

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

Monday, September 8, 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**

Chairman Reckhow welcomed everyone to the Monday, September 8, 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 that consent agenda item No. 5f, "Capital Project Amendment No. 09CPA000004—Appropriate \$4,338,640 to the IT Computer Replacement Project (DC080) and \$475,000 to the IT Telecommunications Project (DC084)", had been deleted from the agenda. Consent agenda item No. 5h was also deleted from the consent agenda but added as regular item No. 6a ("Proposed Amendments to the Animal Control Ordinance"). In addition, a minor revision had been made to the supplemental material for consent agenda item No. 5a, "Approval of the New Cultural Master Plan Interlocal Agreement and Establishment of the Cultural Master Plan Advisory Board".

Chairman Reckhow requested that County Manager Mike Ruffin explain the changes to the Cultural Master Plan Interlocal Agreement.

County Manager Ruffin stated that "Section 6C. Method of Payment by the County" had been revised as follows:

C. Method of Payment by the County. Upon execution of this Agreement, the County shall transfer to the City the sum of \$125,000. All payments to the City by the County shall be based on invoices submitted to the County by the City for reimbursement of costs expended pursuant to this agreement. Invoices shall be submitted to the County by the City no more frequently than monthly; except that upon execution of this agreement by both parties, an initial invoice shall be

submitted by the City to the County for all expenditures to date to be reimbursed by the County.

Chairman Reckhow announced that an economic development item had been added to the Closed Session.

Chairman Reckhow stated that the meeting would proceed according to the revised agenda.

### **Announcements**

Chairman Reckhow called for announcements. None were presented.

### **Report from “A Taste for Durham’s Future” Committee**

5 min.

Chairman Reckhow stated that an advisory referendum on a 1% Prepared Food Tax is scheduled for November 4. If approved, the proceeds will be used by the City and the County to fund community cleanup, workforce training, visitor marketing, and many cultural amenities including museums, trails, the County Stadium, Civic Center, and much more. A committee of business and community leaders has been working to develop information and marketing strategies for the vote. The group has adopted the theme, “A Taste for Durham’s Future”. Cochairs of this comprehensive effort are Mr. Robb Teer, Ms. Sylvia Kerckhoff, and Mr. Charles Watts.

Mr. Watts presented the following progress report on the group’s efforts to date:

“Thank you for the opportunity to brief you tonight. I am Chuck Watts. Robb Teer, Sylvia Kerckhoff, and I were asked by Commissioner Ellen Reckhow and Mayor Bill Bell to promote and advocate for the one-percent alternate revenue source on prepared food in Durham County. This source of income will fund numerous projects and leverage millions of dollars. The ballot initiative is on the November 4, 2008 ballot as a referendum. In addition to the projects, the funds generated by the prepared food tax will be used for workforce development, local marketing, and beautification.

We began meeting with the Steering Committee on August 19 and subsequently met August 27 and September 3. We will continue meeting each Wednesday until the November election. There are 37 members of the Steering Committee; a list of their names is included in your packet.

To date there are 25 honorary cochairs, and a list of their names is included in your packet.

We have set up three committees. A list of the committee members is included in your packet.

We have challenged all of the stakeholders, asking them to involve their members and pass resolutions by their boards.

We have planned the official kick-off for Tuesday, September 16, from 2:00 p.m. until 3:30 p.m. at Hayti Heritage Center.

We have decided on a brand name—"A Taste for Durham's Future"—and a logo, thanks to assistance from McKinney and Square-One. Included in your packet is a sample of the brand and logo.

We have set up a centralized database/web portal for use by the Committee members.

We are developing a website.

We have developed a PowerPoint for presentation to civic clubs/organizations and other interested groups. The cochairs have scheduled several meetings with groups to review and discuss the PowerPoint presentation.

We have developed a comprehensive media plan.

A flyer with frequently asked questions has been prepared. It will eventually be expanded into a brochure and sent to the 120,000 registered voters in Durham County. An additional 15,000 will be available for general distribution.

We have registered with the Durham County Board of Elections and the State Board of Elections.

The Committee's Treasurer, Robb Teer, has attended the mandatory State training class.

We have obtained a Federal ID number and opened a bank account.

To date, we have raised \$26,500 with a goal of \$45,000."

Commissioner Heron thanked the committee for all the work which has been accomplished in a short period of time.

Chairman Reckhow stated that early voting starts on October 16, so there is not a day to waste. She expressed appreciation for the committee, the leadership, and the efforts.

**North Regional Branch Library—2008 AIA (American Institute of Architects) North Carolina Merit Award & 2008 ALA/IIDA (American Library Association/International Interior Design Association) Library Interior Design Award**

Chairman Reckhow stated that the Board is being requested to receive the following awards for the North Regional Branch Library project:

2008 AIA (American Institute of Architects) North Carolina Merit Award; and

Honorable Mention Award from the American Library Association (ALA) and the International Interior Design Association (IIDA) for the 2008 ALA/IIDA Library Interior Design Awards.

Chairman Reckhow acknowledged County Engineer Glen Whisler to present background information.

Mr. Whisler recognized Library Director Skip Auld, Peri Manns, Project Manager, (Engineering), and representatives from The Freelon Group.

Phil Freelon of The Freelon Group recognized the design team who led the project.

Zena Howard from The Freelon Group showed a brief video from the presentation at this year's NC American Institute of Architects Annual Conference in Charlotte, NC on August 23, 2008 where the awards were presented.

Ms. Howard presented the certificates to the Commissioners.

Mr. Freelon thanked the County Manager Mike Ruffin, Deputy County Manager Wendell Davis, and County Engineer Glen Whisler and his staff for outstanding leadership.

Chairman Reckhow thanked Mr. Freelon and his firm for great work on the project. She spoke briefly about the North Regional Branch Library and how the County is proud of the facility.

### **Consent Agenda**

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve the following consent agenda items:

- \*a. Approval of the New Cultural Master Plan Interlocal Agreement and Establishment of the Cultural Master Plan Advisory Board;
- b. Raleigh-Durham Airport Authority Grant Offer (accept the \$1,193,929 grant offer from the Federal Aviation Administration);
- \*c. Budget Ordinance Amendment No. 09BCC000009—Results Based Accountability Program Grants to County Departments (approval to recognize \$19,700 in RBA grant funds for The Durham Center, Public Health, and the Department of Social Services);
- d. Urban Ministries of Durham Inc.—Contract Approval (authorize the Manager to enter into a contract with Urban Ministries of Durham Inc. in the amount of \$145,000 to provide homeless shelter services);

- e. Selection of External Auditors (approve the recommendation of Cherry, Bekaert & Holland LLP for \$105,000); and
- \*g. Offer to Purchase County Surplus Properties (2600 Lincoln Street and 540 Belt Street); the Board has the authority to accept or reject any offer at the conclusion of the upset bid process.

The motion carried unanimously.

\*Documents related to these items follow:

Consent Agenda Item No. a. Approval of the New Cultural Master Plan Interlocal Agreement and Establishment of the Cultural Master Plan Advisory Board.

DURHAM CITY-COUNTY INTERLOCAL AGREEMENT  
TO IMPLEMENT THE DURHAM CULTURAL MASTER PLAN AND  
ESTABLISH A CULTURAL MASTER PLAN ADVISORY BOARD

This is an Interlocal Cooperation Agreement between City of Durham, a North Carolina municipal corporation (hereinafter "City"), and County of Durham, a political subdivision of the State of North Carolina (hereinafter "County"). This Agreement is made pursuant to Article 20 of Chapter 160A of the North Carolina General Statutes. The Date of this Interlocal Cooperation Agreement is July 1, 2008 (hereinafter "Agreement").

WITNESSETH:

WHEREAS, the City and County desire to utilize the Durham Cultural Master Plan dated August 2004 (hereinafter the "Plan") to enhance its cultural landscape, maximize scarce resources, and provide coordinated vision and collaboration among a variety of cultural, civic, and business partners; and

WHEREAS, the City, through its Office of Economic and Workforce Development or such other City department as the City Manager may designate from time to time to carry out economic development functions (hereinafter "OEWD") is willing to provide the personnel and administrative functions necessary to implement the Plan and the City and County are willing to provide funding for fiscal year 2008 - 2009; and

WHEREAS, The City and County desire to establish an Advisory Board to assist the OEWD and advise the City and County governing bodies regarding the progress of the implementation of the Plan as well as act as a community advocate.

NOW THEREFORE, for and in consideration of mutual covenants contained herein and the mutual benefits to result therefrom, the parties hereby agree as follows:

## SECTION 1. CREATION AND PURPOSE

The City Council and the Board of County Commissioners hereby establish the Durham Cultural Master Plan Advisory Board (hereinafter “Advisory Board”). The purpose of this Advisory Board is to advise the governing bodies of the City and County regarding the implementation of the Plan. The Advisory Board is a public body, and as such, shall be subject to the requirements of Chapter 132 and Article 33C of Chapter 143 of the General Statutes of North Carolina.

## SECTION 2. POWERS AND DUTIES

The Advisory Board shall have the following powers and duties:

- A. Present the Plan, its immediate goals and its long-term impact, to all sectors of the community.
- B. Review priorities and recommend a sequence of action from the Plan’s initiatives.
- C. Identify, engage, convene, and coordinate community partners in early Plan implementation initiatives.
- D. Design and propose a mechanism for distributing Implementation Funds (defined in Section 6A, below) to community partners.
- E. Advocate for public and private sector funding and identify a long-term dedicated revenue stream for on-going Plan implementation.
- F. Review and recommend proposed budgets and spending by the OEWD for the implementation and administration of the Plan.
- G. Monitor and report to the City Council and County Commissioners on progress of the Plan implementation on a semi-annual basis.
- H. Participate in the hiring process of the staff person, hired by the OEWD, as described below.
- I. Assess effectiveness of Plan implementation structure.

## SECTION 3. MEMBERSHIP OF ADVISORY BOARD

- A. Appointment. The Advisory Board shall consist of twelve (12) members with six (6) to be appointed by the Durham County Board of Commissioners and six (6) to be appointed by the Durham City Council. Attempts shall be made to assure that the appointments represent a cross section of the community and reflect the interests of the County, City, and private sectors. All members shall have equal rights regardless of whether the matters at issue are located inside or outside the corporate limits. The Advisory Board may recommend to the governing bodies individuals for appointment to the Advisory Board. The Advisory Board may appoint up to three voting student representatives from area schools to advise it regarding youths’ interests in cultural planning.
- B. Qualifications. Members shall meet those general qualifications specified by the appointing body, which are requirements for all individuals serving on an advisory board.

- C. **Tenure.** Members shall serve a two-year term (“Term”). Vacancies occurring for reasons other than the expiration of Terms shall be filled by the appointing authority as they occur for the period of time of the unexpired term. No person shall be appointed to more than two Terms, except that an appointment for the remainder of a vacant seat does not preclude a member from being appointed to serve two full 2 year Terms. A person appointed to serve the remainder of a vacant seat may be appointed to serve two full 2-year Terms or the remainder of another vacant seat and one full 2 year Term. Notwithstanding the foregoing, the Terms of members whose terms are scheduled to expire on June 30, 2008, and who choose to continue, are hereby extended until June 30, 2009, in order that a pattern can be created whereby some member terms are staggered. Following the expiration of the extended seats, the replacement Terms shall be for two years.
- D. **Compensation.** Members shall serve without pay.

#### Section 4. Organization and Meetings

- A. The Advisory Board shall elect a Chairperson and Vice-chairperson at its first meeting and every first meeting of each fiscal year thereafter.
- B. The Advisory Board shall adopt rules of procedure as well as an attendance and ethics policy in accordance with City or County policy.
- C. The Advisory Board shall meet at least four (4) times per calendar year.
- D. The Advisory Board shall, no later than April 15 of each year, submit to the governing bodies, a written report of its activities performed during the then current fiscal year.

#### SECTION 5. IMPLEMENTATION OF THE CULTURAL MASTER PLAN

- A. Responsibilities of the OEWD. The OEWD shall work to implement the Plan and create an effective structure that will:
- Visibly engage both the public and private sectors in implementing the Plan through the stewardship of an informed, committed, empowered Advisory Board.
  - Utilize Implementation Funds effectively and efficiently to support necessary administration while providing maximum stimulus for community initiatives.
  - Provide a mechanism that ensures responsible oversight of the Plan implementation.
  - Coordinate with the leadership and goals of the OEWD to maximize resources and coordination, and
  - Provide time to test and assess the effectiveness of the proposed Plan implementation structure as a long-term strategy.
- B. Personnel. One full-time individual will be hired by the City Manager, with designated Implementation Funds as described herein, using appropriate City pay classifications, to administer the Plan implementation described herein (hereinafter “Project Manager”). The Advisory Board and the County Manager will participate in the hiring process, but the final decision on hiring will be the City Manager’s. The Project Manager will be a City employee and will be located within the OEWD. The Project Manager will work

closely with the Advisory Board and will work solely on the work of implementing the Plan. Location within the OEWD is intended to allow OEWD and the Project Manager to be informed of and coordinate appropriate initiatives. The City shall perform reviews of the Project Manager in accordance with the City's usual procedures. The County and the Advisory Board shall have the opportunity to provide input into those reviews. Responsibilities of the Project Manager shall include but not be limited to:

- Provide ongoing public relations support of the Plan.
- Identify, engage, convene, and coordinate community partners to undertake early initiatives in the Plan.
- Provide staff support for the grant process to allocate the Implementation Funds to community agencies.
- Provide regular progress reports to the Advisory Board.
- Provide a Semi-annual report to the Board of County Commissioners and City Council regarding the progress of the implementation of the plan and utilization of the Implementation Funds.
- Inform the City Manager and City Council of any Implementation Fund spending approved by the County and inform the County Manager and Board of County Commissioners of any Implementation Fund spending approved by the City.
- Provide staff support for Advisory Board (preparing notices and agendas for the meetings and keeping the record of the Advisory Board meetings, attendance and minutes), advocacy efforts, coordinating and convening meetings and ongoing communications for the Advisory Board.

Nothing in this Agreement is intended to limit the City Manager's authority over the Project Manager, except that the Project Manager shall be located in the OEWD as provided above and shall have the responsibilities as provided in this Agreement.

## SECTION 6. FUNDING

- A. County and City Contributions. The County shall provide an amount not to exceed one hundred twenty-five thousand dollars (\$125,000) to the City and the City shall provide one hundred three thousand six hundred dollars (\$103,600) as the source of funding for the implementation of the Plan ("Implementation Funds") in the fiscal year 2008 - 2009. It is acknowledged and agreed by both parties that use of the Implementation Funds is limited specifically to implementation of the Plan and to those things for which this Agreement specifically allows Implementation Funds to be used. Implementation Funds may be used for expenses related to implementation, such as costs of salary and benefits of the Project Manager, operating expenses as provided in the Budget, and grants to community agencies, as approved in the manner provided for herein, to implement initiatives for the Plan.
- B. Budgets and Expenditures. The Budget for the Term of this Agreement is attached hereto as Exhibit 1 and made a part hereof. The execution by the City and County of this Agreement constitutes approval of the Budget specified in Exhibit 1. All expenditures that are not included in the Budget, including grants to community agencies, shall be first reviewed by the Advisory Board. Expenditures from City funds shall be presented to the City Council or City Manager, as appropriate under City

procedures, for approval before any payment from Implementation Funds will be made. Expenditures from County funds shall be presented to the Board of County Commissioners or County Manager, as appropriate under County procedures, for approval before any payment from Implementation Funds will be made. All expenditures shall be in accordance with the provisions of this Agreement.

- C. Method of Payment by the County. All payments to the City by the County shall be based on invoices submitted to the County by the City for reimbursement of costs expended pursuant to this agreement. Invoices shall be submitted to the County by the City no more frequently than monthly; except that upon execution of this agreement by both parties, an initial invoice shall be submitted by the City to the County for all expenditures to date to be reimbursed by the County.
1. Operating Budget. The County shall pay to the City \$125,000 to be spent as specified in Exhibit 1. Of this amount, \$39,624 shall be applied to operating expenses, including Project Manager salary and benefits and office expenses. \$25,000 shall be applied to the Hispanic Culture Initiative and the After School Cultural Program Transportation Survey project, as authorized by the Board of County Commissioners in August 2006. The remaining \$60,376 shall be available to fund new initiatives. The City shall provide \$103,600. Of this amount, \$36,576 shall be applied to operating expenses. The remaining \$67,024 shall be available to fund new initiatives.
  2. Grant funds. Grants directly related to the implementation of the Plan may be proposed by the Advisory Board but must be approved subject to rules established in Section 6-B of this Agreement.
  3. Reconciliation. At the end of each fiscal year, the Finance Director of the City and the Finance Director of the County shall meet to conduct a review and reconciliation of amounts paid and payable under this Agreement. The goal of this reconciliation is to insure that the City and County contributed in the manner consistent with this Agreement. Such adjustments or payments as may be necessary to effectuate the reconciliation agreed upon by the Finance Directors shall be promptly made. Reconciliation shall be completed prior to October 15, 2009.

## SECTION 7. TERM AND TERMINATION

This Agreement shall be effective as of the date first written above and shall be in effect through June 30, 2009 (the "Term").

This Agreement may be terminated earlier by either party, upon 6 months notice given in writing prior to the intended date of termination.

Effect of Termination. Upon termination of this Agreement for any reason, (i) all outstanding invoices shall be paid and existing project contract or grant obligations fulfilled, (ii) the Advisory Board shall be immediately dissolved, and (iii) the City's and the County's obligations hereunder shall expire except for any existing or continuing contract or grant obligations put into effect pursuant to this Agreement. Except as noted above, upon termination and in accordance with the terms of the annual budget and the individual project

or grant budgets, all unused County funds shall be returned to the County. The City may elect to continue the Advisory Board and Plan as a City project, through a City ordinance.

#### SECTION 8. APPOINTMENT OF PERSONNEL

Except to the extent provided otherwise in this Agreement, it is agreed that the City Manager shall designate persons to carry out the City's obligations under this Agreement, and the County Manager shall designate persons to carry out the County's obligations under this Agreement.

#### SECTION 9. AMENDMENTS

This Agreement may be amended at any time upon mutual written agreement of the City and County. The City Council and County Commissioners shall be the final authority in approving all amendments.

#### SECTION 10. GOVERNING LAW

This Agreement shall be governed by and in accordance with the laws of the State of North Carolina. All actions relating in any way to this Agreement shall be brought in the General Court of Justice in the County of Durham and the State of North Carolina.

#### SECTION 11. ENTIRE AGREEMENT

This Agreement together with the agreements referenced in this Agreement, shall constitute the entire understanding between the City and the County and shall supersede all prior understandings and agreements relating to the subject matter hereof.

#### SECTION 12. CONTRACT NOT DIVISIBLE

This Agreement is not divisible. The obligations exchanged by the City and County under each part of this Agreement constitute consideration for each and every part of this Agreement.

#### SECTION 13. HEADINGS

The subject headings of the paragraphs are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions. This Agreement shall be deemed to have been drafted by both parties and no purposes of interpretation shall be made to the contrary

IN WITNESS WHEREOF, the City and County have authorized this Agreement to be executed and attested by their undersigned officers, to be effective from and after the date first written above.

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Consent Agenda Item No. c. Budget Ordinance Amendment No. 09BCC000009—Results Based Accountability Program Grants to County Departments (approval to recognize \$19,700 in RBA grant funds for The Durham Center, Public Health, and the Department of Social Services).

DURHAM COUNTY, NORTH CAROLINA  
FY 2008-09 Budget Ordinance  
Amendment No. 09BCC000009

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	\$395,389,170	\$19,700	\$395,408,870

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Human Services	\$442,807,199	\$19,700	\$442,826,899

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

This the 8th day of September, 2008.

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Consent Agenda Item No. g. Offer to Purchase County Surplus Properties (2600 Lincoln Street and 540 Belt Street); the Board has the authority to accept or reject any offer at the conclusion of the upset bid process.

RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in Durham County, North Carolina and properly described as follows:

2600 Lincoln Street  
PIN #0830-09-05-9949  
Parcel ID #132696

WHEREAS, Mr. Thomas Bailey has made an offer to the County to purchase the above property for \$2,000 and has made a bid deposit in the amount of \$100, which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an “Upset Bid Method” for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale in The Herald-Sun newspaper.
2. Upset bids must be received within 10 days after the date the Notice is published.
3. Upset bids must raise the current bid by at least 10 percent of the first \$1,000.00 and 5 percent of the remainder.
4. Upset bids shall be made to the Real Estate Manager or the Clerk to the Board if the Real Estate Manager is not available, together with a 5 percent bid deposit by certified check or money order to the County of Durham, or cash;
5. When the original bid has been successfully raised (upset), the upset bid becomes the current bid. Interested bidders are encouraged to contact the Real Estate Manager before making a bid to confirm the amount of the current bid.
6. The highest bid received during the 10-day period is deemed the current bid rather than the first which meets the minimum upset bid requirements.
7. This procedure shall be repeated until no further qualifying County Commissioners who mat accept the offer and sell the property to the highest bidder.
8. Should the Board of County Commissioners accept the qualifying high bid, a non-warranty deed will be prepared for the Chairman of the Board's signature, and a time for closing will be scheduled.
9. The Board of County Commissioners may at anytime reject any and all bids.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on

/s/ Vonda Sessoms  
Clerk, Board of Commissioners

#### RESOLUTION

WHEREAS, Durham County owns a certain parcel of real property situated in Durham County, North Carolina and properly described as follows:

540 Belt Street  
PIN #0831-10-25-9884  
Parcel ID #111740

WHEREAS, Mr. Rondell McKoy has made an offer to the County to purchase the above property for \$500 and has made a bid deposit in the amount of \$25 which is no less than 5 percent of the bid; and

WHEREAS, G.S. 160A-269 provides for an "Upset Bid Method" for sale which provides for publication of the notice of upset sale including a description of the property, the amount of the offer, requirements for submission of an upset bid, and other details of the sale; and

WHEREAS, the Durham County procedure for sale of the parcel is as follows:

1. Publication of the Notice of Sale in The Herald-Sun newspaper.
2. Upset bids must be received within 10 days after the date the Notice is published.
3. Upset bids must raise the current bid by at least 10 percent of the first \$1,000.00 and 5 percent of the remainder.
4. Upset bids shall be made to the Real Estate Manager or the Clerk to the Board if the Real Estate Manager is not available, together with a 5 percent bid deposit by certified check or money order to the County of Durham, or cash;
5. When the original bid has been successfully raised (upset), the upset bid becomes the current bid. Interested bidders are encouraged to contact the Real Estate Manager before making a bid to confirm the amount of the current bid.
6. The highest bid received during the 10-day period is deemed the current bid rather than the first which meets the minimum upset bid requirements.
7. This procedure shall be repeated until no further qualifying County Commissioners who mat accept the offer and sell the property to the highest bidder.
8. Should the Board of County Commissioners accept the qualifying high bid, a non-warranty deed will be prepared for the Chairman of the Board's signature, and a time for closing will be scheduled.
9. The Board of County Commissioners may at anytime reject any and all bids.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Durham County that a Notice of Sale be published and that the upset bid procedure for this sale take place as set forth in this resolution and as authorized by G.S. 160A-269.

Upon motion properly made and seconded, adopted by the Board at its meeting on

/s/ Vonda Sessoms  
Clerk, Board of Commissioners

**Public Hearing—Proposed Secondary Road Construction Program for Durham County (2008-2009)**

Chairman Reckhow stated that Tasha Johnson, P.E., District Engineer for the North Carolina Department of Transportation (NCDOT), will present the Board with the Annual Secondary Road Construction Program for Durham County (2008—2009).

Ms. Johnson introduced other representatives of NCDOT. She presented the Secondary Road Construction Program for Durham County for 2008-2009, summarized as follows:

FY 2007-2008	Anticipated Allocation
Highway Fund GS 136-44.5b (Paved Roads)	\$ 640,000
Highway Fund GS 136-44.5c (Unpaved Roads)	\$ 163,000
Trust Fund GS 136-182 (Unpaved Roads)	<u>\$ 643,000</u>
Total	\$1,446,000

I. Paving Unpaved Roads (GS 136-44.5c & GS 236-182)

Programmed Paving Goal: 1.66 miles

A. Rural Paving Priority

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
6F	SR 1966	0.26	Lumley Road from End of Pavement to Wake County Line	\$123,500
7F	SR 1606	0.40	Hilden Road from SR 1471 to Person County Line	\$190,000
8F	SR 1967	0.30	Smallwood Road from SR 1973 to Dead End	\$142,500
9F	SR 1808	0.70	Bennie Ross Road from SR 1807 to Dead End Partial Funding of \$332,500 (Est. Cost)	\$230,000

Total Miles 1.66                      Subtotal                      \$686,000

B. Subdivision Paving Priority

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost

Total Miles 0.0                      Subtotal                      \$0

\*In the event that any roads in priority have to be placed on the "Hold List" due to unavailable right of way or environmental review, or if additional funding becomes available, funds will be applied to the roads listed in priority order in the paving alternate list.

II. General Secondary Paved Road Improvements GS 136-44.5b

Paved Road Improvements

SR No.	Project Description	Est. Cost
various	2' widening, drainage improvements, shoulder improvement, pavement strengthening, and/or realignments	\$640,000
Subtotal		\$640,000

III. Funds reserved for surveying, right of way acquisition, acquisition, road additions, contingencies, overdrafts, and paving entrances to certified fire departments, rescue squads, etc.

Subtotal                      \$120,000

GRAND TOTAL                      \$1,446,000

Per a question by Vice-Chairman Page, Ms. Johnson replied that both sections of South View Road should be paved by the fall of 2008.

Commissioner Heron requested that NCDOT inform the Commissioners of its proposed road construction program as soon as it has been created. She strongly urged that bike lanes be created on highly-traveled roads.

Chairman Reckhow stated that \$640,000 is to be spent for widening, etc. She asked if the roads earmarked for improvements could be expanded for biking.

Ms. Johnson stated that NCDOT met with the bicycle committee in the spring of this year to review the resurfacing program in an effort to try to accommodate bicycle lanes on roads that are planned for resurfacing. Ms. Johnson did not know how the bicycle lanes factored into the unpaved roads program.

Division Engineer Wally Bowman, P.E., explained that most of the roads brought forward tonight should not be confused with the resurfacing program. These roads on the proposed road construction program are very low-volume gravel roads and probably not appropriate for bicycle lanes. The money in this program (2' widening, etc.) is allocated for roads to address safety issues. Wider rights-of-way for bicycle lanes must play into the talks. NCDOT is trying to provide the resurfacing program to the Commissioners at an earlier date. Rights-of-way can become an issue in this program, also. Rights-of-way need to be looked at to make sure 2' widening can be accomplished.

Chairman Reckhow stated her confusion with "general secondary paved road improvements" when Mr. Bowman stated that the roads are gravel.

Mr. Bowman explained that in the past, all of the money was allocated for unpaved roads. The General Assembly subsequently decided that some of the money would be spent on paved roads.

Chairman Reckhow asked if some of the paved roads could be targeted for bike lanes.

Mr. Bowman said that the determination must be made as to whether the roads have adequate rights of way. He would be willing to work with the Commissioners further on this matter.

Commissioner Heron asked that that the Commissioners have the prerogative for input as plans are being made for paving, etc.

Ms. Johnson informed Chairman Reckhow that the \$640,000 is an estimate based on last year's numbers.

Chairman Reckhow requested that Ms. Johnson share the exact amount (when it is determined) with the County Manager so he could in turn inform the Commissioners.

Ms. Johnson stated that she would send the information earlier next year with the understanding that it may not be the final allocation.

Vice-Chairman Page asked how the general public could have input regarding the selection of the projects.

Ms. Johnson informed Vice-Chairman Page that the secondary roads program is governed by North Carolina General Statutes.

Chairman Reckhow opened the public hearing that was properly advertised.

As no one requested to speak, Chairman Reckhow closed the public hearing and referred the matter back before the Board.

Commissioner Cheek moved, seconded by Vice-Chairman Page, to approve the Proposed Secondary Road Construction Program.

The motion carried unanimously.

Chairman Reckhow thanked the NC Department of Transportation representatives for their work and stated that the Board would look forward to further information.

### **Proposed Amendments to the Animal Control Ordinance**

Chairman Reckhow stated that citizens requested that this item be removed from the consent agenda as a couple of revisions had been made to the ordinance since the August 25 public hearing. She requested that Marie Inserra, Assistant County Attorney, address the proposed amendments.

Attorney Inserra stated that in September 2006, following a recommendation from the *Durham Inter-Neighborhood Council* and the *Coalition to Unchain Dogs* to outlaw the tethering of dogs in Durham County, the Durham County Animal Control Advisory Committee (ACAC) was asked to research, evaluate, and make a recommendation on their findings to the Durham County Board of County Commissioners. For more than 18 months, the ACAC held multiple meetings, collected statistics, conducted research, and interviewed experts in the animal welfare profession on the issue of tethering. She stated that the ACAC members have proposed changes to Chapter 4. "Animals" to the Durham County Code of Ordinances. She then reviewed the proposed revisions in detail.

Chairman Reckhow noted that the last sentence of the ordinance states that the Chapter, as amended, would not be effective until January 1, 2010, in order to give citizens time to get educated and accustomed to the changes. The Commissioners received information at the September 2 Worksession that the first six months of 2010 would be a warning period with no fines.

Chairman Reckhow clarified that the only changes to the ordinance since the last public hearing on August 25 were the addition of a definition for “*attended leash*” and a more precisely defined definition for secure enclosure. She requested that the citizens who signed up to speak limit their comments to these changes only.

Chairman Reckhow called on the following citizens to speak; comments were limited to two minutes per speaker:

Chris Tiffany, 611 East Lawson Street, Durham, NC 27701, cautioned the Board about dog packs if the ordinance is enacted.

Michelle Lennon, 7534 NC Hwy 751, Durham, NC 27713, expressed concern about the changes being made to the ordinance “last minute” and spoke to the conflict of interest of the Animal Control Advisory Committee members.

Julie Berke-Law, 4707 Knight’s Arm Drive, Durham, NC 27707, voiced concern about the space issue and about dog owners being unable to pay for fencing.

Wendy Hofner, 917 Snow Hill Road, Durham, NC 27712, stated adamant support for the revisions to the ordinance.

Laura Alvarey, 1822 Northgate Street, Durham, NC 27704, supported the ordinance.

Philip Pennell, 3412 Lee’s Chapel Road, Cedar Grove, NC 27231, presented his reasons for opposing the ban on tethering.

Frank Tilley, 3409 Coley Road, Durham, NC 27703, opposed the revisions to Chapter 4. Animals.

Tony Naylor, 2905 Gretmar Drive, Durham 27705, supported the ordinance.

Lori Hensley, 11 Scotts Place, Durham 27705, requested that the Commissioners approve the proposed changes.

Meredith Barthelemy, 1617 Snow Crest Trail, Durham 27707, voiced support.

Holly Guss, 417 W. Maynard Ave. Durham 27704, voiced support for the revisions and for Amanda Arrington, Chair, ACAC.

Heather Brown, 417 W. Maynard Ave., Durham 27704, thanked the Commissioners for appointing dedicated ACAC members. She requested that the Commissioners approve the amendments to the ordinance.

Mark Soloman, 1801 Woodbury Road, Durham 27705, agreed with the ordinance revisions.

Robert Hensley, 11 Scott Place, Durham 27705, strongly supported the ordinance and the changes.

Al Bincarousky, PO Box 96, Kipling, NC 27543, stated that he was a proponent for tethering.

Kristin Tresidder, PO Box 96, Kipling NC 27543, stated that she disagreed with the proposed size of the fencing.

Ellen Whitaker, 713 Arnette Ave., Durham 27701, supported the ordinance and reminded dog owners that their dog could be brought indoors.

Chairman Reckhow requested that Cindy Bailey, Animal Control Administrator, respond to the issue raised by citizens about the size of the dog enclosure. “Will there be any subtraction of area for a dog house and other things that are inside the enclosure?”

Ms. Bailey replied that the dog house, water bucket, or the food bowl will not be included as part of the enclosure.

Chairman Reckhow asked that Ms. Bailey respond to the issue of wild dog packs.

Ms. Bailey responded that a survey was taken of two other counties and three cities (not including Clayton) in North Carolina which had enacted tethering laws. No increase was noted in dogs being surrendered to the Animal Shelter, in stray dogs, in dog packs, in dog bites, or aggressive dogs. In fact, dog bites decreased.

Ms. Bailey wished to clarify that roofs are not required on enclosures unless the dog is declared potentially dangerous or dangerous and only if the animal has a propensity to escape. In addition, a pen does not have to be placed on concrete unless the animal can dig out. “Most well-designed fences will work.”

Chairman Reckhow stated that at the August 4, 2008 Worksession, the Board spoke about the concept of asking community nonprofits that are involved with animals to help in terms of providing fences for dog owners who cannot afford them. An education campaign being considered by staff would help get the word out.

Commissioner Cheek stated his issues with the ordinance. “What we have heard is anecdotal evidence from across the country about this sort of situation and the problems it presents. I haven’t heard anything about there being a significant problem in Durham County with it. It concerns me that we are going to pass an ordinance without having any significant evidence in that respect put before us. I am not sure we need to go as far as this ordinance goes. This ordinance is intended, I suppose, to deal with conduct which is similar to that outlined in the ordinance as it stands right now. For instance, allowing a collar, rope, or chain to be become imbedded in or cause an injury to an animal’s neck. I’m not so sure that the language about tethers must be made of rope, twine, cord, or similar material on a swivel, which is now going to be the law with respect to an attended lease, isn’t sufficient to accomplish the purposes we are looking at. I am concerned that there isn’t any provision anywhere for technical assistance to people who are trying to figure out how I’m going to put proper fencing on my property. I am most concerned because of an issue I have talked about twice already—there is no provision that we are making for people who truly cannot afford to do

this, particularly elderly people who are living hand to mouth; sometimes their pets are the closest thing they have to a loved one. Without dealing with that issue, I will vote against this.”

Commissioner Heron stated that the ACAC has been meeting for two years about this issue, at least once a month, with legal advice. The Committee is appointed by the County Commissioners. The Committee elected Amanda Arrington as its chairman. There is no bias on the Committee; every meeting is advertised and open to the public.

At the request of Chairman Reckhow, Ms. Bailey spoke to the issue raised by Commissioner Cheek—“Why were the proposed ordinance changes brought before the Board?”

Ms. Bailey responded that she was appointed by the County as an Animal Cruelty Officer in the 1990s. The majority of cruelty/abuse investigations and prosecutions were related to dogs on chains—embedded collars, water buckets overturned, twisted chains, etc. The same problems still exist. The problem is not going away. Education has not alleviated the problem.

Vice-Chairman Page mentioned that people complain about noise generated by tethered dogs.

Ms. Bailey agreed and added that people also complain about sanitation and odor issues.

Amanda Arrington, Chairman of the ACAC, stated that the request to research the tethering issue originated from the *Durham Inter-Neighborhood Council*; that is why the ACAC took on this issue.

Commissioner Cheek stated that “in many ways, Ms. Bailey makes a point that this ordinance has allowed her to prosecute instances of abuse and cruelty as it is, and it revolves around chains which will be affected by the new tethering method. I still haven’t heard anything which causes me to feel like this is the kind of problem that deserves a new ordinance.”

Commissioner Heron moved that the Board approve the revisions to Chapter 4. “Animals” of the Durham County Code of Ordinance.

Vice-Chairman Page seconded the motion with a caveat: “While I support this because of the issues raised tonight, I really don’t want us to have to hear about irresponsible animal owners in our community. If so, and if I get a call, I’m going to bring this issue back again. I think our citizens deserve the right to be safe and free from wandering animals in the communities and developments.”

Chairman Reckhow stated that at the September 2 Worksession, she requested that the Board received regular, periodic reports on the progress related to the education campaign and be

kept apprised of the progress in terms of the coalition and the APS efforts to help with fences.

Commissioner Heron added that the education period will “help all of us. We might see some things that may need to improve or things that may need to change. It will be an education for all of us.”

Although Commissioner Cousin would no longer be a County Commissioner during the education period, he asked that data be gathered with regard to how the ordinance changes will impact citizens who will be unable to own a pet because of the constraints of the ordinance.

Chairman Reckhow stated that Ms. Bailey assured her before the meeting that she will be working on obtaining better data.

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow

Noes: Cheek

Absent: None

ORDINANCE AMENDING CHAPTER 4 OF THE  
DURHAM COUNTY CODE OF ORDINANCES

WHEREAS, pursuant to N.C. Gen. Stat. §§ 153A-121 and 153A-127, the Board of Commissioners has the authority to define and prohibit the abuse of animals; and

WHEREAS, the Board of Commissioners, pursuant to their authority granted under Article 6 of Chapter 153A of the North Carolina General Statutes, enacted an Animal Control Ordinance; and

WHEREAS, the Board of County Commissioners wishes to amend the Animal Control Ordinance to further define and prohibit the abuse of animals.

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

1. That Section 4-13 of the Durham County Code of Ordinances, entitled Definitions, is hereby amended to read as follows:

Sec. 4-13. Definitions.

*Abandon* means to intentionally, knowingly, recklessly, or negligently leave an animal at a location without providing for the animal's care.

*Adequate shelter* means an enclosure having at least three solid sides, a roof and a floor, that remains dry inside, is ventilated and has sufficient room for an animal to move about freely and lie down comfortably and promotes the retention of body heat.

*Animal* means every nonhuman species, both domestic and wild.

*At large* means any animal found off of the property of its owner and not under restraint, or any animal previously determined to be dangerous or potentially dangerous that is not confined to a secure enclosure while on the property of its owner. This definition shall exclude any dog, which is in a dog park. This definition shall exclude any dog being used by a law enforcement officer while carrying out the law enforcement officer's official duties.

*Attended leash* means that the tethered dog is in visual range of the responsible party, and the responsible party is located outside with the dog.

*Bite* means the act of an animal seizing flesh with its teeth or jaws, so as to tear, pierce or injure the flesh.

*Board of Commissioners* means the Durham County Board of County Commissioners.

*Cats* means any and all domestic felines.

*City* means the City of Durham, North Carolina.

*Confinement* means impoundment within the county's animal shelter or other appropriate facility.

*County* means Durham County, North Carolina.

*Cruelty* and *cruel treatment* means every act, omission, or act of neglect whereby unjustifiable pain, suffering or death is caused or permitted, or attempted to be caused or permitted against animals, as well as acts or attempted acts of teasing, molesting, baiting or trapping of animals unlawfully.

*Dangerous dog* means any dog that without provocation has killed or inflicted severe injury on a person, or any dog that has been determined by the animal control administrator to be potentially dangerous pursuant to G.S. § 67-4.1.

*Dog park* means an area or tract designated by the owner of the property to be a place in which a dog or dogs are not required to be under restraint. The area or tract designated by the owner of the property must be a secured enclosure. The owner of the property shall post in a conspicuous place and manner a sign on the outside of the enclosure, which designates the area or tract as a dog park.

*Dogs* means any and all domestic canines.

*Exotic animal* means an animal that would ordinarily be confined to a zoo, or is a species of animal not indigenous to this state. The term specifically does not include animals of a species customarily held in this state as ordinary household pets, animals of a species used in the state as a domestic farm animal, fish, birds, non-venomous insects, non-venomous reptiles and species that are deemed inherently dangerous under article XII of this chapter or regulated by the North Carolina Wildlife Resource Commission.

*Feral cat* means a domestic cat which has adapted to survive in the wild, is homeless and ownerless, and having descended from stray and possible generations of abandoned house pets.

*Flood-prone area* means an area in which two or more inches of standing water is likely to accumulate during a period of normal rainfall.

*Habitual violation* means three or more violations of this chapter in the past three years and the most recent violation was within the past 12 months.

*Impoundment* means possession or seizure of an animal by the county animal control division for placement in the county's animal shelter or other appropriate facility.

*In estrus* means a female animal in what is commonly called "heat."

*Livestock* shall include, but shall not be limited to, equine animals, bovine animals, sheep, goats, llamas, and swine as set forth in N.C.G.S. Chapter 68 Article 3.

*Microchip* refers to a tiny permanent identification system, implanted under the animal's skin and read by a chip scanner which identifies the owners name and address which is available on regional or national data bases. Implantation is done with an injector that places the chip under the loose skin over the animal's shoulder.

*Nuisance* means any act of an animal that annoys or disturbs rights and privileges common to the public or enjoyment of private property. The commission on more than one occasion of the following acts shall be evidence of a nuisance:

- (1) Gets into or turns over garbage containers.
- (2) Walks on and/or sleeps on automobiles of another.
- (3) Damages gardens, foliage or other real or personal property.
- (4) Continuously or frequently roams or is found on the property of another.
- (5) Is maintained in an unsanitary condition so as to be offensive to sight or smell.
- (6) Is not confined to a building or secure enclosure while in estrus.
- (7) Chases, snaps at, attacks, or otherwise molests pedestrians, bicyclists, motor vehicle passengers, farm stock, or domestic animals.
- (8) Eliminates on private property without the permission of the owner.
- (9) Is a dangerous or potentially dangerous dog as determined by the animal control administrator.
- (10) Is diseased or dangerous to the health of the public.
- (11) Is housed or restrained less than 15 feet from a public street, road, or sidewalk and, in the discretion of the animal control officer, poses a threat to the general safety, health, and welfare of the general public.

*Owner* means any person, group of persons, firm, partnership, or corporation owning, keeping, having charge of or taking care of an animal or allowing an animal to remain on his/her property.

*Owner's property* means that area described in a deed of conveyance or the area described in a lease. In a situation involving townhomes or condominiums, animal control will treat the common areas as being owned by the homeowner's association. In a situation involving leased apartments, animal control will treat the common areas as being owned by the lessor/property owner. A motor vehicle is not a part of the owner's property unless it is physically located on the area described in a deed of conveyance or the area described in a lease. A motor vehicle that is physically located in or on the common areas of townhomes, condominiums or leased apartments, or other public areas shall be treated as being off of the owner's property.

*Person* means any human being, firm, partnership, or corporation, including any nonprofit corporation.

*Pet shop* means a business or enterprise, that acquires for the purpose of resale animals bred by others whether as owner, agent or on consignment and sells, trades or offers to sell or trade such animals to the general public at retail or wholesale.

*Rabies vaccinator* means a person appointed and certified to administer rabies vaccine or a licensed veterinarian

*Restraint* means a secure enclosure located on the owner's property, attended leash, or electronic device of sufficient strength which allows the owner to maintain control of an animal. Voice command is not recognized as adequate restraint.

*Secure enclosure* unless otherwise specifically defined herein, means an enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner. A motor vehicle shall not constitute a secure enclosure.

*Stray, lost, or unwanted* means any animal found within the county wandering at large which does not have identification of an owner.

*Tethering* means tying out or fastening a dog outdoors on a rope, chain or other type of line for holding a dog. This shall not include tying out or fastening a dog outdoors on an attended leash.

*Vaccination* means the administration of rabies vaccine by a licensed veterinarian or by a certified rabies vaccinator.

*Wild animal* means any animal that is or once was native to this state or any species of wild bird which naturally occurs or historically occurred in this state, being native or migratory.

*Working days* means any day of the week excluding Saturday, Sunday and legal holidays. If the last day of the time period specified herein shall fall on a Saturday, Sunday or legal holiday, then the action required shall be undertaken on the next day that is not a Saturday, Sunday or legal holiday.

2. That Section 4-62 of the Durham County Code of Ordinances, entitled General care; prohibited acts, is hereby amended to read as follows:

Sec. 4-62. General care; prohibited acts.

All animals shall be kept and treated under sanitary and humane conditions and it shall be unlawful for any person to engage in one or more of the following acts:

(1) *Failure to provide adequate food.* All animals, unless otherwise indicated in this chapter, shall be given at suitable intervals, not to exceed 24 hours, a quantity of wholesome foodstuff in a container suitable for the age and species of the animal and sufficient to maintain a healthful level of nutrition

(2) *Failure to provide adequate water.* All animals shall have constant access to a supply of clean, fresh, potable water or a supply of clean, fresh potable water provided at suitable intervals. If access is not constant, then adequate amounts of water must be provided at least twice in a 24-hour period. If water is provided at intervals, it must remain in the animal's enclosure for at least one hour during each interval.

(3) *Failure to provide adequate shelter.* All animals shall be provided with adequate shelter from the weather at all times. Examples of inadequate shelter include, but are not limited to the following:

- a. Underneath outside steps, decks and stoops.
- b. Underneath houses.
- c. Inside or underneath motor vehicles.
- d. Inside metal or plastic barrels.
- e. Inside cardboard boxes.

- f. Inside temporary animal carriers or crates.
  - g. Shelters located in flood-prone areas.
  - h. Shelters surrounded by waste, debris, obstructions, or impediments that may endanger an animal.
- (4) *Failure or refusal of any owner* in contact with or having knowledge of a sick, diseased or injured animal to provide proper medical treatment for the animal or notify the animal control division of the condition. A sick animal shall go no longer than 24 hours without veterinary care.
- (5) *Animal abuse.* Examples of animal abuse include, but are not limited to the following:
- a. Allowing a collar, rope, or chain to become embedded in or cause injury to an animal's neck.
  - b. Allowing a choke or pinch collar to be used as a primary collar when the animal is left unsupervised.
  - c. Allowing a dog or cat to be left outside in inclement weather or extreme temperatures without adequate shelter.
  - d. Intentionally allowing animals to engage in a fight.
  - e. Allowing animals to be kept in unsanitary conditions.
  - f. Allowing animals to be kept in crowded conditions. As to dogs, less than 100 square feet of unobstructed area per each dog weighing 20 pounds or under, less than 200 square feet of unobstructed area per each dog weighing greater than 20 pounds. This sub section (f) shall not apply to licensed boarding facilities, licensed pet stores, veterinary care, and grooming facilities.
  - g. Trapping a dog or cat without a permit issued by animal control.
  - h. Permitting any exhibit, function, or activity where animals are being cruelly treated or animals run the risk of causing injury to the public or themselves. The animal control division shall have the authority to inspect and to close down public exhibits of animals which are part of fairs, carnivals, festivals, fund raising events, petting zoos and any other activity or function carried out in the county if it is determined that animals are being cruelly treated, abused or run the risk of causing injury to the public or themselves.
- (6) *Tethering of a dog except under the following circumstances:*
- a. Tethering for a period not to exceed 7 consecutive days while actively engaged in:
    - (i) shepherding or herding livestock;
    - (ii) lawful dog activities such as hunting training and hunting sporting events, field and obedience training, field or water training, law enforcement training, veterinary treatment and/or the pursuit of working or competing in these legal endeavors;
    - (iii) meeting the requirements of a camping or recreational area
  - b. When participating in recognized exempt activities or when a dog is on an attended leash, tethered dogs shall be attended by a responsible person and shall be tethered in a manner that does not cause unjustifiable pain, suffering, or risk of

death. Tethers must be made of rope, twine, cord, or similar material with a swivel on one end or must be made of a chain that is at least ten feet in length with swivels on both ends and which does not exceed ten per cent of the dog's body weight. All collars or harnesses used for the purpose of tethering a dog must be made of nylon or leather.

(7) Leaving an animal in a closed vehicle or other enclosure for such duration or at such temperatures as an animal control officer or animal cruelty investigator deems harmful or potentially harmful to the animal.

(8) Carrying or causing to be carried in or upon the open area of a truck or other motor vehicle any animal that is not secured in an animal carrier or by a harness or other device, such that the animal cannot fall from, jump from or be thrown from the vehicle.

(9) Failure or refusal to report injured or killed domestic animals.

- a. All persons who injure or kill a domesticated animal by running over, into or otherwise coming into contact with such animal with an automobile, motorcycle, bicycle or other vehicle shall notify the owner of the animal immediately.
- b. If the owner is unknown, the person who injured or killed the animal shall immediately notify the animal control administrator, or the police department if the injury or death occurred in the city, or the sheriff's department if the injury or death occurred in the county by giving his or her name and address, a description of the animal and the location of the incident.

(10) Unless otherwise permitted by law, giving away or offering any animal as a prize, premium or advertising device for or as an inducement to enter any contest, game or other competition involving skill or chance, or auctioning, raffling or otherwise offering as a prize or premium any animal for fundraising or charitable purposes.

(11) Displaying any dog or cat on public property for the purpose of selling or giving the animal away. This subsection (11) shall not apply to the display of animals in a Pet Shop, commercial kennel, veterinarian's office, or display by a nonprofit animal welfare entity organized and operated under 501(c)(3) of the Internal Revenue Code.

This section 4-62 is not intended, and shall not, in any manner regulate the Durham County Animal Shelter or the care of animals that fall under the exclusive province of federal or state laws.

3. The Chapter, as amended, is effective on the 1st day of January, 2010.

### **Board and Commission Appointments**

Commissioner Heron recommended the appointment of both applicants to the Juvenile Crime Prevention Council due to the resignation of a second member, Daniella Gabriel.

Vonda Sessoms, Clerk to the Board, distributed ballots to the Board to make appointments to the following boards and commissions; incumbents are underlined:

Audit Oversight Committee:

Karen Percent (CPA; recommended by AICPA)

City-County Appearance Commission:

Jonathan Parsons (recommended by JCCPC)

Jimmie Powell (recommended by JCCPC)

Civic Center Authority:

Rosemarie Kitchin

Juvenile Crime Prevention Council:

Arnold Dennis

Harriet Sander

Library Board of Trustees

Michael Schoenfeld

Nursing Home Community Advisory Committee

Cathy Hynes (Recommended by NHCAC)

Virginia Martin (Recommended by NHCAC)

Women's Commission

Barbara Mezo

**Closed Session**

Commissioner Cheek moved, seconded by Vice-Chairman Page, that the Board adjourn to closed session to consult with an attorney and to preserve the attorney-client privilege and to discuss County of Durham v. E.T. Development Corporation, 08 CVS 3340, pursuant to G.S. § 143-318.11(a)(3) and to discuss matters relating to the location or expansion of a business or industry pursuant to G. S. 143-318.11(a)(4).

The motion carried unanimously.

**Reconvene to Open Session**

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

**Adjournment**

There being no further business, Commissioner Reckhow adjourned the meeting at 9.33 p.m.

Respectfully submitted,

Vonda Sessoms, CMC  
Clerk to the Board