

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

Monday, June 9, 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

Chairman Reckhow amended the agenda to add Appointment—NACo Annual Conference Voting Delegate prior to the Closed Session.

Announcements

Chairman Reckhow announced that County Manager Mike Ruffin underwent emergency surgery last week but is recovering well. In the interim, Deputy County Manager Carolyn Titus will serve as Acting County Manager with the assistance of Deputy County Manager Wendell Davis.

Minutes

Vice-Chairman Page moved, seconded by Commissioner Heron, to approve as submitted the May 27, 2008 Regular Session Minutes of the Board.

The motion carried unanimously.

Resolution Honoring the Service of an Outstanding Citizen

Chairman Reckhow read the following resolution as a surprise to honor the service of a Durham County citizen who is relocating to Texas:

WHEREAS, Elizabeth "Liz" Pullman has been an active member of the Durham County Open Space Commission prior to the merger with the Durham Urban Trails and Greenways Commission to form the Durham Open Space and Trails Commission (DOST), and has continued in that role as a member of DOST; and

WHEREAS, her expertise as a botanist has been invaluable in the area of land stewardship as she reviewed countless development plans and helped local elected officials make reasoned decisions in preserving large and small tracts of land; and

WHEREAS, she was instrumental in getting the *Durham County Inventory of Important Natural Areas, Plants, and Wildlife* edited and adopted as a tool within the land use ordinance that protects and identifies rare species of plants and animals; and

WHEREAS, Ms. Pullman has helped to bring Durham to the forefront in “green” circles as one who is professionally competent and has assisted in preserving over 2,000 acres of open space in our community including many unique, special, and beautiful places; and

WHEREAS, as an active member of the Triangle Land Conservancy, Ms. Pullman is highly regarded as a “walking encyclopedia” of the flora, fauna, and geology of Durham County; and

WHEREAS, her unwavering commitment to stewardship of the land is unparalleled and will be sorely missed:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby celebrate and honor the outstanding work of

ELIZABETH “LIZ” PULLMAN

and the lasting positive influence that her efforts will have in keeping Durham County a community that respects and values natural areas and open space. We wish her only the best as she relocates from Durham County.

This the 9th day of June, 2008.

/s/ All Five Commissioners

Chairman Reckhow called Ms. Pullman forward to accept the resolution.

Ms. Pullman received a standing ovation from the audience.

Chairman Reckhow referenced an email from Annette Montgomery, DOST Development Review Board member, stating that Ms. Pullman contributes an estimated 200 hours each year reviewing development plans submitted to the City and County.

Ms. Pullman thanked the Board for the recognition.

Consent Agenda

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

- a. Approval of Durham's Home and Community Care Block Grant Funding Plan through the Department of Social Services (funding for the Plan has been incorporated into the Manager's proposed FY 2009 Budget);
- b. Board Appointment—Animal Control Advisory Committee (appoint Joyce Archus to the Animal Control Advisory Committee as the official representative of the Animal Protection Society);
- e. Intentionally Left Blank;
- f. Approval of Professional Services for the Architectural Programming and Planning Study for the Durham County Main Library Renovations: Project No: DC093 (authorize the execution of a \$197,766 contract with SmithGroup, PLLC to provide professional services for the programming and planning study for the Durham County Main Library renovations, plus a reimbursable amount of \$10,000, thus totaling \$207,766; execute any other related contracts, if necessary, not to exceed the estimated budget of \$225,000); and
- g. Receive the Annual Report of the Design District Review Team.

The motion carried unanimously.

Consent Agenda Items Removed for Discussion

Chairman Reckhow pulled Consent Agenda Item Nos. c and d to allow signed speaker Dr. E. Lavonia Allison, PO Box 428, Durham 27702, to comment; however, Dr. Allison was not present in the room when her name was called.

Commissioner Cousin moved, seconded by Commissioner Cheek, to approve Consent Agenda Item Nos. c and d.

The motion carried unanimously.

Consent Agenda Item No. c. Approve the First Amendment to the Interlocal Cooperation Agreement between the County and the City of Durham for the Joint Funding of an Assistant District Attorney for Domestic Violence Cases for Fiscal Year 2009.

NORTH CAROLINA
DURHAM COUNTY

FIRST AMENDMENT

THIS FIRST AMENDMENT is made and entered into this 9th day of June, 2008 by and between the COUNTY OF DURHAM (hereinafter referred to as "County") and the CITY OF DURHAM (hereinafter referred to as "City").

WITNESSETH:

THAT WHEREAS, the County and City entered into an Interlocal Agreement dated March 10, 2008, for the provision of jointly funding the cost of an additional ADA position with the 14th Judicial District to address the speedy disposition of cases involving domestic violence in Durham County, (hereinafter the "Original Agreement"); and

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

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

1. The Term of the Original Agreement is hereby extended through June 30, 2009 (the "Extended term").
2. Section 2 of the Original Agreement is amended for the Extended Term as follows:

The City and County shall share equally in funding one ADA Position for the 14th Judicial District. The cost of the ADA Position for the Extended Term shall be an amount not to exceed Sixty Three Thousand Dollars (\$63,000), which costs include salary and benefits. Pursuant to the contract between the County and the AOC, the DA has the authority to set the salary and the County shall only pay the AOC while the Position is filled and the cost of the position is fixed.

At the end of the Extended Term, the County shall invoice the City for one-half the cost of the ADA Position paid by the County to the AOC for the immediately preceding term, which amount shall not exceed \$31,500. Payment shall be made by the City to the County within thirty (30) days of the date of invoice from the County.

Pursuant to the contract between the County and the AOC, in no event shall the amount funded for the ADA position exceed \$63,000 for the Term, without an amendment to said contract and this Interlocal Agreement.

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

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

Consent Agenda Item No. d. Budget Ordinance Amendment No. 08BCC000073 and Capital Project Amendment No. 08CPA000021—Movement of Mental Health and Public Health Operating Funds (\$92,800) to the Telephone System Upgrade Capital Project (DC084) (to complete telephone upgrade needs; this action will increase the project budget to \$1,502,800).

DURHAM COUNTY, NORTH CAROLINA
FY 2007-08 Budget Ordinance
Amendment No. 08BCC000073

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2007-08 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>			
Human Services	\$419,140,367	(\$92,800)	\$419,047,567
Other	\$29,217,624	\$92,800	\$29,310,424

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

This the 9th day of June, 2008.

DURHAM COUNTY, NORTH CAROLINA
FY 2007-08 Capital Project Ordinance
Amendment No. 08CPA000021

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2007-08 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>			
Telecommunication System Upgrade Project	\$1,410,000	\$92,800	\$1,502,800

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

This the 9th day of June, 2008.

Public Hearing on the FY2008-2009 Recommended Budget

Chairman Reckhow welcomed everyone to the public hearing to receive citizen input on the FY 2008-09 recommended budget. Due to the large number of citizens signed up to speak, she set a time limit of two minutes for each speaker.

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

The following speakers emphasized the roles of their represented agencies and beseeched the Board to approve their agencies' requested funding:

Jane Goodridge, Chair of the Durham History Museum Planning Committee, 3929 Nottaway Road, Durham 27707, requested that the Board reinstate funding for the Cultural Master Plan.

Lisha Johnson, 301 Denver Avenue, Durham 27704, requested additional Encore! after school programs.

Sharon Roane, 213 Walsenburg Drive, Durham 27712, echoed Ms. Johnson's comments regarding Encore! programs.

Barker French, Chair of the Cultural Master Plan Advisory Board, 1005 Monmouth Ave, Durham 27701, requested additional funding for the Cultural Master Plan.

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, alleged that the County awards economic development contracts to non-501(c)(3) corporations such as Downtown Durham Inc., Research Triangle Partnership, and the Greater Durham Chamber of Commerce. She urged the Commissioners to allow African-American corporations to apply for such contracts.

Commissioner Cheek rebutted Ms. Peterson's allegations regarding the nonprofit status of Downtown Durham Inc., Research Triangle Partnership, and the Greater Durham Chamber of Commerce. He informed Ms. Peterson that the County Attorney's office has investigated her concern and determined that the corporations are 501(c)(3), nonprofit.

Irene Dwinnell, representing Truancy Triage Center, 110 East Geer Street, Suite 1, Durham 27701, thanked the Board for its recommended funding for the Center.

Ted Whiteside, representing Durham's Partnership for Children, 1201 South Briggs Avenue, Durham 27703, thanked the Board for including Durham's Partnership for Children in the FY08-09 budget; however, he requested that the Board increase the funding.

Dr. E. Lavonia Allison, representing Durham Committee on the Affairs of Black People, PO Box 428, Durham 27702, expressed concerns regarding funding for various nonprofits and the public hearing process. She asked if the public would be given another opportunity to provide input on tax increases.

Allan Lang, representing GAL for DSS and Durham County Library, 601 Flagstone Way, Durham 27712, 1) requested that the Board reconsider funding collections for South and Southwest Libraries due to open next year, 2) inquired about a solution for retaining DSS employees, and 3) recommended that the Board consider another source of revenue to fund stormwater management.

Ken Berger, Chair of Durham County Library Board of Trustees, 4031 Trotter Ridge Road, Durham 27707, thanked the Board for the amounts awarded for the Libraries. He also extended thanks to Library Director Skip Auld, Library staff, and Durham citizens for its continued support. Mr. Berger noted that there is no inflation factor in the FY08-09 Collections budget for the Library and asked that the Board reconsider the budget later in the fiscal year.

Mary Ellen Bowers, representing Executive Service Corps of the Great Triangle, DUMC 3669, Durham 27710, urged the Board to approve the Corps' funding request of \$10,000 in scholarships for nonprofits.

Trudy Smith, Executive Director, Executive Service Corps of the Great Triangle, DUMC 3669, Durham 27710, echoed Ms. Bowers' comments.

Beth Livingston, representing AnimalKind, 1315 Glendale Avenue, Durham 27701, spoke in favor of the County Manager's recommendation to award a nonprofit agency grant for AnimalKind/The \$20 Fix program.

Susan Teer, President of the Durham County Animal Protection Society (APS), 3520 Stoneybrook Drive, Durham 27705, spoke in favor of awarding a nonprofit agency grant to AnimalKind. If the funding is approved, APS will, in turn, award matching funds.

Meredith Barthelemy, Manager of Pet Overpopulation Control, 1411 Hopedale Avenue, Durham 27707, encouraged the Board to approve funding for AnimalKind.

Rosemary Fitts, representing Triangle Champions Track Club (TCTC), 2529 Weaver Street, Durham 27707, spoke in support of funding for TCTC.

Sherry Devries, Executive Director of the Durham Arts Council, 5 Hazen Court, Durham 27712, requested additional funding for the Cultural Master Plan.

Spencer Bradford, Executive Director, Durham Congregations in Action (DCIA), 504 West Chapel Hill Street, Durham 27701, requested that the Board amend the County Manager's budget recommendation to include the requested funding for *Yo: Durham*.

Susan Blackmon, Director of *Yo: Durham*, DCIA, 504 West Chapel Hill Street, Durham 27701, briefly discussed accomplishments and successes with *Yo: Durham* and urged the Board to approve the requested funding.

Randall Laws, representing Triangle Champions Track Club (TCTC), 13 Calaveras Court, Durham 27713, discussed the benefits of TCTC to Durham youth and requested that the Board approve funding.

Tim Thorpe, President of the Triangle Champions Track Club (TCTC), 505 Uzzle Street, Durham 27713, requested that the Board approve funding for TCTC.

Kiara Thorpe, representing Triangle Champions Track Club (TCTC), 505 Uzzle Street, Durham 27713, commented on her positive experience while participating in TCTC.

Kim Arrington, representing Durham Arts Council, 7 Bluebell Court, Durham 27713, spoke to the proposed budget cut for the Cultural Master Plan.

Josh Parker, member of the Cultural Master Plan Advisory Board, 1501 Autumn Ridge Drive, Durham 27712, requested that the Board continue funding the Plan.

John Moore, representing Love & Respect, 1515 Angier Avenue, Durham 27703, requested that the Board approve the requested funding for Love & Respect.

Chairman Reckhow closed the public hearing and thanked the citizens for their comments.

Chairman Reckhow addressed concerns of Dr. Allison regarding the public hearing process and the prepared food tax. She replied that the budget process began in February with the first public hearing to allow citizens the opportunity to provide input on the budget. The Board has held several budget worksessions prior to tonight's public hearing and will hold another one prior to approval of the budget at the June 23 Regular Session. Chairman Reckhow stated that per a request by Vice-Chairman Page in 2006, the Commissioners initiated "Conversations with Commissioners" meetings throughout the community to encourage citizen input on the upcoming year's budget. Unfortunately, those "conversations" were very lightly attended; therefore, the meetings were not continued this year. She stated that the Board would be happy to entertain other ways to get citizens involved in providing feedback on the budget. Regarding the prepared food tax, the County is in the beginning phase. A referendum is being planned, but the Commissioners are willing to listen to citizens' comments on the tax.

Deputy County Manager Carolyn Titus responded to Dr. Allison's question regarding the number of nonprofits that were recommended for funding. She replied that 33 nonprofits were recommended; three were new applicants.

Assistant County Manager Heidi York informed Dr. Allison that she currently does not have access to the criteria for nonprofits, but the information can be distributed at the June 12 Budget Worksession when nonprofit funding is scheduled to be discussed.

Chairman Reckhow added that one criterion is that a program aligns with a Results Based Accountability subject area. During its 2008 retreat, the Board decided on three criteria areas when awarding nonprofit funding: 1) reconnecting our youth; 2) economic empowerment; and 3) sustainability.

Chairman Reckhow directed Ms. York to obtain Dr. Allison's email address and forward the criteria information to her.

Per a request by Mr. Lang, Chairman Reckhow agreed to ask staff to post the nonprofit criteria on the County's website.

Chairman Reckhow reiterated thanks to the citizens and stated that the Board will continue its deliberations on Thursday, June 12, during the budget worksession.

Public Hearing—Unified Development Ordinance (UDO) Text Change—Driveway Names (TC07-17)

T. E. Austin, AICP, Supervisor, City-County Planning Department, requested that the Board receive public comments on Text Change—Driveway Names (TC07-17) and adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 12, Infrastructure and Public Improvements, and Article 13, Additional Requirements for Subdivisions. Mr. Austin stated that the text change would allow the naming of driveways and townhouse development common areas for public safety reasons and would create the necessary standards. The required notification and advertising have been made in accordance with the appropriate standards.

Commissioner Heron clarified that the purpose of the text change is to name driveways within townhome developments to assist emergency services providers.

Chairman Reckhow opened the public hearing that was properly advertised. As no one signed up to speak, she closed the public hearing and referred the matter back to the Board.

Commissioner Heron moved, seconded by Commissioner Cousin, to approve Unified Development Ordinance (UDO) Text Change—Driveway Names (TC07-17).

The motion carried unanimously.

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE
CONCERNING DRIVEWAY REQUIREMENTS

WHEREAS, the Durham County Board of Commissioners wishes to amend certain provisions regarding driveway requirements in the Unified Development Ordinance; and

WHEREAS, it is the objective of the Durham County Board of Commissioners to have the UDO promote the health, safety, and general welfare of the community.

NOW, THEREFORE, be it ordained that Article 12, Infrastructure and Public Improvements, and Article 13, Additional Requirements for Subdivisions, of the Unified Development Ordinance are amended to make the following changes:

SECTION 1

Modify the following paragraphs of Section 12.2, Ingress and Egress Requirements, of the UDO: paragraph 12.2.2, Other Forms of Access, paragraph B, Ingress/Easements Other than Private Streets, paragraph 2, Other than in the Rural Tier, paragraph b, Private Driveways; and paragraph 12.2.3, Acceptance by City of Private Streets, as set forth below.

12.2.2 Other Forms of Access

No building shall be erected or enlarged on a parcel in any district unless such parcel abuts upon or has access to a publicly-accepted and maintained street, except in the following circumstances.

B. Ingress/Egress Easements Other than Private Streets

Ingress/egress easements not involving construction of a private street shall be permitted in the following circumstances:

1. In the Rural Tier

- a. Easements shall be allowed for the construction of one single-family residence on an existing lot of record as of September 16, 1996. The parcel shall not be further subdivided.

2. Other than in the Rural Tier

- a. Ingress/Egress Easements of record

Lots with ingress/egress easements of record, and developed through use of the easement, as of September 16, 1996 may continue.

- b. Driveways

A driveway shall be allowed for vehicular access to multiple parcels or lots within a townhouse development or shopping center, even if those parcels or lots may be individually owned. Any such driveway within a townhouse development shall be located entirely in a common area.

12.2.3 Acceptance by City of Private Streets

Prior to acceptance by the City, any private street, or any driveway allowed for access within a townhouse development or shopping center under Sec.

12.2.2B.2.b. above, that is not constructed and maintained to City or NCDOT street standards shall be improved to City street standards.

SECTION 2

Modify the following paragraphs of Section 12.3, Streets, of the UDO: paragraph 12.3.2, Street Names; and paragraph 12.3.3, Street Signs and Markers, as set forth below.

12.3.2 Street Names

- A. A street name shall be established for a public street or a private street. A street name may be established for a driveway allowed for access within a townhouse development under Sec. 12.2.2B.2.b. above, unless the approving authority determines that establishing a name would encourage circumvention of development requirements for private streets, sidewalks, street trees, or other items. Any street name established for a driveway in a townhouse development shall be included on the subdivision plat or site plan, and a subdivision plat revision or site plan amendment shall be required in order to establish a street name for a driveway within an existing townhouse development.
- B. Street names shall not duplicate nor closely approximate existing street names within the City or County. Extensions of existing, named streets shall bear the existing street name. A complete list of previously used names shall be maintained by the Planning Department.

12.3.3 Street Signs and Markers

- A. Standard street name signs shall be installed at one corner of all street intersections, including private streets and named driveways allowed for access within townhouse developments under Sec. 12.2.2B.2.b. above. The size, design, materials, location, fabrication, installation, and maintenance of the signs and poles within the public right-of-way and elsewhere shall be in accordance with City Public Works Department or NCDOT standards, as applicable. The developer or owner of a private street or a common area in which a named driveway is located shall be responsible for permanent maintenance as well as fabrication and installation.
- B. Signs denoting the beginning and ending of public maintenance shall also be erected and maintained on private streets and may be required on named driveways allowed for access within townhouse developments under Sec. 12.2.2B.2.b. above that intersect with the public right-of-way. All such signs shall conform to the street name sign requirements of paragraph A above.
- C. Signs denoting the right-of-way boundaries of dedicated or reserved, unopened streets shall be erected and maintained according to City or County standards.

SECTION 3

Modify Section 13.5, Lot Standards, paragraph 13.5.1, Access, as set forth below.

13.5.1 Access

Every buildable lot shall abut either a public street, a private street, or a driveway allowed for access within a townhouse development or shopping center under Sec. 12.2.2B.2.b above, capable of providing access to a lot.

SECTION 4

That the Unified Development Ordinance shall be renumbered as necessary to accommodate these changes and clarifications.

SECTION 5

That this amendment of the Unified Development Ordinance shall become effective upon adoption.

Public Hearing—Unified Development Ordinance (UDO) Text Change—Stormwater (TC07-21)

T. E. Austin, AICP, Supervisor, City-County Planning Department, requested that the Board receive public comments on Text Change—Stormwater (TC07-21) and adopt an ordinance amending the Unified Development Ordinance (UDO), incorporating revisions to Article 8, Environmental Protection, and Article 16, Definitions. Mr. Austin stated that the revisions are proposed to conform to the City's current National Pollutant Discharge Elimination System (NPDES) permit and the Stormwater Services Division's revised stormwater facility agreement and covenant process. The proposed amendment reflects modifications recommended by the Planning Commission based upon public comments received at the Commission hearing.

Chairman Reckhow acknowledged the revised Ordinance which was placed in each Commissioner's "Additional Agenda Materials" folder.

Per a request by Chairman Reckhow, Mr. Austin briefly discussed the following addition to the Ordinance:

Section 8.7.2

(D)(3)(c) For office, institutional, commercial, industrial, and multi-family projects, building permits may be issued but construction drawing approval or water or sewer permit approval shall be withheld until compliance with (a) and (b) above.

Mr. Austin stated for the record that the required notification and advertising have been made in accordance with the appropriate standards.

County Attorney Chuck Kitchen suggested that staff retain the wording "Operation and Maintenance Agreement" in Section 8.7.2 (D)(3)(a), as the Agreement is a document utilized by the County. He added that the wording should also be included in the last sentence of Section 8.7.2 (D) to read, "The Agreement and Covenants or Operation and Maintenance Agreement required under paragraph a. above may be required prior to site plan or preliminary plat approval."

Chairman Reckhow opened the public hearing that was properly advertised. She recognized signed speaker Allan Lang, 601 Flagstone Way, Durham 27712, for comments; however, he was not in the room when his name was called. Chairman Reckhow stated that Mr. Lang commented on stormwater when he spoke during the budget public hearing.

As no one else signed up to speak, Chairman Reckhow closed the public hearing and referred the matter back to the Board.

Commissioner Heron asked the Durham Stormwater and Erosion Control Inspector if he concurs with the proposed text change.

The Inspector responded in the affirmative.

Chairman Reckhow noted that the changes strengthen the UDO concerning stormwater requirements and make it more consistent with the State statute.

Commissioner Cheek moved, seconded by Commissioner Heron, to approve the Unified Development Ordinance (UDO) Text Change—Stormwater (TC07-21) with the proposed changes.

The motion carried unanimously.

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE CONCERNING STORMWATER REQUIREMENTS

WHEREAS, the Durham County Board of Commissioners wishes to amend certain provisions regarding stormwater requirements in the Unified Development Ordinance; and

WHEREAS, it is the objective of the Durham County Board of Commissioners to have the UDO promote the health, safety, and general welfare of the community.

NOW, THEREFORE, be it ordained that Article 8, Environmental Protection, and Article 16, Definitions, of the Unified Development Ordinance are amended to make the following changes:

SECTION 1

Modify Section 8.5, Stream Buffer Protection Standards, paragraph 8.5.2, Types of Stream Buffers, paragraph C, and paragraph 8.5.3, Pond Removal, paragraph A, City, and paragraph B, County, as set forth below.

8.5.2 Types of Stream Buffers

- A. The stream buffer protection standards shall apply to intermittent streams, perennial streams, and naturally occurring ponds and lakes. Stream buffers shall be clearly indicated on all development plans, site plans, preliminary plats and final plats.

- B. Where maps show a difference in stream type for a particular reach of stream, the map that shows the greater level of stream protection shall apply.
- C. Relief from buffer requirements in the Neuse River Basin may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 02B.0233(3)(a) as determined by the North Carolina Department of Environment and Natural Resources (NCDENR). The City Public Works Director, County Engineer, or designees, as appropriate, may allow relief from buffer requirements outside the Neuse River Basin pursuant to the applicable City or County standards and procedures.

8.5.3 Pond Removal

Commentary: Note that ponds that appear on USGS or NRCS maps may be wetlands and may require approval from the North Carolina Department of Environment and Natural Resources and the US Army Corps of Engineers prior to being drained.

If a property owner or applicant proposes to remove a pond and such removal is approved by the City Public Works Director, County Engineer, or designees, a stream buffer of the size required on the stream immediately downstream of the pond shall be maintained along the portion of the stream located where the pond is to be removed.

SECTION 2

Modify Section 8.7, Watershed Protection Overlay Standards, paragraph 8.7.2, General Requirements, paragraph D, Ownership, Design and Maintenance of Engineered Stormwater Controls, paragraphs 3 and 4, as set forth below.

8.7.2 General Requirements

D. Ownership, Design and Maintenance of Engineered Stormwater Controls

1. Unless otherwise approved, ownership of the engineered stormwater controls shall remain with the property owner or a property owner's association, which shall be responsible for the continued care and maintenance of such controls.
2. Engineered stormwater controls shall be designed and constructed in accordance with standards and specifications established by the City Public Works Director or County Engineer, or their designees, as appropriate.
3. Except as allowed in (c.) below, no building permit shall be issued for a site proposed for development, until:
 - a. The City Public Works Director or County Engineer, or their designees, as appropriate, has approved plans and specifications for the proposed engineered stormwater controls and the property owner has entered into an Agreement and Covenants or Operation and Maintenance Agreement with the City or County, as

appropriate, in accordance with the terms established by either the City Public Works Director or County Engineer, or their designees, as appropriate; and

- b. The property owner has posted a performance bond, other surety instrument, or other payment satisfactory to the City or County, as appropriate, in an amount determined by the City Public Works Director or County Engineer, or their designees, as appropriate to assure construction, maintenance, repair, and/or reconstruction necessary for adequate performance of the engineered stormwater controls.
- c. For office, institutional, commercial, industrial, and multi-family projects, building permits may be issued but construction drawing approval or water or sewer permit approval shall be withheld until compliance with (a) and (b) above.

The Agreement and Covenants or Operation and Maintenance Agreement required under paragraph a. above may be required prior to site plan or preliminary plat approval.

4. No certificate of compliance shall be issued for any structure constructed within a site proposed for development, other than as allowed below, until the City Public Works Director or County Engineer, or their designees, as appropriate, has approved construction of the engineered stormwater controls and after review and approval of submitted "as-built" drawings. Notwithstanding this requirement, the Stormwater Division of the City may allow for delay in approval of construction of stormwater controls and submission and approval of as-built drawings for single family housing, (including, in addition, semi-attached houses, duplexes, and townhomes) and other developments requiring multiple certificates of occupancy in accordance with adopted policies of the City.

SECTION 3

Modify Section 16.3, Defined Terms, the definitions of "Stream, Intermittent" and "Stream, Perennial", as set forth below.

Sec. 16.3 Defined Terms

Stream, Intermittent: A watercourse that collects surface runoff and is shown as a dashed blue line on the most recent United States Geologic Survey (USGS) 7½-minute quadrangle topographic maps, is shown as an intermittent stream on the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as an intermittent stream on the Natural Resource Conservation Service (NRCS) maps.

Stream, Perennial: A watercourse that collects surface runoff and is shown as a solid blue line on the most recent USGS 7½-minute quadrangle topographic maps, is shown as a perennial stream on maps in the most recent US Department of Agriculture (USDA)

Soil Survey, or is shown as a perennial stream on the Natural Resource Conservation Service (NRCS) maps.

SECTION 4

That the Unified Development Ordinance shall be renumbered as necessary to accommodate these changes and clarifications.

SECTION 5

That this amendment of the Unified Development Ordinance shall become effective upon adoption and that Sections 1 and 3 shall apply only to applications accepted after the adoption date.

Public Hearing—Unified Development Ordinance (UDO) Text Change—IL/Compact Height (TC0800001)

T. E. Austin, AICP, Supervisor, City-County Planning Department, requested that the Board refer back to Planning staff the Text Change—IL/Compact Height (TC0800001) and an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 6, District Intensity Standards.

County Attorney Chuck Kitchen asked Mr. Austin to state the reason for the request, as it would determine whether the public hearing should be re-advertised.

Mr. Austin stated that substantial changes would be made to the Ordinance.

County Attorney Kitchen advised the Board to refer the matter back to staff; staff would re-advertise the public hearing.

Per a request by Mr. Austin, the Board referred this item back to staff.

Appointment—NACo Annual Conference Voting Delegate

Chairman Reckhow added this item to the agenda to request that the Board designate a County Commissioner or other official as the voting delegate for the Annual Conference of the National Association of Counties (NACo), which will be held in Jackson County, Kansas City, Missouri on July 11-15, 2008.

County Attorney Chuck Kitchen indicated that due to the current work load and a foreseen shortage of staff in his department, he will not be attending the conference and will not be able to serve as an alternate voting delegate.

Commissioner Cousin moved, seconded by Commissioner Heron, to appoint Commission Vice-Chairman Michael D. Page as the voting delegate for the NACo Annual Conference.

The motion carried unanimously.

Chairman Reckhow noted that the Clerk to the Board will fill out the appropriate form and forward it to the NACo.

Closed Session

Commissioner Cheek moved, seconded by Vice-Chairman Page, to adjourn to closed session to discuss matters relating to the location or expansion of 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; direction was given to staff; no action was taken.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 9:24 p.m.

Respectfully Submitted,

Yvonne R. Gordon
Deputy Clerk to the Board