

**July 24, 2006 Regular Session**

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

Monday, July 24, 2006

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

Absent: None

Presider: Chairman Reckhow

**Opening of Regular Session**—Pledge of Allegiance

**Agenda Adjustments**

Chairman Reckhow acknowledged the revised agenda which reflected the amended Board and Commission Appointments agenda item. She also noted the revised June 15 Budget Worksession Minutes at each Commissioner's station.

**Announcements**

Chairman Reckhow announced that Neighborhood College, a nine-week series of classes to provide information on key City and County services, will begin on Thursday, September 14, 6:00 to 9:00 p.m. in the Commissioners' Chambers, with one Saturday morning class. The last day to apply is August 25.

**Minutes**

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to approve as submitted the June 15, 2006 Budget Worksession Minutes and as corrected the June 26, 2006 Regular Session Minutes.

The motion carried unanimously.

**July Anchor Award Winner—Priscilla Lewis**

County Manager Mike Ruffin introduced the July Anchor Award Winner, Priscilla Lewis. County Manager Ruffin stated that Ms. Lewis was recognized for outstanding leadership while serving as Interim Library Director during an extremely challenging time involving new construction projects (i.e. East and North Regional Libraries), new technology to be evaluated for implementation, new staff to be hired, and a substantial renovation at the Stanford Warren Library. In addition to the projects, she managed daily operations of the Library system with grace and style, keeping on task all of the initiatives necessary to have a successfully run Library system. County Manager Ruffin thanked Ms. Lewis for her outstanding service to Durham County.

Ms. Lewis gave remarks about her experiences as a dedicated employee to the Library system. She thanked the Commissioners and the County Manager for the recognition. She further thanked Library staff and other departments for their support.

Chairman Reckhow presented the Anchor Award and check to Ms. Lewis.

**Adoption of a Twenty-Fifth Anniversary Resolution for the North Carolina Association of Zoning Officials**

Chairman Reckhow read the following resolution into the record:

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RESOLUTION ADOPTED BY  
THE DURHAM COUNTY BOARD OF COMMISSIONERS  
IN SUPPORT OF THE NORTH CAROLINA ASSOCIATION OF  
ZONING ENFORCMENT OFFICERS  
IN HONOR OF THEIR TWENTY-FIFTH ANNIVERSARY

WHEREAS, the North Carolina Association of Zoning Officials was established on January 16, 1981; and

WHEREAS, the mission of the North Carolina Association of Zoning Officials is to encourage and promote the technical and legal quality of administration to all of those engaged and interested in the field of Zoning Administration and Zoning Enforcement in the State of North Carolina; to aid in furthering public understanding and awareness in Zoning; to speak as a representative of Zoning Administration and Zoning Enforcement in the State of North Carolina; and to see that the private citizens and officials are more accurately informed as to reputable practices and interpretations of zoning problems involving the administration and enforcement of local Zoning Ordinances; and

WHEREAS, the North Carolina Association of Zoning Officials has worked diligently for the past 25 years to expand resources and to sponsor and develop a comprehensive system of quality Zoning education for Zoning Officials across the State of North Carolina; and

WHEREAS, the anniversary of the North Carolina Association of Zoning Officials will be celebrated in 2006 during the Association's Annual Conference in Asheville, North Carolina; and

WHEREAS, the Board of Directors of the North Carolina Association of Zoning Officials, representing the membership of the Association, respectfully requests that the week beginning on July 30 and continuing through August 5 be set aside so that Zoning Officials across the State of North Carolina may be publicly recognized for their participation and dedication and for their contributions of time and expertise toward the improvement of Zoning Administration and Enforcement:

NOW, THEREFORE, BE IT RESOLVED that the week beginning July 30 and continuing through August 5 is hereby designated as

ZONING OFFICIALS WEEK in DURHAM COUNTY, NORTH CAROLINA

Adopted this 24<sup>th</sup> day of July, 2006.

BY: /s/Ellen W. Reckhow  
Chairman, Board of Commissioners

Frank M. Duke, AICP, City-County Planning Director, expressed appreciation to the Board for approving the resolution. He thanked the Board for their continued support and for recognizing the importance of zoning enforcement.

Chairman Reckhow thanked Mr. Duke and the Zoning staff for their diligent work.

**Consent Agenda**

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

- \*a. Property Tax Releases and Refunds for Fiscal Year 2005-2006 (accept the property tax release and refund report for June 2006 as presented and authorize the Tax Assessor to adjust the tax records as outlined by the report);
- \*b. Budget Ordinance Amendment No. 07BCC000002—2005 Emergency Management Performance Grant (EMPG) (approve to recognize \$68,511 in grant revenue received from the North Carolina Division of Emergency

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- Management, to be applied to Durham County Emergency Management);
- \*c. Budget Ordinance Amendment No. 07BCC000003—Emergency Management Homeland Security Grants (approve to recognize revenue in the Emergency Management budget for two grants from the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management);
  - d. Transfer of Durham County Asset to Durham Police Department (authorize the transfer of the used 1999 International 4700LP ambulance [purchased by Emergency Management with Homeland Security Grant funding] to the City of Durham Police Department for use by its Bio-Chemical Emergency Response Team);
  - e. Execution of Architectural Design Service Agreement with O'Brien/Atkins Associates, P.A for the Durham County Justice Building and Parking Deck—Capital Project (No: DC066) (authorize the execution of the contract in the amount of \$6,138,590, plus additional services and reimbursable expenses estimated at \$416,500, thus totaling \$6,555,090);
  - f. Appointment—NCACC Annual Conference Voting Delegate (appoint Commission Chairman Ellen W. Reckhow as the voting delegate to the annual conference in Forsyth County);
  - \*g. Report on Claims Settlement (receive the report as information, and direct that it be included in the minutes); and
  - \*h. Capital Project Amendment No. 07CPA000001—Appropriate \$47,074,040 in 2006 Issued General Obligation Bonds, \$10,647,577 in 2/3rds General Obligation Bonds, and County Contribution Funds of \$1,038,443 to Various Capital Projects.

The motion carried unanimously.

\*Documents related to these items follow:

Consent Agenda Item No. a. Property Tax Releases and Refunds for Fiscal Year 2005-2006 (accept the property tax release and refund report for June 2006 as presented 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 June 2006.

Releases & Refunds for 2006 Taxes:

Personal	\$ 10,500.57
Registered Vehicles	\$ 13,202.79
Vehicle Fees	\$ <u>535.00</u>
Total for 2006 Taxes and Fees	\$ 24,238.36

Releases & Refunds for 2005 Taxes:

Real Estate	\$ 23,083.75
Personal	\$ 11,526.99
Registered Vehicles	\$ 21,648.14
Vehicle Fees	\$ <u>570.00</u>
Total for 2005 Taxes and Fees	\$ 56,828.88

Prior years' (1996-2004) releases and refunds for June 2006 are in the amount of \$28,504.94. The total current year and prior years' releases and refunds amount to \$109,572.18.

(Recorded in Appendix A in the Permanent Supplement of the July 24, 2006 Regular Session Minutes of the Board.)

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Consent Agenda Item No. b. Budget Ordinance Amendment No. 07BCC000002—2005 Emergency Management Performance Grant (EMPG) (approve to recognize \$68,511 in grant revenue received from the North Carolina Division of Emergency Management, to be applied to Durham County Emergency Management);

DURHAM COUNTY, NORTH CAROLINA  
FY 2006-07 Budget Ordinance  
Amendment No. 067CC000002

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	\$316,825,150	\$68,511	\$316,893,661

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$46,779,338	\$68,511	\$46,847,849

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

This the 24<sup>th</sup> day of July, 2006.

Consent Agenda Item No. c. Budget Ordinance Amendment No. 07BCC000003—Emergency Management Homeland Security Grants (approve to recognize revenue in the Emergency Management budget for two grants from the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management).

DURHAM COUNTY, NORTH CAROLINA  
FY 2006-07 Budget Ordinance  
Amendment No. 07BCC000003

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	\$316,893,661	\$98,477	\$316,992,138

Expenditures:

<u>Activity</u>			
<u>GENERAL FUND</u>			
Public Safety	\$46,847,849	\$98,477	\$46,946,326

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

This the 24<sup>th</sup> day of July, 2006.

Consent Agenda Item No. g. Report on Claims Settlement (receive the report as information, and direct that it be included in the minutes).

COMPARISON OF TOTAL MONEY SPENT FOR LIABILITY CLAIMS

FISCAL YEAR	MONEY SPENT
1998-1999	\$19,928.62
1999-2000	\$67,128.58
2000-2001	\$48,036.67
2001-2002	\$62,237.89



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COUNTY OF DURHAM  
SUBROGATION RECOVERY – CLOSED FILES  
2005 – 2006

DEPT.	DATE OF LOSS	OTHER PARTY	CLAIM TYPE***	NARRATIVE	RECOVERY	FILE CLOSED
Sheriff	7/3/05	Langston, Kenneth O.	Property – Auto	Claimant rammed Deputy Vehicle trying to flee – claimant was being pursued by Deputy	\$726.35	7/18/05
Sheriff	6/13/05	Russell, Nolan P.	Property – Auto	Claimant side swiped Deputy’s car	\$814.90	10/26/05
Sheriff	2/8/06	Nowell, Candace T.	Property – Auto	Claimant backed into Deputy’s car	\$2,517.26	3/13/06
Sheriff	3/6/06	Ward, James S.	Property Damage – Auto	Claimant hit vehicle when passing	\$1,241.32	3/30/06
Sheriff	4/20/05	Sachez, Marcia	Property Damage – Auto & Bodily Injuries	Claimant ran stop sign and hit Deputy on left side of vehicle, causing bodily inj.	\$6,091.02 for auto – BI (still open)	5/27/05 (for property)
Sheriff	5/3/06	Martin, Steven D.	Property Damage – Auto	Claimant backed into Deputy’s parked vehicle	\$1,843.37	5/23/06
Sheriff	5/11/06	Harris, Tina	Property Damage – Auto	Claimant hit Deputy’s parked vehicle	\$1,031.17	5/23/06

TOTAL RECOVERY RECEIVED: \$14,265.39

\*\*\*Claim Type:

- PD = Property Damage
- BI = Bodily Injury
- EO = Errors & Omissions

Consent Agenda Item No. h. Capital Project Amendment No. 07CPA000001—Appropriate \$47,074,040 in 2006 Issued General Obligation Bonds, \$10,647,577 in 2/3rds General Obligation Bonds, and County Contribution Funds of \$1,038,443 to Various Capital Projects.

DURHAM COUNTY, NORTH CAROLINA  
FY 2006-07 Capital Project Ordinance  
Amendment No. 07CPA000001

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2006-07 Capital Project Ordinance is hereby amended to reflect budget adjustments for the following projects:

- Voter Approved General Obligation Bonds

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
New “D” Elementary	\$12,160,700	\$1,194,000	\$13,354,700
Spaulding Elementary	\$6,340,000	\$1,531,360	\$7,871,360
New “B” Elementary	\$0	\$11,463,695	\$11,463,695
New “C” Elementary	\$50,000	\$625,000	\$675,000
New “E” Elementary	\$50,000	\$750,000	\$800,000
New “A” Middle	\$50,000	\$1,250,000	\$1,300,000
New “B” Middle	\$689,000	\$486,000	\$1,175,000
Durham School of the Arts	\$571,160	\$6,263,440	\$6,834,600
Lowe’s Grove Middle	\$636,160	\$7,525,880	\$8,162,040
Eno Valley Elementary	\$0	\$330,000	\$330,000
Fayetteville St. Elementary	\$400,000	\$4,855,380	\$5,255,380
Pearsontown Elementary	\$0	\$84,000	\$84,000
Hamlin Facilities			
Transport	\$227,129	\$408,721	\$635,850
Mangum Elementary	\$0	\$4,251,564	\$4,251,564
Shepard Middle	\$0	\$800,000	\$800,000
Morehead Elementary	\$0	\$300,000	\$300,000
Holton (CIS Academy)	\$0	\$955,000	\$955,000
DTCC Campus			
<u>Improvements</u>	\$1,200,000	\$4,000,000	\$5,200,000
<b>TOTAL</b>	<b>\$22,374,149</b>	<b>\$47,074,040</b>	<b>\$69,448,189</b>

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- Two Thirds General Obligation Bonds

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
Animal Control	\$85,000	\$633,073	\$718,073
Open Space Land Acquisition	\$1,121,000	\$2,250,000	\$3,371,000
Human Service Complex	\$5,395,512	\$1,000,000	\$6,395,512
Holton (CIS Academy)	\$955,000	\$4,000,000	\$4,955,000
Southwest Branch	\$600,000	\$2,764,504	\$3,364,504
<b>TOTAL</b>	<b>\$8,156,512</b>	<b>\$10,647,577</b>	<b>\$18,804,089</b>

- County Contribution

	<u>Current Budget</u>	<u>Increase/Decrease</u>	<u>Revised Budget</u>
<u>Expenditures</u>			
Whitted School/Head Start Relocation	\$931,000	\$181,250	\$1,112,250
EMS Station #5	\$0	\$20,000	\$20,000
Sheriff – Detention Center Annex	\$200,000	\$67,193	\$267,193
Sheriff – Finger Printing	\$50,000	\$30,000	\$80,000
DTCC – Newton Bldg Expansion	\$0	\$320,000	\$320,000
DTCC – Northern Durham Center Exp.	\$0	\$420,000	\$420,000
<b>TOTAL</b>	<b>\$1,181,000</b>	<b>\$1,038,443</b>	<b>\$2,219,443</b>

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

This the 24<sup>th</sup> day of July, 2006.

**Public Hearing—Zoning Map Change—Sauternes (Z05-33)**

Planning Director Frank Duke requested that the Commissioners approve a zoning map change for a 422.6-acre site located on the east side of Doc Nichols Road, west of Olive Branch Road, and north of Leesville Road. PINs 0769-01-19-6484, 0769-01-28-5750, 9769, 0860-03-11-5310, 0860-03-23-1165, 0860-03-32-3006, 0860-03-34-5218, 0860-03-34-9805 Request: RR and PDR 3.21; F/J-B to PDR 3.00; F/J-B

Mr. Duke stated that the action is consistent with the Durham Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the agenda materials. He explained that in the event that a motion to approve the item fails, the finding that has been approved by the Governing Body is to adopt as support for its action on the proposed zoning map change, the determination that, notwithstanding its consistency with the Durham Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the agenda materials.

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

The Planning Commission recommended and voted for an approval, 10-2, on April 11, 2006, based on the finding that the ordinance is consistent with the adopted *Durham Comprehensive Plan*, considering the information in the staff report, and comments received during the public hearing.

Chairman Reckhow inquired about questions raised by Stormwater and Erosion Control regarding stream protection. (The Commissioners continued this item from the June 26 meeting due to the questions.)

Mr. Duke responded that the issue has been resolved with no changes to the plan.

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

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Ms. Kay Ross Alexander (Ms. Alexander was not present, but her comments were read by Mr. Lee Lambert), neighbor, 3611 Old Chapel Hill Road, Durham, 27707, supported the plan.

Attorney Drew Marsh, representing the developer, 616 Nantahala Drive, Durham, 27713, highlighted elements of the plan. He informed the Commissioners that the developer has pledged to donate \$500 to Durham Public Schools per building permit acquired since the County is no longer allowed to collect impact fees. He urged the Commissioners to approve the plan.

Mr. Ron Horvath, applicant, 16 Consultant Place, Durham, 27707, provided a brief history of MacGregor Development Company, the developer.

Ms. Carol Young, 5808 Williamsburg Way, Durham, 27713, apprised the Commissioners of particular plants that are banned in new developments, according to Planning Department's website.

Mr. Duke responded to Ms. Young's comments about banned plants. He stated that the prohibited plants list was recommended by the North Carolina Department of Agriculture and the United States Department of Agriculture; the Joint City-County Planning Committee approved the list. A request to revise the list would be brought to the Committee at its August meeting.

Commissioner Cheek noted that issues with the Unified Development Ordinance may continue to arise as new developments are built. He expressed appreciation to Ms. Young for enlightening the Board about the banned plants.

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

Chairman Reckhow acknowledged the revised committed elements list.

Vice-Chairman Heron expressed gratitude for the developer's cooperation and donation.

Commissioner Cheek moved, seconded by Commissioner Cousin, to approve the Zoning Map Change—Sauternes (Z05-33) with the revised list of committed elements.

The motion carried unanimously.

On behalf of the Board, Chairman Reckhow thanked MacGregor Development Company for working with the County to develop an improved project.

### **Public Hearing—Unified Development Ordinance (UDO) Text Amendment—Technical Changes I (TC06-04)**

Planning Director Frank Duke requested that the Board receive public comment on the Unified Development Ordinance (UDO) Text Amendment—Technical Changes I (TC06-04) and approve UDO Text Amendment—Technical Changes I (TC06-04), incorporating the technical revisions to Articles 3, 6, 8, 9, 10, 11, 13, and 16 into the UDO.

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

Vice-Chairman Heron referenced Issue No. 10, "Conservation Subdivision", in the July 24 memorandum from Mr. Duke. She inquired about "added provisions to permit conservation subdivisions in the Rural Tier to utilize package plants or extensions of public water or sewer in order to address utility issues".

Mr. Duke replied that the UDO permits the extension of public utilities as well as package plants into the rural tier. The applicant for the extension or package plant must request a major special use permit from the Board of County Commissioners. He explained that revisions to Section 6.2 "Residential Rural Development Intensity" pertain to minimum lot area.

Vice-Chairman Heron expressed discomfort with approving this item with the permitting of public utility and package plant extensions into the rural tier. She requested that the item be delayed until the August 14 meeting.



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Chairman Reckhow explicated that the proposed change would increase the minimum lot size. The proposed UDO text changes to be approved do not include public utility and package plants extensions. She recommended that Vice-Chairman Heron discuss questions about the extensions with Mr. Duke and bring any requests to the Board at a future meeting.

Commissioner Cheek concurred with Chairman Reckhow's comments.

Commissioner Cheek moved, seconded by Commissioner Page, to approve Unified Development Ordinance (UDO) Text Amendment—Technical Changes I (TC06-04).

The motion carried with the following vote:

Ayes: Cheek, Cousin, Page, and Reckhow  
Noes: Heron

**Public Hearing—Street Closing for Stone Road (SC04-14)**

Planning Director Frank Duke introduced this item. He issued a request for the Board to hold a public hearing and receive comment on permanently closing a 137-linear-foot portion of Stone Road.

Staff recommended that the Board adopt the order permanently closing a 137-linear-foot portion of Stone Road.

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

Vice-Chairman Heron moved, seconded by Commissioner Cheek, to adopt the order permanently closing a 137-linear-foot portion of Stone Road (SC04-14).

The motion carried unanimously.

**ORDER PERMANENTLY CLOSING A 137 LINEAR FOOT PORTION OF STONE ROAD  
(SC04-14)**

WHEREAS, the Durham County Board of Commissioners adopted a Resolution on June 26, 2006, declaring its intent to close the street or alley or portion thereof that is generally described in the caption of this order and that is more fully described in Attachment A, attached hereto and incorporated herein;

WHEREAS, the Resolution provided for the holding of a public hearing on the question of whether said street should be permanently closed; and

WHEREAS, notice of the closing of said street was sent by registered or certified mail to all owners as shown on County Tax Records of property adjoining the street to be closed; and

WHEREAS, a notice of the closing and public hearing was prominently posted in at least two places along the street to be closed; and

WHEREAS, the notice of the closing and public hearing was published once a week for two successive calendar weeks; and

WHEREAS, this matter came for hearing before the Durham County Board of Commissioners at its regular meeting on July 24, 2006, and all persons who desired to be heard were heard at that time.

NOW, THEREFORE, the Board of Commissioners of the County of Durham having carefully considered the question of permanently closing the street or alley or portion thereof as it more fully described in Attachment A, finds:

1. That closing of the street or alley described in Attachment A is not contrary to the public interest, and

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2. No individual owning property in the vicinity of the street would thereby be deprived of reasonable means of ingress or egress to his or her property.

IT IS THEREFORE, ORDERED:

1. That the street described in Attachment A is permanently closed under the authority of GS 160A-299(c).
2. That utility easements that may be referenced in Attachment A or shown on the plat referenced in Attachment A shall be retained by the City or County, and that easements owned by private utility companies that are shown on such plat be retained by the private utilities indicated.
3. That a certified copy of this Order and the plat referred to in Attachment A shall be filed in the Office of the Register of Deeds of Durham County, North Carolina.
4. That property owners adjacent to the closed street shall take right, title, and interest as is provided in GS 160A-299 (c), as may be further illustrated on the plat referenced in Attachment A.
5. That closing is conditioned on the recombination of lots and the dedication of right-of-way for such property deemed sufficient by the City and/or County.
6. That this Order is effective upon and after the date of its adoption as shown by the stamp of the County Clerk below.

/s/ Vonda Sessoms  
Clerk to the Board

Attachment A

Legal Description

Beginning at a point, located on the Northeast corner of the right-of-way, at the Northwest corner of the intersection of Wrenn Road, Stone Road, and Stone Park Court, said point beginning at the point of beginning, thence running S01°30'34"W a distance of 32.73 feet, thence running S46°38'40"W a distance of 201.54 feet, thence running S57°41'28"W a distance of 137.92 feet, thence running N49°32'48"E a distance of 26.90 feet, thence running N40°35'53"E a distance of 32.28 feet, thence running N33°29'42"E a distance of 31.52 feet, thence running N26°29'30"E a distance of 29.46 feet, thence running N18°15'45"E a distance of 29.91 feet, thence running N46°38'40"E a distance of 177.51 feet, thence running S89°55'23"E a distance of 53.53 feet to a point, said point of beginning and having 15,262.63 square feet or .350 acres, more or less.

**Settlement of 2005 Property Taxes and the Charge of 2006 Property Taxes to the Tax Collector**

Tax Administrator Ken Joyner submitted the settlement report of 2005 property taxes as required by G.S. 105-373.

(G.S. 105-373 (h) authorizes the Board to relieve the Tax Collector of the charges of taxes on classified motor vehicles that are one year or more past due. Additionally, the General Statutes bar use of any remedies for collection enforcement that is not instituted within 10 years of said taxes becoming due. Furthermore, pursuant to G.S. 105-321 (b), the Board of County Commissioners charges the Tax Collector with the 2005 Property Tax Receipts.)

The Board thanked Mr. Joyner for his outstanding leadership.

Chairman Reckhow consented to Mr. Joyner's request to recognize Tax Administration staff at the August 22 Worksession.

Commissioner Cousin moved, seconded by Vice-Chairman Heron, to approve the 2005 Property Tax Settlement Report; charge the Tax Collector with 2006 property taxes; and authorize the relieving of taxes that are more than

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10 years past due and motor vehicles taxes that are more than two years past due.

The motion carried unanimously.

**Preliminary Plat—Quail Ridge Subdivision (D04-644)**

Frank M. Duke, AICP, City-County Planning Director, stated that the Board is requested to approve a Preliminary Plat for “Quail Ridge Subdivision”, submitted by JDavis Architects PLLC on behalf of Worman Development L.C. for 86 single-family residential lots on a 91.425-acre site zoned RS-20. [The property is located south of West Cornwallis Road, east of Kerley Road and north of Erwin Road. PIN 0802-03-40-1503 and 0801-01-38-5292.]

The Development Review Board recommended approval.

Per instruction from County Attorney Chuck Kitchen, Mr. Duke addressed issues raised by the Commissioners at the June 26 meeting. He informed the Board that additional notes were added to the preliminary plat regarding stream buffers, steep slopes, and maintenance. He stated that the plan meets the requirements of the Unified Development Ordinance (UDO) and was certified by the Development Review Board.

Mr. Duke discussed the following concerns raised by neighbors:

- 1) Public hearing notice—A notice is only required to be given for public hearings. This administrative action requires the approval or denial to be based on technical compliance with the UDO. North Carolina law prohibits such action from being a public hearing.
- 2) Alignment of Woodstock Road—The plan shows a slight alignment of the road. However, the alignment is done with an existing right-of-way. (It has been reviewed and approved by NC Department of Transportation [NCDOT].) Therefore, no requirement is needed to do any road or right-of-way closures.
- 3) Sedimentation and erosion control—Stormwater Division staff inquired about the current plat meeting requirements. Development Review Board has reviewed the plan and determined that it meets all requirements at this stage of the project. If this plat is approved, the next stage would be construction and detailed engineering drawings, at which point the Review Board would determine if any revisions must be made.

Chairman Reckhow and Mr. Duke discussed notes on the plan. Mr. Duke assured Chairman Reckhow that the notes are on the plan although they are not explicitly visible on the current maps.

Mr. Duke explained to Chairman Reckhow that the applicant’s use of a community septic system would require approval of a major special use permit.

Chairman Reckhow recognized signed speakers for comments. (Each speaker was given two minutes to speak.)

The following speakers opposed the Preliminary Plat for Quail Ridge Subdivision:

Ms. Marla Tuchinsky, 5820 Ten Springs Lane, Durham, 27705

Ms. Liz Pullman, 1114 Scott King Road, Durham, 27713-9744

Ms. Judy Martell, representing Arrowhead Neighbors, 4424 Erwin Road, Durham, 27705

Ms. Kim Gotwals, representing Arrowhead Neighbors, 10 Osborne Place, Durham 27705

Ms. Carmen Durack, representing Arrowhead Neighbors, 1700 Woodstock Road, Durham, 27705

Ms. Happy Sayre-McCord, representing Arrowhead Neighbors, 3301 Cornwallis Road, Durham, 27705

Ms. Wendy Jacobs, representing Erwin Area Neighborhood Group, 142 Solterra Way, Durham, 27705

Mr. Dave Pierce, representing Arrowhead Neighbors, 11 Osborne Place, Durham 27705

Mr. Thomas Cook, representing Arrowhead Neighbors, 3 Fairbanks Circle, Durham, 27705

Mr. Richard Goldner, representing Arrowhead Neighbors, 39 Wilhelm Drive, Durham, 27705

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Attorney Ben Atwater, representing the developer Worman Development L.C., PO Box 629, Siler City, 27344, responded to issues raised by the speakers. He reminded the Commissioners that the issues would be addressed during the permitting process, not during the preliminary plat process. He urged the Board to approve the item as it is in compliance with the Unified Development Ordinance (UDO).

Chairman Reckhow inquired about the developer's meeting with the neighbors.

Attorney Atwater described the purpose of the meeting – to answer questions about meeting ordinance requirements.

Chairman Reckhow expressed concern about safety due to the proposed expansion of Erwin-Woodstock Roads intersection.

Mr. Duke responded that a note on the plat indicates that as the project proceeds through the construction-drawing stage, NCDOT may require additional revisions to the geometry and alignment of the intersection.

The Commissioners discussed the Woodstock Road alignment with Mr. Duke, Attorney Atwater, and Ken Thompson, Land Planner.

Commissioner Page commented about neighbors' concerns he received via email and telephone that were not met [by the developer] since the June 26 meeting. He expressed disappointment in the developer not cooperating with the residents.

Attorney Atwater reiterated that the concerns would be addressed in the permitting process.

Chairman Reckhow asked Attorney Atwater if someone with authority from his firm would schedule another meeting with the residents.

Attorney Atwater denied Chairman Reckhow's request. He stated that the requirements have been met; therefore, he recommended approval.

At the request of Commissioner Cousin, County Attorney Chuck Kitchen recapped the Board's responsibility in regards to approving or denying this item.

Commissioner Cheek reminded the Board that it must comply with the law by approving the plat.

Commissioner Cheek moved to approve the Preliminary Plat—  
Quail Ridge Subdivision (D04-644).

The motion failed for lack of a second.

Vice-Chairman Heron moved to delay the item until the  
September 11, 2006 Regular Session to allow Health  
Department staff to assess water/land issues; and to ask  
NCDOT to study safety issues associated with the Woodstock  
and Erwin Roads intersection to determine if any adjustments  
must be made to the alignment.

Commissioner Cheek noted his dissent to the motion. He stated that the studies have been done to the extent required by ordinance, deeming the motion to be inappropriate at this time.

County Attorney Kitchen responded to a question posed by Chairman Reckhow regarding the motion as it relates to delaying the item. He restated that the issue before the Board is whether the developer is in compliance with the UDO.

Vice-Chairman Heron communicated that the Board is not denying the preliminary plat; it is requesting a delay.

Chairman Reckhow and Commissioner Page stated support for the motion.

The motion carried with the following vote:

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Ayes: Cousin, Heron, Page, and Reckhow

Noes: Cheek

Mr. Duke informed Vice-Chairman Heron that a governing body does not approve the final plat as it is considered to be an administrative issue.

Commissioner Cousin moved, seconded by Vice-Chairman Heron, to direct the Planning Director to initiate the rezoning of the Arrowhead area; and direct the Health Department to reassess the lot size requirement associated with wells and septic tanks.

Commissioner Cheek expressed discomfort with voting for a motion that was not discussed with the Joint City-County Planning Committee.

The motion carried unanimously.

Attorney Atwater beseeched the Board to approve the item.

### Board and Commission Appointments

Vonda Sessoms, Clerk to the Board, distributed ballots to the Commissioners.

The following appointments were made:

#### Animal Control Review Board

Shannon McCabe

#### Bicycle and Pedestrian Advisory Board

Mary Malicki (Health)

#### Cable TV Advisory Board

Rev. James E. Vaughan

#### Durham Convention & Visitors Bureau/Tourism Development Authority

Mary K. Simpson (Lodging)

#### Environmental Affairs Board

Karalyn Colopy (Education/Communication)

#### Juvenile Crime Prevention Council

Justin B. Clark (Person under 18 years of age)

#### Library Board

Joe A. Hewitt (At-large)

#### Nursing Home Community Advisory Committee

Vivian H. Crouse (At-large)

Elizabeth Frentzel (At-large)

Julia H. Jones (At-large)

### Closed Session

Commissioner Cousin moved, seconded by Vice-Chairman Heron, to adjourn to closed session to instruct the staff concerning the position to be taken in negotiating the material terms for the acquisition of real properties pursuant to G.S. § 143-318.11(a)(5). The properties and owners are:

Greater Life Outreach Church, owner of 510 E. Peabody St.; GWC Properties, owner of 500 E. Peabody St.; James & Betty Willoughby, owners of 201 and 203 S. Dillard St; Ernest & Doris Brandt, owners of 111 S. Dillard Street, 515 E. Peabody St., and 519 E. Peabody St.; Betty Bunn, owner of 400 N.

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Elizabeth St., 525 E. Peabody St., and 507 Ramseur St; and Church of God, owner of 520 E. Peabody St.

The motion carried unanimously.

**Reconvene to Open Session**

Chairman Reckhow stated that no action was taken in closed session; direction was given to staff.

Chairman Reckhow polled the Commissioners on convening the August 14 meeting at 5:30 p.m. The Commissioners agreed.

Chairman Reckhow suggested that she and County Manager Mike Ruffin contact the Durham Public Schools Board about resuming quarterly meetings. (A0 meeting is tentatively scheduled for September 25 at 4:00 p.m.)

**Adjournment**

There being no further business, Chairman Reckhow adjourned the meeting at 10:08 p.m.

Respectfully submitted,

Yvonne R. Gordon  
Deputy Clerk to the Board