

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

Monday, September 22, 2008

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 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—Pledge of Allegiance

Agenda Adjustments

Regarding Consent Agenda Item No. 7o, Chairman Reckhow stated that per direction from County Attorney Chuck Kitchen, the Board should vote to approve the conservation easement draft dated September 16, 2008.

Announcements

Chairman Reckhow announced that the Durham County Library will host a second public meeting on Thursday, September 25, from 5:00 – 6:30 p.m., to share progress on the planning and programming study for the renovation of the Main Library. The meeting will be held in the auditorium of the Main Library at 300 N. Roxboro St. in Durham.

Chairman Reckhow welcomed Boy Scout Troop 486 and its leader, Joe Kilsheimer, to the meeting. She stated that the Troop must attend a meeting, such as a Board of County Commissioners' meeting, to earn one of their three citizenship merit badges. Chairman Reckhow then asked the Troop to stand and be recognized.

Commissioner Heron complimented Human Resources Director Marqueta Welton and the Human Resources department for organizing the Employee Appreciation Luncheon, which was held on September 17, 2008, to honor Durham County employees and their years of service. She stated that she and Chairman Reckhow were in attendance and thoroughly enjoyed the luncheon.

Minutes

Commissioner Cheek moved, seconded by Commissioner Heron, to approve as submitted the August 25, 2008 Regular

Session, September 2, 2008 Worksession, and September 8, 2008 Regular Session Minutes of the Board.

The motion carried unanimously.

Proclamation for 20th Anniversary of Welcome Baby Program

Twenty years ago, Durham County's award winning Welcome Baby Program began with a \$50,000 grant from the Junior League of Durham and Orange Counties as a hospital visitation program. Since that time, the program has grown extensively to provide parent education and support for more than 5,000 parents, visited 12,550 families in the hospital for the birth of a new baby, and served Durham families raising over 30,000 children. Throughout its existence, Welcome Baby has been successful, thanks to dedicated staff and volunteers who provide extraordinary care to area families.

Chairman Reckhow read the following proclamation into the record to recognize the 20th anniversary of Welcome Baby, a Cooperative Extension program:

PROCLAMATION

WHEREAS, Welcome Baby's mission is to strengthen families with young children, birth to five years old, by providing accurate child development information, emotional and practical support; and

WHEREAS, current research confirms that supportive family life is the greatest factor for a child's success in school; and that Durham County is committed to supporting initiatives that help more of our youth succeed as stated by Chairman Reckhow in her Annual State of the County Address at the beginning of this year; and

WHEREAS, Welcome Baby is one of the many programs of the Durham County Cooperative Extension Service that delivers research-based information to Durham County citizens through educational programs, publications, and events; and

WHEREAS, Welcome Baby is a funded model program of Durham's Partnership for Children, a Smart Start Initiative that works to make sure children across Durham County arrive at school ready to succeed; and

WHEREAS, since its inception, Welcome Baby has distributed over 12,000 car seats, provided parent education and support to over 5000 parents, visited 12,550 families in the hospital for the birth of a new baby, and served Durham families raising over 30,000 children; and

WHEREAS, Welcome Baby started with a \$50,000 grant from the Junior League of Durham and Orange Counties as a hospital visitation program 20 years ago; and

WHEREAS, Welcome Baby has many partnerships and collaborations throughout Durham County to bring resources to young children that meet their needs.

NOW, THEREFORE, BE IT RESOLVED that I, Ellen W. Reckhow, Chairman of the Durham County Board of Commissioners, do hereby recognize Welcome Baby Family Resource Center's 20th Anniversary Celebration at Durham Central Park on Sunday, October 12, 2008, in Durham County.

This the 22nd day of September, 2008.

Patricia Harris, Human Services Coordinator, Cooperative Extension, announced that on Sunday, October 12, in recognition of Welcome Baby's 20th anniversary, a celebration event called "A Great Day in Durham" would be held from 3:00 p.m. to 5:00 p.m. at the Durham Farmers Market shelter. Leadership who contributed to the establishment of Welcome Baby would be recognized at the event.

Commissioner Heron asked if founders of Welcome Baby and the Junior League of Durham would be recognized at the event. She commended Welcome Baby for its services to Durham County.

Ms. Harris informed Commissioner Heron that founding members of Welcome Baby and the Junior League have received invitations to the event.

Chairman Reckhow presented the proclamation to Ms. Harris.

**Proclamation to Recognize Minority Enterprise Development Week—
October 6 – October 10, 2008**

On January 14, 2008, the Board of County Commissioners approved an ordinance to continue the County's Minority/Women Business Enterprise Program. As a part of the program promotion and continued efforts to enhance participation in governmental contract awards to minority and women businesses, the Board was requested to recognize October 6 through October 10, 2008 as Minority Enterprise Development Week in the County of Durham, North Carolina.

Chairman Reckhow read the following resolution into the record to recognize Minority Enterprise Development Week in Durham County:

PROCLAMATION

WHEREAS, it is the policy of the County of Durham that purchasing by the County and contracts with the County be open to all people and free of discrimination on the basis of race and gender; and

WHEREAS, the Durham County Minority and Women Enterprise Ordinance Section 8-132 provides minorities and women equal opportunity to participate in all aspects of the County's contracting program, including, but not limited to, employment, construction projects, and/or materials and service contracts, consistent with law; and

WHEREAS, G.S. 143-128 provides for Good Faith Efforts to be made in an effort to ensure fair participation of minority and women business owners in all County projects; and

WHEREAS, it is further the policy of the County to conduct its contracting programs so as to prevent such discrimination, correct present discrimination, and resolve claims of such discrimination; and

WHEREAS, the County of Durham is a sponsor of the Minority Enterprise Development Week:

NOW, THEREFORE, BE IT HEREBY RESOLVED that we, the Durham County Board of Commissioners, recognize October 6 – October 10, 2008 as

MINORITY ENTERPRISE DEVELOPMENT WEEK.

This the 22nd day of September, 2008.

Pamela Gales, CLGPO, Assistant Purchasing Manager, gave a brief overview of activities to occur during Minority Enterprise Development Week.

Chairman Reckhow thanked Ms. Gales for the overview and stated that she looks forward to a successful Minority Enterprise Development Week.

Ms. Gales accepted the proclamation from Chairman Reckhow.

Consent Agenda

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

- a. Contract with Cox & Company (renew the contract with Cox & Company to provide support and updates to the Tax Administration Department; contract amount not to exceed \$90,500 for support services and other system enhancements);
- b. Approval for the Purchase of Additional SAP Licenses to bring Durham County in Compliance as a Result of the Annual SAP License Audit (authorize the Manager to enter into an agreement with SAP Public Service Inc. in the amount of \$93,760.20);
- *c. Property Tax Releases and Refunds for Fiscal Year 2008-2009 (accept the property tax release and refund report for August 2008 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- *d. Capital Project Amendment No. 09CPA00004— Appropriate \$4,338,640 to the 2008 IT Computer Replacement Project (DC097) and \$475,000 to the 2008 IT

Telecommunications Project (DC098); funding will come from a short-term bank financing loan, and any General Fund funds spent towards these projects will be reimbursed once loan funds are secured;

- *e. Declaration of Surplus Personal Property and Approval of Resolution to Donate to Triangle United Way (declare the personal property as surplus, approve the resolution authorizing the donation to Triangle United Way, and authorize the County Manager to enter into an agreement which reflects the terms of the conveyance);
- f. Extend Contract with RS&M Appraisal Services Inc. (approve to provide revaluation assistance to the Tax Administration Department; contract amount not to exceed \$150,000 for support services);
- g. 2005 Annual Report of the Durham Environmental Affairs Board (accept the report);
- h. Amend Contract with Sungard Public Sector Inc. (authorize the County Manager to enter into a service contract with SunGuard Public Sector Inc. [OSSI] in the amount of \$58,617.25 for the completion of the EMS Automation Project);
- i. Approve Contract between Durham County and N.C. Agricultural Development and Farmland Preservation Trust Fund for Grant Award of \$398,000 for Tilley Farm (approve the contract and authorize the Manager to execute the agreement);
- *j. Budget Ordinance Amendment No. 09BCC000010—FY 2007-2008 Encumbrances;
- *k. Budget Ordinance Amendment No. 09BCC000011 and Capital Project Amendment No. 09CPA000005—\$194,548 Appropriation of Capital Financing Fund fund balance for the BOCC Chambers Technology Upgrades Project (No.: DC089) for a total project budget of \$964,548 and Approve Contract Amendments with Harrod & Associates Constructors Inc. (H&AC) for Completing BOCC Chambers Technology Upgrades Project—Bid No: 08-021r;
- *l. Capital Project Amendment No. 09CPA000006—Appropriation of \$367,004 for the Human Services Complex Project (DC070) for a total budget of \$8,313,646 and Execution of the Construction Contract with Environmental Holdings Group LLP in the amount \$258,265 (Base Bid Only) for the Demolition of the 500 Block Area of East Main Street Project No.: DC070-56, Bid. No: IFB 09-002; funding for this project will come from a COPS financing loan and any General Fund funds spent towards these projects will be reimbursed once loan funds are secured;

- m. Execution of Design Contract Amendment with Cherry Huffman Architects P.A. for the Expansion and Renovation of the Durham County Southwest Branch Library. RFQ 07-005 Project No.: DC075-67 (authorize execution of a \$7,100 amendment, thus increasing the total compensation for the basic design services, additional services, and reimbursement to \$399,250);
- n. Execution of Design Contract Amendment with The Freelon Group P.A. for the Road Widening Design for the Proposed Durham County South Regional Branch Library. Project No.: DC076-50/58 (authorize the execution of the amendment in the amount \$27,800 for additional architectural design services); and
- o. Acceptance of a Conservation Easement for Impervious Surface Rights Transfer per Unified Development Ordinance Section 8.7.2.B.2 (accept the conservation easement from the Eno River Association for a conservation easement to limit permanently impervious surfaces on parcel # 177548).

The motion carried unanimously.

*Documents related to these items follow:

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

Releases & Refunds for 2008 Taxes:

| | |
|-------------------------------|------------------|
| Real Estate | \$286,193.58 |
| Personal | \$ 57,894.17 |
| Motor Vehicles | \$ 32,260.41 |
| Vehicle Fees | \$ 730.00 |
| Solid Waste | <u>\$ 360.00</u> |
| Total for 2008 Taxes and Fees | \$377,438.16 |

Prior years' (2001-2007) releases and refunds for August 2008 are in the amount of \$97,469.39. The total current year and prior years' releases and refunds amount to \$474,907.55.

(Recorded in Appendix A in the Permanent Supplement of the September 22, 2008 Regular Session Minutes of the Board.)

Consent Agenda Item No. d. Capital Project Amendment No. 09CPA00004—Appropriate \$4,338,640 to the 2008 IT Computer Replacement Project (DC097) and \$475,000 to the 2008 IT Telecommunications Project (DC098); funding will come from a short-term bank financing loan, and any General Fund funds spent towards these projects will be reimbursed once loan funds are secured.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Capital Project Ordinance
Amendment No. 09CPA000004

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> | | | |
| 08 County Computer Replacement Project | \$0 | \$4,338,640 | \$4,338,640 |
| 08 Telecommunication System Upgrade Project | \$0 | \$475,000 | \$475,000 |

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

This the 22nd day of September, 2008.

Consent Agenda Item No. e. Declaration of Surplus Personal Property and Approval of Resolution to Donate to Triangle United Way (declare the personal property as surplus, approve the resolution authorizing the donation to Triangle United Way, and authorize the County Manager to enter into an agreement which reflects the terms of the conveyance).

RESOLUTION AUTHORIZING THE DONATION OF SURPLUS TO TRIANGLE
UNITED WAY

WHEREAS, the County of Durham accumulated surplus personal property consisting of approximately 417 computer systems and 303 monitors that are no longer needed for County operational purposes; and

WHEREAS, the County of Durham desires to dispose of these items by donation to the Triangle United Way as provided by North Carolina General Statute 160A-279; and

WHEREAS, the procedural provisions of the statute requires that the County of Durham shall publish a notice summarizing this resolution, and no conveyance of personal property may be executed pursuant to this resolution until at least 10 days after the day the notice is published:

NOW, THEREFORE, BE IT RESOLVED by the Durham County Board of Commissioners that the donation of the specified item is herein authorized and directed:

1. In accordance with statutory requirements, Mr. Michael M. Ruffin, County Manager, shall be authorized as the County official in charge of the disposal of the surplus personal property; and
2. All items will be donated on an “as is” basis. The county will make no guarantees and assumes no responsibility for any of the items.

BY ORDER OF THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DURHAM.

This the 22nd day of September, 2008.

Consent Agenda Item No. j. Budget Ordinance Amendment No. 09BCC000010—FY 2007-2008 Encumbrances.

DURHAM COUNTY, NORTH CAROLINA
 FY 2008-09 Budget Ordinance
 Amendment No. 09BCC000010

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

Revenue:

| <u>Category</u> | <u>Current Budget</u> | <u>Increase/Decrease</u> | <u>Revised Budget</u> |
|-----------------------------|-----------------------|--------------------------|-----------------------|
| <u>GENERAL FUND</u> | | | |
| Other Financing Sources | \$25,515,835 | \$3,067,148 | \$28,582,983 |
| <u>RISK MANAGEMENT FUND</u> | | | |
| Other Financing Sources | \$0 | \$118,295 | \$118,295 |
| <u>SEWER UTILITY FUND</u> | | | |
| Other Financing Sources | \$75,000 | \$748,415 | \$823,415 |

Expenditures:

| <u>Activity</u> | | | |
|---------------------------------|---------------|-------------|---------------|
| <u>GENERAL FUND</u> | | | |
| General Government | \$33,323,255 | \$1,106,617 | \$34,429,872 |
| Public Safety | \$49,074,625 | \$538,213 | \$49,612,837 |
| Environmental Protection | \$3,819,038 | \$160,961 | \$3,979,999 |
| Economic & Physical Development | \$6,231,925 | \$146,112 | \$6,378,037 |
| Human Services | \$443,348,851 | \$510,708 | \$443,859,559 |
| Cultural & Recreation | \$12,080,814 | \$91,116 | \$12,171,930 |
| Other | \$26,549,649 | \$513,421 | \$27,063,070 |
| <u>RISK MANAGEMENT FUND</u> | | | |
| General Government | \$2,433,685 | \$118,295 | \$2,551,980 |

SEWER UTILITY FUND

| | | | |
|-----------|-------------|-----------|-------------|
| Utilities | \$9,171,179 | \$748,415 | \$9,919,594 |
|-----------|-------------|-----------|-------------|

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

This the 22nd day of September, 2008.

Consent Agenda Item No. k. Budget Ordinance Amendment No. 09BCC000011 and Capital Project Amendment No. 09CPA000005—\$194,548 Appropriation of Capital Financing Fund fund balance for the BOCC Chambers Technology Upgrades Project (No.: DC089) for a total project budget of \$964,548 and Approve Contract Amendments with Harrod & Associates Constructors Inc. (H&AC) for Completing BOCC Chambers Technology Upgrades Project—Bid No: 08-021r.

DURHAM COUNTY, NORTH CAROLINA
 FY 2008-09 Budget Ordinance
 Amendment No. 09BCC000011

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

Revenue:

| <u>Category</u> | <u>Current Budget</u> | <u>Increase/Decrease</u> | <u>Revised Budget</u> |
|-------------------------|-----------------------|--------------------------|-----------------------|
| <u>GENERAL FUND</u> | | | |
| Other Financing Sources | \$37,554,082 | \$194,548 | \$37,748,630 |

Expenditures:

| <u>Activity</u> | | | |
|---------------------|--------------|-----------|--------------|
| <u>GENERAL FUND</u> | | | |
| Other | \$23,396,129 | \$194,548 | \$23,590,677 |

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

This the 22nd day of September, 2008.

DURHAM COUNTY, NORTH CAROLINA
 FY 2008-09 Capital Project Ordinance
 Amendment No. 09CPA000005

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> | | | |
| BOCC Chambers | | | |
| Technology Upgrades | | | |

| | | | |
|---------|-----------|-----------|-----------|
| Project | \$770,000 | \$194,548 | \$964,548 |
|---------|-----------|-----------|-----------|

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

This the 22nd day of September, 2008.

Consent Agenda Item No. 1. Capital Project Amendment No. 09CPA000006—Appropriation of \$367,004 for the Human Services Complex Project (DC070) for a total budget of \$8,313,646 and Execution of the Construction Contract with Environmental Holdings Group LLP in the amount \$258,265 (Base Bid Only) for the Demolition of the 500 Block Area of East Main Street Project No.: DC070-56, Bid. No: IFB 09-002; funding for this project will come from a COPS financing loan and any General Fund funds spent towards these projects will be reimbursed once loan funds are secured;

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Capital Project Ordinance
Amendment No. 09CPA000006

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> | | | |
| Human Services Complex Project | \$7,946,642 | \$367,004 | \$8,313,646 |

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

This the 22nd day of September, 2008.

Consent Agenda Item Removed for Discussion

Consent Agenda Item No. p. Appointments—Criminal Justice Partnership Act Advisory Board (approve the recommended appointments).

Commissioner Heron inquired about Mental Health applicant Robert Robinson's residency. She stated that according to Mr. Robinson's application, he does not live within Durham County.

Chairman Reckhow asked County Attorney Kitchen to research State Statute residency requirements whereby a person in a particular position can appoint a designee.

Chairman Reckhow moved this item to the end of the agenda.

Draft of the Work First Block Grant Plan for 2009-2011

Work First is the primary program in North Carolina for administering the Temporary Assistance for Needy Families (TANF) Program. Since Work First is administered locally in each county, North Carolina law (NCGS 108A-27) requires each county to submit a County Work First Block Grant Plan every two years.

Jim Polk, Chair of the Work First Planning Committee, introduced this item. He requested that the Board set a public hearing on the draft Work First Plan for the October 13, 2008 Commissioner's meeting.

Commissioner Heron inquired about Job Retention Career Advancement under Section I. Conditions within the County, particularly the sentence that reads, "Unfortunately, this program is supported by various grant funds whose funding sources and focus may vary from year to year, making it difficult for this program to consistently address problems of retention and advancement."

Mr. Polk responded that a Work First participant's job progress is monitored by assigning them to a job coach. Work First is currently researching programs to allow participants' work progress to be monitored for the duration of their job placement.

Commissioner Heron expressed a desire to receive, at the October 13 meeting, additional information on Work First's plan to monitor participants on the job.

Chairman Reckhow suggested that page numbers be included in the final draft of the Work First Block Grant Plan. She inquired about Work First's failure to meet federal participation rates (under Section III.A.2).

Rhonda Stevens, Assistant Director of the Department of Social Services, Family Economic Independence Division, explained that the federal participation rate is the rate that the federal government uses to measure participants' involvement. Ms. Stevens stated that each year, as more individuals are served, the skill level of the participants is declined. Some participants do not have a high school education and/or lack skills; therefore, it has taken longer to find jobs for these participants. Providing mentors may help to increase the number of participants. Work First received a demonstration grant which allows job coaches to be assigned to participants; however, the challenge is working with individuals to gain job skills to obtain and retain employment.

Chairman Reckhow asked for the definition of "all-parent".

Ms. Stevens explained that "all-parent" is when a social worker is assigned to the case, the adult is included on the benefits with the child.

Chairman Reckhow referenced a letter she received from Reyn Bowman, President and CEO, Durham Convention and Visitors Bureau, indicating the latest figures from the 2006 U.S. Census report regarding nonresidents working in Durham County. Approximately six out of every 10 (approximately 101,000) jobs in Durham County are being held by nonresidents. Chairman Reckhow encouraged the County Manager, Deputy County Managers, and staff to

work with Work First, Durham Joblink, and major corporations, particularly those that receive County incentives, to place more residents into jobs within Durham County.

Ms. Stevens noted that one of the strategies in the Work First plan is to connect its participants with jobs created by businesses that receive Durham County incentives.

Chairman Reckhow suggested that the graduation statistics be updated, from FY06-07 to FY07-08.

The public hearing would be held at the Board's October 13, 2008 Regular Session.

Ordinance Amending Durham County Animal Control Ordinance

Kimberly H. Simpson, Tax Administrator, stated that the current Animal Control Ordinance places the responsibility of the billing and collection of animal fees with the Animal Control Division of the General Services Department. At the request and recommendation of the Animal Control Advisory Board, the Tax Department was approached to bill and collect for animal fees due to their experience and success in collection of taxes. Ms. Simpson stated that as a result of such request, a review of the process and an implementation plan was developed. Amendments are required to transfer the billing and collection of the animal fees to the Tax Department. The provision changes the animal fee to an animal tax and places the listing, billing, and collection of animal taxes with the Office of the Tax Administrator.

Vice-Chairman Page asked if Tax Administration listing, billing, and collecting animal taxes is standard protocol in other counties.

Chairman Reckhow responded in the affirmative.

Chairman Reckhow directed Ms. Simpson to monitor the workload and amount of time spent on collecting animal taxes.

Ms. Simpson informed Chairman Reckhow that Tax Administration would take the same approach as Animal Control in regards to collecting animal taxes—monthly billing. The Ordinance change would require pet owners to list their pet with Tax Administration. Pet owners would be able to pay the tax via the website in the same manner they would pay their other County taxes and via payment kiosks. Ms. Simpson stated that it has been requested from the vendor that prints tax bills to combine the animal fee bills with motor vehicle bills as they both would be mailed monthly. This will reduce the amount of bills to be sent.

Chairman Reckhow inquired about the pet listing forms.

Ms. Simpson responded that the listing forms to be mailed in late December would have a space for pet owners to list their pets.

Chairman Reckhow requested that Ms. Simpson work with the Public Information Office to develop a comprehensible cover sheet for the listing forms, as Chairman Reckhow has received complaints that the listing form is confusing to some citizens.

Commissioner Cheek moved, seconded by Vice-Chairman Page, to approve the changes to the animal ordinance allowing the fee to become a tax; therefore, requiring the Tax Administrator to be responsible for the listing, billing, and collection of such tax.

The motion carried unanimously.

ORDINANCE AMENDING DURHAM COUNTY ANIMAL CONTROL ORDINANCE

WHEREAS, the Board of Commissioners has found it advisable to change from an animal fee to an animal tax for dogs and cats in Durham County; and

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

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

1. That section 4-12 of the Durham County Code of Ordinances is hereby amended to read as follows:

Sec. 4-12. Appeal procedures.

(a) Any owner affected by any ruling or action taken by the animal control administrator with regards to any of the following may request a review of such action by filing a request for appeal with the Director of Durham County Department of General Services.

(1) Seizing an animal pursuant to article III of this chapter, unless said seizure was authorized by a judicial official.

(2) Declaring a dog dangerous or potentially dangerous pursuant to article VIII or G.S. § 67-4.1(c).

(3) Issuing a notice of intent to destroy.

(4) Denying or revoking a permit or license pursuant to XI of this chapter.

(b) Unless otherwise provided by law, a request for appeal must be made in writing and mailed to the Director of Durham County General Services Department within three days of the action or decision complained of and must state the grounds for the appeal. An appeal hearing shall be scheduled by the animal control review board within ten days of receipt of the request for appeal, unless otherwise provided by law.

(c) All testimony offered at an appeal hearing held pursuant to this chapter shall be given under oath and recorded by tape recording or any other reasonable manner. The hearing shall be open to the public and the person requesting the appeal may be represented by an attorney. The animal control administrator shall have the burden of proving that this chapter has been violated and that the sanction is in compliance with this chapter. The person requesting the appeal will be given an opportunity to prove that this chapter has not been violated and/or that the sanction is not in compliance with this chapter. The animal control administrator will be given a final opportunity to clarify any conflicts, ambiguities or inconsistencies created by or arising from the statements or evidence. The animal control review board may ask

questions at any time during the appeal hearing and may request additional evidence from either party.

If the decision is against the person requesting the appeal, the animal control administrator shall implement the sanction(s) approved by the animal control review board. The person requesting the appeal may appeal the decision of the animal control review board to the county superior court by filing a notice of appeal and petition for judicial review within ten days of the final decision of the review board. Any sanctions or penalties imposed shall be enforceable during the pendency of any appeal.

If the decision is against the animal control administrator, he shall immediately cease efforts to implement the sanction(s). Any decision rendered by the animal control review board applies only to the violation(s) and sanction(s) appealed and does not prevent the animal control division from enforcing a subsequent violation of the same provision or any other provision of this chapter.

2. That sections 4-36 through 4-38 of the Durham County Code of Ordinances are hereby amended to read as follows:

Sec. 4-36. Licensing.

The owner of every dog or cat shall comply with the provisions of this section:

(1) Licensing of animals, payment of license tax. There is hereby levied on the owner of every dog or cat an annual license tax for the privilege of keeping any dog or cat within the territorial boundaries of the county. Said annual license tax shall be . in the following amounts:

\$75.00 for each unaltered dog or cat;

\$10.00 for each altered dog or cat;

\$10.00 for each dog or cat for which the owner has furnished a statement from a licensed veterinarian that the animal has a health condition that permanently precludes the animal from undergoing sterilization because of a significant risk of injury or death.

(2) Administrative Provisions.

a. The owner of every dog or cat that is kept within the territorial boundaries of this county shall list the animal with the Durham County Tax Administrator within 30 days of bringing the animal into the county, such that a license is generated for each animal.

b. Any person who owns, maintains, possesses or controls five or more animals of the same species may apply to the Durham County Tax Administrator for an alternate tax on kennels as set forth in section 4-37.

c. The Durham County Tax Administrator shall mail to all owners of dogs and cats an annual tax listing form. The owner shall complete and return the tax listing form with the appropriate tax to the Durham County Tax Administrator. The license tax shall be past due if not paid within thirty (30) days of the date of mailing of the tax listing by the Durham County Tax Administrator.

d. The license tax imposed by this article shall be collected by the Durham County Tax Administrator. The owner of every dog or cat shall retain the owner's portion of the listing form which constitutes the animal's license when the entire tax is paid.

e. If a dog or cat is impounded pursuant to any provision of this chapter or state

law, the animal control division, before allowing such dog or cat to be redeemed by a person claiming ownership, shall determine whether or not the animal license tax has been paid as provided by this article. The license tax, then due and owing, shall be immediately payable and the dog or cat shall not be redeemed by the person claiming ownership until such license tax, together with any other fees or penalties authorized by this chapter, is paid in full.

(3) Transfer of license. The license issued pursuant to the provisions of this article shall not be transferable to another dog or cat or owner. If an animal is transferred to a new owner, the new owner must obtain a new license for the animal.

Sec. 4-37. Kennel licenses.

(a) Any person may apply to the Durham County Tax Administrator for a kennel license as follows:

(1) General kennel license: Any person who owns, maintains, possesses or controls five or more animals of the same species that have been spayed or neutered may apply for a general kennel license. The tax for a kennel license shall be in lieu of the animal license set forth in Sec. 4-36 above. The amount of the tax for a kennel license shall be:

- a. 5--10 animals . . . \$40.00
- b. 11--20 animals . . . \$80.00

(2) Show/breeder kennel license: Any person who owns, maintains, possesses or controls five or more animals of the same species that have not been spayed or neutered may apply for a show/breeder kennel license. The tax for a show/breeder kennel license shall be in lieu of the animal license set forth in Sec. 4-36 above. The amount of the tax for a kennel license shall be:

- a. 5--10 animals . . . \$300.00
- b. 11--20 animals . . . \$675.00
- c. 20 or more animals . . . \$1,200.00

(3) Individual hunter kennel license: Any person who owns, maintains, possesses or controls five or more animals of the same species may apply for an individual hunter kennel license. The tax for an individual hunter kennel license shall be in lieu of the animal license set forth in Sec. 4-36 above. The amount of the tax for a kennel license shall be:

- a. 5--8 animals . . . \$300.00
- b. 9--15 animals . . . \$420.00
- c. 16--24 animals . . . \$675.00

(4) Hunt club kennel license: Any person who owns, maintains, possesses or controls five or more animals of the same species may apply for a hunt club kennel license. The tax for a hunt club kennel license shall be in lieu of the animal license set forth in Sec. 4-36 above. The amount of the tax for a kennel license shall be:

- a. 25--49 animals . . . \$1,200.00
- b. 50 or more animals . . . \$3,000.00

(b) Each applicant for a kennel license shall submit a listing form to the Durham County Tax Administrator containing the following information:

- (1) The type of kennel license for which the tax listing is submitted.
- (2) The name, breed, sex and age of each animal.
- (3) The location where the animals are to be housed, kept or maintained.
- (4) If the owner is a hunter, proof of a valid hunting license for the current year.

(c) The following conditions must be met before a kennel license will be issued:

- (1) General kennel license:

- a. Proof of ownership of each animal identified in the license application.
- b. Proof of current rabies vaccination for each animal identified in the license application.
- c. Proof that all animals identified in the application have been spayed or neutered
- d. No outstanding violations of the county animal control ordinance, including outstanding redemption or boarding fees or civil penalties.
- e. Inspection of the area where the animals are housed by the animal control administrator or his designee. It shall be a continuing condition of the kennel license that the animal control administrator or his/her designee are permitted to inspect the area where the animals are housed at any time and at least once annually.

(2) All other types of kennel license:

- a. Proof of ownership of each animal identified in the license application.
- b. Proof of current rabies vaccination for each animal identified in the license application
- c. No outstanding violations of the county animal control ordinance, including outstanding redemption or boarding fees or civil penalties.
- d. Inspection of the area where the animals are housed by the animal control administrator or his designee. It shall be a continuing condition of the kennel license that the animal control administrator or his/her designee are permitted to inspect the area where the animals are housed at any time and at least once annually.
- e. The kennel license shall be valid for one year and is renewable each year. The owner shall submit a new listing form to the Durham County Tax Administrator if there has been a change to any of the information contained in the original listing form. Failure to submit a new listing form when required by this article may result in revocation of the license or refusal to renew the license.
- f. The license tax shall be past due if not paid within thirty (30) days of the date of mailing of the tax listing by the Durham County Tax Administrator.

(e) Sanctions, penalties, fines, remedies.

(1) The Durham County Tax Administrator may deny, revoke or refuse to renew a kennel license if any of the following conditions exist:

- a. A material misstatement in the listing form required by this article.
- b. Failure to comply with all conditions required for the type of kennel license for which a listing form has been submitted or renewal or reinstatement is sought.
- c. Violation of any provision of this chapter.
- d. Failure to pay all taxes, fees or penalties required by this article.

(2) If the issuance or renewal of a kennel license is denied, or if a kennel license is revoked, the Durham County Tax Administrator shall serve upon the owner a written notice stating the reasons for the denial or revocation and also indicating what measures must be taken before the license will be issued, renewed or reinstated.

- a. In the case of a revocation or a refusal to renew, the Durham County Tax Administrator shall allow the owner ten working days to comply with all license requirements.
- b. A kennel license shall be reinstated or reissued upon a showing that the owner is in compliance with all license requirements and payment of any civil penalty issued as a result of the revocation of the license.
- c. If the owner fails to comply with all kennel license requirements within the time period allow for corrective action the owner shall pay the full non-kennel license fee

for each animal in accordance with section 4-36 and shall no longer be eligible for the kennel license .

(3) In addition to any other remedies provided by law, the Durham County Tax Administrator may use the remedies stated in N.C. Gen. Statutes § 153A-147 in collecting the taxes provided for herein.

Sec. 4-38. Exemptions.

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

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

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

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

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

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

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

4. This ordinance shall be effective on and after November 1, 2008.

Board and Commission Appointments

Vonda Sessoms, Clerk to the Board, distributed ballots to the Board to make appointments to boards and commissions.

The following appointments were made; incumbents are underlined:

Community Child Protection Team/Child Fatality Prevention Team

Karlene Fyffe
Sandra Reddish
Matt Slotkin

Criminal Justice Partnership Act Advisory Board

Fredricka Carver
Deborah Schwartz

Historic Preservation Commission

Lewis Dancy

Industrial Facilities & Pollution Control Authority

Randy Pickle
Francis Stephans

County Attorney Kitchen communicated to the Board that the Mental Health position on the Criminal Justice Partnership Act Advisory Board (CJPAAB) is not exempt from the Resolution for Establishment of Policy and Procedures for Appointments to County Boards, Commissions, Committees, or Authorities; therefore, the appointee must be a resident of Durham County. County Attorney Kitchen explained that the Mental Health position is not required to be the Mental Health Director or his/her designee; the position may be held by any Mental Health employee.

County Attorney Kitchen clarified for Vice-Chairman Page that the Board's Policy for boards and commissions states that applicants must be Durham County residents unless the State Statutes require otherwise.

Chairman Reckhow noted that the Board may exempt an applicant from the policy if the Board deems him/her as the best applicant for a board/commission.

Vice-Chairman Page articulated that the Board should be consistent when appointing County board and commission members.

Commissioner Heron concurred with Vice-Chairman Page. She stated that a past applicant for the Volunteer Farmland Protection Board, who she felt was the best applicant, was denied due to the applicant being a non-Durham County resident.

County Attorney Kitchen informed the Board that its board and commission policy does not contain an exception from the county residency provision. However, since the "policy" is a resolution establishing a policy, the Board may vote to suspend the policy if it so desires.

Chairman Reckhow suggested that the Board proceed with approving the other three CJPAAB appointments and ask The Durham Center if it has another suitable applicant who is a Durham County resident. If not, then the Board may consider making an exception to the board and commission policy to appoint Robert Robinson in the Mental Health position.

Commissioner Cheek moved, seconded by Commissioner Heron, to approve Consent Agenda Item No. p, Appointments to the Criminal Justice Partnership Act Advisory Board, as follows:

Michael D. Andrews—Sheriff or Designee
Ann McKown—District Court Judge or Designee
Kenneth Titus—Superior Court Judge

The motion carried unanimously.

Closed Session

Commissioner Cheek moved, seconded by Vice-Chairman Page, to adjourn to closed session pursuant to G.S. 143.318.11(a)(3) to consult with an attorney and to preserve the attorney-client privilege and pursuant to G. S. 143-318.11(a)(4) to discuss matters relating to the location or expansion of a business or industry.

The motion carried unanimously.

Reconvene to Open Session

Chairman Reckhow announced that the Board met in Closed Session; no action was taken; directives were given to staff.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 9:50 p.m.

Respectfully Submitted,

Yvonne R. Gordon
Deputy Clerk to the Board