

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

Monday, January 8, 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 Lewis A. Cheek, Philip R. Cousin Jr., and Michael D. Page (arrived at 7:05 p.m.)

Absent: None

Presider: Chairman Reckhow

Opening of Regular Session—Pledge of Allegiance

Announcements

Chairman Reckhow made the following announcements:

- Durham Neighborhood College is seeking applicants for the 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 31, 2007.
- The North Carolina Department of Transportation will give a presentation on the results of the alternatives analysis for the East End Connector project. The next public meeting is scheduled for January 30, 2007 from 4:00 to 7:00 p.m. at Living Waters Church at Lynn Road and US 70.

Minutes

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to approve as submitted the December 4, 2006 Worksession Minutes of the Board.

The motion carried with the following vote:

Ayes: Cheek, Cousin, Heron, and Reckhow

Noes: None

Absent: Page

December Anchor Award Winner—Ray Poole

Mike Smith, EMS Director, recognized Mr. Ray Poole, Administrative Officer, EMS, as the December Anchor Award winner. He praised Mr. Poole for his heroics while working off duty as a Triage Technician at Durham Regional Hospital where he (and other Durham Regional staff) rescued an unconscious man from a burning car. He knocked the window out of the car and brought the man to safety. The man was taken to Durham Regional Hospital where he was treated for his injuries.

Mr. Poole thanked the Board for the recognition and accepted the Anchor Award and the \$200 check from Chairman Reckhow.

Introduction of Web Casting of Durham County Meetings by Granicus Inc.

Chairman Reckhow recognized Deborah Craig-Ray, Assistant County Manager, to provide an overview of this item.

Ms. Craig-Ray announced that Durham County Government has entered a new era in communicating its meetings with the community. She reported that Durham County has teamed with Granicus Inc., a provider of streaming media solutions to local government, to web cast live and archive the Board of County Commissioners' meetings and other meetings. The web streaming system provided by Granicus is designed specifically for cities and counties and meets specific public sector needs. Granicus provides local governments with the ability to deliver public meetings, service announcements, education content, and video training through the Internet, live, or on-demand. The package includes BOCC minutes, reports, agendas, and more—all synchronized with the video/audio content.

Ms. Craig-Ray presented a brief demonstration of the web streaming, including a previously recorded BOCC meeting and agenda.

Ms. Craig-Ray addressed the following topics per requests by Commissioners:

- Hyperlinks to Agenda Attachments
- Closed Captioning
- Search Feature

Chairman Reckhow thanked Ms. Craig-Ray for her leadership with this initiative.

Adoption of the Durham County Board of Health Resolution Urging the General Assembly to Enact Legislation Allowing Local Fees for Food and Lodging Inspections

Brian E. Letourneau, MSPH, Health Director, stated that the Durham County Board of Health passed a resolution urging the general assembly to enact legislation allowing local fees for food and lodging inspections. He requested that the Board of County Commissioners adopt the resolution.

Robert M. Brown, Environmental Health Director, gave details about being in compliance with inspection laws and how many restaurants must be inspected annually.

Commissioner Cheek moved, seconded by Commissioner Cousin, to adopt the resolution to urge the General Assembly to enact legislation allowing local fees for food and lodging inspections.

The motion carried unanimously.

**RESOLUTION URGING THE GENERAL ASSEMBLY TO ENACT LEGISLATION
ALLOWING LOCAL FEES FOR FOOD AND LODGING INSPECTIONS**

WHEREAS, the State of North Carolina mandates that local government provide Food and Lodging support and inspections; and

WHEREAS, the State provides less than \$13,000 per year in support of providing Food and Lodging support and inspections; and

WHEREAS, it costs the local taxpayers of Durham County greater than \$700,000 to meet the State mandated requirements of the Food and Lodging Program; and

WHEREAS, the Durham County Board of Health believes fee for service funding for Food and Lodging support and inspections would be more equitable than asking city and county residents to bear the cost of these State mandated services through the use of property taxes; and

WHEREAS, other State mandated services such as the On-Site Sewage Program are funded using a fee for service approach; and

WHEREAS, Food and Lodging facility owners and operators draw financial benefit from such facilities:

THEREFORE, BE IT RESOLVED that the Durham County Board of Health urges the Durham County Board of County Commissioners to address this issue by working with the state legislature to enact such legislation empowering local government to collect fees from such enterprises operating within their boundaries for providing Food and Lodging support and inspections; and

BE IT FURTHER RESOLVED the Durham County Board of Health hereby supports and requests the General Assembly to address legislation allowing local fees for food and lodging establishment support.

/s/ William T. Small, MSPH, Chairman

Adopted by the Durham County Board of Health on November 9, 2006.

Chairman Reckhow stated that the resolution and relevant data would be presented at the Legislative Goals meeting on Thursday, January 11, 2007.

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, requested to speak on this item.

In response to Ms. Peterson's question, Chairman Reckhow clarified that the "fees" requested by the Board of Health are for food and lodging inspections. The fees would be included in the cost of a restaurant inspection.

Vice-Chairman Heron reiterated the intention of charging the inspection fee.

Consent Agenda

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

- *a. Budget Ordinance Amendment No. 07BCC000035—Public Health—Recognize Grant Revenue in the Amount of \$59,206 from the U.S. Department of Housing and Urban Development Through the N.C. Department of Environmental and Natural Resources and the City of Durham;
- *c. Budget Ordinance Amendment No. 07BCC000037—Cooperative Extension—Seniors Health Insurance Information Program Funding (recognize \$3,100 in grant funding from the Department of Insurance for the purpose of expanding the outreach to senior citizens through the Cooperative Extension Department);
- e. Approve the Sale of County Surplus Properties—2800 Sater Street and 134 & 134½ Hillside Avenue (approve the sale of 2800 Sater Street to Elizabeth Stuart LLC for \$1,600 and the sale of 134 & 134½ Hillside Avenue to Self Help Community Development Corporation for \$10,000);
- *f. Offer to Purchase County Surplus Properties (304 South Briggs Avenue, 2304 Hart Street, 605 Holloway Street, 109 South Maple Street, and 1320 Willowdale Drive) (pursue the upset bid process; the Board has the authority to accept or reject any offer at the conclusion of the upset bid process);
- g. Appointments to the Hollow Rock Planning Committee (approve the appointments of John Goebel, Wendy Jacobs, Charlie Welch, Becky Heron, and Ellen Reckhow [alternate]);
- h. Approve the Lease Amendment for DACCA Offices (approve the lease amendment and direct the Manager to execute the lease);

- i. Cultural Master Plan Spending Requests (approve the grants for the four community projects authorizing the expenditure of implementation funds);
- *j. Civic Center Authority Board Appointment Qualifications (approve the qualification for appointments to the Civic Center Authority Board); and
- k. Nominate Hospital Corporation Board of Trustees Mrs. Frances D. Mauney and Dr. Ira Q. Smith for appointment to the Duke University Health System Board of Directors.

The motion carried unanimously.

*Documents related to these items follow:

Consent Agenda Item No. a. Budget Ordinance Amendment No. 07BCC000035—Public Health—Recognize Grant Revenue in the Amount of \$59,206 from the U.S. Department of Housing and Urban Development Through the N.C. Department of Environmental and Natural Resources and the City of Durham.

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000035

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	\$321,026,219	\$59,206	\$321,085,425

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u> Human Services	\$395,697,933	\$59,206	\$395,757,139

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

This the 8th day of January, 2007.

Consent Agenda Item No. c. Budget Ordinance Amendment No. 07BCC000037—Cooperative Extension—Seniors Health Insurance Information Program Funding (recognize \$3,100 in grant funding from the Department of Insurance for the purpose of expanding the outreach to senior citizens through the Cooperative Extension Department).

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000037

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	\$321,115,425	\$3,100	\$321,118,525

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Economic & Physical Development	\$3,748,409	\$3,100	\$3,751,509

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

This the 8th day of January, 2007.

Consent Agenda Item No. f. Offer to Purchase County Surplus Properties (304 South Briggs Avenue, 2304 Hart Street, 605 Holloway Street, 109 South Maple Street, and 1320 Willowdale Drive) (pursue the upset bid process; 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 City of Durham, Durham County, North Carolina and which is described as follows:

304 South Briggs Avenue
PIN #0931-15-62-9628
Parcel ID #112445

WHEREAS, Douglas Knight has made an offer to the County to purchase the above property for \$3,000 and has made a bid deposit in the amount of \$150, which is not less than 5% 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 of property is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within 10 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% of the first \$1,000.00 and 5% 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% 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) after the end of the 10 day period, 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 the highest qualifying bid; and
9. Should the Board of County Commissioners accept the final qualifying offer, a non warranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled.

NOW THEREFORE, BE IT HEREBY 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 January 8, 2007.

/s/Vonda Sessoms
Clerk to the Board

RESOLUTION

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

2304 Hart Street
PIN #0831-15-73-0165
Parcel ID #114297

WHEREAS, Briscoe Enterprises has made an offer to the County to purchase the above property for \$5,000 and has made a bid deposit in the amount of \$250, which is not less than 5% 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 of property is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within 10 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% of the first \$1,000.00 and 5% 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% 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;
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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 the highest qualifying bid; and
9. Should the Board of County Commissioners accept the final qualifying offer, a non warranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled.

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Upon motion properly made and seconded, adopted by the Board at its meeting on January 8, 2007.

/s/Vonda Sessoms
Clerk to the Board

RESOLUTION

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

605 Holloway Street
PIN #0831-09-27-4023
Parcel ID #111332

WHEREAS, Baldwin Estates LLC. has made an offer to the County to purchase the above property for \$14,000 and has made a bid deposit in the amount of \$700, which is not less than 5% 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 of property is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within 10 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% of the first \$1,000.00 and 5% 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% 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) after the end of the 10 day period, 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 the highest qualifying bid; and
9. Should the Board of County Commissioners accept the final qualifying offer, a non warranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled.

NOW THEREFORE, BE IT HEREBY 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 January 8, 2007.

/s/Vonda Sessoms
Clerk to the Board

RESOLUTION

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

109 South Maple Street
PIN #0831-15-53-4362
Parcel ID #112336

WHEREAS, Baldwin Estates LLC. has made an offer to the County to purchase the above property for \$14,000 and has made a bid deposit in the amount of \$700, which is not less than 5% 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 of property is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within 10 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% of the first \$1,000.00 and 5% 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% 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) after the end of the 10 day period, 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 the highest qualifying bid; and
9. Should the Board of County Commissioners accept the final qualifying offer, a non warranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled.

NOW THEREFORE, BE IT HEREBY 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 January 8, 2007.

/s/Vonda Sessoms
Clerk to the Board

RESOLUTION

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

1320 Willowdale Drive
PIN #0820-19-61-6648
Parcel ID #134478

WHEREAS, Tony Brown has made an offer to the County to purchase the above property for \$5,000 and has made a bid deposit in the amount of \$250, which is not less than 5% 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 of property is as follows:

1. Publication of the Notice of Sale;
2. Upset bids must be received within 10 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% of the first \$1,000.00 and 5% 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% 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) after the end of the 10 day period, 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 the highest qualifying bid; and
9. Should the Board of County Commissioners accept the final qualifying offer, a non warranty deed will be prepared for the Chairman of the Board's signature and a time for closing will be scheduled.

NOW THEREFORE, BE IT HEREBY 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 January 8, 2007.

/s/Vonda Sessoms
Clerk to the Board

Consent Agenda Item No. j. Civic Center Authority Board Appointment Qualifications (approve the qualification for appointments to the Civic Center Authority Board).

At the May 9, 2006 Joint City County Committee meeting, the Civic Center Authority Board requested the City and County to add certain minimum qualifications for future appointments on the Authority. The City and County Attorneys agreed to the following proposed qualification: "In making appointments to the Civic Center Authority, priority will be given to having a balance of people who have at least five years of business management, legal, accounting or other pertinent experience, which may include experience with budgets, sales and marketing plans or business contracts."

A major responsibility of the Durham Civic Center Authority Board is the oversight of the company retained by the City and County to manage the Civic Center. To effectively fulfill this fiduciary responsibility, the Authority believes it would be helpful if members have knowledge and experience in many facets of business management.

The City clerk's office has amended their policy on advertising for the Authority Board to reflect this qualification for the City's appointments. Once the Board of Commissioners approves this language it will be applicable to the appointees of the County as well. Currently there is one vacant County appointment.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. b. Budget Ordinance Amendment No. 07BCC000036—Cooperative Extension—Welcome Baby Father Focus (recognize \$30,000 in grant funding from the Durham Partnership for Children for the purpose of expanding the Welcome Baby educational focus on fatherhood education and authorize the addition of a provisional .53 FTE to the Cooperative Extension Department).

Chairman Reckhow pulled this item to allow signed speaker Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, to comment.

Cheryl Lloyd, Cooperative Extension Director, addressed Ms. Peterson's question about the Welcome Baby Father program and how will it target young men in need of skills and education.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve Consent Agenda Item No. b.

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000036

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	\$321,085,425	\$30,000	\$321,115,425

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Economic & Physical Development	\$3,718,409	\$30,000	\$3,748,409

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

This the 8th day of January, 2007.

Consent Agenda Item No. d. Budget Ordinance Amendment No. 07BCC000038—Debt Service Fund Revenue Category Change for Lottery Proceeds (change the revenue category for budgeted lottery proceeds of \$4,600,000 being transferred from the Public School Building Fund to the Debt Service Fund from an “intergovernmental” revenue category to an “other financing sources” category).

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, requested to speak on this item. She asked for an explanation for transferring \$4,600,000 from the School Building Fund to the Debt Service Fund.

County Manager Mike Ruffin explained that the funds must be used for either public school construction or new debt for public school construction that occurred on or after July 1, 2003.

Chairman Reckhow added that the monies would be used to pay for debt from school bonds issued last spring.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve Consent Agenda Item No. d.

The motion carried unanimously.

DURHAM COUNTY, NORTH CAROLINA
FY 2006-07 Budget Ordinance
Amendment No. 07BCC000038

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>DEBT SERVICE FUND</u>			
Intergovernmental	\$4,600,000	(\$4,600,000)	\$0
Other Financing Sources	\$35,005,434	\$4,600,000	\$39,605,434

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

This the 8th day of January, 2007.

Public Hearing to Consider Allocating Economic Development Investment Funds to Merck & Co. Inc.

Carolyn P. Titus, Deputy County Manager, reported on this item. She stated that Merck & Co. Inc. is considering an expansion to its pharmaceutical manufacturing facility on its existing 257-acre site located in Treyburn Corporate Park. A new building of approximately 115,000 square feet would be constructed to house this expansion. Merck develops, manufactures, and commercializes pharmaceutical products.

Ms. Titus continued her presentation by stating that the proposed new investment for the Treyburn campus is estimated to be approximately \$100 million. Upon completion, Merck would manufacture a new vaccine product. In addition to the capital investment associated with the construction of the building, it is anticipated that there would be approximately 60 new jobs established in Durham County.

Merck & Co. Inc. is in the process of making the final decision as to where to locate the proposed expansion. Staff is aware of several other sites being considered for this investment. Merck officials have stated that Durham County's financial support for the project will be a key consideration in the final decision. Merck is requesting that the County participate in the costs of site preparation activities, such as site clearing and grading, and extension of utilities.

Staff recommended that the County participate in this economic development project by reimbursing Merck & Co. Inc. up to \$1,000,000 for the costs of site preparation activities and extension of utilities.

Chairman Reckhow opened the public hearing that was advertised on Wednesday, December 27, 2006, as required by Statute and called the following signed speakers forward for comments:

Ann Stock, Chair, Jobs Action Team of Durham CANN, 3527 Racine Street, Durham 27707, expressed concern about offering an incentive to Merck & Co. Inc. She inquired about jobs and training for Durham citizens once the incentive is awarded. She encouraged the Commissioners to explore alternative mechanisms for business incentives that focus on local hiring and wage-setting goals that provide livable wages and quality job opportunity for unemployed and underemployed County residents.

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, inquired about costs of the site clearing and grading and the extension of utilities. She also asked how many Durham citizens are currently employed at Merck's Treyburn Corporate Park site and how many local contractors, subcontractors, and laborers would be hired for construction of the new facility.

Jerry O'keefe, Chair, Greater Durham Chamber of Commerce Board of Directors, 300 West Main Street, Durham 27701, supported awarding the incentive to Merck & Co. Inc.

John Wagner, Plant Manager, Treyburn Corporate Park, Merck & Co. Inc., supported the incentive. He addressed concerns pertaining to local employment raised by Ms. Peterson.

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

Chairman Reckhow informed the public that the Board of County Commissioners evaluates companies based on their proposed wages. The Board does not provide incentives unless the company is paying above the median for the sector that it is in. Health benefits also must be provided. She expressed her opinion that Merck expanding in Durham would be a fiscal benefit.

Commissioner Cheek praised the project and extended appreciation to Merck & Co for its expansion.

Chairman Reckhow clarified that the incentive is up to \$1,000,000 and is based on reimbursement that would be made for direct costs; the payments would be spread over a series of years. She echoed Commissioner Cheek's comment about Merck for expanding within Durham.

Vice-Chairman Heron concurred with Chairman Reckhow and Commissioner Cheek's comments.

Commissioner Cheek moved, seconded by Commissioner Page, to approve the reimbursement contract between the County of Durham and Merck & Co. Inc. to allow for the reimbursement of costs associated with the site preparation, such as site clearing and grading, and the extension of utilities.

The motion carried unanimously.

Public Hearing—Zoning Map Change—Farrington Road Townhomes (Z05-27)

Frank M. Duke, AICP, City-County Planning Director, requested that the Board approve a zoning map change for a 39.334-acre site located on the west side of Farrington Road, south of Ephesus Church Road and north of Wendell Road. PINs 0709-03-21-4287, -22-7153, -8995, -23-5054, -8175, -32-0715 Request: RS-20; F/J-B and MTC (partial) to PDR 5.700; F/J-B and MTC (partial)

Mr. Duke noted his possession of certifications and affidavits that all Planning public hearings at tonight's meeting were properly noticed pursuant to N.C.G.S.

Mr. Duke acknowledged two additional committed elements that the developer wished to add to the current committed elements list on page 3 of the staff report. He stated that after reviewing the two elements, they may be added without further delay.

Staff recommended approval, including approval of 20 lots within the TUA, based on consistency with the *Comprehensive Plan*, and considering the information contained in the report.

Durham Planning Commission recommended and voted 14-0 for denial on November 14, 2006. The Commission found that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission recommended denial based on increased traffic congestion, inadequate provision of facilities in the development plan, impacts on sensitive environmental areas, opposition from the community, and inconsistency with neighboring land uses.

Chairman Reckhow expressed concern that the number of students estimated to be generated by the proposed project is significantly low for a 213-unit townhouse

development. She recommended that research be conducted to explain the difference in multipliers used to calculate the estimates.

Mr. Duke explained that per the *Comprehensive Plan*, staff is required to use the multiplier that is developed by Durham Public Schools (DPS). He has requested to review the estimates; new numbers would be presented to the Board and City Council for authorization in March once they are received from DPS.

Chairman Reckhow directed County Manager Mike Ruffin to communicate with Durham Public Schools the concern with the new multipliers, which are currently projecting little to no growth.

Mr. Duke clarified that the multipliers are not “new” numbers. The numbers were created by DPS in the early 1990s.

Chairman Reckhow opened the public hearing that was properly advertised.

Vice-Chairman Heron asked about the Board of County Commissioners rule pertaining to yielded time.

Chairman Reckhow informed that the Board allows a maximum of one yield per speaker. She called signed speakers forward for comments.

Mike Surasky, applicant, Chas. H. Sells Inc., 15401 Weston Parkway, Suite 100, Cary 27513, provided an overview of the plan.

Tom Miller, representing Leigh Farm Park Advisory Committee, 1110 Virginia Avenue, Durham 27705, introduced two additional committed elements: 1) Preserve/restore a vegetative strip up to 100 feet in depth where the sewer line enters the I-40 right-of-way as directed by the City of Durham; and 2) Curve the line of the sewer line as required by the City of Durham to preserve the visual and noise buffer between the park and the Interstate highway. *(The developer consented to adding the committed elements. Mr. Duke advised the Board on No. 1.)*

Charles E. Daye, 3400 Cambridge Road, Durham 27707, supported the project. He expressed desire to gain sewer access.

Debbie McCarthy, representing Trenton Road Neighborhood Association, 4517 Trenton Road, Durham 27707, opposed the project. She expressed concern about traffic congestion, noise, and density.

Boston Heller, 101 Meadowstone Court, Cary 27513, addressed concerns raised by Ms. McCarthy.

Chairman Reckhow asked the developer to speak to the following issues:

- Several items on the plan are not committed elements (i.e. recreational improvements, tree save areas being larger than the minimum, open space). *Mr. Duke recommended that the committed elements not specify the amenities; the target market should determine them. For example, if the target market is families with small children, then the amenity of choice would be tot lots. If the target is*

active adults, then amenities such as tennis courts and swimming pools would be appropriate.

- Suggestions made by Durham Open Space and Trails (DOST) Commission not addressed:
 - Retention of most of the large oaks along Farrington should be included within the buffer. *Mr. Duke explicated that specimen trees within a required buffer are required to be protected as part of environmental provisions of the UDO; therefore, it could not be made a committed element as requested by DOST.*
 - Eliminate detention pond No. 3 or make it into a bio retention pond preserving more of that area as tree coverage. *Mr. Surasky agreed to consider a bio retention pond during the site plan process.*
 - Open space and tree save (hardwood areas on both the northwest and southwest sides) are to remain undisturbed. *Mr. Duke stated that DOST recommended that tree covering on the map be done as tree preservation as opposed to tree replacement. Mr. Surasky committed to not disturbing tree save areas. Mr. Duke stated that this is a standard committed element.*
- Recommendation from the Transportation Division to “defer public hearings until the *Southwest Collector Street Plan* is adopted to permit the applicant to revise the proposed street layout if necessary to be consistent with the approve *Southwest Durham Collector Street Plan.*” (Staff Report, Page 6)
- Transportation Impact Assessment
- Reduction in density. *Mr. Heller commented that the plan was submitted under the old UDO which required stream buffers to be 50 feet. However, under the new UDO, stream buffers are required to be 100 feet, which reduces the number of townhomes to be constructed from 10 to 13 units. He committed to reducing the units to 200 under the condition that the plan continues to be in compliance with the Land Use Plan. Mr. Duke elaborated on the plan’s submission under the old UDO relating to stream buffer size.*

Vice-Chairman Heron suggested a delay to allow the developer to work with the Planning Department to modify committed elements and consider recommendations introduced at tonight’s meeting.

Mr. Duke proposed a two-cycle delay to consider the following issues: 1) maximum number of units; 2) tree cover to be tree preservation as opposed to tree replacement; 3) location of tree cover; 4) Mr. Miller’s two requested committed elements; and 5) commit to total open space as indicated on the plan map, which is in excess of the UDO requirements.

Chairman Reckhow asked if the plan could be redone by the February 12 Regular Session to show the widened buffer and property layout.

Mr. Duke advised against redoing the plan; it would require a new review by Planning staff which would take longer than two weeks. However, he affirmed that within two weeks, verbiage for the committed elements would be drafted and presented to the Board.

Commissioner Page asked Mr. Duke to reiterate his deferral request.

Mr. Heller notified the Board that his contract would expire in one month; therefore, the project must be discontinued if it is not approved.

Vice-Chairman Heron commented on the importance of submitting written committed elements.

Mr. Duke responded to a question posed by Chairman Reckhow, stating that a one-cycle deferral is not feasible due to two development plans that are to be submitted to City Council on January 16. He suggested that the proffers be read into the record to make the developer's commitments official.

Vice-Chairman Heron expressed discomfort with making the committed elements official via verbal record.

Commissioner Cheek expressed concern with traffic congestion and lot density.

Chairman Reckhow closed the public hearing and referred the matter back to the Board.

The Commissioners briefly discussed several of motions.

Commissioner Page advocated for approval, which would allow sewer access for the Daye family. He stressed that this could be the family's last opportunity to obtain access.

Commissioner Cousin commented for the record:

"I've listened to all of the presentations and I've listened to all of the comments from my colleagues. I find it distressing that I can only think of a handful of places where a development has ever occurred and no place where a school has gone in and property values suffer, and certainly no area that cannot receive water and sewer as a result. With regard to traffic impact, I personally requested in 2005 a traffic study for a light at the corner of Ephesus Church Road and Farrington Road and I was denied. I was told there was no need for a signal there because the volume of traffic did not indicate the need for it. What is happening in this section of Farrington Road is reminiscent to me of what has taken place at Kentington Heights when we have areas that are booming in development and yet these adjacent contiguous parcels suffer. These are folks on Farrington without water and sewer and cannot get it in 2007 in the County of Durham when they are adjacent on Ephesus Church Road to three neighborhoods. There is a Berlin wall, million dollar neighborhood; there's the median price of a home in that stretch which is a walk zone to Creekside is going to be a half-million dollars. And all of that comes to mind when I think of this...comes down to, as Commissioner Page said, probably a 'last ditch opportunity' for these homeowners who are more than homeowners, they are homesteaders. They've been in that area for over a hundred years...to do something to improve their lot. It distresses me that in terms of our processes, we've got an irresistible force meeting an immovable object. Go out to Creekside

and try to look over the wall of the community adjacent to it...that was clear-cut before they built that wall so that they could construct those million dollar homes back there.”

Chairman Reckhow emphasized the importance of putting committed elements in writing.

Commissioner Cousin moved, seconded by Commissioner Page, to approve Zoning Map Change—Farrington Road Townhomes (Z05-27).

The motion failed with the following vote:

Ayes: Cousin, Page

Noes: Cheek, Heron, and Reckhow

Vice-Chairman Heron encouraged the developers to plan a “decent” project that would create better use of the land and grant sewer access for the property owners.

Public Hearing—Zoning Map Change—5200 Wake Forest Highway (Z06-15)

Frank M. Duke, AICP, City-County Planning Director, requested that the Board approve a zoning map change for a 4.696-acre site located at 5200 and 5204 Wake Forest Highway. PINs 0860-01-19-5874, -6550; 0861-03-10-7293 Request: RR, RS-20, and CC(D); F/J-B to CC(D); F/J-B

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

Durham Planning Commission recommended and voted 7-6 for an approval on September 12, 2006. The Commission found that the ordinance request is not consistent with the *Comprehensive Plan*. However, should the governing body approve the pending plan amendment, the ordinance request would be in compliance with the revised *Comprehensive Plan*. The Commission believes the request is reasonable and in the public interest and recommended approval based on the information in the staff report and comments received during the public hearing.

Mr. Duke replied to a question by Vice-Chairman Heron, stating that this item is the zoning map change related to the plan amendment that was approved at the November 13, 2006 meeting.

Chairman Reckhow asked if committed elements are needed for tree covering and residential buffer areas.

Mr. Duke responded that the tree covering and buffer areas meet the Ordinance requirements; therefore, additional committed elements are not necessary.

Chairman Reckhow inquired about roadway improvements.

Mr. Duke stated that the plan has been reviewed by NCDOT and Transportation staff; currently, no roadway improvements are required due to its relatively small size.

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

The following speakers urged the Commissioners to approve the plan amendment:

Lee Lambert, property owner, 522 Oak Crest Drive, Chapel Hill 27516

Attorney Drew Marsh, representing the developer, 120 East Parrish Street, Durham 27701

Ron Horvath, the developer, 16 Consultant Place, Durham 27707, informed the Board of committed road improvements to Sharon Road and NC-98.

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to approve a zoning map change for a 4.696-acre site located at 5200 and 5204 Wake Forest Highway.

The motion carried unanimously.

Public Hearing—Plan Amendment, Joven Northeast Creek (A06-14)

Planning Director Frank Duke requested that the Board conduct a public hearing on a plan amendment for Joven Northeast Creek (A06-14) and approve the requested change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Industrial to Low-Medium Density Residential (4-8 DU/Ac.) and Commercial. Planning Department recommended approval, based on the justification and meeting the criteria for plan amendments.

Durham Planning Commission recommended and voted 13-0 for approval on September 12, 2006, based on the approval of a recent rezoning by Durham County.

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

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve Plan Amendment, Joven Northeast Creek (A06-14).

The motion carried unanimously.

Public Hearing—Plan Amendment, SECU, East Durham (A06-20)

Planning Director Frank Duke requested that the Board conduct a public hearing and receive public comment on a plan amendment for SECU, East Durham (A06-20); and approve the requested change to the land use designation on the Future Land Use Map of the *Durham Comprehensive Plan* from Low Density Residential (4 DU/Ac. or less) to Commercial.

Planning Department recommended approval, based on the justification and meeting the criteria for plan amendments.

Durham Planning Commission recommended and voted 12-2 on November 14, 2006, based on making the land use plan consistent with existing zoning.

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

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve Plan Amendment, SECU, East Durham (A06-20).

The motion carried unanimously.

Public Hearing—Unified Development Ordinance (UDO) Text Change—Chain-Link Fencing (TC06-19)

Frank M. Duke, AICP, City-County Planning Director, introduced this item. He requested that the Board receive public comments on Text Change—Chain-Link Fencing (TC06-19) and adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 9 to repeal the provisions restricting use of chain-link fencing.

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

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve Unified Development Ordinance (UDO) Text Change—Chain-Link Fencing (TC06-19).

The motion carried unanimously.

AN ORDINANCE TO AMEND ARTICLE 9 OF THE UNIFIED DEVELOPMENT ORDINANCE CONCERNING REQUIREMENTS FOR CHAIN-LINK FENCING

WHEREAS, the Durham County Board of Commissioners wishes to amend the Unified Development Ordinance (UDO), and

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

NOW, THEREFORE, be it ordained that Article 9 of the Unified Development Ordinance is amended to make the following changes:

SECTION 1

Make the changes described below to Section 9.9.2

Sec. 9.9 Fences and Walls

9.9.2 Fences

A finished side of all fences shall face off site.

~~B. Except in the Rural Tier, all chain link fences, other than those associated with an electrical substation or erected solely for protection of a site during construction activities, shall have green or black vinyl coating and shall be capped with a bar or similar device to help stabilize the fence and hold the chain link in an up-right position.~~

~~C.~~ B. Razor wire, concertina wire, barbed wire, and similar fencing materials shall be prohibited in all residential districts except in the Rural Tier.

SECTION 2

That the Unified Development Ordinance may be renumbered as necessary to accommodate these changes.

SECTION 3

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

AN ORDINANCE TO AMEND ARTICLE 9 OF THE UNIFIED DEVELOPMENT ORDINANCE CONCERNING REQUIREMENTS FOR CHAIN-LINK FENCING

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SECTION 1

Make the changes described below to Section 9.9.2

Sec. 9.9 Fences and Walls

9.9.3 Fences

A finished side of all fences shall face off site.

B. Razor wire, concertina wire, barbed wire, and similar fencing materials shall be prohibited in all residential districts except in the Rural Tier.

SECTION 2

That the Unified Development Ordinance may be renumbered as necessary to accommodate these changes.

SECTION 3

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

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

Kevin Etheridge, Budget Analyst/Matching Grants Administrator, recognized members of the Matching Grants Committee for their hard work: Annette Montgomery, Richard Mentock, and Chairman Reckhow. He also thanked Jane Korest and Greg Schuster, Durham County Open Space and Real Estate Division, for their assistance with the review process. He proceeded to introduce DOST's Matching Grants Funding recommendation to the Board. He reported that DOST received eleven applications for the Matching Grants Program to assist nonprofit community organizations with recreational and open space projects. The Matching Grants committee of DOST and County staff examined the eleven proposed projects to ensure compliance with the program's goals and guidelines. DOST approved the project and funding recommendation below at its November 20, 2006 meeting:

Organization	Project	Grant Request	Match	Project Total
Ellerbe Creek Association	Upgrades and new trails at three public nature reserves	\$4,710	\$4,710	\$9,420
Eno River Association	Acquisition and trail development of two adjacent undeveloped tracts	\$43,563	\$43,563	\$87,126
George Watts Montessori PTA	Playground installation for Pre-Kindergarten age children	\$25,662	\$25,662	\$51,324
Little River PTA	Playground installation	\$9,233	\$9,233	\$18,466
TOTAL		\$83,168	\$83,168	\$166,336

The recommendation to allocate \$83,168 of County funds represents a gain to the County of \$83,168 in matching funds as half the projects' proposed value of \$166,336. The Matching Grants program budget of \$85,000 was approved in the FY2006-2007 Budget.

Commissioner Page inquired about the number of schools that submitted applications.

Mr. Etheridge responded that George Watts Montessori School and Little River Elementary were the only two schools that applied. Chairman Reckhow communicated that Central Park Charter School also applied, but some issues transpired. The Matching Grants Committee encouraged them to work with the City of Durham Parks and Recreation Department.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the Ellerbe Creek Association, Eno River Association, George Watts Montessori School, and Little River Elementary funding requests and the allocation of \$83,168 of the budgeted Matching Grants funds to these projects.

The motion carried unanimously.

Chairman Reckhow thanked Mr. Etheridge for his dedicated work since he stepped in as Matching Grants Administrator a year ago.

Chairman Reckhow noted for the record that Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, signed up to speak on this item; she was not in the room when her name was called.

Motion to Excuse Commissioner Page from the January 22 Meeting

Commissioner Cheek moved, seconded by Commissioner Cousin, to excuse Commissioner Page from the January 22, 2007 Regular Session.

The motion carried unanimously.

Closed Session

Commissioner Page, seconded by Commissioner Cheek, to adjourn to Closed Session to consult with an attorney and to preserve the attorney-client privilege and to discuss NCDOT v County of Durham, 04 CVS 6391 pursuant to G.S. § 143-318.11(a)(3).

The motion carried unanimously.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 10:03 p.m.

Respectfully Submitted,

Yvonne R. Gordon
Deputy Clerk to the Board