

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

Monday, February 26, 2007

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 Becky M. Heron, and Commissioners Philip R. Cousin Jr. and Michael D. Page

Absent: Commissioner Lewis A. Cheek

Presider: Chairman Reckhow

**Opening of Regular Session**

Chairman Reckhow called to order the February 26, 2007 Regular Session of the Board of County Commissioners. At her request, all in attendance stood for the recitation of the Pledge of Allegiance.

**Agenda Adjustments**

No adjustments were made to the agenda.

Chairman Reckhow noted an item in the Commissioners' folders: a background memo from the Tax Administrator answering questions raised about consent agenda item No. a, "Tax Interlocal Agreement with City of Durham".

**Announcements**

Chairman Reckhow asked Boy Scout Troop 486 and its leaders to stand and be recognized. She stated that Troop members were working toward receiving their Citizen and Community Badges.

**Minutes**

Commissioner Page moved, seconded by Vice-Chairman Heron, to approve as submitted the February 5, 2007 Worksession Minutes and as corrected the January 19, 2007 Board of County Commissioners (BOCC)/Durham Public Schools (DPS) Joint Meeting Minutes.

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow  
Noes: None  
Absent: Cheek

Vice-Chairman Heron requested that County Manager Mike Ruffin follow up with DPS' Administration regarding directives given at the BOCC/DPS Joint meeting.

Chairman Reckhow echoed Vice-Chairman Heron's request.

### **Recognition for Jose Diaz**

Durham County EMS requested that the Board recognize the heroism of a young student from Chewning Middle School who is responsible for saving his family from tragedy. According to EMS reports, young Jose Diaz arrived home from school to find his grandmother exhibiting altered mental status due to hypoglycemia. Jose also saw that his grandmother had been cooking something on the stove and it had begun to burn. He immediately called 911. Durham Fire Department employees responded and found the elderly female disoriented and the house filled with smoke. Firefighters promptly took appropriate action.

As a result of Mr. Diaz' quick thinking and his ability to stay calm, EMS supervisor Jackie Holmes believes he saved his family home, and more importantly, his grandmother's life. "I feel that he should be commended and his actions should be recognized so that others may follow his example," she concluded in a correspondence to the County Manager's Office.

Chairman Reckhow postponed this agenda item as Jose Diaz was not present.

### **Consent Agenda**

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

- a. Tax Interlocal Agreement with City of Durham (approve the renewal of the Tax Interlocal agreement for property tax collections for five years);
- \*b. Property Tax Releases and Refunds for Fiscal Year 2006-2007 (accept the property tax release and refund report for January 2007 and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- \*c. Budget Ordinance Amendment No. 07BCC000049—2006 Emergency Management Performance Grant (EMPG) (recognize \$62,489 in grant revenue received from the North Carolina Division of Emergency Management);
- \*d. Budget Ordinance Amendment 07BCC000050—County Tax Service Inc.—Contract Amendment (recognize the additional tax revenue in the amount \$100,000 to amend the current contract);

- \*e. Budget Ordinance Amendment No. 07BCC000051—Cooperative Extension—Recognize Grant Revenue in the Amount of \$18,876 from the N.C. Department of Environment and Natural Resources, Division of Air Quality (recognize \$18,876 in grant revenue to support neighborhood-based energy outreach);
- \*f. Approval of Construction Contract for the Triangle Wastewater Treatment Plant—Wastewater Collection System Rehabilitation, Bid No: IFB 07-007 (authorize the Manager to execute a contract with Billings & Garrett Inc. for the construction of the Wastewater Collection System Rehabilitation Project in the amount of \$289,413.00 and to execute any other related contracts including change orders, if necessary, not to exceed the construction budget of an additional \$14,471.00 [5% contingency] for a total project budget of \$303,884.00);
- g. Approval to Purchase of Motorola 800 MHz Radio Equipment for Sheriff's Office from the COPS Interoperable Communications Technology Grant Funds (approve the purchase through the North Carolina State Convenience Contract [Contract #725G] in the amount of \$1,821,507.87);
- \*h. Amend the Service Contract for SAP Consultant Mary London (increase the contract amount by \$26,365, bringing the total contract amount to \$56,365);
- \*i. Appointment of the 2007 E&R Board Members (appoint a special Board of Equalization and Review, designate membership to this Board, and appoint a Chair and Vice Chair);
- \*j. Offer to Purchase County Surplus Properties (pursue the upset bid process for the sale of 4014 Cheek Road and 924 Ramseur Street; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process);
- \*k. Street Annexation Petition (adopt the resolution to approve the addition of Hardscrabble Drive [Extension]—1.50 miles; Cavendish Court—.09 miles; Thornberry Circle—.07 miles; Penwick Place—.15 miles; and Burgess Court—.14 miles to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation); and
- l. Juvenile Crime Prevention Council (appoint Robert Robinson as the Mental Health Designee to fill an unexpired term).

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow

Noes: None  
Absent: Cheek

\*Documents related to these items follow:

Consent Agenda Item No. b. Property Tax Releases and Refunds for Fiscal Year 2006-2007 (accept the property tax release and refund report for January 2007 and authorize the Tax Assessor to adjust the tax records as outlined by the report).

Due to property valuation adjustments for over assessments, listing discrepancies, duplicate listings, and clerical errors, etc., the report details releases and refunds for the month of January 2007.

Releases & Refunds for 2007 Taxes:

Personal	\$ 1,316.70
Total for 2007 Taxes and Fees	\$ 1,316.70

Releases & Refunds for 2006 Taxes:

Real Estate	\$ 17,129.01
Personal	\$ 5,478.51
Registered Vehicles	\$ 59,974.90
Vehicle Fees	\$ 1,435.00
Solid Waste	\$ 880.00
Total for 2006 Taxes and Fees	\$ 84,897.42

Prior years' (2001-2005) releases and refunds for January, 2007 are in the amount of \$32,249.48. The total current year and prior years' releases and refunds amount to \$118,463.60.

(Recorded in Appendix A in the Permanent Supplement of the February 26, 2007 Minutes of the Board.)

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Consent Agenda Item No. c. Budget Ordinance Amendment No. 07BCC000049—2006 Emergency Management Performance Grant (EMPG) (recognize \$62,489 in grant revenue received from the North Carolina Division of Emergency Management).

DURHAM COUNTY, NORTH CAROLINA  
FY 2006-07 Budget Ordinance  
Amendment No. 07BCC000049

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			

Intergovernmental	\$321,558,977	\$62,489	\$321,621,466
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Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$ 48,125,707	\$62,489	\$ 48,188,196

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

This the 26<sup>th</sup> day of February, 2007.

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Consent Agenda Item No. d. Budget Ordinance Amendment 07BCC000050—County Tax Service Inc.—Contract Amendment (recognize the additional tax revenue in the amount \$100,000 to amend the current contract).

DURHAM COUNTY, NORTH CAROLINA  
 FY 2006-07 Budget Ordinance  
 Amendment No. 07BCC000050

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 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>			
Taxes	\$200,104,438	\$100,000	\$200,204,438

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
General Government	\$ 29,659,488	\$100,000	\$ 29,759,488

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

This the 26<sup>th</sup> day of February, 2007.

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Consent Agenda Item No. e. Budget Ordinance Amendment No. 07BCC000051—Cooperative Extension—Recognize Grant Revenue in the Amount of \$18,876 from the N.C. Department of Environment and Natural Resources, Division of Air Quality (recognize \$18,876 in grant revenue to support neighborhood-based energy outreach).

DURHAM COUNTY, NORTH CAROLINA  
 FY 2006-07 Budget Ordinance  
 Amendment No. 07BCC000051

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 Budget Ordinance is hereby amended to reflect budget adjustments.

Revenue:

<u>Category</u>	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>GENERAL FUND</u>			
Intergovernmental	\$321,621,466	\$18,876	\$321,640,342

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Economic and Physical Development	\$ 3,751,509	\$18,876	\$ 3,770,385

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

This the 26<sup>th</sup> day of February, 2007.

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Consent Agenda Item No. f. Approval of Construction Contract for the Triangle Wastewater Treatment Plant— Wastewater Collection System Rehabilitation, Bid No: IFB 07-007 (authorize the Manager to execute a contract with Billings & Garrett Inc. for the construction of the Wastewater Collection System Rehabilitation Project in the amount of \$289,413 and to execute any other related contracts including change orders, if necessary, not to exceed the construction budget of an additional \$14,471 [5% contingency] for a total project budget of \$303,884).

BIDDER	License #	Bid Bond	Base Bid
*Billings & Garrett Inc.	6370	X	\$289,413
Blackman & Associates Inc.	37974	X	\$315,690
Hannah Utilities Inc.	29017	X	\$333,679
Seaside Environmental Constructors Inc.	55044	X	\$439,673
Am-Liner East Inc.	43398	X	\$563,437

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Consent Agenda Item No. h. Amend the Service Contract for SAP Consultant Mary London (increase the contract amount by \$26,365, bringing the total contract amount to \$56,365)

NORTH CAROLINA  
AMENDMENT  
DURHAM COUNTY

SECOND CONTRACT

THIS CONTRACT AMENDMENT is made and entered into this 1st day of March, 2007 by and between the COUNTY OF DURHAM (hereinafter referred to as "County") and Mary London (hereinafter referred to as "Contractor").

WITNESSETH:

THAT WHEREAS, the County and Contractor entered into a contract dated October 1, 2006 to expire 01/31/07, for the provision of SAP Consulting/Training Services, (hereinafter the "Original Agreement") Funds Reservation # 700000460, for \$30,000.00; and

WHEREAS, the County and Contractor first amended the Original Agreement to extend the term through 02/28/07; and

WHEREAS, the County and Contractor desire to amend the Original Agreement a second time, 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 06/30/07.
2. The compensation paid to the contractor is hereby increased by \$26,365.00, to an amount not to exceed \$56,365.00.
3. By execution hereof, the person signing for Contractor below certifies that he/she has read this Contract Amendment and that he/she is duly authorized to execute this contract on behalf of the Contractor.
4. Except for the changes made herein, the Original Agreement shall remain in full force and effect to the extent not inconsistent with this Amendment. In the event that there is a conflict between the Original Agreement and this Amendment, this Amendment shall control.

IN WITNESS WHEREOF, the parties have expressed their agreement to these terms by causing this Contract Amendment to be executed by their duly authorized office or agent. This Contract Amendment shall be effective as of the date herein.

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Consent Agenda Item No. i. Appointment of the 2007 E&R Board Members (appoint a special Board of Equalization and Review, designate membership to this Board, and appoint a Chair and Vice Chair).

George A. Scott (Chairman)

909 Brandon Road  
Durham NC 27713  
596-8370  
appointed by Commissioner Michael D. Page  
(served as 2006 Chair)

Warren Robinson (Vice Chairman)

705 Wellingham Drive  
Durham NC 27713  
730-7008  
appointed by Commissioner Philip Cousin  
(served as 2006 vice-chair)

Kelly Matherly

2701 Pickett Road  
Durham NC 27705  
489-1740 (h) 489-2195 (w)  
appointed by Chairman Ellen Reckhow

Robert E King Jr., Attorney

1104 Lansing Ave  
Durham NC 27713  
598-0043 596-6168 (fax)  
appointed by Commissioner Lewis A. Cheek

Virginia E. Thomas

1802 West MLK Parkway  
Suite 208  
Durham NC 27707  
489-7147  
appointed by Vice-Chairman Becky Heron

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Consent Agenda Item No. j. Offer to Purchase County Surplus Properties (pursue the upset bid process for the sale of 4014 Cheek Road and 924 Ramseur Street; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process).

RESOLUTION

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

4014 Cheek Road  
PIN #0852-02-77-6219  
Parcel ID #170531

WHEREAS, Briscoe Enterprises has made an offer to the County to purchase the above property for \$1,200 and has made a bid deposit in the amount of \$60 which is no less than 5 percent of the bid; and

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

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

1. Publication of the Notice of Sale;
2. Upset bids must be received within ten days after the date the notice is published;



3. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
4. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
5. When the bid has been successfully raised (upset), the new bid becomes the current offer;
6. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
7. When the bid has been successfully raised (upset), the procedure is repeated;
8. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
9. Should the Board of County Commissioners accept the final qualifying offer, a nonwarranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

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

Upon motion properly made and seconded, adopted by the Board at its meeting on February 26, 2007

/s/ Vonda Sessoms  
Clerk, Board of Commissioners

#### RESOLUTION

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

924 Ramseur Street  
PIN #0831-13-13-6842  
Parcel ID #111877

WHEREAS, Ms. Carolyn J. King has made an offer to the County to purchase the above property for \$125 and has made a bid deposit in the amount of \$6.50 which is no less than 5 percent of the bid; and

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

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

1. Publication of the Notice of Sale;
2. Upset bids must be received within ten days after the date the notice is published;

3. To qualify as an upset bid, the bid must raise the original or current offer by an amount of at least 10 percent of the first \$1,000.00 and 5 percent of the remainder of the original or current offer;
4. Bids shall be made to the Clerk to the Board or the Real Estate Manager, together with a 5 percent bid deposit by certified check, money order, or cash;
5. When the bid has been successfully raised (upset), the new bid becomes the current offer;
6. The highest bid received during the 10-day period is the upset bid rather than the first bid which meets the minimum upset bid requirements;
7. When the bid has been successfully raised (upset), the procedure is repeated;
8. Once the final qualifying offer has been received, it shall be reported to the Board of County Commissioners which must then decide whether to accept or reject it within 30 days of the date which the final qualifying offer so qualifies; and
9. Should the Board of County Commissioners accept the final qualifying offer, a nonwarranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled:

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

Upon motion properly made and seconded, adopted by the Board at its meeting on February 26, 2007.

/s/ Vonda Sessoms  
Clerk, Board of Commissioners

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Consent Agenda Item No. k. Street Annexation Petition (adopt the resolution to approve the addition of Hardscrabble Drive [Extension]—1.50 miles; Cavendish Court—.09 miles; Thornberry Circle—.07 miles; Penwick Place—.15 miles; and Burgess Court—.14 miles to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation).

NORTH CAROLINA STATE DEPARTMENT OF TRANSPORTATION  
REQUEST FOR ADDITION OF STATE MAINTAINED  
SECONDARY ROAD SYSTEM

North Carolina  
County of Durham

Road Description: Hardscrabble Drive (Extension), Cavendish Court, Thornberry Circle,  
Penwick Place, and Burgess Court

WHEREAS, the attached petition has been filed with the Durham Board of County Commissioners requesting that the above-described roads, the location of which have been indicated in red on the attached map,\* be added to the secondary road system; and

WHEREAS, the Board of County Commissioners is of the opinion that the above described roads should be added to the secondary road system, if the roads meet minimum standards and criteria established by the Division of Highways of the Department of Transportation for the addition of roads to the system.

NOW, THEREFORE, BE IT RESOLVED by the Durham Board of County Commissioners that the Division of Highways is hereby requested to review the above described roads, and to take over the roads for maintenance if they meet established standards and criteria.

#### CERTIFICATE

The foregoing resolution was duly adopted by the Durham Board of County Commissioners at a meeting on the February 26, 2007.

\*In the office of the Clerk to the Board.

#### **Public Hearing—Zoning Map Change—Arrowhead (Z06-54)**

Steve Medlin, Assistant Planning Director, City-County Planning Department, stated that the Board of County Commissioners is being requested to approve a zoning map change for a 1,412.0-acre site located east of the Orange County line, west of NC 751, north of Erwin Road and Mt. Sinai Road. Request: RS-20 to RR.

Planning staff recommended approval, based on consistency with the *Comprehensive Plan* and the information contained in the report.

The Planning Commission recommended and voted for approval—12-0 on December 12, 2006, finding that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest based on information in the staff report.

Vice-Chairman Heron requested that she be excused from taking part in discussion and vote on this agenda item as she owns property in the area.

Commissioner Page moved, seconded by Chairman Reckhow,  
to excuse Vice-Chairman Heron.

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow  
Noes: None  
Absent: Cheek

Commissioner Page asked if the last development approved in this community—Quail Ridge Subdivision —has implications for this particular item.

Mr. Medlin responded that Worman Development has two years from the date of approval to execute the preliminary plat. To date, no further applications have been received for a further subdivision.

Chairman Reckhow opened the public hearing that was properly advertised and recognized the signed speakers.

The following spoke in support of the zoning map change:

Duke Williams, 4409 Kerley Road, Durham, NC 27705  
Dana Ripley, 3603 W. Cornwallis Road, Durham, NC 27705  
Happy Sayre-McCord, 3301 Cornwallis Road, Durham, NC 27705  
Harry Munson, 4709 Erwin Road, Durham, NC 27705  
David Goodman, 4101 Kildrummy Circle, Durham, NC 27705  
Kim Gotwals, 10 Osborne Place, Durham, NC 27705  
David Gould, 3993 W. Cornwallis Road, Durham, NC 27705  
Allison Keenan, 4709 Erwin Road, Durham, NC 27705  
Wendy Jacobs, 142 Solterra Way, Durham, NC 27705  
Jane Norton, 5606 Mt. Sinai Road, Durham, NC 27705  
John Schwade, 4015 W. Cornwallis Road, NC 27705  
Emily Weinstein, 8 Blue Bottle Lane, Durham, NC 27705  
Stuart McCracken, 4014 W. Cornwallis Road, Durham, NC 27705

As no one else requested to speak on the agenda item, Chairman Reckhow closed the public hearing and referred the matter back to the Board. She reminded her fellow Board members that last summer the Commissioners initiated this systematic rezoning and requested that staff make this a priority so developments would be consistent with the vision for the area. In 2005, upon adoption of the Comprehensive Plan, it was decided that the best long-term land use for this area was Rural Residential. The next step in realizing the vision is implementation of the rezoning.

Commissioner Cousin moved, seconded by Commissioner Page, to approve the Zoning Map Change—Arrowhead (Z06-54).

The motion carried with the following vote:

Ayes: Cousin, Page, and Reckhow  
Noes: None  
Abstain: Heron  
Absent: Cheek

Chairman Reckhow thanked the Arrowhead neighborhood for their input, stating that they were very well prepared and concise.

**Public Hearing for Industrial Revenue Bonds—Memscap Inc.**

Chairman Reckhow recognized County Attorney Chuck Kitchen to provide background on the matter.

County Attorney Kitchen stated that the Durham County Industrial Facilities and Pollution Control Financing Authority has entered into an Inducement Agreement with Memscap Inc., whose manufacturing business is currently located in Research Triangle Park in Durham County. The Agreement provides for the issuance of Industrial Revenue Bonds by the Authority for expansion of the existing facility, which will add approximately 40 new manufacturing jobs. The bonds are solely an obligation of the company and not that of the Authority or the County. By issuing the bonds, the company will be able to avail itself of tax-exempt financing at a lower rate than otherwise possible. The amount of the bonds is up to \$10,000,000. A public hearing is required to be held on the issuance of the bonds and approval by the Board of Commissioners. The Board is requested to hold a public hearing and adopt the resolution approving the bonds.

Chairman Reckhow stated that this is a straight-forward item. The Industrial Facilities and Pollution Control Financing Authority made the recommendation to the Board.

Chairman Reckhow opened the public hearing that was properly advertised. As no one requested to speak on the item, Chairman Reckhow closed the public hearing and referred the matter back to the Board.

Commissioner Page moved, seconded by Commissioner Cousin, to approve the issuance of Industrial Revenue Bonds by the Durham County Industrial Facilities and Pollution Control Financing Authority for the expansion of Memscap Inc.

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow  
Noes: None  
Absent: Cheek

**INDUCEMENT RESOLUTION WITH RESPECT TO UP  
TO \$10,000,000 INDUSTRIAL DEVELOPMENT  
REVENUE BONDS FOR MEMSCAP, INC.**

WHEREAS, the Board of Commissioners of The Durham County Industrial Facilities and Pollution Control Financing Authority (the "Authority") met pursuant to notice at the Commissioners Conference Room, Judicial Building, 201 East Main Street in Durham, North Carolina, on the 19<sup>th</sup> day of January, 2007 at 12:00 noon; and

WHEREAS, there have been described to the Authority the plans of MEMSCAP, Inc., a Delaware corporation or an affiliated or related entity (the "Company"), to acquire,

construct and equip a facility for the manufacture of semi-conductor chips (the "Project") in Durham County, North Carolina; and

WHEREAS, the Company has described the benefits to Durham County and the State of North Carolina and has requested the Authority to agree to issue its industrial facilities revenue bonds under the North Carolina Industrial and Pollution Control Facilities Financing Act, Chapter 159C of the North Carolina General Statutes (the "Act"), in such amounts as may be necessary to finance all or a portion of the costs of acquiring, constructing and equipping the Project; and

WHEREAS, the Authority is of the opinion that the Project is a facility which can be financed under the Act and that the financing of the same will be in furtherance of the purposes of the Act;

**BE IT RESOLVED BY THE DURHAM COUNTY INDUSTRIAL FACILITIES AND POLLUTION CONTROL FINANCING AUTHORITY:**

1. It is hereby found and determined that the Project will involve the acquisition, construction and equipping of a manufacturing facility and that therefore, upon proper certification of the Project in accordance with the requirements of the Act, its financing will be in furtherance of the purposes of the Act.
2. To induce the Company to acquire, construct and equip the Project in Durham County, the Authority hereby authorizes the execution by the Authority's officers of an Inducement Agreement (the "Agreement") between the Authority and the Company, in substantially the form attached hereto as Exhibit A, whereby the Authority agrees, pursuant to the terms and subject to the conditions of the Agreement and the Act, to assist the Company in every reasonable way to finance the acquisition, construction and equipping of the Project through the issuance of the Authority's industrial development revenue bonds (the "Bonds") in an amount now estimated not to exceed \$10,000,000 to provide all or part of the cost of the Project. Under the Agreement, the Company is permitted to proceed with the acquisition, construction and equipping of the Project, and to reimburse itself for the costs thereof out of the proceeds of the Bonds.
3. The Authority intends that the adoption of this resolution be considered as "official action" toward the issuance of the Bonds within the meaning of the regulations issued by the Internal Revenue Service pursuant to Section 141 of the Internal Revenue Code of 1986, as amended. This resolution is intended to be a declaration of the Authority's official intent to permit the Company to reimburse itself for certain costs that may be incurred prior to the issuance of the Bonds as permitted under Treas. Reg. § 1.150-2(e). The Authority hereby finds that the reimbursement of such costs from bond proceeds will promote the purposes of the Act.
4. The Authority hereby recommends that the Board of County Commissioners of Durham County approve Hunton & Williams LLP as bond counsel to the Authority with respect to the Bonds.

**Public Hearing—Plan Amendment—Page Road Assemblage (A06-15)**

Steve Medlin, Assistant Planning Director, City-County Planning Department, provided the following information:

<b>Reference Name</b>	Page Road Assemblage, A06-15		<b>Jurisdiction</b>	County
<b>Request</b>	<b>Proposed Land Use Designation</b>		Low-Medium Density Residential (4-8 DU/Ac.), 156.31 Ac.; Commercial, 2.61 Ac.; and Industrial, 11.87 Ac.	
	<b>Existing Land Use Designation</b>		Industrial, 158.92 Ac.; Commercial, 8.68 Ac.; Low-Medium Density Residential (4-8 DU/Ac.), 3.19 Ac.	
<b>Site Characteristics</b>	<b>Tier</b>		Suburban	
	<b>Site Acreage</b>		170.79 acres, including right-of-way	
	<b>Existing Use</b>		Vacant	
<b>Applicant</b>	Crossland Investments Inc.		<b>Submittal Date</b>	June 22, 2006
<b>Location</b>	West side of Page Road and north of Chin Page Road			
<b>Recommendations</b>	<b>Staff</b>	Approval, based on the justification and meeting the criteria for plan amendments		
	<b>Planning Commission</b>	Approval, 13-0 based primarily on being compatible with the area.		

Mr. Medlin continued by stating that the proposed plan amendment would change 170.79 acres including right-of-way of the Future Land Use Map. Several changes are proposed for Low-Medium Density Residential (4-8 DU/Ac.), Commercial, and Industrial designations. The proposed plan amendment calls for a significant reduction of Industrial designation. The applicant plans to build 1,300 residential units, 500,000 square feet of office space, and 150,000 square feet retail. The justification for this request is that the change represents a collection of uses within the property, with commercial and industrial uses “concentrated more suitably along the major roadway frontages with residential uses serving as a support use planned for the periphery.” The applicant noted that the Chamber of Commerce has acknowledged “access deficiency and a lack of roadway frontage” as obstacles to the successful development of the areas of the property designated for industrial uses. Staff concluded that while much of the applicant’s justification deals with financial issues that are not an appropriate basis for a plan amendment, the issues related to access and frontage, as well as the need for residential uses in proximity to industrial areas, are valid considerations. The issues related to access and frontage are factors that were not examined in detail at the time of the Comprehensive Plan, which largely retained the designations of the Triangle Township Plan. Accordingly, the request is justified based on examination of the issues with a greater level of detail as well as the new information from the Chamber of Commerce, which represents a change in conditions.

The Planning Department recommended approval, based on the justification presented by the applicant and meeting the four criteria for approval of the plan amendment.

The Durham Planning Commission recommended approval on August 8, 2006 (13-0), based on compatibility with surrounding area.

Planning staff certified that the necessary notifications were made pursuant to the UDO. The Board was requested to conduct a public hearing and receive public comment.

Chairman Reckhow opened the public hearing that was properly advertised.

Ken Spaulding, 2530 Meridian Parkway, Durham, NC 27713, and Patrick Byker, 2614 Stuart Drive, Durham, NC 27707, both represented the applicant and requested approval.

As no one else requested to speak on the agenda item, Chairman Reckhow closed the public hearing and referred the matter back to the Board.

Vice-Chairman Heron commented that the section submitted by the applicant entitled, "Plan Amendment Criteria", was most helpful and very well done. Her desire was that future applicants follow this procedure.

Chairman Reckhow agreed with Vice-Chairman Heron. She asked Mr. Medlin if developers were required to submit justification statements.

Mr. Medlin replied in the affirmative. He offered to share this particular justification statement with future applicants as an example.

Commissioner Cousin moved, seconded by Vice-Chairman Heron, to approve Plan Amendment—Page Road Assemblage (A06-15).

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow  
Noes: None  
Absent: Cheek

### **Public Hearing—Request for Adoption of Durham County Hazard Mitigation Plan**

Chairman Reckhow asked Jeff Batten, Durham County Emergency Management Director, whether he received outside assistance in preparing the plan.

Mr. Batten replied that some assistance was provided. He stated that in response to federal requirements, Durham County Emergency Management requests adoption of the Durham County Hazard Mitigation Plan. Once adopted, the Plan will undergo a final FEMA review. This will satisfy FEMA requirements and allow the County to apply for mitigation grants to defray costs associated with mitigation projects undertaken by the County of Durham.



Mark W. Schell, Emergency Management Coordinator, gave background information regarding the plan. The Disaster Mitigation Act of 2000 and 44CFR 201.6 mandate counties and municipalities to construct and implement a Hazard Mitigation Plan in order to receive state and federal disaster and mitigation assistance funding. This plan outlines the hazards faced by Durham County and the municipalities located within the County. A rating is given to each hazard for the purpose of prioritizing the mitigation process. This rating is reflective of information from the State of North Carolina and the concerns of Durham County and its municipalities.

Mr. Schell stated that Durham County and its municipalities face a number of hazards every day. During the past decade and one half, the county has faced the effects of damaging tornadoes, severe winter storms, high winds, freezing temperatures, and chemical spills; the most considerable damages in this area are caused by flooding. County staff has learned from each disaster and each incident. Emergency services and response forces are better trained and better equipped to deal with these hazards than ever before. Numerous hazard mitigation efforts have been ongoing and continue to evolve to this day. As such, this Hazard Mitigation Plan will act as a steering tool to focus future mitigation actions.

Vice-Chairman Heron asked when a plan would be available for accommodating people and their pets (shelters, meals, etc.).

Mr. Batten responded that the plan referenced by Vice-Chairman Heron is a different plan. He is working with the Red Cross, which is committed to provide shelter. Special needs shelter is a County function and a relevant plan is already in place.

Vice-Chairman Heron expressed an interest in seeing the County plan at a future meeting. Several new County buildings with generators could serve as shelters.

Mr. Batten offered to provide Vice-Chairman Heron with the plan regarding the County's special needs shelter. Regarding pets, there is a new Presidential mandate; the state will provide guidelines at a meeting in April. The mandate will be addressed in Emergency Management's upcoming budget request.

Vice-Chairman Heron asked whether the Center for Senior Life has been considered as a shelter.

Mr. Batten responded that the Center was being considered during its construction but was deemed inappropriate at the time. He would be willing to re-evaluate the Center as an option for special needs shelter. The lower level of Brogden Middle School has been designated; however, Emergency Management is considering other options.

Chairman Reckhow noted that most of the Hazard Mitigation Strategies in the Plan are land use and engineering items. She asked how the strategies would be benchmarked.

Mr. Schell responded that members of the Mitigation Task Force (i.e., T. E. Medlin and other Planning staff) could speak to the technical issues.

Chairman Reckhow opened the public hearing that was properly advertised.

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

Vice-Chairman Heron moved, seconded by Commissioner Cousin, to adopt the Durham County Hazard Mitigation Plan.

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow  
Noes: None  
Absent: Cheek

### **Second Public Hearing on the 2005 Community Block Grant Scattered Site Housing Program**

Wendell M. Davis, Deputy County Manager, stated that the State Department of Commerce—*Division of Community Assistance* has made available to the County of Durham \$400,000 in grant funds for the purpose of rehabilitating low-income housing. The funds can only be used in the unincorporated areas of the County. The primary objective of the Community Development Block Grant Scattered Site Housing Program is to improve the housing conditions of very low-income households at or below 50 percent of the area median income. Recent changes by the General Assembly now provide that all eligible counties receive these funds every three years on a non-competitive basis. As lead agents, counties will receive funds by submitting a detailed plan describing how funds will be distributed to meet housing priorities. Staff working with the County's consultant, the Leah Consulting Group, has completed the necessary application process with the State to receive the funding. Staff is requesting that the Board hold the second of two required public hearings for the purpose of receiving citizen comments on the housing rehabilitation program.

Chairman Reckhow opened the public hearing that was properly advertised.

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

Chairman Reckhow stated that no action is required by the Board.

### **Board and Commission Appointments**

Chairman Reckhow called on Danny Goodwin, a citizen who had signed up to speak on this matter.

As Mr. Goodwin was not present, Chairman Reckhow requested that Angela McIver, Staff Specialist, Clerk to the Board's Office, distribute the ballots to the Commissioners.

Chairman Reckhow pointed out to the Clerk that a citizen who was not current on the payment of taxes was listed on the ballot.

Subsequent to the vote, Mr. Goodwin entered the Commissioners' Chambers and requested to speak to the Board.

Chairman Reckhow informed Mr. Goodwin that he was not in attendance when she called him forward to speak. She asked what was the pleasure of the Board in this regard.

The Commissioners agreed to allow Mr. Goodwin to speak.

Danny Goodwin, 4002 Crown Hill Drive, Durham, NC 27707, expressed his opinion that a citizen should not serve more than three consecutive terms.

Two other members of the audience requested to speak.

The Board agreed to deny the requests as the votes had been cast. In addition, the citizens did not follow the procedure regarding citizen comments.

Chairman Reckhow stated that a provision in the Commissioners' Resolution for Establishment of Policy and Procedures for Appointments to County Boards, Commissions, Committees, or Authorities allows the Commissioners to waive the policy concerning the number of terms a citizen may serve if the Board determines that the removal of an individual made ineligible by the policy would be detrimental to the functioning of that board, commission, committee, or authority, unless such removal is prescribed by statute. Chairman Reckhow conveyed that the Commissioners received a letter from Michael Weeks, Vice Chairman of the Authority being referred to, stating that it would be detrimental to remove someone in a top leadership position; therefore, the Commissioners are not violating their rules.

Vice-Chairman Heron remarked that she had a problem with the citizen serving ten years on the Authority. She suggested a compromise—that the citizen serve on the Authority until his position as chairman expires in April, at which time a new appointee would serve.

Chairman Reckhow mentioned that Vice-Chairman Weeks specifically requested in his letter that this particular member be allowed to serve as past chairman "providing broad knowledge of the major terminal redevelopment program underway and many other issues".

Vice-Chairman Heron voiced her opinion that ten years is a long time for one person to serve on a board.

Chairman Reckhow reminded the Commissioners that their current rules allow for three terms. Most of the boards have three-year terms; therefore, the standard for service is nine years. The appointment of this particular person to one more term—totaling ten years—is not out of line. In addition, citizens have been appointed and reappointed to certain boards (i.e., the Board of Equalization and Review) for 15 years or more. The policy should be waived when the Commissioners feel that institutional memory and expertise is important.

Commissioner Page expressed a desire for an interview process in order to become acquainted with the candidates. He asked that this be placed on a future worksession agenda.

County Attorney Chuck Kitchen announced the results of the Commissioners' selections as follows (incumbents are underlined)

Adult Care Home Community Advisory Committee

Barbara A. Gillespie

Animal Control Advisory Committee

Evelyn Nicholson

Area Mental Health Board

Earl Phillips (Recommended by the Area Mental Health Board)

Boxing & Wrestling Commission

William T. Hutchins Jr.

Citizens Advisory Committee

Donn Graves

Environmental Affairs Board

Stephanie Combs (Public Health; recommended by JCCPC)

Reuben S. Jones (Engineering; recommended by JCCPC)

Library Board

Joyce R. Sykes (Recommended by members of the Library Board)

Nursing Care Home Community Advisory Committee

Virginia Bass

Gay S. Bonds

Vivian H. Crouse

Ethel Morris Foote

Elizabeth Frentzel

Mary A. Fuchs

Barbara A. Gillispie

Operation Breakthrough

Karlene Fyffe

Raleigh-Durham Airport Authority

Craigie Sanders

W. Steven Toler

Transportation Advisory Board  
Christopher Perrien

**Closed Session**

Commissioner Page moved, seconded by Commissioner Cousin, that the Board of Commissioners adjourn to closed session to instruct the staff concerning the position to be taken in negotiating the terms for the potential acquisition of real properties pursuant to G.S. § 143-318.11(a)(5). The properties and owners are: North Triangle Realty, owner of 7321 Matthews Road; Jonathon Weiner and Elizabeth Livingston, owners of 1202 Trails End Drive; James and Robert E. Lee, owners of 0 Johnson Mill Road; Mishew and Alton B Smith Jr., owners of 8211 Johnson Mill Road; and William and Blanche McFarland, owners of 1403 and 2306 Moores Mill Road.

The motion carried with the following vote:

Ayes: Cousin, Heron, Page, and Reckhow  
Noes: None  
Absent: Cheek

**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, Commissioner Reckhow adjourned the meeting at 9:00 p.m.

Respectfully submitted,

Vonda Sessoms  
Clerk to the Board