

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

Monday, January 14, 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 noted a letter about the Durham County Local Emergency Planning Committee placed at each Commissioner's station. She amended the agenda to vote on the committee's roster (to follow the "Durham Open Space and Trails (DOST) Commission Matching Grants Funding Recommendation" agenda item).

Announcements

Chairman Reckhow made the following announcements:

- Durham Neighborhood College is seeking applicants for the 2008 spring term. Applications may be obtained from the Clerk to the Board's office or by visiting the Durham County website at www.durhamcountync.gov. The deadline is January 18, 2008.
- An informational workshop will be held for the proposed SR 1978 (Hopson Road) grade separation and the North Carolina Railroad/Norfolk Southern track realignment on Tuesday, January 29, 2008, between 4:30 p.m. and 7:00 p.m. at The Solution Center in the Asheville Room, 1101 Slater Road—Suite 200, Brighton Hall, Durham.
- Per an email from Chair of the Adult Care Home Community Advisory Committee (ACHCAC) Susanna Reed, citizens who are interested in serving on the committee are encouraged to apply. The ACHCAC currently has five members and is need of additional members to contribute to ensuring that proper treatment is given to residents at adult care homes within Durham County.

Commissioner Heron commented on the important role of the ACHCAC and urged citizens to apply.

Chairman Reckhow informed the public that the committee is seeking applicants who have a few hours available every week or every other week.

Commissioner Heron gave a rave review of a prayer breakfast she attended a week ago at Mt. Sinai Baptist Church where ministers from various churches offered individual prayers followed by an elaborate breakfast.

Vice-Chairman Page indicated that he did not receive an invitation for the breakfast; however, he was notified of the event via email from Deborah Craig-Ray, Assistant County Manager, a few days prior but he was unable to attend.

Chairman Reckhow stated that she was out of town the morning of the prayer breakfast. She thanked Commissioner Heron for representing the Board.

Motion to Excuse Vice-Chairman Page

Commissioner Heron moved, seconded by Commissioner Cheek, to excuse Vice-Chairman Page from the January 28, 2008 Regular Session.

The motion carried unanimously.

Minutes

Vice-Chairman Page moved, seconded by Commissioner Heron, to approve as corrected the December 3, 2007 Worksession Minutes and as submitted the December 10, 2007 Regular Session Minutes.

The motion carried unanimously.

Resolution Supporting 2008 Events Honoring Dr. Martin Luther King Jr.

Chairman Reckhow read into the record the following resolution into the record honoring Dr. Martin Luther King's life and legacy:

RESOLUTION

WHEREAS, the Durham Community Martin Luther King Jr. Steering Committee will pay tribute to the King Legacy on January 18-21, 2008; and

WHEREAS, this year marks the 40th year of the passing of Dr. Martin Luther King Jr.; and

WHEREAS, as this nation remembers the struggles for equality, justice, peace, and humankind, we must remain committed to being a community striving to improve the quality of life for all citizens of Durham; and

WHEREAS, on January 21, 2008, the Durham Martin Luther King Jr. Steering Committee, in collaboration with numerous faith-based, government, educational, and social institutions, will join together as volunteers to provide services for the homeless in Durham; and

WHEREAS, in support of the Durham City-County Ten-Year Plan to End Homelessness, a day of community service entitled, "Bridging the Gap", will be held, and the community is invited to assemble together at CAARE Inc., 214 Broadway Street, to demonstrate caring by lending a helping hand; and

WHEREAS, the children of the Durham Community are invited to the Durham YMCA on Monday, January 21, 2008, for a Children's Fest from 10:00 a.m. – 12:30 p.m.; and

WHEREAS, the Annual Community March and Rally to demonstrate solidarity and unity on behalf of this community will depart the steps of North Carolina Mutual Life Insurance Company at 10:30 a.m. and proceed to First Presbyterian Church, 305 East Main Street, for a community celebration and rally; and

WHEREAS, the community will culminate its activities at the Union Baptist Church, 904 North Roxboro Street, with an ecumenical service celebrating the Life and Legacy of Dr. Martin Luther King Jr. at 6:00 p.m.:

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby acknowledge

"The Durham Community Martin Luther King Jr. Steering Committee"

for its tireless efforts in developing a comprehensive series of activities designed to honor the memory of Dr. Martin Luther King Jr.

BE IT FURTHER RESOLVED that we call upon Durham County citizens to support these events designed to promote goodwill in Durham and beyond.

This the 14th day of January, 2008.

/s/ All Five Commissioners

Per a request by Chairman Reckhow, Vice-Chairman Page elaborated on the events to occur in celebration of MLK Day. He urged citizens to volunteer at CAARE Inc. on January 21 at 10 a.m. to assist by providing food and medical care and distributing toiletry bags to the homeless population.

Doris Ingram-Randal, Durham Martin Luther King Jr. Steering Committee, thanked the Board for recognizing the MLK Committee and its efforts. She, along with members of the Committee, accepted the resolution from Chairman Reckhow.

Chairman Reckhow announced that Marian Wright Edelman, President of the Children's Defense Fund and a civil rights lawyer, will be the keynote speaker at Duke University's 2008 Martin Luther King Jr. celebration. The celebration will begin at 3:00 p.m., Sunday, January 20, in Duke Chapel.

Vice-Chairman Page also announced that the 3rd Annual Employee MLK Observance Program will be held on Friday, January 18, at 12:00 Noon at First Presbyterian Church. He thanked County Manager Mike Ruffin for his support of the MLK Committee and its efforts.

Consent Agenda

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

- a. Donation of Library Storage Shed by Friends of the Durham Library Inc. (accept the donation of a storage shed to be located at the Main Library);
- b. 2008 Medicare Part D Prescription Drug Plan Employer List Bill (authorize the execution of the 2008 Medicare Part D Prescription Drug Plan Employer List Bill for the 12-month period beginning January 1, 2008 through December 31, 2009);
- *c. Budget Ordinance Amendment No. 08BCC000049—Cooperative Extension—Juvenile Crime Prevention Council (authorize the appropriation of fund balance in the amount of \$19,556 for reimbursement to the North Carolina Department of Juvenile Justice and Delinquency Prevention);
- *d. Budget Ordinance Amendment No. 08BCC000050—Recognize Library Gift Fund Revenue from the Durham County Library Foundation (recognize gift funds for a total amount of \$23,016 and recognize the revenue in the library general fund budget by that amount; the Foundation pledges this money for the purpose of purchasing needed technology items throughout the entire system);
- e. Library Meeting Room Fee Revision (approve the recommendation of the Durham County Library Board of Trustees to eliminate meeting room fees for nonprofit organizations, while reinstating a \$25 fee for groups serving refreshments and \$100 fee for commercial, for-profit groups);
- f. Social Services Shell Positions (approve the establishment of 10 provisional shell positions funded through lapsed salaries);
- g. Approve the County's new Minority and Women Business Enterprise (M/WBE) Ordinance which shall become effective January 14, 2008; and
- h. Durham Public Schools—Approval of Petition to Annex Property at New Elementary B (approve and submit the annexation petition).

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. c. Budget Ordinance Amendment No. 08BCC000049—
Cooperative Extension—Juvenile Crime Prevention Council (authorize the appropriation of
fund balance in the amount of \$19,556 for reimbursement to the North Carolina Department
of Juvenile Justice and Delinquency Prevention).

DURHAM COUNTY, NORTH CAROLINA
FY 2007-08 Budget Ordinance
Amendment No. 08BCC000049

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>			
Other Financing Sources	\$40,040,573	\$19,556	\$40,060,129

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Economic and Physical Development	\$ 4,721,308	\$19,556	\$ 4,740,864

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

This the 14th day of January, 2008.

Consent Agenda Item No. d. Budget Ordinance Amendment No. 08BCC000050—Recognize
Library Gift Fund Revenue from the Durham County Library Foundation (recognize gift
funds for a total amount of \$23,016 and recognize the revenue in the library general fund
budget by that amount; the Foundation pledges this money for the purpose of purchasing
needed technology items throughout the entire system).

DURHAM COUNTY, NORTH CAROLINA
FY 2007-08 Budget Ordinance
Amendment No. 08BCC000050

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>			
Contributions & Donations	\$909,829	\$23,016	\$932,845

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Cultural & Recreation	\$11,525,014	\$23,016	\$11,548,030

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

This the 14th day of January, 2008.

Resolution Adopting Economic Development Policy

Chairman Reckhow stated that amendments to the “Resolution Adopting Economic Development Policy” were finalized by the Board of County Commissioners during its January 7, 2008 Worksession. The Board directed that the proposed policy be placed on the January 14, 2008 agenda in order to receive public comment. She acknowledged a revised draft of the Resolution at each Commissioner’s station.

County Manager Mike Ruffin reviewed key points in the Policy. He reported that Durham County has had an Economic Development Policy since 1996; it has been amended at least once. Incentives are cash grants that the County awards to industries and businesses for the cost of locating, relocating, expanding, or creating jobs. The amount of the grant and how the grant is administered is governed by the Policy. Previously incentives have been offered for manufacturing and headquartering kinds of operations, such as Quintiles, AW North Carolina, and Merck. Since the inception of the incentives policy, 16 incentive grants have been awarded. The maximum incentive that can be proposed is 2.25% of the assessed valuation for a period up to eight years. The Board may also consider the following four optional factors when deciding whether to award an incentive: 1) location in the community; 2) capacity of available infrastructure; 3) availability of onsite childcare; and 4) sustainable building design, construction, and operating practices. If one of the optional factors is satisfied, then the maximum incentive that can be proposed is 2.75% of the assessed valuation. The Board also proposes in the Policy four strategic economic areas in Durham County in which it will consider incentives for business developers. The strategic economic areas are: Downtown Durham, Northeast Central Durham, Fayetteville Street Corridor from Main Street to Cornwallis Road, and properties located within a transit-oriented development approved by either the City Council or the Board of Commissioners. Landmark designations, historic tax credits approved by the City Council, and any historic landmark that seeks the tax abatement would not be eligible for cash incentives from the County.

Chairman Reckhow addressed an email that she received from a citizen regarding the amounts of incentive awards and asking how the Board define “sustainable development”. Chairman Reckhow clarified that per No. 8 in the Economic Incentive Policy, the Board may award up to 2.25%.

County Attorney Chuck Kitchen added that No. 8 states that the “maximum” appropriation is 2.25%.

Commissioner Heron commented that No. 8 also states that a maximum of 2.75% may be awarded if a developer satisfies any of the optional factors.

Chairman Reckhow communicated that the maximum has rarely been awarded by the Board.

County Attorney Kitchen responded to the questioning the citizen's email regarding "sustainable development".

Chairman Reckhow called signed speakers forward for comments. (Each speaker was allotted three minutes.)

Ann Stock, 3527 Racine Street, Durham 27707, representing Durham CAN, requested that the Policy include provisions to ensure that companies make a good-faith effort to hire more Durham County residents.

Wisdom Pharoah, 1 A Lawson Street, Durham 27701, President of the McDougald Terrace Community, emphasized the importance of job training for County residents.

Rev. Mel Williams, 526 Clarion Drive, Durham 27705, representing Watts Street Baptist Church, echoed Ms. Stock's comments.

Matthew Ramadan, PO Box 1470, Durham 27702, representing IMAN and Operation Breakthrough, supported the Policy and encouraged the County to help the community establish a non-legally binding, good-faith agreement that would help alleviate poverty.

Victoria Peterson, PO Box 101, Durham 27702, requested that the Policy target local small businesses, particular those that are minority-owned.

John Randall, 3304 Haddon Road, Durham 27705, opposed the Policy.

Bill Kalkhof, representing Downtown Durham Inc., recommended that the Board consider raising the incentive percentage to 5% or acknowledge transformational projects where private investment would be well above the \$50 million criterion.

Casey Steinbacher, 300 West Morgan Street, Durham 27701, President/CEO, Greater Durham Chamber of Commerce, supported the Policy and requested that private developers in key areas be considered.

As no one else signed up to speak on the item, Chairman Reckhow referred the matter back to the Board.

Chairman Reckhow addressed comments made by Mr. Randall. She stated that the County does a cost benefit analysis with each incentive consideration. An investment is not made unless it will yield a dividend for Durham County.

County Attorney Kitchen responded to Mr. Kalkhof's concerns regarding local hiring. He stated that cases have been presented in which ordinances attempting to require local hiring were rejected as being "unconstitutional". He stated, "What we've done is probably as far as we can go. We've done several things here and they have not been mentioned. In our current policy, as well as our practice, a couple of things we have done first of all we are requiring wages to equal the amount of the average wage that's set forth by the Employment Security Commission by job. In addition to that, the employers have to provide health insurance and pay at least 50% of the premium. We are also requiring or also permitting or stating that a portion of funding for the jobs is provided for the training of Durham County citizens. We have done that in several, or at least 2 or 3, of the contracts at this point."

County Attorney Kitchen responded to Chairman Reckhow that it is at the Board's discretion as to how much training for local residents is required of companies. He continued to state, "In addition to that, we are requiring that when funds are provided for the training, they list those jobs with the Employment Security Commission, Durham County Department of Social Services, and Durham County Workforce Development Board. What we are not doing is saying that those companies have to hire Durham County citizens first, which I just don't think you can do under existing court cases. I think it goes too far, and I think it is unconstitutional. What we're saying is you got to let us know about those jobs to give Durham County citizens the opportunity to apply for them."

Commissioner Cheek commented that he will continue to look at the Policy as "a work in progress". He expressed interest in having good faith provisions; however, it would not be solved tonight. Commissioner Cheek suggested performing further research to update the law that the County Attorney has reviewed and to do so legally. His understanding of the Policy's intent is not targeted towards small businesses and companies; it is intended to consider significant/new/additional investments in Durham County to general additional tax base and additional new jobs into the County. Commissioner Cheek opined that thus far, the County has taken a step in the right direction. He supported approving the Policy at tonight's meeting.

At the request of Vice-Chairman Page, Chairman Reckhow addressed Ms. Peterson's comment regarding small businesses receiving economic incentives from the County. She stated that the County does not have an economic development department or adequate staff to manage small business incentives; incentives are currently processed by Deputy County Manager Carolyn Titus. However, the City of Durham has a larger staff to accommodate small business and housing requests.

County Manager Ruffin added that the County processed six incentive awards in 2006.

Vice-Chairman Page thanked citizens for their input. He commented that it is an injustice not to require that companies hire local citizens and requested further research into the legalities of that requirement.

Chairman Reckhow emphasized that a company is not considered for an incentive unless it pays the livable wage. The Policy has also been strengthened to include health benefits for employees.

Commissioner Heron stressed that Durham County provides exceptional job training at Durham Technical Community College for its residents.

Commissioner Cousin echoed Commissioner Heron's enlightenment of the training facility at Durham Tech. He articulated that the Policy strongly recommends that companies requesting incentives hire local Durham citizens. Commissioner Cousin inquired about the City and the County's incentive grants in regards to housing and how often does the City report on its incentive appropriations for small and minority businesses.

Chairman Reckhow recapped the expressed position of the Board, which is to adopt the Policy and ask staff to continue to research the requirements of local hiring.

County Attorney Kitchen responded to Chairman Reckhow that he would be prepared to report his findings in March.

Chairman Reckhow recommended approving the Policy at tonight's meeting and receiving County Attorney Kitchen's report in two months. She stated that she and Vice-Chairman Page are active members of the Workforce Development Board and frequently suggest aligning the workforce training program with new companies locating to Durham and taking the opportunity to train citizens for these jobs; progress has been made over the years.

Commissioner Cheek moved, seconded by Commissioner Heron, to approve the Resolution Designating Strategic Economic Areas.

Commissioner Heron commented that the Policy is a large step for the County as it puts County dollars into economic development.

Vice-Chairman Page asked if the Board would be permitted to amend the Policy once the research report is submitted by the County Attorney.

Chairman Reckhow responded in the affirmative.

Commissioner Heron briefly compared the current Economic Development Policy to the former Policy.

Chairman Reckhow reiterated that the Board may amend the Policy at a later date; staff is being directed to conduct research and bring back a report in March.

Commissioner Cheek clarified that he is willing to amend the Policy for improvement at any time.

Commissioner Cousin concurred with Commissioner Cheek's comment.

Chairman Reckhow directed staff to research the following issues and then submit a report to the Board in March:

- workforce and training
- residential development
- landmark designation
- increasing the 2.75% appropriation
- incentives for small and minority businesses

Vice-Chairman Page suggested broader advertising of jobs that are offered by companies which receive County incentives.

Commissioner Heron stated that staff should ensure that the County does not duplicate efforts by the City when researching the raised issues.

The motion carried unanimously.

RESOLUTION DESIGNATING STRATEGIC ECONOMIC AREAS

WHEREAS, the Board of Commissioners has adopted an Economic Development Policy which provides for economic incentives for commercial facilities in certain designated areas; and

WHEREAS, to provide for the common welfare of the community, and to provide for economic growth in underdeveloped areas or areas needing redevelopment, the Board of Commissioners has determined the areas of Durham County which are in need of additional development or redevelopment:

NOW, THEREFORE, THE BOARD OF COMMISSIONERS DOTH RESOLVE:

1. The following are designated as Strategic Economic Areas pursuant to the Durham County Economic Development Policy:
 - Downtown Durham as defined by in 1992 and shown on a map on Page 11 of the *Downtown Durham Master Plan, Seven Year Review and Updated Work Plan, December 2007*.
 - Northeast Central Durham (as defined by the Office of Economic and Workforce Development, City of Durham, NC).
 - Properties with frontage along Fayetteville Street from its intersection with Main Street to its intersection with Cornwallis Road.
 - Properties located within a Transit-Oriented Development approved by either the Durham City Council or the Durham County Board of Commissioners.
2. This Resolution shall be effective upon adoption.

This the 14th day of January, 2008.

Commissioner Cheek moved, seconded by Commissioner Heron, to approve the Resolution Adopting Economic Development Policy.

The motion carried unanimously.

RESOLUTION ADOPTING ECONOMIC DEVELOPMENT POLICY

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

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

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

WHEREAS, the Board of Commissioners desires to limit the County's expenditures to facilities which would not locate or expand in Durham County without these economic development expenditures; and

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

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

1. The prior Resolution entitled "Resolution Establishing the Durham County Economic Development Investment Fund", as amended, is hereby rescinded by the adoption of this Resolution.

2. Appropriations will be considered for developers of commercial facilities in strategic economic areas, which shall be such areas as are designated from time to time by the Board of Commissioners, and industrial facilities, companies with a presence in or to be located in Durham County which meet the new investment and new jobs thresholds. In no event will appropriations be made for residential development.

3. Appropriations shall only be considered for:

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

or

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

4. Developers or companies seeking to qualify for an appropriation pursuant to this policy shall provide Durham County with a written statement which includes the following information:

- a) estimated value and square footage of the facility or facilities to be constructed;
- b) estimated value and type of equipment to be installed;
- c) estimated costs of the design and construction of any activity related to preparing land for use if such activity is being proposed to be paid for by the County;
- d) explanation of what product or service the developer or company will be producing or providing;
- e) name and address of developer or company seeking an appropriation;
- f) estimated number of jobs to be created and corresponding salaries expected to be paid for such jobs;
- g) location of the proposed facility or company;
- h) schedule of construction or relocation of the company;
- i) statement as to whether or not there will be on-site child care; and
- j) statement as to whether or not the building will have a sustainable design, construction, and operating practices.

5. The Board of Commissioners reserves the right to require a study to be performed by a consultant to establish that the proposed commercial development would not materialize at the proposed level of taxable investment without incentives paid pursuant to this policy. The costs of the study shall be paid in advance by the company or developer requesting the incentive grant.

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

Base factors:

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

Optional factors:

- Location in the community
- Capacity of available infrastructure
- Availability of on-site child care
- Sustainable building design, construction, and operating practices

7. Notwithstanding the foregoing, in no event shall an appropriation be made to a developer or company for property which has been or is proposed to be classified as historic for purposes of *ad valorem* taxation pursuant to N.C.G.S. § 105-278 or any successor statute.

8. The maximum appropriation which may be made for a developer of a facility and a company locating in Durham County shall be 2.25%, or 2.75% based on the developer of company satisfying one of the optional factors in paragraph 6(b), of the total new or expansion capital investment of such developer or company, as determined by the tax value placed on the property by the Durham County Tax Administrator, less the amount of the existing tax value of the subject property. For companies which are requesting incentives due to job creation, the following guidelines shall apply:

- a) 200-500 jobs – up to \$1,000 per job;
- b) 501-1000 jobs – up to \$1,500 per job;
- c) 1001 or more jobs – up to \$2,000 per job.

A portion of the funding for jobs may be provided for the training of Durham County citizens.

9. The payments shall be made based on a schedule which is acceptable to the developer or company and the Board of Commissioners of up to eight years.

10. All funds appropriated or spent pursuant to this policy shall be used only for the purposes as stated in N.C.G.S. § 158-7.1 (a) or (b). Whenever funds are provided for training of personnel, the incentive agreement shall provide that the developer or company shall post the job openings with the North Carolina Employment Security Commission, with the Durham County Department of Social Services, and with the Durham County Workforce Development Board.

11. Any appropriations or transfers pursuant to this policy may only be made following a public hearing before the Board of Commissioners, which notice of such hearing shall be published at least ten days before the hearing is held. The notice shall contain the information as required by N.C.G.S. § 158-7.1(c).

12. The developer or company seeking funds pursuant to this policy must receive approval from the Board of Commissioners after a public hearing prior to undertaking construction of a new facility or facilities.

13. Developers and companies receiving funds or transfers pursuant to this policy shall enter into an incentive contract with Durham County. All incentive contracts shall be subject to performance criteria as set forth therein. If for any reason, the developer or

company fails to fulfill its obligations under the contract, it will be required to remit to the County any funds received pursuant to the contract and this policy.

14. If an appropriation is to be made to a developer or company, a provision in the agreement referenced above shall contain, among other provisions, a “claw-back” provision which will require a repayment, in full, of any appropriation to the developer or company from the County should: a company, fail to make the investment as stated in the economic development agreement, close its operations in Durham County, or fail to employ at least 90% of the number of employees agreed to in the incentive contract or reduce the number of employees by more than 10% below the number agreed to in the contract after initially hiring the number of employees agreed to in the incentive contract within five years of the date of the signing of the incentive contract; or a developer closes the facility which is the subject of the appropriation or fail to make the investment as stated in the incentive contract within five years of the date of the signing of the agreement. The agreement shall further provide that, if a company closes its operations in Durham County or reduces the number of employees below the number agreed to in the incentive contract after initially hiring the number of employees agreed to in the incentive contract within 10 years of the date of the signing of the agreement; or if a developer closes the facility which is the subject of the appropriation within 10 years of signing of the agreement, the company and/or the developer shall repay the County any appropriation in the amount of 80% of the total appropriation to the developer and/or the company if the removal or closing occurs during year six after the signing of the contract, and an amount for years seven through ten which shall be equal to a declining amount of 20% per year of the total appropriation with the amount being 0% of the amount of the appropriation in year ten and thereafter.

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

This the 28th day of January, 2008.

Chairman Reckhow asked if staff understood the directive.

County Attorney Kitchen responded that the report may not be available by the March 3 Worksession.

Chairman Reckhow stated the either the March or April Worksession would be feasible.

Regulation of Solicitation on the Streets and Highways of Durham County

After receiving information regarding the possible adoption of an ordinance regulating solicitation in the rights-of-way outside the municipal limits of cities in Durham County, the Board passed (on April 9, 2007) an ordinance regulating solicitation on a 3-1 vote. As the ordinance was not passed by a unanimous vote of the Board, it was required to be passed on a second vote. However, due to the length of time since the first vote, the ordinance was considered again by the Board on July 23, 2007. Following a discussion, the Board deferred

the consideration of the Ordinance until the meeting on October 8, 2007. At that meeting, the ordinance was referred to the City-County Committee. The City-County Committee met on January 8, and the item is being referred to both the City Council and the Board of Commissioners.

Chairman Reckhow informed the Commissioners that background information has been placed in their "Additional Agenda Information" folders. She reported on the information as follows:

- She commended System of Care for its diligent work and progress, which were outlined at a meeting today. System of Care hired a coordinator, Ann Oshel, to assist with developing protocols and establishing work groups. The focus is on the homeless or citizens at risk of becoming homeless. System of Care has developed care review teams and wellness and recovering teams to work with people in terms of case management and wrap around services. The start date for providing services for these individuals will be February 4.
- She referenced a memorandum submitted by Ellen Holliman, Area Director, The Durham Center. The memo discussed the Housing Support Team Grant, which was awarded to The Center in the amount of \$644,280 over two years by the North Carolina Division of Mental Health/Developmental Disabilities/Substance Abuse Services. The Grant is to be used to create a Housing Support Team to coordinate residential assistance for targeted homeless individuals and families in Durham County. The Team will be managed by a local nonprofit agency, Housing for New Hope (HNH), and will have a three-person team consisting of a Team Coordinator, a Tenant Advocate, and a Peer Specialist.

County Attorney Chuck Kitchen stated that the effective date of the Ordinance has been amended to July 1, 2008. He explained that the passing of this Ordinance will prohibit solicitation on highways and streets outside the City limits.

Commissioner Cheek explained that the intent of the Ordinance is not to ban panhandling but to prohibit solicitation in the roadway. The primary focus is the safety of persons within roadways and persons operating motor vehicles.

Chairman Reckhow called signed speakers forward to comment on the agenda item.

The following speakers opposed the Ordinance:

Jay Davis, 507 Bill Poole Road, Rougemont 27572, representing Open Table Ministry
Terry Allenbaugh, 2504 North Roxboro Road, Durham 27704, representing Housing for New Hope
Emily Sanford, 616 Shepherd Street, Durham 27701, representing Open Table Ministry
Rev. Andrew Thompson, Durham 27705, representing Open Table Ministry
Thomas Givens, Durham 27705, representing Open Table Ministry
Robert Olason, 2211 Hillsborough Road, Durham 27705

The following speakers supported the Ordinance:

Joseph Burns Elkins Jr., 1619 Eagle Lodge Lane, Durham 27703
Randy Pickle, 27 Beverly Drive, Durham 27707

Michael Shiflett, 206 West Club Boulevard, Durham 27704, representing Durham
Businesses Against Crime

Cheryl Shiflett, 206 West Club Boulevard, Durham 27704, representing Northgate Park
Neighborhood Watch

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

Commissioner Cousin expressed reservations about the Ordinance; however, he stated that he would vote for approval but would strongly recommend that alternatives are made available to help the homeless population.

Commissioner Heron concurred with Commissioner Cousin's comments. She encouraged Mr. Davis and Open Table Ministry, subsequent to Ordinance approval, to inform residents at the Durham Rescue Mission that services for the homeless are available through the County.

Commissioner Page advised the speakers to educate themselves on the homeless population.

Commissioner Cheek expressed appreciation to citizens for speaking about the Ordinance at tonight's meeting. He stated that he hopes the Ordinance will help alleviate homelessness; but safety is its primary focus. The County will continue to take steps to help homeless individuals in need.

Chairman Reckhow agreed with Commissioner Cheek's concern regarding safety issues. She remarked that the County's jurisdiction is outside of the City limits, where the speed limit is generally 45-55 miles per hour. Chairman Reckhow shared her experience with a panhandler collecting money in moving traffic. She stated that at the Crime Cabinet meeting on Friday, January 11, during a question/answer session, Police Chief Lopez responded to panhandling in the roadway as being "unsafe and not a good practice".

Chairman Reckhow mentioned Mental Health's proactive involvement in helping the homeless population. She elaborated on services and resources extended to homeless individuals.

Commissioner Cheek moved, seconded by Commissioner Heron, to approve the Ordinance Regulating Solicitation on the Streets and Highways of Durham County.

The motion carried with the following vote:

Ayes: Cheek, Cousin, Heron, and Reckhow

Noes: Page

**ORDINANCE REGULATING SOLICITATION ON THE STREETS AND HIGHWAYS
OF DURHAM COUNTY**

WHEREAS, pursuant to N.C.G.S. §§ 20-175, 153A-125, and 153A-126, the Board of Commissioners may regulate begging, solicitation campaigns, and salesmen; and

WHEREAS, begging and the solicitation of money for charities or businesses in the streets and highways of Durham pose a significant hazard both to pedestrians and motorists; and

WHEREAS, begging and the solicitation of money in the streets and highways of Durham pose a significant opportunity for fraud and misrepresentation.

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

1. That the Durham County Code of Ordinances is hereby amended by adding a new article, to be numbered Article IV of Chapter 22, which article reads as follows:

ARTICLE IV. SOLICITATION ON THE STREETS AND HIGHWAYS

Sec. 22-60. Solicitation defined.

For purposes of this article, “solicit” shall mean the asking for money or objects of value, with the intention that the money or object be transferred at that time, and at the place. Soliciting shall include using the spoken, written, or printed word, bodily gestures, signs, or other means with the purpose of obtaining an immediate donation of money or other thing of value or soliciting the sale of goods or services.

Sec. 22-61. Solicitation prohibited.

It shall be unlawful for any person to solicit an operator or other occupant of a motor vehicle while such vehicle is located on any street or highway. Provided, however, that this section shall not apply to services rendered in connection with emergency repairs requested by the operator or passenger of such vehicle.

Sec. 22-62. Jurisdiction.

This article shall be effective for all of Durham County not within a city, and effective in such city or cities which have by resolution permitted this article to be effective within such a city or cities.

2. This Ordinance shall be effective on and after July 1, 2008.

This the 14th day of January, 2008.

Quasi-Judicial Hearing: Transportation Special Use Permit—Sierra (T07-02)

Chairman Reckhow announced that the Board would now hold a quasi-judicial hearing to consider a Transportation Special Use Permit for Traffic Impact, in association with consideration of a major site plan for a residential development on parcels located on the east side of Doc Nichols Road, north of Leesville Road and southwest of Olive Branch Road, within the PDR 3.000 zoning district and F/J-B overlay. PINs 0860-03-33-3314, 0860-01-20-8767, 0769-01-28-5772, -27-6679

Chairman Reckhow directed all persons who had signed up to testify in the case to go to the Clerk's station to be sworn in or to give affirmation. (Those persons who had not signed earlier on the special sheet and wished to speak were directed to sign the sheet and participate in the swearing-in.)

The Clerk to the Board administered the oath to everyone who had signed up to speak.

Chairman Reckhow asked if any Commissioner had a conflict as it relates to this hearing or had information or special knowledge to reveal about the case.

No one responded.

Chairman Reckhow continued by stating, "In this hearing, we will first hear from the Planning staff and other County witnesses, then from the applicant and their witnesses, and then from any opponents to the request. Parties may cross-examine witnesses after the witness testifies when questions are called for. If you want the Board to see written evidence, such as reports, maps, or exhibits, the witness who is familiar with the evidence should ask that it be introduced during or at the end of his or her testimony. We cannot accept reports from persons who are not here to testify. Attorneys who speak should not give factual testimony but may summarize their client's case. Before you begin your testimony, please clearly identify yourself for the record."

Chairman Reckhow opened the hearing on Case T07-02 and asked for testimony from the County staff.

Michael Stock, Senior Planner, City-County Planning Department, requested that the staff report and all attachments and exhibits, including the Traffic Impact analysis submitted by the applicant and reviewed by NCDOT and the City Transportation Division, be entered as a part of the permanent record. It should also be noted that all required mail and newspaper notification, along with required posting on the subject site, has taken place in accordance with Ordinance requirements. Lick Creek Associates LLC, on behalf of MacGregor Development Company, requests approval of a transportation special use permit (TSUP) for traffic impacts associated with the Sierra (a.k.a. Somerset, a.k.a. Sauternes I) residential development and a proposed Preliminary Plat for a proposed initial phase named (D06-283), located east of Doc Nichols Road, north of Leesville Road and south of Olive Branch Road. Unless exempted by Section 3.3.8.B, a transportation special use permit is required for site plan projects that generate at least 600 vehicle trips in a single peak hour. This proposed full build-out of the project crosses this threshold, generating an estimated 863 AM peak hour trips and 1,139 PM peak hour trips. A Traffic Impact Analysis (TIA) was prepared by the applicant's traffic consultant, Ramey Kemp and Associates. It was reviewed by both the Transportation Division of the City of Durham Public Works Department and the North Carolina Department of Transportation (NCDOT). Their evaluations of the TIA along with the associated roadway improvements are indicated in the memos submitted as part of the agenda item. All roadway improvements have been agreed to by the applicant and are noted as Special Conditions of Approval on the proposed Preliminary Plat.

Mr. Stock continued his testimony by stating that as a reminder, the Board of Commissioners must make findings of fact under Section 3.3.8D of the Unified Development Ordinance, as specifically identified within the staff report. He noted that staff will provide a recommendation to the Board at the conclusion of testimony for this case. Staff members of the City Transportation Division are present to answer questions about the TIA memo.

Chairman Reckhow asked if the improvements requested by NCDOT included in the committed elements.

William E. Judge, PE, City Transportation Division, responded in the affirmative.

Chairman Reckhow accepted the staff report as Exhibit C-1.

Chairman Reckhow stated, "Now we will hear from the applicant and proponents. If there are attorneys who will give a general summary of their clients' positions, we would like for you to go first. At the end of each witness' testimony, we will ask if they are any questions."

Chairman Reckhow asked signed speaker Thomas Freeman, 1818 Southview Road, Durham 27703, if he had any questions for staff.

Mr. Freeman responded in the negative.

County Attorney Chuck Kitchen commented that Ethics Opinion 2006-1 from the NC State Bar states that in Quasi-Judicial hearings, it is considered the practice of law to represent another party in front of a local government. Therefore, the attorney may provide evidence but is not permitted to present the case and make argument on behalf of the client (property owner).

Lee Lambert, property owner, presented his case to the Board and introduced Ron Horvath, P.E. (Professional Engineer, Horvath Associates, P.A.), Jeff Roach, P.E. (Professional Engineer, Horvath Associates, P.A.), and Rynal Stephenson (Traffic Engineer, Ramey Kemp & Associates) as expert witnesses to testify and provide evidence.

The Board accepted the Traffic Impact Analysis Report as Exhibit 1.

In reference to the Special Use Permit Report Part B. Section 3.3.8D, Commissioner Heron inquired about the insignificant adverse impact the development and associated improvements would have on traffic in the surrounding area.

Mr. Stephenson clarified that the development would have an impact on traffic; however, improvements that would be made (i.e. turn lanes) are typical road improvements for this type of roadway. It does not change the character or functional classification of the roadway. Access to the proposed site would be provided via three proposed public street connections to Doc Nichols Road and one public street connection to Leesville Road.

Mr. Lambert and Mr. Stephenson elaborated on the Staff Technical Findings regarding Section 3.3.8D.

Per a request by Chairman Reckhow, Mr. Stephenson addressed Level of Service (LOS) subsequent to road improvements at the intersection of US Hwy 70 and Leesville Road.

Commissioner Heron inquired about road improvements to the Hwy 70 and Leesville Road intersection.

Mr. Stephenson replied to questions from Vice-Chairman Page, explaining road improvements of the left-turn lane onto Leesville Road. Two left-turn lanes will be constructed to allow adequate space for cars waiting to turn onto Leesville Road. Each lane would be able to accommodate approximately 24 cars while waiting for the turn signal.

Chairman Reckhow called Mr. Freeman, the opponent, forward for questions.

Mr. Freeman questioned the developer's current real estate interest in lands on Leesville Road, as the proposed turn lane would be constructed on private property.

Mr. Horvath responded that for any right-of-way acquired, the developer is obligated to negotiate and purchase the right-of-way for the additional work needed at that intersection.

Mr. Lambert added that no additional right-of-way is required for Phase 1 of the project; however, it is required for Phase 2 at the intersection of Leesville and Hwy 70 and must be obtained by the developer.

Mr. Lambert informed Mr. Freeman that he does not know the length of the receiving lane on Leesville Road (the lane adjacent to the turn lane).

The Board concluded that the Staff Technical Findings of Section 3.3.8D Nos.1, 2, 3, and 4 have been met.

Mr. Lambert made the motion that the Board of County Commissioners, acting as a Quasi-Judicial Board, would find that the Staff Technical Findings of Nos. 1, 2, 3, and 4 were entered and met without objection and that the required conditions have been met.

Mr. Freeman expressed concern about the density of the development.

Chairman Reckhow communicated to Mr. Freeman that the zoning for the project has been approved; therefore, density is not the issue before the Board at tonight's meeting. She asked Mr. Freeman to comment only on traffic impact.

Chairman Reckhow explained to Commissioner Heron that an initial zoning for this project was approved by the Board of County Commissioners several years ago. The development plan was later amended and approved, thus approval of the number of units. The Board's obligation now is to ensure that traffic generated can be adequately mitigated.

Chairman Reckhow referred the matter back to the Board. She asked Planning staff if they have a recommendation for the special use permit.

Staff recommended approval based on the testimonies given, information within the staff report, and other documents presented. The draft Order Granting, Upon Certain Conditions, A Transportation Special Use Permit contains a list of mitigation measures, which mimics the list included in the staff report, as a special condition.

Mr. Stock assured Chairman Reckhow that the list in the Order is the same list provided in the staff report.

Chairman Reckhow called for a motion to adopt the Order Granting, Upon Certain Conditions, A Transportation Special Use Permit.

Commissioner Cheek encouraged the Board to approve the Order, supporting the recommendations of NCDOT and the City Transportation Department.

Commissioner Cheek moved, seconded by Commissioner Heron, to approve the Order Granting, Upon Certain Conditions, A Transportation Special Use Permit.

The motion carried unanimously.

Chairman Reckhow closed the quasi-judicial hearing.

The order follows:

**ORDER GRANTING, UPON CERTAIN CONDITIONS, A TRANSPORTATION
SPECIAL USE PERMIT**

Sierra/Doc Nichols Road Development (TO7-02)

The Board of Commissioners of the County of Durham, having conducted a hearing on "Sierra/Doc Nichols Road Development" (TO7-02), concerning a proposed project generating over 600 trips per peak hour, on January 14, 2008 and having considered all written and oral evidence presented at such hearing, hereby determines that the Ordinance requirements for the granting of a Transportation Special Use Permit in this case have been met, and that the Use Permit should be granted upon certain conditions.

**THE BOARD OF COMMISSIONERS HEREBY MAKES THE FOLLOWING FINDINGS
AND CONCLUSIONS, based on the evidence presented at the public hearing:**

The proposed project, as described in the application, with such further conditions as may be described below, meets the requirements of Sections 3.3.8D of the Unified Development Ordinance, and:

1. The traffic generated by the development and associated improvements to the street system will not have a significant adverse impact on the surrounding area. Significant adverse impacts include:

- a. Substantial increases in traffic on local residential streets such that the majority of the traffic is not associated with the residential properties which front on the street; or
 - b. The need to widen local residential streets which would detract significantly from the character or basic function of the nearby streets.
2. Adequate provisions have been made for safe and efficient vehicular circulation, parking and loading, and pedestrian access.
 3. The traffic generated by the proposed development and any proposed improvements to the street system will not have a significant adverse impact on the environment. Significant adverse impacts shall include but not be limited to undue concentration of air pollutants, or excessive noise or vibrations.
 4. The traffic generated by the development can be accommodated by the existing or funded transportation system, or adequate traffic mitigation measures have been proposed as part of the development application. Proposed mitigation measures shall become conditions of the special use permit. The adopted level of service for the adjacent roadways may be considered in making this determination but shall not be the sole factor considered by the Board of Commissioners.

IN SUPPORT OF THESE FINDINGS AND CONCLUSIONS, THE BOARD OF COMMISSIONERS finds as fact that the descriptions and statements of fact set forth in the staff report presented as evidence to the Board of Commissioners are the facts describing the proposed use, surrounding conditions, and ordinance requirements, and the Board of Commissioners adopts by reference and includes in this decision and order all such facts as if set forth herein.

THEREFORE, THE BOARD OF COMMISSIONERS HEREBY GRANTS THE TRANSPORTATION SPECIAL USE WITH THE CONDITIONS THAT MAY BE SET FORTH BELOW:

1. The project shall be completed in accordance with an approved site plan, including any additional corrections and verification.
2. That the road improvements indicated as special conditions of the site plan and indicated below are completed prior to the issuance of a certificate of occupancy. These road improvements are:

Summary of Improvements Required for the Initial Phase of the Sierra Development (DO6-283)

NC 98 (Wake Forest Highway) and Sherron Road

1. Modify signal timing in coordination with NCDOT

US 70 and Leesville Road

1. Modify signal timing in coordination with NCDOT
2. Construct an exclusive southbound left-turn lane on Leesville Road with adequate storage and taper
3. Construct an exclusive westbound right-turn lane on US 70 with adequate storage and taper

NC 98 (Wake Forest Highway) and Olive Branch Road

1. Install a new traffic signal (subject to MUTCD warrants and approval by NCDOT)
2. Construct a northbound right-turn lane on Olive Branch Road with adequate storage and taper

Leesville Road and Doc Nichols Road

1. Install a new traffic signal (subject to MUTCD warrants and approval by NCDOT)
2. Construct an exclusive eastbound left-turn lane on Leesville Road with adequate storage and taper

Leesville Road and Shady Grove Road (required prior to the 250th certificate of occupancy)

1. Construct a single lane roundabout, or
2. Install a new traffic signal (subject to MUTCD warrants and approval by NCDOT), and
 - a. Construct an exclusive eastbound right-turn lane on Leesville Road with adequate storage and taper
 - b. Construct an exclusive northbound left-turn lane on Shady Grove Road with adequate storage and taper

Doc Nichols Road and Site Drive #1 (full access)

1. Construct a southbound left-turn lane on Doc Nichols Road with adequate storage and taper

Doc Nichols Road and Site Drive #2 (full access)

1. Construct Site Drive #2 with one ingress and two egress lanes
2. Construct a northbound right-turn lane on Doc Nichols Road with adequate storage and taper
3. Construct a southbound left-turn lane on Doc Nichols Road with adequate storage and taper

Doc Nichols Road and Site Drive #3 (full access)

1. Construct a southbound left-turn lane on Doc Nichols Road with adequate storage and taper
2. Construct a northbound right-turn lane on Doc Nichols Road with adequate - storage and taper

Leesville Road and Site Drive #4 (full access)

1. Construct Site Drive #4 with one ingress and two egress lanes
2. Construct a westbound right-turn lane on Leesville Road with adequate storage and taper
3. Construct an eastbound left-turn lane on Leesville Road with adequate storage and taper

Summary of Improvements Required for the full build-out of the Sierra Development (a.k.a. Somerset, a.k.a Sauternes I) (TSUP)

General

1. All roadway improvements required for the initial phase of the Somerset Development (D06-283) are also required for the full-build-out (TSUP).

NC 98 (Wake Forest Highway) and Sherron Road

1. Construct an additional eastbound through lane on NC 98 with a receiving lane and adequate taper and transition
2. Construct an additional westbound through lane on NC 98 with a receiving lane and adequate taper and transition

US 70 and Leesville Road

1. Construct an additional eastbound left-turn lane on US 70 with adequate storage and taper
2. Extend the current eastbound left-turn lane on US 70 to provide adequate storage and taper
3. Construct an additional northbound through lane on Leesville Road
4. Convert the current southbound exclusive left-turn lane on Leesville Road to a shared left and right-turn lane
5. Extend the current southbound exclusive right-turn lane on Leesville Road to provide adequate storage and taper

NC 98 (Wake Forest Highway) and Olive Branch Road

1. Extend the eastbound right-turn lane to provide adequate storage and appropriate taper

Olive Branch Road and Doc Nichols Road

1. Construct a southbound right-turn lane on Olive Branch Road with adequate storage and taper

Leesville Road and Doc Nichols Road

1. Construct a southbound right-turn lane on Doc Nichols Road with adequate storage and taper

THIS SPECIAL USE PERMIT SHALL BECOME NULL AND VOID UPON DETERMINATION BY THE APPROPRIATE OFFICIALS DESIGNATED BY ORDINANCE THAT THE ABOVE CONDITIONS HAVE NOT BEEN COMPLIED WITH.

Major Site Plan and Preliminary Plat—Sierra (D06-283)

Teri Danner, Planning Supervisor, City-County Planning Department, requested that the Board approve a Major Site Plan and Preliminary Plat for “Sierra” submitted by Horvath Associates, PA, on behalf of MacGregor Development Company, to develop 369 single-family and 130 town-home lots with a pool, clubhouse, and tennis courts, on 176.36 acres of a 422.60-acre site zoned Planned Development Residential 3.000 (PDR 3.000) and Falls/Jordan Protected Area (F/J-B). The site is located east of Doc Nichols Road, north of Leesville Road, and southwest of Olive Branch Road. PIN 0860-03-33-3314, 0860-01-20-8767, 0860-01-28-5772, 0860-01-27-6679

The Development Review Board (DRB) recommended approval of the site plan on October 5, 2007 by a vote of 6-3.

Chairman Reckhow inquired about the sufficiency of the 4-foot mulch trail, as 8-foot trails are generally constructed.

Ms. Danner responded that most of the trail intrudes into the stream buffer. DRB discussed whether the intrusion into the buffer is being minimized. A portion of the trail's width was to help minimize the amount of disturbance to existing trees.

Ms. Danner replied to Commissioner Heron's questions regarding buffers, stating that perennial streams require 100-foot buffers, as intermittent branches from the streams require 50-foot buffers. The buffers would be undisturbed except where intrusions occur for sanitary sewer extensions, road crossings, and crossings for the mulch pedestrian trail.

Per a request by Commissioner Heron, Ron Horvath, Engineer/Land Planning, Horvath Associates, P.A., explained Committed Element No. 9, "The developer agrees to install signage along the neighbor's side of the 3300-linear-foot eastern boundary line adjoining Parcel #0769-01-38-545, stating, "NO TRESPASSING—Adjacent Property Used for Hunting Purposes" when development occurs within 100 feet of the property line.

Commissioner Heron expressed concern that hunting within 100 feet of a residence would be in violation of a fire arm ordinance that prohibits the use of fire arms within 600 feet of a residence.

Mr. Horvath agreed to send a letter to the hunting facility informing it of the ordinance.

Ms. Danner communicated that mass grading would be done in phases. She stated that inspectors will ensure that tree protection fencing is in place prior to the issuance of a grading permit and that tree protection fencing must protect the mass grading buffers as well.

Commissioner Heron expressed appreciation to the developer for Committed Element No. 25, "The developer acknowledges the importance of the Durham Public Schools and its need for updated/improved facilities. Therefore, the developer has committed to donate \$500 to Durham Public Schools per residential building permit obtained. This donation will be in force until such time as a school impact fee structure is adopted by the Durham County Commissioners."

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve Major Site Plan and Preliminary Plat—Sierra (D06-283).

The motion carried with the following vote:

Ayes: Cheek, Cousin, Heron, and Page
Noes: None
Absent: Reckhow (out of room when vote was taken)

Durham Open Space and Trails (DOST) Commission Matching Grants Funding Recommendation

Kevin Etheridge, Budget Analyst/Matching Grants Administrator, introduced this item. He reported that the Durham Open Space and Trails Commission (DOST) received six applications for the Matching Grants Program to assist nonprofit community organizations with recreational and open space projects. The Matching Grants Committee of the DOST and County staff examined the proposed projects to ensure compliance with the program's goals and guidelines. DOST approved the project and funding recommendation at its December 19, 2007 meeting. The recommendation to allocate \$66,946 of County funds represents a gain to the County of \$66,946 in matching funds as half the projects' proposed value of \$133,892. The Matching Grants program budget was approved in the FY2007-2008 Budget.

Mr. Etheridge thanked the following members of the Matching Grants Committee for their hard work: Annette Montgomery, Chair; Richard Mentock; Chairman Ellen Reckhow; Bill Grueling; and Jack Gibson. Mr. Etheridge also extended thanks to Jane Korest and Greg Shustar, Durham County Open Space and Real Estate Division, for providing a valuable technical review.

Commissioner Cheek expressed concern about the \$21,390 grant request for a disc golf course.

Mr. Etheridge informed Commissioner Cheek that the golf course funding request includes construction of a trail, equipment, concrete, etc.

Chairman Reckhow commented that no disc golf course currently exists on the south side of Durham. The proposed golf course at Leigh Farm Park would include a walking trail.

Chairman Reckhow commended the Matching Grants Committee for doing extensive research and follow-up on the projects.

Vice-Chairman Page moved, seconded by Commissioner Heron, to approve the funding requests from Asbury Methodist Preschool, Central Park School, Durham- range Recreational Disc Golf Association, and Keep Durham Beautiful and the allocation of \$66,946 of the budgeted Matching Grants funds to these projects.

The motion carried unanimously.

Durham County Local Emergency Planning Committee (LEPC)

The bylaws of the Durham County LEPC require that its activities are reported to the Durham County Board of Commissioners and that it present a list of members to the Board for approval in January of the current year.

Per a memorandum submitted to the Board of County Commissioners on January 14, 2008 by J. David Marsee II, Chairman, Durham County LEPC, the Board was requested to approve the following current members of the LEPC:

David Marsee, Chairman	Durham County Fire Marshal/Emergency Management
Daniel Sullivan, Vice Chairman	Glaxo-Smith-Kline
Susan Page, Secretary	Durham County Fire Marshal/Emergency Management
Cindy Bailey	Durham County Animal Control
Ester Bevers-Ng	American Red Cross
Michael Boucher	VA Hospital
Samuel Chung	VA Hospital
Johnny Ford	Durham County Cooperative Extension
Ben Fulmer	DuPont
Dean Gadoury	BASF Corp.
Robert Kaufman	Glaxo-Smith-Kline
Frederick Knipper	Duke University
Dr. John Lambeth	NC Central University
Brian Letourneau	Durham County Health Department
Randy McCray	Parkwood Volunteer Fire Department
Stan Parker	RTI International
Michael Pirrello	Cree Incorporated
Bill Robbins	Sumitomo Electric
Althia Scriven	Durham Public Schools
Mike Shiflett	Inter-Neighborhood Council/CERT/COP
Nancy Skaletsky	Durham County Health Department
Jay Sprankle	Nortel Networks
Ricky Tuttle	NC Emergency Management, Area 10 Coordinator
Aaron Weinbaum	Durham Regional Hospital

Commissioner Cheek moved, seconded by Vice-Chairman Page, to approve the current Durham County Local Emergency Planning Committee membership roster.

The motion carried unanimously.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 10:35 p.m.

Respectfully Submitted,

Yvonne R. Gordon
Deputy Clerk to the Board