

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

Monday, January 12, 2009

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 Michael D. Page, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe W. Bowser, Becky M. Heron, and Brenda A. Howerton

Absent: None

Presider: Chairman Page

Opening of Regular Session—Pledge of Allegiance

Agenda Adjustments

Commissioner Heron requested to add a discussion to the agenda regarding hunting on Sundays. She stated that several counties are allowing hunting to occur on Sundays; the Wildlife Commission is in opposition.

Vice-Chairman Reckhow suggested adding the item to the Discussion of Issues for 2009 Durham County Legislative Agenda, if legislative action needs to be taken.

County Attorney clarified that a proposal was presented to the Wildlife Commission to allow hunting on Sundays; the County is asked to oppose a change in regulation. He advised Chairman Page to add the discussion as a regular agenda item.

The Board spoke in favor of adding a discussion to the end of the agenda regarding hunting on Sundays.

Motion to Excuse Chairman Page

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to excuse Chairman Page from the January 26, 2009 Regular Session.

The motion carried unanimously.

Announcements

Chairman Page announced that the City-County employees' Annual Martin Luther King, Jr. Celebration would be held on Wednesday, January 14, 12:00 noon, at First Presbyterian

Church, 315 East Main Street. He encouraged department heads, employees, and citizens to attend.

Minutes

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to approve as submitted the November 24, 2008 Regular Session and December 8, 2008 Regular Session Minutes of the Board.

The motion carried unanimously.

January Anchor Award Winners—Leon D. Wright and Jacob A. Cash

Chairman Page acknowledged Chief Deputy Mike Andrews, Sheriff's Department, to introduce this item.

Chief Deputy Andrews recognized Durham County Sheriff's Deputies Leon Wright and Jacob Cash for helping to save the life of a suicidal man who was distraught over his mother being placed in an assisted living home. When the deputies arrived on site, they found an elderly man with a shotgun in his hands. By gaining the man's trust and with patience, they were able to persuade him to lower the gun, at which point Deputy Wright was able to remove the gun. Chief Deputy Andrews read a communication from EMS Senior Paramedic Gary Witherspoon, which chronicled that day and also credited the Deputies with securing the scene for EMS and Durham Police officers who also were responders.

Chairman Page expressed gratitude to Deputies Wright and Cash for their "heroic" efforts and going beyond the call of duty.

Commissioner Heron expressed appreciation to the Sheriff's Deputies for their superior work.

Commissioner Howerton thanked the Deputies for the action taken to save the life of a Durham citizen.

Chairman Page presented each Deputy with a 2009 January Anchor Award, a Certificate of Appreciation, a plaque, and a \$200 check.

The Deputies received a standing ovation from the audience.

Support for Community Health Coalition's "Call to Action" Resolution to Manage and Monitor Blood Pressure

Dr. Elaine Hart-Brothers, local physician and Chair of the Community Health Coalition Inc. (CHC), requested that the Board of County Commissioners support the organization's ongoing efforts to eliminate racial disparities regarding health issues. She elaborated on the group's efforts and reported that in the fall, the group's Board of Directors approved a

resolution that seeks to partner with the County of Durham, City of Durham, health insurance companies, pharmaceutical companies, and health agencies in establishing a community-wide health education program on “Managing and Monitoring Blood Pressure”. The objective is to educate the community on the importance of:

- A) Maintaining healthy blood pressure levels; and
- B) Knowing how to properly monitor and manage blood pressure; thus, reducing or preventing chronic disease such a stroke, kidney disease, and heart attacks.

Dr. Hart-Brothers invited the public to explore the Community Health Coalition website at www.chealthc.org.

Commissioner Heron moved, seconded by Vice-Chairman Reckhow, to endorse the Community Health Coalition’s “Call to Action” resolution to manage and monitor blood pressure.

The motion carried unanimously.

Dr. Hart-Brothers addressed Commissioner Bowser’s request to elaborate on the Coalition’s efforts to help educate the community on the availability of discount medications.

RESOLUTION

WHEREAS, the primary purpose of the Community Health Coalition, Inc. (CHC) is to promote health and reduce preventable death and disease in Durham's African American population and eliminate the health status disparity between African Americans and the general population by the year 2010;

WHEREAS, the CHC seeks to partner with the City and County of Durham, major health insurance companies, pharmaceutical companies and health agencies to provide a blood pressure monitoring program for members of the Durham community;

AND WHEREAS, the prevalence of chronic diseases such as diabetes, hypercholesterolemia, and hypertension continues to rise among minority populations. Additionally, studies have shown that management of these diseases is more difficult in these populations when compared to the Caucasian population. According to the American Heart Association/American Stroke Association's Power to End Stroke Organization, one in four adults has high blood pressure, and the overall death rate from high blood pressure in 2001 was 251,000 people or 16.5 percent of the total population. Of that percentage, 47.8 percent were black males and 38.9% were black females;

Since the need for prevention of these diseases is critical, it is necessary and critical for the patients to be educated on how to properly monitor and manage their conditions.

NOW, THEREFORE, BE IT RESOLVED:

THAT Community Health Coalition is seeking to partner with the City and County of Durham, health insurance companies, pharmaceutical companies, and health agencies in

establishing a community-wide health education program on *Managing and Monitoring Blood Pressure*. The objective is to educate the community on the importance of (a) maintaining healthy blood pressure levels and, (b) knowing "how to" properly monitor and manage blood pressure; thus reducing or preventing chronic diseases such as peripheral artery disease (PAD), stroke, kidney disease and heart attacks. Specifically,

- 1) The health insurance companies should provide financial support for the purchase and distribution of the electronic monitoring devices;
- 2) CHC should assist and educate the residents of Durham on monitoring and managing their blood pressure; and
- 3) All partners and other employers should encourage the personnel in the work place and in the home to routinely check and monitor blood pressure.

Consent Agenda

Chairman Page stated that in effort to navigate the meetings in a smooth and expeditious manner, he would not read each consent agenda item; instead, he would call for a vote on the consent agenda as a whole. If a particular item is requested to be pulled, then those items would be removed for discussion prior to the vote.

Chairman Page pulled Consent Agenda Item Nos. b, c, h, and m for citizen comments.

Commissioner Bowser requested to pull Consent Agenda Item No. e.

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

- *a. Budget Ordinance Amendment No. 09BCC000040—
Cooperative Extension—Recognize \$4,200 in Revenue from the North Carolina Department of Insurance as a Partner in the Senior Health Insurance Information (SHIP) Program;
- *d. Budget Ordinance Amendment No. 09BCC000043—
Public Health—Recognize Aid To County Funds in the amount of \$1,907 From N.C. Department of Health and Human Services for operational expenses to Support the Document Management Project;
- f. Cancel March 9, 2009 Commissioner Meeting and Reschedule for Thursday, March 12, 2009, at 7:00 p.m. in the County Commissioners' Meeting Room;
- g. Appointment of County Commission Chairman Michael D. Page as Legislative Liaison to the NCACC for the 2009-10 Legislative Biennium;
- i. Approve the Sale of County Surplus Property—2600 Lincoln Street to Thomas Bailey for \$2,000 and 540 Belt Street Greater Zion Wall Baptist Church for \$968);
- j. Appointments—Cultural Master Plan Advisory Board (appoint Kofi Boone, Joshua Parker, and Michael Schoenfeld);
- k. Approval of Commissioner Assignments to Boards and Commissions; and

1. Termination of Conservation Agreement and Easement (approve the Termination of Conservation Agreement and Easement in consideration of \$75,000 from the Eno River Association).

The motion carried unanimously.

Document related to these items follow:

Consent Agenda Item No. a. Budget Ordinance Amendment No. 09BCC000040—Cooperative Extension—Recognize \$4,200 in Revenue from the North Carolina Department of Insurance as a Partner in the Senior Health Insurance Information (SHIIP) Program.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000040

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 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	\$400,325,464	\$4,200	\$400,329,664

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Economic and Physical Development	\$ 7,001,944	\$4,200	\$ 7,006,144

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

This the 12th day of January, 2009.

Consent Agenda Item No. d. Budget Ordinance Amendment No. 09BCC000043—Public Health—Recognize Aid To County Funds in the amount of \$1,907 From N.C. Department of Health and Human Services for operational expenses to Support the Document Management Project.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000040

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 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	\$400,715,518	\$1,907	\$400,717,425

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$449,970,229	\$1,907	\$449,972,136

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

This the 12th day of January, 2009.

Consent Agenda Items Removed for Discussion

Consent Agenda Item No. b. Budget Ordinance Amendment No. 09BCC000041—Social Services—Recognizing Additional Revenue (Crisis Intervention Payments—\$295,931 increase; and LIEAP and CIP Administration Funds—\$45,923 increase).

This item was pulled to allow signed speaker Dr. E. Lavonia Allison, PO Box 428, Durham 27702, to comment.

Dr. Allison asked how the funds would be administered. She suggested that County agencies work with community organizations that provide similar services (i.e. Operation Breakthrough).

Sammy Haithcock, Department of Social Services (DSS) Director, explained that the federal funds are earmarked for DSS and are coordinated at the state level with the Office of Economic Opportunity to provide emergency assistance to households for energy payments. He noted that DSS collaborates with Operation Breakthrough regarding the weatherization program.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000041

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 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	\$400,329,664	\$341,854	\$400,671,518

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			

Human Services	\$449,584,375	\$341,854	\$449,926,229
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All ordinances and portions of ordinances in conflict herewith are hereby repealed.

This the 12th day of January, 2009.

Consent Agenda Item No. c. Budget Ordinance Amendment No.09BCC000042—Public Health—Recognize Revenue in the Amount of \$44,000 from the Department of Environmental Health and Natural Resources for the Environmental Health Division for the childhood lead poisoning prevention program.

Chairman Page recognized signed speaker Dr. E. Lavonia Allison, PO Box 428, Durham 27702, for comments.

Dr. Allison spoke in support of the childhood lead poisoning prevention program; however, she reiterated her request for County agencies to work with community organizations that provide similar services (i.e. North Carolina Central University [NCCU]).

Gayle Harris, Acting Public Health Director, informed Dr. Allison that Public Health has previously worked with NCCU on lead poisoning prevention initiatives.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000042

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 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	\$400,671,518	\$44,000	\$400,715,518

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u>			
Human Services	\$449,926,229	\$44,000	\$449,970,229

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

This the 12th day of January, 2009.

Consent Agenda Item No. e. Budget Ordinance Amendment No. 09BCC000044—Public Health—Recognize One-Time Funds in the amount of \$16,750 from the N. C. Department of Health and Human Services for the Family Planning Clinic.

Commissioner Bowser requested removal of this consent item to inquire about the target population.

Gayle Harris, Acting Public Health Director, explained that the funds were allocated to increase clientele by the end of the fiscal year. She communicated to Commissioner Bowser that Public Health often contracts with Planned Parenthood in Durham to provide additional services at the Planned Parenthood site.

DURHAM COUNTY, NORTH CAROLINA
FY 2008-09 Budget Ordinance
Amendment No. 09BCC000044

BE IT ORDAINED BY THE COMMISSIONERS OF DURHAM COUNTY that the FY 2008-09 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	\$400,717,425	\$16,750	\$400,734,175

Expenditures:

<u>Function</u>			
<u>GENERAL FUND</u> Human Services	\$449,972,136	\$16,750	\$449,988,886

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

This the 12th day of January, 2009.

Consent Agenda Item No. h. Department of Social Services One Source Contract (approve the contract amendment for continuation of the Document Management Imaging [DMI] Project in DSS).

Chairman Page pulled this item to allow sign speaker Dr. E. Lavonia Allison, PO Box 428, Durham 27702, to comment; however, Dr. Allison declined to comment.

Consent Agenda Item No. m. Durham Public Schools Roofing Projects at Neal Middle and Lakewood Elementary (approve the owner/contractor agreements with Baker Roofing Company for roofing work at Neal Middle School and Lakewood Elementary School in the amounts of \$1,075,247 and \$462,926, respectively, and authorize the Manager to execute the agreements).

Chairman Page recognized signed speaker Dr. E. Lavonia Allison, PO Box 428, Durham 27702, for comments.

Dr. Allison spoke in support of the roofing projects; however, she inquired about the HUB report. Dr. Allison urged the Board to evaluate the contracts to determine if equal opportunity employment is provided to African Americans.

Chairman Page asked Dr. Allison to state the meaning of "HUB".

Dr. Allison defined "HUB" as Historically Underutilized Businesses.

Commissioner Bowser asked about previous renovations, particularly the roof, at Lakewood Elementary School.

Tim Carr, Project Manager for Durham Public Schools (DPS), responded that the previous roof replacement was more than 15 years prior.

Chairman Page directed County Manager Mike Ruffin to provide the Board and Dr. Allison with HUB reports on contractors for all projects involving \$1 million or more.

Commissioner Bowser moved, seconded by Vice-Chairman Reckhow, to approve Consent Agenda Item Nos. b, c, h, and m.

The motion carried unanimously.

Commissioner Heron suggested that staff place consent agenda items on PowerPoint and project on screen during meeting since the items would no longer be read into the record.

Vice-Chairman Reckhow indicated that citizens receive hard copies of the agenda prior to the meeting.

Commissioner Heron articulated that projecting items onscreen may conserve space and paper when printing agendas; it would also be convenient for viewers at home.

Chairman Page asked Yvonne Gordon, Deputy Clerk to the Board, if it would be possible to project the items during the meeting.

Ms. Gordon responded in the affirmative.

Recommended Budget Reduction for Durham Public Schools

Chairman Page recognized County Manager Mike Ruffin to present his recommended budget reduction for Durham Public Schools (DPS).

County Manager Ruffin proposed a 3% (\$3,081,862) reduction to the current expense appropriation for DPS. North Carolina law requires that the Board provide the school system with an opportunity to respond to the impact of the proposed reduction before any final action can be taken. County Manager Ruffin gave the following PowerPoint presentation:

Recommended Budget Reductions

Projected Year-End Revenue Shortfalls

- Current year property tax collections – \$1 to \$9 million below normal
- Prior Years property tax collections – \$500,000
- Sales Taxes - \$1.2 million
- Register of Deeds Revenue - \$1.25 million
- Investment earnings - \$1.1 million

Appropriated Fund Balance—\$13.5 million

Projected Year-End Deficit—\$14.24 million

Other Concerns

- 5½ months left in fiscal year
- Property tax collections down from FY2008
 - Bankruptcies
- Holiday sales tax collections – March 1

Strategies

- Use Fund Balance
 - Year-end deficit will likely worsen
 - Local Government Commission requires minimum fund balance of 8%
 - AAA requires minimum fund balance of 15%
 - For Operating Expenses?
 - Takes future option of using fund balance next year “off the table” – FY 2009-2010 property tax increase of 5 cents
- Reduce expenditures
 - County budgets reduced 6% - \$10.3 million
 - Recommended reductions to all other budgets – 3% - \$3.8 million
 - Durham Public Schools - \$3,081,862
 - Durham Tech - \$144,136
 - Museum of Life and Science - \$43,370
 - Open Space Program - \$550,000
 - Nonprofits and other outside agencies - \$58,252

2008-2009 Durham Public Schools and Charter Schools Average Daily Membership

Average Daily Membership	DPS	Durham Charter Schools	Total	Current Expense Funding – approx. \$2,899
DPI Projected ADM	32,925	2,516	35,441	\$102,728,739
2nd Month	32,262	2,678	34,940	\$101,276,548
<i>2nd Month Difference</i>	<i>(663)</i>	<i>162</i>	<i>(501)</i>	<i>\$1,452,191</i>

Reduction of DPS Budget

- NC law permits reduction to school budgets done due to prevailing economic conditions
- Requires that DPS appear before the Board to explain impact of requested reductions

Commissioner Heron asked County Manager Ruffin if the \$2,899 per pupil funding includes bond indebtedness.

County Manager Ruffin replied in the negative.

Commissioner Heron inquired about the total per pupil amount including bond indebtedness.

County Manager Ruffin responded that he would calculate the actual numbers at a later time. He noted that of the top 10 counties in North Carolina, Durham is No. 1 for per pupil expenditures; of the 100 counties, Durham is No. 4.

Commissioner Heron emphasized that bonds must be repaid.

County Manager Ruffin stated that to his knowledge, debt service for DPS is approximately \$22 million. (This amount is an annual loan payment for monies borrowed for DPS.) He stated that staff would verify the actual amount.

Commissioner Bowser asked if the County would lose its AAA bond rating if DPS' budget is not reduced.

Finance Director George Quick responded to Commissioner Bowser's question regarding the proposed budget reduction for DPS and its impact on the County's AAA bond rating. Mr. Quick stated that if DPS' budget is not reduced by 3%, then it would have no impact on current debt; however, it would impact future debt. He added that debt is partly incurring due to bonds with DPS.

Dr. Carl Harris, DPS Superintendent; Minnie Forte-Brown, DPS Board of Education Chair; and Steve Martin, DPS Administrative Services Chair; gave introductory remarks, requesting that the proposed budget cut be reduced/eliminated.

Hank Hurd, Associate Superintendent of Operational Services, DPS, presented the following PowerPoint presentation:

Primary Sources of Funds for DPS Education

State—58%
Local—35%
Federal—7%

Local Use of Funds

Description	Funds in \$ Millions	% of Ttl Local Funds
School Building Instructional	54.4	49.7%

Funds (Salaries & Supplies)		
Operational Costs	37.0	33.8%
Transportation	4.0	3.7%
Charter Schools (2,792 students)	8.0	7.3%
Other Benefits	1.7	1.6%
Central Services	4.4	4.0%
Total Local Current Expense	109.5	100.0%

DPS Unappropriated Fund Balance and as a % of Operating Expenditures (chart)

DPS Fund Balance Uses

- Bus Fuel—gaps in state funding—last year, it was \$686,326.
- Start-up supplies for new schools—Spring Valley (\$385,202), Holton School and Spring Valley expansion costs in spring 2009.
- Floating Federal Payroll and Expenditures due to gap in budget year (Fed = Oct). Payroll gap is between \$500,000 – \$1 million annually.
- Revenue shortfalls such as in Fines & Forfeitures (\$280,000 since 2006-07).

DPS Fund Balance Uses

- Unanticipated State actions such as the Governor’s \$750 raise for teachers which cost local funds \$976,000 in FY2005-06.
- Unfunded State mandates such as the recent NCWISE (student database) implementation last year at a cost of \$504,000.
- Floating capital project fund gaps between the sale of bonds such as the WG Pearson ES project gap in 2006.

State Budget cuts—midyear

- November 2008—0.75% cut = \$1.3 million
 - Appropriated \$1 million of additional fund balance for FY 2008-09 to cover the shift of teachers from state to local funds.
- Anticipated Feb 2009—0.50% cut = \$1 million.

Unfunded Mandates

- Exceptional Children
 - 12.5% cap
- Limited English Proficient
 - 10.6% cap
- Academically Gifted
 - 4% cap

This means no NEW State funding for any GROWTH in these areas since DPS is already fully funded up to the cap. All support for growth must be found thru local funds.

Projected State Budget Impact FY09-10

- NCDPI anticipates a 5-7% cut in State funds = \$9.5m to \$12.5m. (That equates to over 350 positions.)

- Employer hospitalization cost is expected to increase 31% or almost \$1,300 per person. Projected local fund impact is \$1.3 million.
- Teachers/Principals are expected to receive the experience step increase (2%), which is estimated to cost local funds \$810,000.
- FY 2009-10 total local impact for above is \$2.1 million.
- Anticipating static enrollment growth for FY09-10—should have info end of January.

Jennifer Bennett, Fiscal Analyst, DPS, presented the following information:

DPS Student Growth Average Daily Membership (chart)

Students and Projections

- Beginning FY 2005-06, DPS and the County Commissioners agree to use the State's (NCDPI) projection for calculating student funding for the district in the budget preparation.
- Annually, the actual enrollment and count of students will vary in relation to that "projection". Some years, it will be higher than projected; some years lower than projected.
- Annually, DPS has shown average growth of about 1.1% over the past five years.
- Local funds flow thru DPS to cover Charter School enrollment on a monthly basis; the remainder is used to cover DPS.
- Despite fluctuations, DPS does show growth from 1st to 1st month and even 9th month to 9th month from year to year.
- FY 2008-09 is the first year in a while where the growth in the 1st month was negligible. This was a statewide issue for all LEAs.
- DPS' 2nd month numbers for FY 2008-09 increased by 530 students.

Dr. Harris informed Chairman Page that budget cuts could only occur in the following program areas: capital outlay, vacancies, technology, and non-teacher positions.

Commissioner Bowser inquired about the remaining State funds provided to DPS for bus fuel.

Dr. Harris responded that after some of the State funds were used, the remaining State funds were applied to the fund balance; however, the State does not fund the entire fuel budget.

Mr. Hurd and Ms. Bennett responded to additional questions posed by Commissioner Bowser regarding DPS fuel costs and student capacity numbers.

Commissioner Howerton asked County Manager Ruffin to speak to the County's position if the Board honors DPS' request for a 1% budget reduction.

County Manager Ruffin stated that an additional \$2 million must be recovered from another area of the County budget or from the fund balance.

Chairman Page clarified for Commissioner Heron that comments were only being received in regard to Durham Public Schools' budget reduction.

Chairman Page called the following signed speakers forward for comments; each speaker was allotted two minutes:

Wisdom Pharoah, representing Durham CAN, 1A Lawson Street, Durham 27701, opposed the budget reduction.

Lois Murphy, 825 Colonial Heights Drive, Durham 27705, suggested that the Board approve a budget reduction that will not interfere with beneficial school programs.

Katherine Hirsch, spoke in support of DPS' request for a 1% reduction.

Dr. E. Lavonia Allison, representing Durham Citizens for the Affairs of Black People, PO Box 428, Durham 27702, opposed the budget reduction.

Victoria Peterson, PO Box 101, Durham 27702, opposed the budget reduction.

Commissioner Bowser addressed Ms. Peterson's comments regarding the high school dropout rate. He elucidated that the \$3.1 million budget reduction should not contribute to the dropout rate.

Vice-Chairman Reckhow thanked the citizens for their comments. She suggested that Board action be deferred to allow the County Manager and Dr. Harris to meet and reach a "happy median".

Dr. Harris responded to Commissioner Heron and Chairman Page's inquiries regarding DPS' efforts to curtail travel expenses and staff development costs.

Commissioner Howerton echoed Vice-Chairman Reckhow's request for County Manager Ruffin and Dr. Harris to discuss an alternative budget figure.

Chairman Page beseeched all recipients of County funds to work diligently to assist the County with budget reductions. He concurred with Vice-Chairman Reckhow and Commissioner Heron, asking that County Manager Ruffin and Dr. Harris negotiate a "happy median" and bring a new request to the Board at a later date.

Dr. Harris addressed questions posed by Commissioner Bowser in relation to the fund balance.

Commissioner Bowser agreed with the request to defer the item. He encouraged Dr. Harris to consider 1) using the DPS fund balance to offset expenses, and 2) debt incurred from capital projects.

Chairman Page asked the County Manager what would happen to the funds taken from the DPS budget if the projected budget shortfall does not occur.

County Manager Ruffin replied that the funds would be reappropriated to the respective parties.

Commissioner Bowser reiterated his comment about DPS considering its fund balance as an additional funding source.

Commissioner Howerton inquired about a 5% increase in tax revenue.

Tax Administrator Kim Simpson explained how the collection rate is compared with the previous year's collection rate.

Chairman Page thanked DPS representatives for attending the meeting and presenting their requests.

Public Hearing—Zoning Map Change—Radio Transmitter Site (Z0800028)

Steven L. Medlin, AICP, City-County Planning Director, stated that proper notification had been given in accordance with General Statute and UDO requirements. He requested that the Board approve a zoning map change for a 5.979-acre site located at 242 Nobel Drive, on the south side of Nobel Drive and west of its intersection with South Mineral Springs Road. Request: Regular Session-20; F/J-B to RR; F/J-B

Mr. Medlin reported that staff recommended approval, based on consistency with the Comprehensive Plan, and considering the information provided in the report. The Durham Planning Commission recommended and voted 14-0 for approval on November 11, 2008. The Commission found that the ordinance request is consistent with the adopted *Comprehensive Plan*. The Commission believed 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.

Commissioner Heron asked Mr. Medlin to elaborate on the zoning request.

Mr. Medlin responded to questions by Commissioner Heron pertaining to tree save areas and watershed protection.

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

James W. Davis, Engineering Director for Radio One Inc., 118 Monticello Avenue, Durham 27707, provided additional details on the zoning request. He addressed a question posed by Commissioner Heron in regards to stormwater runoff of impervious surfaces.

Commissioner Heron inquired about the increase of stormwater runoff as a result of this project.

Alison Pockat, Landscape Architect, 106 Steep Bank Drive, Cary 27518, responded to Commissioner Heron, stating that the project involves the addition of two small buildings onto the existing front end of the facility. The area is already considered "impervious"; it is the existing driveway proceeding up to the compound.

Ms. Pockat informed Commissioner Heron that no comments had been received from homeowners in the area regarding the project.

Commissioner Heron inquired about future development on the aforementioned property needing site plan approval.

Mr. Medlin replied that any improvements other than single-family residential would require site plan approval.

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

Commissioner Bowser moved, seconded Commissioner Heron, to approve Zoning Map Change—Radio Transmitter Site (Z0800028).

The motion carried unanimously.

Public Hearing—Unified Development Ordinance (UDO) Text Change—Unattended Clothing Donation Containers (TC0800004)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board receive public comments on Text Change—Unattended Clothing Donation Containers (TC0800004) and adopt an ordinance amending the Unified Development Ordinance (UDO), incorporating revisions to Article 5, Use Regulations.

Commissioner Heron asked Mr. Medlin if facilities (i.e. nonprofits, thrift shops, PTAs) that collect donated goods onsite and then redistribute/sell those goods are allowed to collect donations after normal business hours.

Mr. Medlin responded in the affirmative.

Commissioner Bowser asked if complaints have been investigated about donation containers being placed in unauthorized areas.

Mr. Medlin replied that investigations have been conducted weekly. He stated that unattended clothing donation containers were placed in rights-of-way, in inappropriate locations onsite, in parking spaces that are required, and in landscape areas.

Commissioner Bowser inquired about the comments of a Planning Commissioner who voted against the UDO text change.

Mr. Medlin explicated that the Commissioner's comments were incorrect; churches and other charitable organizations that redistribute collected goods are allowed to host a container onsite.

Mr. Medlin responded to Chairman Page that the destinations of the redistributed items are unknown.

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

Theophilus F. Parker, representing Planet Aid, 6 Om Court, Durham 27703, discussed Planet Aid's use of donation boxes within the County.

Commissioner Bowser asked Mr. Parker a series of questions about the Planet Aid donation boxes.

Mr. Parker replied that the boxes are insured and shipped worldwide, placed in non-hazardous zones, and permission from business owners is obtained before a box is placed on their property; however, although rarely, complaints have been received regarding full boxes. The passing of this text change would have a negative impact on Planet Aid, preventing clothing from being provided to the disadvantaged.

Mr. Medlin responded to Commissioner Bowser's questions, stating that several Planet Aid boxes had to be relocated due to their being in inappropriate locations; thus far, property owners have complied.

Dr. E. Lavonia Allison, representing Durham Citizens for the Affairs of Black People, PO Box 428, Durham 27702, expressed concern with the text change wording. She suggested that the paragraph be modified to allow organizations with unattended clothing containers to use a monitoring schedule.

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

Mr. Medlin elaborated on the issues involving unattended clothing container. He explained that crime could result, as people may hide behind the containers.

Commissioner Bowser inquired about the initiator of the text change.

Mr. Medlin responded that City Council Member J. Michael Woodard raised the issue at a prior Joint City-County Committee meeting.

Commissioner Bowser questioned Salvation Army and Goodwill's support of the text change. He opined that supporting the text amendment may signify a fear of competition.

Mr. Medlin articulated that in his earlier comments, he stated that the Salvation Army, Goodwill, and other similar nonprofits "see no problem" with the text change.

Mr. Medlin answered questions by Commissioner Bowser about prohibiting unattended clothing containers that are located in inappropriate areas.

Councilmember Woodard rebutted Mr. Parker's comments about Planet Aid, stating that donation boxes are poorly maintained. He briefly shared a story involving a deceased homeless man placed in a Planet Aid donation box and was left for four days.

Councilmember Woodard stated that the donated clothes are sold to consignment shops; the money, not the clothing, is then sent overseas.

Councilmember Woodard communicated that the Salvation Army and Goodwill are aware of unattended boxes by other organizations; thus, no competition exists.

Vice-Chairman Reckhow spoke in support of the text change request.

Commissioner Bowser expressed concern that someone was not telling the truth about Planet Aid, which prevents the Board from making a sound decision.

Commissioner Heron referenced the first line of the text change—"Notwithstanding the other provisions of this section, unattended clothing donation containers are prohibited unless located at the operational site of a company or organization that collects used clothing for resale or donation as a primary business function." She explained that the text does not prohibit the containers; it regulates where containers could be placed.

Mr. Medlin communicated to Chairman Page that churches are allowed to host containers onsite if they collect clothing for resale or redistribution.

Vice-Chairman Reckhow added that churches that are not in the business of selling or redistributing donated clothing have the option of holding a clothing drive.

Chairman Page noted that some churches and its members appreciate the convenience of a clothing container as opposed to donating to Goodwill. He asked if there is a mechanism in place to monitor an organization's donating activities.

Mr. Medlin responded in the negative.

Commissioner Bowser requested that Planning revise the amendment to include a clause that would permit churches to host clothing donation containers.

Commissioner Heron recommended that churches collaborate with the Salvation Army, Urban Ministries, and First Baptist Church.

Vice-Chairman Reckhow suggested that the text be amended to include "prohibited unless located at a church or other religious institution" in the second or third line.

Chairman Page asked that "religious" not be included in the wording, as it may eliminate some community organizations.

Mr. Medlin stated the he would work with the City and County Attorneys to compose proper wording. He informed the Board that as the City Council had approved the text change and is currently in effect within the City limits, an amendment may need to be submitted to the City Council. Mr. Medlin suggested forwarding the amendment to the Joint City-County Planning Committee.

The Board directed Mr. Medlin to amend the text change with sufficient wording and submit the change at a future regular session.

Mr. Medlin agreed and stated that he would work with the Attorneys.

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE
CONCERNING UNATTENDED CLOTHING DONATION CONTAINERS

WHEREAS, the Durham County Board of Commissioners wishes to amend a certain provision regarding unattended clothing donation containers in the Unified Development Ordinance; and

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

WHEREAS, unattended clothing donation containers are placed without authorization in public rights of way and other locations potentially hazardous to pedestrian and vehicular traffic; and

WHEREAS, unattended clothing donation containers are not adequately monitored or maintained, and material is allowed to accumulate outside of the containers and become scattered by the wind and rain; and

WHEREAS, material that accumulates outside of unattended clothing donation containers or is scattered is unsightly, attracts vermin, and poses a public health hazard; and

WHEREAS, used clothing is not a recyclable collected by the City of Durham or its recycling contractor so emergency collection capability aside from disposal does not exist; and

WHEREAS, for the reasons stated above, unattended clothing donation containers are detrimental to the public health, safety, and general welfare;

NOW, THEREFORE, be it ordained that Article 5, Use Regulations, of the Unified Development Ordinance is amended to make the following changes:

SECTION 1

Modify Section 5.4, Accessory Uses and Structures, paragraph 5.4.7, Recycling Facilities and Drop-Off Sites, by adding a new paragraph E, as set forth below.

5.4.7 *RECYCLING FACILITIES AND DROP-OFF SITES*

Commentary: On-site recycling facilities and public recycling drop-off sites should not be confused with recycling centers, which are much larger regional centers that process recyclables. Examples of on-site recycling facilities include cardboard or aluminum can recycling bins. Public recycling drop-off sites

include facilities located in church or school parking lots where the public may deposit recyclables.

- A. Recycling facilities and drop-off sites shall be encouraged and permitted as an accessory use in all nonresidential districts and multi-family residential property.
- B. The drop-off site shall be kept free of litter, residue and debris by the party responsible for the maintenance and management of the drop off facility.
- C. Recycling drop-off sites shall be located at least 50 feet away from adjoining residentially zoned property.
- D. The drop-off site containers shall be durable, waterproof, covered and of uniform color. The name and phone number of the party responsible for maintenance shall be posted on the container.
- E. Notwithstanding the other provisions of this section, unattended clothing donation containers are prohibited unless located at the operational site of a company or organization that collects used clothing for resale or donation as a primary business function. An unattended clothing container is any box, bin, dumpster, trailer or other receptacle that is intended for use as a collection point for donated clothing or other household materials at times when no employee or representative of the sponsoring company or organization is present to accept donations. Prohibited clothing donation containers that exist at the time this section is adopted shall be removed within 30 days of adoption.

SECTION 2

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

SECTION 3

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

Public Hearing—Unified Development Ordinance (UDO) Text Change—Beekeeping (TC0800005)

Steven L. Medlin, AICP, City-County Planning Director, requested that the Board receive public comments on Text Change—Beekeeping (TC0800005) and adopt an ordinance amending the Unified Development Ordinance, incorporating revisions to Article 5, Use Regulations, and Article 16, Definitions to remove “apiculture” from the definition of regulated agriculture. In the Cit, it would also repeal Revised Cit Code Sec. 6-6, Keeping bees.

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

Commissioner Heron moved, seconded by Commissioner Bowser, to approve Unified Development Ordinance (UDO) Text Change—Beekeeping (TC0800005).

The motion carried unanimously.

County Attorney Chuck Kitchen stated that after speaking with Mr. Medlin earlier in the day, he would like to advise the Board to consider a text amendment to insert a footnote in the UDO Table of Uses. The footnote would state, “These agricultural uses are all permitted outside of the City limits and the County. Pursuant to State Statute, the County cannot regulate agricultural uses.” Currently, the way it reads in the UDO, it would appear that the County may regulate agricultural uses outside the City limits. The footnote is to clarify so that it would be in conformance with the State Statute.

Mr. Medlin concurred with County Attorney Kitchen. He suggested that the aforementioned text change request be added to the list of technical changes as part of “Text Change 5”, which is in process.

AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE
CONCERNING BEEKEEPING (TC0800005)

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

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

NOW, THEREFORE, be it ordained that Article 5, Use Regulations, and Article 16, Definitions, of the Unified Development Ordinance are amended to make the following changes:

SECTION 1

Modify UDO Section 5.2, Use Categories, paragraph 5.2.2, Agricultural Use Categories, and paragraph 5.2.3, Residential Use Categories, as set forth below.

5.2.2 Agricultural Use Categories

Characteristics: Characterized by uses that create or preserve areas intended primarily for the raising of animals and crops, and the secondary industries associated with agricultural production.		
Principal Uses	Accessory Uses	Uses Not included
Animal raising including horses, hogs, cows, sheep, goats, and swine, poultry, rabbits, and other small animals, fish hatchery, aquaculture, dairying, personal or commercial animal breeding and development Greenhouse or nursery not engaged in retail trade, floriculture, horticulture, pasturage, row and field crops, viticulture, tree or sod farm, silviculture Livestock auction Riding academy or boarding stable	Ancillary indoor storage Animal (including poultry) processing, packing, treating, and storage, provided that these activities are accessory and secondary to normal agricultural activity Associated offices Auction ring Barns, garages, sheds, silos, stables (noncommercial) Home occupations Sales of agricultural products grown or raised on the premises Docks, noncommercial	Animal waste processing (see Waste-Related Service) Commercial feed lots (see Heavy Industrial) Livestock slaughtering (Heavy Industrial) Processing of food and related products (see Heavy Industrial) Solid or liquid waste transfer or composting (see Waste-Related Service) Housing for ranch or farm labor (Household Living) Resource Extraction

5.2.3 Residential Use Categories
 A. Household Living

Characteristics: Residential occupancy of a dwelling unit by a household on a month-to-month or longer basis.		
Principal Uses	Accessory Uses	Uses Not included
Manufactured Home, Class A or B, manufactured home park or subdivision Multiplex, apartment, congregate care facility with individual units that meet the definition of a dwelling unit, or retirement center apartment Single-family detached, zero lot line, traditional house, patio house, semi-attached house, duplex, townhouse Upper-story residential Family care home	Accessory dwelling unit, (i.e. granny flats and mother-in-law apartments) Accessory structure Ancillary indoor storage Children's play area or equipment Greenhouse or nursery not engaged in retail trade Home occupation In-house care for six or fewer persons Private community center Private garage, barbecue pit, carport, tool or garden shed, storage unit, swimming pool Docks, noncommercial Apiculture	Bed and breakfast establishment, hotel, motel, inn, extended-stay facility (see Overnight Accommodations) Group Home (see Group Living) Nursing or convalescent house (see Group Living) Residential assisted living facility not having individual dwelling units (see Group Living)

[Paragraph B is omitted.]

SECTION 2

Modify UDO Section 16.3, Defined Terms [Agricultural Uses], as set forth below.

Sec. 16.3 Defined Terms

Agricultural Uses: Land used as pasture or in the commercial production of crops, horticultural products, fish hatcheries or aquaculture. Also for the purposes of this Ordinance, the keeping of livestock for commercial or noncommercial purposes is defined as an agricultural use. Livestock includes but is not limited to poultry and hooved animals such as cattle, horses, goats, sheep and swine; however, swine commonly referred to as Miniature, Vietnamese or Oriental Pot-Bellied pigs (*sus scroda vittatus*) shall not be considered livestock if the animals are no more than 18 inches in height and the owner has proof of registry with the International Potbellied Pig Registry (IPPR). No more than two such Potbellied Pigs may be kept at any household to qualify for this definition. Also included in this definition of agricultural uses are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this

definition are apiculture, the commercial slaughtering of animals for marketing, and farm tenant dwellings.

SECTION 3

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

SECTION 4

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

Fiscal Year 2008-2009 Budget Reduction Recommendations

County Manager Mike Ruffin proposed budget reductions of 3% for all nonprofit appropriations for the current fiscal year. He reviewed the following chart, which discloses reductions for each nonprofit that receives County funding; he noted that reductions for two contract services were inadvertently excluded—Durham Economic Resource Center (\$600) and Animal Protection Society (\$18,347):

REVISED

FY 08-09 Nonprofit Funding and Contract Services

Nonprofit	FY 08-09 Adopted Budget	3% Reduction
Achievement Academy	\$20,000	\$600
Alliance of AIDS Services	\$15,000	\$450
American Red Cross	\$7,500	\$225
AnimalKind, Inc.	\$10,000	\$300
Big Brothers Big Sisters of the Triangle	\$35,000	\$1,050
Child & Parent Support Services	\$12,664	\$380
Child Advocacy Commission	\$40,500	\$1,215
Child Care Services	\$33,565	\$1,007
Communities in Schools	\$5,450	\$164
Coordinating Council for Senior Citizens	\$138,700	\$4,161
Durham Community Penalties Program	\$5,000	\$150
Durham Companions	\$5,000	\$150
Durham Congregations in Action	\$5,000	\$150
Durham Council for Children with Special Needs	\$13,000	\$390
Durham County Teen Court	\$35,000	\$1,050
Durham Crisis Response Center	\$52,000	\$1,560
Durham Literacy Center	\$30,000	\$900

Durham's Partnership for Children	\$15,000	\$450
El Centro Hispano	\$35,000	\$1,050
Eno River Association	\$15,000	\$450
Genesis Home	\$24,500	\$735
Inter-Faith Food Shuttle	\$10,000	\$300
John Avery Boys & Girls Club	\$44,100	\$1,323
Milestones Culinary Institute	\$5,000	\$150
Operation Breakthrough, Inc.	\$100,000	\$3,000
Planned Parenthood	\$20,000	\$600
Project Graduation	\$4,500	\$135
Salvation Army	\$15,000	\$450
Senior PharmAssist	\$94,264	\$2,828
Triangle Champions Track Club	\$10,000	\$300
Triangle Radio Reading Service	\$4,625	\$139
TROSA	\$26,061	\$782
Victorious Community Development Corp.	\$15,000	\$450
Volunteer Center	\$16,666	\$500
Women In Action	\$29,075	\$872
Grand Total	\$947,170	\$28,415

Contract Services	FY 08-09 Adopted Budget	3% Reduction
Greater Durham Chamber of Commerce	\$158,000	\$4,740
Downtown Durham, Inc.	\$60,000	\$1,800
Urban Ministries	\$145,000	\$4,350
Durham Economic Resource Center	\$20,000	\$600
Animal Protection Society	\$611,562	\$18,347
Grand Total	\$994,562	\$29,837

Chairman Page called signed speakers forward for comments.

The following signed speakers spoke in opposition of the budget reduction for their respective nonprofits:

Gail Souare, representing Council for Senior Citizens, 406 Rigsbee Avenue, Durham 27701

Douglas Daye, representing Durham Farmland Protection Board, 12505 Hampton Road, Rougemont 27572

Kathryn Spann, representing Durham Farmland Protection Board/Water Conservation Board, 4720 Bahama Road, Rougemont 27572

Josie McNeil, representing Durham Open Space and Trails (DOST) Commission, 509 Wanda Ridge, Durham 27712

Greg Rowland, Board Chair, Urban Ministries of Durham, 830 Burch Avenue, Durham 27701

Dan Clever, Chair, DOST, 160B Maryland Avenue, Durham 27705

Lois Murphy, 825 Colonial Heights Drive, Durham 27705, encouraged the Board to make appropriate and fair reduction cuts for nonprofits; issuing a 3% cut for all nonprofits may devastate some nonprofits.

Victoria Peterson, representing Triangle Citizens Rebuilding Communities, PO Box 101, Durham 27702, inquired about the monitoring of organizations that receive County funding. She expressed concerns about funding for Greater Durham Chamber of Commerce and Durham Downtown Inc. (DDI). Ms. Peterson opposed budget reductions for the nonprofits and the Animal Protection Society.

County Manager Ruffin stated that all of the listed nonprofits and service contracts are monitored by the County. He informed Ms. Peterson that the County receives reports from the Chamber and DDI, of which she may request copies.

Vice-Chairman Reckhow raised a concern that the Farmland Protection Board and DOST would experience an approximate 100% budget cut.

County Manager Ruffin responded to a question posed by Commissioner Bowser, stating that all projects approved by the Board would continue as is for the remainder of the year. County Manager Ruffin stated that he was advised by Jane Korest, Open Space and Real Estate Manager, that DOST and the Farmland Protection Board would continue on a stable path for the next six months. If funding is not available next year, the programs would then cease. Projects that have already been approved by the Board would also continue for the next six months. County Manager Ruffin noted that \$75,000 from the Eno River Association was available; the Board approved the termination of the conservation agreement and easement (Consent Agenda Item No. 1). If the Board so desires, the \$75,000 could be applied to the DOST budget.

Commissioner Bowser spoke in support of authorizing the County Manager to recommend the best use of the funds; however, he would prefer to issue the funds to Urban Ministries for its homeless shelter.

Commissioner Howerton supported using the \$75,000 for the homeless shelter.

Commissioner Heron mentioned that the proposed budget cut for Urban Ministries is \$4,350. She stated, "I don't see how that could make them or break them." Commissioner Heron recommended that the funds be reallocated to DOST as that was its origination.

County Manager Ruffin explained to Commissioner Howerton that the \$550,000 budget is shared between DOST and the Farmland Protection Board. He reiterated that Ms. Korest informed him that all projects approved thus far would proceed for the rest of the fiscal year. The critical path for those projects would be affected if funding is not provided next year.

Chairman Page recognized efforts of the nonprofits and the assistance they provide to the community. He spoke to the \$4,350 proposed budget cut for Urban Ministries. Chairman Page expressed desire that the County assist nonprofits with maintaining their services.

Commissioner Heron commented on the constant needs at the Animal Protection Society (APS). She stated that APS had a proposed budget reduction of \$18,347; however, APS and its volunteers raise more than \$200,000 to contribute to maintaining the shelter.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to extend the meeting to 11:30 p.m.

The motion carried unanimously.

Chairman Page mentioned that the two populations—humans and animals—and the two budgets—\$611,562 for APS and \$145,000 for Urban Ministries—cannot be compared.

Commissioner Heron indicated that Urban Ministries receives County support (i.e. renovating, adding space) every year.

Commissioner Howerton echoed Commissioner Bowser's suggestion to authorize the County Manager to recommend the most appropriate use of the \$75,000.

Commissioner Bowser recommended that the Board approve the County Manager's proposed budget reductions and discuss the \$75,000 at a future meeting.

Commissioner Heron reiterated her support to reallocate the \$75,000 to DOST.

Vice-Chairman Reckhow agreed with Commissioner Bowser to approve the County Manager's recommended reductions. She challenged the nonprofits to engage in fundraisers to supplement their budgets.

Chairman Page stressed that it would be difficult for a nonprofit to raise \$3,000 as opposed to \$300.

Commissioner Bowser moved, seconded by Commissioner Heron, to authorize the Manager to execute the required contract amendments necessary to reduce the appropriation.

The Board held a brief discussion about the motion.

Vice-Chairman Reckhow concurred with Commissioner Heron that the \$75,000 should remain in Open Space.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Reckhow

Noes: Page

Chairman Page asked for clarification of the Board's action.

Commissioner Bowser stated that the action taken means that it is a "done deal"; however, a nonprofit may be considered for funding if the County deems it to be in dire need.

Chairman Page expressed hope that the County would address nonprofits that may struggle as a result of the budget cuts.

A representative from the Triangle Champions Track Club voiced his desire to speak; he signed up prior to the meeting, but his name was not called.

Chairman Page stated that a signed up sheet had not been received for the representative; however, he allowed the citizen to speak.

The representative thanked the Board for its hard work and spoke in support of the 3% budget reductions.

Request for Release of 2008 Property Tax under N.C.G.S. 105-381 from Edward Dement II, Property Address—3535 Hillsborough Road: Parcel Number 124848

Kim Simpson, Tax Administrator, stated that Mr. Edward Dement II had requested, under N.C.G.S. § 105-381 Tax remedies, that the Board of County Commissioners consider his request for release of 2008 property taxes due to a tax imposed through clerical error. She also stated that Mr. Dement had indicated that the Durham County Tax Assessor had (1) "erred in the assigning of a 2008 value"; and (2) "the Tax Assessor failed to bother making any sort of hands-on appraisal or visit the property". Mr. Dement further stated that "the appraisal is incorrect and he felt that the comparable properties used are fine, just applied incorrectly". In none of his assertions did Mr. Dement identify any clerical error. Instead, Mr. Dement did not agree with the appraisal of his property. He did not file an appeal of his value, but instead alleged a clerical error to rectify his failure to appeal the value in a timely manner.

Ms. Simpson denied Mr. Dement's request for an appeal as the State Statutes states that a taxpayer must request an appeal within the appeal period (90 days); Mr. Dement submitted his request after the period ended.

Chairman Page allotted five minutes to Edward F. Dement, 515 Clairview Lane, Matthews 28105, to deliver his comments.

Mr. Dement elaborated on his allegation that his property value had been improperly assessed. He provided handouts with photographs and a description of his property. Mr. Dement noted that an error was made when his property was considered "land only" instead of "land and building" when calculating the pro-rated value.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to extend the meeting to 11:50 p.m.

The motion carried unanimously.

Vice-Chairman Reckhow explicated that the Board of County Commissioners has no jurisdiction over assessing values to properties; that is at the discretion of the Board of Equalization and Review (E&R). The Commissioners may only intervene if a clerical error is documented.

County Attorney Chuck Kitchen remarked that taxes may not be forgiven unless one of the following occurs: 1) deemed illegal or levied for an illegal purpose; or 2) excessive as the result of a clerical error. He summarized Mr. Dement's argument that an appraisal, not clerical, error occurred; it would be a matter heard by the E&R Board. County Attorney Kitchen suggested that Mr. Dement appeal to the E&R Board next year.

Commissioner Bowser asked for clarification about Mr. Dement's case.

Ms. Simpson stated that Mr. Dement presented a concern regarding the appraised value of his property, which is not a clerical error. She reiterated that had Mr. Dement appealed by May 9, 2008, his appeal would have been heard by the E&R Board; however, he did not appeal in a timely manner. Tax Administration staff reviewed 29 parcels in his neighborhood; all were appraised at \$15 per square foot.

County Attorney Kitchen advised the Board to act on this item as Mr. Dement had made a request. He suggested that the Board deny the request as Mr. Dement's concern was an appraisal error, not a clerical error.

Chairman Page encouraged Mr. Dement to file an appeal with the E&R Board.

Mr. Dement indicated that a clerical error occurred because he was charged for two buildings.

Chairman Page advised Mr. Dement again to file an appeal with the E&R Board.

County Attorney Kitchen clarified that appeals for 2008 taxes were no longer being heard by the E&R Board; Mr. Dement's appeal would be for 2009.

Commissioner Heron asked for an explanation as to why Mr. Dement was charged for two buildings.

Ms. Simpson addressed Mr. Dement's allegation that he was charged for two buildings. She assured the Board that Mr. Dement was charged for one building.

Vice-Chairman Reckhow moved, seconded by Commissioner Howerton, to deny the request for a refund as no clerical error is present.

Commissioner Bowser asked additional questions regarding the allegation that Mr. Dement was charged for two building.

The motion carried with the following vote:

Ayes: Heron, Howerton, Page, and Reckhow

Noes: Bowser

Commissioner Bowser stated that he voted against the motion as he was “confused” about the information presented.

Chairman Page reiterated that Mr. Dement file an appeal with the E&R Board.

Ms. Simpson briefed Mr. Dement on the appeal process.

Mr. Dement urged the County to reevaluate the 29 properties mentioned by Ms. Simpson. He opined that the properties were taxed at a lower rate than presented by Tax Administration.

Discussion of Issues for 2009 Durham County Legislative Agenda

Deborah Craig-Ray, Assistant County Manager, reported that the North Carolina General Assembly will convene the 2009 General Assembly Session at noon on January 28 in Raleigh. She stated that following a communication to County department heads and other traditional legislative partners, several items were received as possible legislative proposals to be considered for inclusion in the final 2009 Durham County Legislative Agenda.

Ms. Craig-Ray noted that staff would conduct the first discussion of these items with the Board of County Commissioners at the worksession. The goal is to prepare a strategic, focused package of legislative items that can be aggressively supported by members of the Durham Delegation. In addition, staff will seek direction from the Board to set a joint meeting with the Durham Delegation in the coming weeks.

County Attorney Chuck Kitchen briefly reviewed the following Legislative Agenda:

1. Support legislation to allow public schools systems to regain access to sales tax refunds.

Rationale: Legislation would restore public schools’ access to sales tax refunds in the same manner as for private schools. Durham County, like many other counties currently acts as project manager for Durham Public Schools construction projects to reduce the costs to DPS. The County Attorney’s Office staff attorney routinely spends an average of 10hrs per project providing contract management for DPS school projects. Estimates are that approximately 180 hours of services have been provided in the last year. This is cumbersome and expensive and takes funding away from students. In addition substantial time is added to the completion time of each project due to this practice of counties acting as project managers.

- 2.) Support legislation to allow greater sharing of information between the juvenile justice

system and the adult criminal system.

Rationale: After the highly publicized murders of two college students this year, it is imperative that legislation action be taken to allow greater sharing of information between the juvenile justice system and the adult criminal system. Probation officers, district attorneys, judges and law enforcement must have available juvenile delinquency information when a 16, 17, or 18 year old is charged with a felony offense.

Juveniles who are under juvenile court supervision are currently protected by confidentiality laws. While that is appropriate, if that juvenile is later charged with a felony offense on or after his/her 16th birthday, juvenile delinquency records should be made available to prosecutors and judges so appropriate decisions are made in setting bonds and plea negotiations. And, as it often happens, if teenagers are on juvenile court supervision and criminal probation, court counselors and probation officers must be able to share appropriate information.

The problem that exists in this current loophole is enormous and adversely affects public safety. Criminal prosecutors do not have delinquency information. Judges do not know if a 17 year old has just been released from a training school. Probation officers do not know if a court counselor is also supervising a 16 year old for armed robbery.

Keep juvenile records confidential, but, if that juvenile crosses over the line after the 16th birthday, his/her juvenile record must be made known.

3) JORDAN LAKE RULES-- The County requests that a bill be introduced within the first 30 days of the Legislature to disapprove three of the rules which pertain to the City and County of Durham.

Rationale: The Environmental Management Commission has adopted new rules which apply in the entire Jordan Lake watershed. These rules require a 35% reduction in nitrogen and a 5% reduction in phosphorus for the City and County of Durham. The purpose of the rules is to restore water quality in Jordan Lake. The proposed rules are based on questionable science, and it is unclear if the implementation of the rules would have any noticeable effect on lake quality. It is estimated that the cost of the rules would be approximately \$210 million for the City and County of Durham. These rules would not only affect new development, but also would require retrofitting existing houses and subdivisions in the County. It is the position of the County that the legislature has not given the Environmental Management Commission the authority to adopt these rules, and further, that the rules as adopted violate the Separation of Powers Clause of the North Carolina Constitution.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to extend the meeting to 12:00 midnight.

The motion carried unanimously.

Vice-Chairman Reckhow requested that the following Durham County recommendations be added to the Legislative Agenda:

1. Sales Tax Exemption: Support legislation to allow public school systems to regain access to sales tax refunds.
2. School Attendance: Support legislation to increase the compulsory school attendance age to 17 in 2009-2010 and further increase to 18 in 2001-2012.
3. Support legislation to allow greater sharing of information between the juvenile system and the adult criminal system.

Commissioner Heron mentioned that the County would have the opportunity to present additional recommendations at the General Assembly Session.

Ms. Craig-Ray concurred with Commissioner Heron, noting that rules set by the NCACC must be followed.

Chairman Reckhow added that additional recommendations could also be included in the County packets.

Chairman Page recognized signed speaker Victoria Peterson, PO Box 101, Durham 27702, for comments.

Ms. Peterson requested that some of the revenue generated by the following be used within the community: 1) courthouse; and 2) working inmates in correctional facilities. She expressed interest in allowing citizens to make recommendations for the Legislative Agenda.

Chairman Page informed Ms. Peterson that she would be informed of community meetings to discuss legislative items at a later date.

Ms. Craig-Ray communicated to Chairman Page that she was working with the Clerk on scheduling a legislative delegation meeting; she would inform the Board once a date was finalized.

Chairman Page advised Ms. Peterson to submit her requests in writing.

Discussion of Hunting on Sundays

Commissioner Heron requested to add to the agenda a discussion of hunting on Sundays.

County Attorney Chuck Kitchen projected on the screen a proposal to amend the rules to allow hunting on Sundays with archery equipment or falconry. Comments on the proposal were being accepted until January 30.

Commissioner Heron opposed the proposal.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to communicate to the Rules Commission the Board's opposition to the change of rules to allow hunting on Sundays.

The motion carried unanimously.

Chairman Page thanked Ms. Craig-Ray for her report on the Legislative Agenda.

Commissioner Heron suggested that Commissioners carpool to the 2009 General Assembly Session on January 28 in Raleigh.

Chairman Page mentioned that he would bring back a revision to the Board and Commission appointments to request a vote on two alternate positions.

Adjournment

There being no further business, Chairman Page adjourned the meeting at 12:00 midnight.

Respectfully Submitted,

Yvonne R. Gordon
Deputy Clerk to the Board