEREAS, Durham County is a finalist for Project Blue Sky, which would bring an estimated \$50 million of new investment as well as 75 new, well-paying jobs to Durham County; and

WHEREAS, both the Merck & Company, Inc. expansion and the proposed Project Blue Sky are located in northern Durham County; and

WHEREAS, the expansion and creation of new facilities and hundreds of new jobs will have multiplier effects within the Durham and regional economies; and

WHEREAS, the North Carolina Department of Transportation and Durham County both support sustainable economic development:

NOW, THEREFORE, BE IT RESOLVED that the Durham County Board of Commissioners fully supports and endorses the above described project for improvements to Red Mill Road in Durham County.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. j. Approve the Resolution for Durham County Access (DCA).

Commissioner Heron removed this item from the agenda to request that County Manager Mike Ruffin explain why TTA was not a part of the planning.

County Manager Ruffin explained that the resolution states “collaboration between Durham Area Transit Authority (DATA), Durham County Access (DCA), Triangle Transit Authority (TTA), and other local public transportation.” The State’s interest is in pursuing consideration of a merger between Durham County Access and DATA but does not exclude other options to be considered by staff as the project moves forward.

Resolution for Durham County Access
And
Durham Area Transit Authority Collaboration

WHEREAS, the County Extension Director, has facilitated operational and procedural changes within Durham County Access (DCA) –the Community Transportation System of Durham County and has committed to implement a system that creates a clear mission and a mechanism for monitoring their eligible trips; and

WHEREAS, in a letter dated June 13, 2008, the twelve step plan laid out by the County Extension Director is already being realized and should produce a tangible shift in direction within the First Quarter of FY 08-09; and

WHEREAS, the County Extension Director, is part of a six-member team, Triangle Team, selected as 1 of 20 teams from a pool of 400, by the Community Transportation Association

of America Institute for Transportation Coordination to participate in a yearlong local collaboration and innovation project to expand community mobility; and

WHEREAS the Durham County Transportation Advisory Board will conduct a retreat on December 2, 2008, which is dedicated to redefining the transit vision; and

WHEREAS, the County Commissioners desire greater collaboration of the public transportation system; and

WHEREAS, NCDOT-PTD will be requesting proposals for updating most of the Community Transit Systems five year plan and this effort can produce the analysis needed to maximize collaboration between Durham Area Transit Authority (DATA), Durham County Access (DCA), Triangle Transit Authority (TTA) and other local public transportation:

NOW, THEREFORE, BE IT RESOLVED, that Durham County Commissioners will prepare a Memorandum of Understanding, that upon completion of an assessment of the data and effectiveness of the CTAA Institute for Transportation Coordination project and NCDOT-PTD Community Transit System five year plan, to examine the feasibility and pursue the development of the consolidation of the DATA and DCA systems in as much as consolidation would bring financial benefits a NCDOT-PTD recognized Consolidated Urban-Community Transportation Systems.

Consent Agenda Item No. k. Approve the Proposed Changes to the Nonprofit Agency Funding Policy.

Chairman Reckhow recognized signed speaker Victoria Peterson, PO Box 101, Durham 27702, for comments.

Ms. Peterson voiced concern regarding revisions to the “Funding Eligibility” section of the Nonprofit Agency Funding Policy.

Chairman Reckhow thanked Ms. Peterson for her comments.

County Manager Mike Ruffin clarified for Ms. Peterson that “Section 3.3.2 Funding Eligibility” states that “Nonprofit agencies may not use a funding agent or other third party arrangement to meet **program requirements** for eligibility.” It does not mean that the nonprofit cannot contract with a funding agent or other third party to help provide a service.

County Manager Ruffin also clarified that the requirement in Section 3.3.3 (“Only one application per agency will be considered each year”) has been in effect for several years.

Finally, Mr. Ruffin addressed Ms. Peterson’s concern about Section 3.3.1 (“A nonprofit agency must have operated for two years by December 31 of the year preceding the application deadline”). He stated that the funding eligibility requirements are only guidelines.

Commissioner Heron clarified that the funding is not “start-up money” but is given to organizations that are already operational and providing services that supplements the work of the County. The Commissioners must utilize the citizens’ tax dollars the best that they can.

Chairman Reckhow stated that she had questioned the fact that a nonprofit must have operated for two years. The intent of the guideline is for nonprofits to show stability so that the money is well spent. She commented that she would be willing to consider additional wording such as “must have operated for two years **or show other evidence of organizational stability**”; however, she was not pushing for the change at this time. As the community evolves, an organization that is responding to a current need may come forward with the organizational wherewithal to merit a County grant.

Vice-Chairman Page concurred with the previous comments of his colleagues. He stated that during discussion at a previous Commissioners’ worksession, the Commissioners agreed that in order to allocate funding, nonprofits must have demonstrated evidence that their programs will be able to continue. The Commissioners must be good stewards of the County’s dollars.

Consent Agenda Item No. 1. Approval of Surplus Personal Property Sale by Electronic Auction with GovDeals (approve the Resolution Authorizing a Surplus Personal Property Sale by Electronic Auction utilizing GovDeals on-line auction services).

Commissioner Heron asked about the process whereby a citizen bids on an automobile and then changes his mind.

Jacqueline Boyce, Purchasing Manager, informed Commissioner Heron that according to the “Buyer’s Agreement” under “Terms and Conditions”, bidders must pay for and pick up items within a certain number of days. If the bidder defaults by not paying for or not picking up the item within the time period, the County has the option to keep the vehicle. This is the County’s first on-line auction; however, if the process runs smoothly, another sale may take place within a month to minimize storing County surplus vehicles.

Chairman Reckhow noted that this “eBay” for governments allows smaller governments to buy equipment from larger governments.

RESOLUTION AUTHORIZING SURPLUS PERSONAL PROPERTY
BY ELECTRONIC AUCTION SALE

WHEREAS, The County of Durham accumulated surplus personal property consisting of obsolete vehicles that are no longer needed for County operational purposes, and

WHEREAS, The County of Durham desires to dispose of these items by electronic auction sale as provided by North Carolina General Statute 160A-270(c), and

NOW THEREFORE, BE IT RESOLVED by the Durham County Board of Commissioners that the surplus personal property electronic auction sale at the time, place, and conditions set out herein is authorized and directed:

1. The electronic auction for vehicles is to take place on November 24, 2008 at 9:00am through December 5, 2008 at 4:00pm by utilizing GovDeals on-line auction services located on the Durham County's website under Bid Opportunities.
2. The terms of the sale will be cash, certified check, or money order. Items(s) purchased must be paid in full no later than five (5) business days from the time and date of issuance of the Buyer's Certificate.
3. Checks payable to Durham County must be made at the Durham County Tax Department located on the 1st floor of the Durham County Administration Building at 200 East Main Street in Durham, North Carolina.
4. All items must be removed within 10 business days from the time and date of issuance of the Buyer's Certificate. Property may be removed by appointment only between the hours of 9:00 a.m. and 3:00p.m., Monday through Friday, excluding legal holidays.
5. Successful bidders are responsible for loading and removal of any and all property awarded to them. The Buyer will make all arrangements and perform all work necessary, including packing, loading, and transportation of the property. Under no circumstances will Durham County assume responsibility for packing, loading or shipping.
6. A vehicle title or certificate will be issued upon receipt of payment. Title processing and notarizing of signatures will be handled in the office of the Purchasing Division located on the 4th floor of the Durham County Administration Building. Open titles cannot be issued.
7. All items will be sold on an "AS IS, WHERE IS" basis. The County will make no guarantees and assumes no responsibility for any of the items.
8. The County reserves the right to reject any and all bids and to withdraw from sale any of the items listed.
9. The County Manager or his designee(s) shall be authorized as the County official in charge of the disposal of the surplus personal property.

BE IT FURTHER RESOLVED that a copy of this Resolution shall be published in the Durham Herald-Sun Newspaper and on the Durham County's website (under Bid Opportunities) at least 10 days prior to the date of the sale.

“BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DURHAM THIS 10th DAY OF November 2008”.

Commissioner Cheek moved, seconded by Commissioner Heron, to approve consent agenda item Nos. j, k, and l.

The motion carried unanimously.

Public Hearing on Need for Public Parking

Chairman Reckhow called on County Attorney Chuck Kitchen to introduce the item.

County Attorney Kitchen stated that the Board of Commissioners is requested to hold a public hearing on the need for additional public parking in the Government Services District of Downtown Durham. The required public hearing should consider existing parking needs, as well as additional public parking needs being generated by increased development in downtown.

Carolyn Titus, Deputy County Manager, gave the Commissioners a brief overview of the proposal to ask the County to partner with a public-private partnership for a parking deck to serve the downtown development needs as well as the Government Services District on the east end of Parrish Street. The proposal is specifically linked to Greenfire Phase II Development and the public parking necessary to support that development, in addition to Government Services to be placed on the end of east Parrish Street.

Chairman Reckhow opened the public hearing that was properly advertised.

Chairman Reckhow recognized signed speakers.

Each of the following speakers supported the endorsement of the resolution by the County Commissioners for public parking in the downtown area, particularly in the Government Services District.

Wink Swain, Vice-President of Marketing for Measurement Inc. and Chairman of Downtown Durham Inc. (DDI), 423 Morris Street, Durham 27701. He stated his reasons for support, which included employee growth, growth in the residential base, growth in downtown residents, and growth of visitors.

Bill Kalkhof, President, DDI, 115 Market Street, Suite 213, Durham 27701, spoke about development projections in downtown Durham related to office space, employees, residential units, residents, hotel rooms, and visitors.

Melissa Norton, Director of Government Relations, DDI, 115 Market Street, Suite 213, Durham 27701, provided a statistical account of the current downtown parking inventory and Durham’s parking needs for the next decade based on the projected growth.

Chuck Watts, Chairman, Parrish Street Advocacy Group, 962 Ninth Street, Suite 553, Durham 27705, stated the challenge of finding parking along Parrish Street and throughout the center-city district of downtown Durham.

John Warasila, owner of several downtown businesses and stakeholder in various downtown businesses, 204 Rigsbee Ave, Durham 27701, stated that parking is a completely sound and legitimate investment that the County should make.

Ted Conner, Durham Chamber of Commerce, 300 W. Morgan Street, Suite 1400, Durham 27701, advocated for the provision of affordable, economical, safe, improved, adequate, and attractive parking in “successful” downtown Durham.

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

Chairman Reckhow stated that this public-private parking proposal represents a good investment for the County in that property tax and parking revenues will greatly exceed the investment for the deck in approximately ten years.

Commissioner Cheek moved, seconded by Commissioner Heron, to direct the County Attorney to draft a resolution based on the comments received at the public hearing.

The motion carried unanimously.

Closed Session

Commissioner Cheek moved, seconded by Vice-Chairman Page, that the Board adjourn to Closed Session to consider the performance of a public officer or employee pursuant to G.S. § 143-318.11(a)(6) and to consult with an attorney; to preserve the attorney-client privilege; and to discuss County of Durham vs. Time Warner Entertainment—Advance Newhouse Partnership d/b/a Time Warner Cable, No. 1:08-CV-00225 pursuant to G.S. 143.318.11(a)(3).

Reconvene to Open Session

Chairman Reckhow stated that the Board met in Closed Session and discussed interpretation of the Jordan Lake Watershed boundary.

Commissioner Cheek moved, seconded by Vice-Chairman Page, that the Durham City-County Planning Director be directed to submit revisions to the location of the Jordan Reservoir normal pool and the associated one-half mile and one-mile watershed protection overlay boundaries as outlined

in the memorandum dated January 6, 2006 to Jeff Hunter from Frank Duke to the Division of Water Quality for approval by the NC Environmental Management Commission, with the materials to be submitted to include, among other things, a letter requesting approval, the survey performed by Puckett and Associates dated April 22, 2005, the map showing the current watershed boundaries, a map showing the prior watershed boundaries, a copy of the January 6, 2006 memorandum, and any other materials as may be requested by the Division of Water Quality or the Environmental Management Commission.

Commissioner Heron stated that she would be voting against the motion because standard procedure of this Board is to hold a public hearing on an issue of great importance. She opined that it is most inappropriate for the Board to take this action at this hour, and especially without holding a public hearing regarding the issue.

Commissioner Cheek informed Commissioner Heron that “the purpose of the motion is to seek approval of action previously taken by Frank Duke when he was Planning Director. The change that has been indicated is already on the books. The proper procedures were not followed with the Division of Water Quality; this motion is in an effort to correct that”.

Commissioner Heron stated that Mr. Duke overstepped his authority. “I don’t know that we have ever passed anything that will affect Durham County as much as this does. This action never came to the Board of County Commissioners. Mr. Duke, in my opinion, did not have that authority.”

Chairman Reckhow stated that she would also vote against the motion. “I think it is important to do a comprehensive survey, which we have asked the staff to look into, obtaining and looking at this in a uniform way across that section of Jordan Lake, since it could impact other property owners and other jurisdictions”.

Commissioner Cheek stated that he previously indicated his support for the comprehensive survey in order to take into consideration the entire pool of Jordan; however, “I have also indicated that I believe this to be a separate issue; this is a short-term problem created. Whether Mr. Duke acted appropriately or inappropriately, the action was taken; the change was made; it’s on the map; it needs to be corrected. We can consider the other portions of the pool at a later time, and I think that should be done. However, I think this action needs to be taken now in order to correct what was done before.”

Vice-Chairman Page stated that the motion is not inappropriate. “What we are trying to do is to correct a wrong that was done and make sure that the rights of all of our citizens are protected. I am going to be supporting this motion.”

The motion carried with the following vote:

Ayes: Cheek, Cousin, and Page

Noes: Heron and Reckhow

Chairman Reckhow announced that other closed session discussion involved the County Manager's performance over the past year. The Board wished to thank Mr. Ruffin for his excellent work in guiding the County.

Commissioner Cheek made a motion, seconded by Commissioner Heron, to adjust County Manager Mike Ruffin's salary to \$179,000, effective Monday, November 17, 2008.

The motion carried unanimously.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 9:56 p.m.

Respectfully submitted,

Vonda Sessoms, CMC
Clerk to the Board