

PUBLIC HEARING & REGULAR MEETING
DARLINGTON COUNTY COUNCIL
DARLINGTON, SC

February 2, 2009

A regular meeting of the County Council of Darlington County was held this 2nd day of February 2009, at 6 p.m., at the Darlington County Courthouse Annex/EMS Building, 1625 Harry Byrd Highway, Darlington, South Carolina.

NOTICE OF MEETING

In compliance with the Freedom of Information Act, a copy of the agenda, giving the date, time, and place of the meeting was mailed in advance to the local newspapers (the News and Press, the Messenger, and the Morning News), persons requesting notification, and posted on the bulletin board at the entrance to the County Administrator's Office.

COUNCIL MEMBERS PRESENT

Chairman Wesley Blackwell, Vice Chairman Billy Baldwin, Chaplain Dannie Douglas, Jr., Mr. Marvin Le Flowers, Mrs. Wilhelmina P. Johnson, Ms. Mozella "Pennie" Nicholson, and Mr. Alex "Buz" Shaw.

COUNCIL MEMBER ABSENT

Council Member Anne C. Warr.

ALSO PRESENT

County Administrator Phyllis Griffiths, County Attorney James C. Cox, Jr., Clerk to Council J. JaNet Bishop, Fire Chief David Williamson, Assistant Fire Chief Kenny Stratton, Codes Enforcement Director Randy Evans, Planning Director Doug Reimold, Finance Director John Williams, Sheriff Wayne Byrd, Chief Deputy Jerry Thompson, Captain Gary Streett, Economic Development Director Robert Long, Library Director Sue Rainey, Prison Farm Director Jonathan McFadden, Environmental Services Director Mike Dorriety, Roads and Bridges Director Bobby Richardson, Mr. Travis Smith, Mr. James Lambert, Mr. Charles Ingram, Mr. Keith Warren, Mrs. and Mrs. Clarence Johnson, Mr. and Mrs. Blake Bondy, Ms. Ruth Baronda and Mother, and others.

REPORTERS PRESENT

Mr. Jim Faile of the Messenger and Ms. Samantha Lyles of the News and Press.

Presentation Of Vehicles For The Sheriff's Office, Sheriff Wayne Byrd

Presentation of vehicles for the Sheriff's Office was cancelled.

*Pee Dee Electric Cooperative's REDLG Loan Check Presentation, Mr. William L. Fleming, Jr.,
Pee Dee Electric Cooperative Economic Development & Key Accounts Administrator*

Pee Dee Electric Cooperative's check presentation was carried over to Council's next meeting.

Recognition Of Darlington County Fire District's Top Responders For 2008, Fire Chief David Williamson

Mr. Williamson reported that the Fire District had responded to 777 calls during 2008. He recognized the following top responders for 2008. Mr. Travis Smith (Byrdtown Station 12) was the third highest responder with 115 calls; Mr. James Lambert (South Darlington Station 5) was the second highest responder with 116 calls; and Mr. Charles Ingram (Byrdtown Station 12) was the highest responder with 160 calls in addition to 20 calls for fire prevention. Mr. Keith Warren, a full-time Fire District staff member, was recognized for responding to 197 calls.

Call To Order / Invocation / Pledge Of Allegiance

Chairman Blackwell called the meeting to order at 6 p.m. Mr. Douglas presented the invocation and Mrs. Johnson led the pledge of allegiance.

Citizens' Comments

Mr. Clarence Johnson showed his no farm no food sign. He reported that he had attended all three of the public meetings on the Land Use Element of the Comprehensive Plan. Mr. Johnson stated that the individuals present at the meetings expressed that they do not want to be "hog tied" to legislation. They were not in favor of their farms being taken over by Council. Mr. Johnson said everything appear to be against the people. Therefore, he asked Council to be considerate of the people.

Ms. Ruth Baronda, a teacher at Hartsville High School, presented Council members with a letter she had received at school inviting individuals who had been adversely affected by our economic situation to attend a free workshop at 5 p.m. on Thursday, February 5, 2009, at Hartsville Middle School. The workshop will focus on employment readiness. She also reported that at their last staff meeting, the principal announced that there would be no more substitutes for teachers. If a teacher was absent, the other teachers would have to rotate to cover the class. This would cause the teachers to have no prep-time to continue to provide quality services to the children, which could eventually cause problems. Ms. Baronda stated that this was implemented in an effort to save money for the Darlington County School District.

Approval Of Minutes- Public Hearing & Regular Meeting of December 15, 2008

MOTION was made by Mr. Baldwin and seconded by Mr. Douglas to approve the minutes of the public hearing and regular meeting of December 15, 2008.

The motion carried unanimously.

Approval Of Minutes- Public Hearing & Regular Meeting of January 6, 2009

MOTION was made by Mrs. Johnson and seconded by Mr. Baldwin to approve the minutes of the public hearing and regular meeting of January 6, 2009.

The motion carried unanimously.

Ordinances

Ordinance No. 09-1, An Ordinance To Amend The Darlington County Code Of Ordinances, Appendix A (Development Standards Ordinance), Article Fifteen (Outdoor Advertising Signage), Section 15.7.1(A) (Lighting Restrictions) To Allow Lights That Change Colors On

Reader Signs Advertising Goods And Services Being Offered On The Premise And To Establish The Effective Date Of This Ordinance - **FIRST READING**

Chairman Blackwell read the title of Ordinance No. 09-1 for first reading.

Resolutions

Resolution No. 583, A Resolution Granting A Permit For The Operation Of The Darlington Dragway On Sundays, Subject To Certain Restrictions

MOTION was made by Mrs. Johnson and seconded by Mr. Douglas to approve Resolution No. 583.

The motion carried unanimously.

Committee Reports

Alcohol & Drug Citizen Advisory Committee Report. Ms. Ruth Baronda, Committee Member, presented information she had received at a recent Committee meeting at Rubicon. She reported that Rubicon would be going through an accreditation process from CARF to establish standards for the services provided at Rubicon. Ms. Baronda also presented information regarding client participation in services offered at Rubicon from July 2008 through December 2008. According to the report, the participation of clients, groups, visitors, etc. had decreased from July to December. The decrease in participation was unexplained.

Other Items

Appointment of 2009 Council Committees, Chairman Wesley Blackwell

Chairman Blackwell requested that the Committees remain as they were in 2008. Council Committees for 2009 would be as follows: **Animal Shelter Committee:** Mr. Wesley Blackwell, Ms. Mozella Nicholson, and Mr. Alex Shaw. **Benevolent Committee:** Mrs. Wilhelmina Johnson and Mr. Perry Strickland (employee). **Finance Review Committee:** Mr. Wesley Blackwell, Chairman, Mr. Billy Baldwin, Mr. Dannie Douglas, Jr., Mr. Alex Shaw, Treasurer Belinda Copeland, and Auditor Rosa Hudson. **Pee Dee Regional Council of Governments:** Mr. Billy Baldwin {Business}, Mr. Wesley Blackwell {Council}, Ms. Mozella "Pennie" Nicholson {Business}, and Mrs. Anne Warr {Council}. **Solid Waste Study Committee:** Mr. Dannie Douglas, Jr., Mr. Le Flowers, and Ms. Mozella "Pennie" Nicholson. **South Darlington Watershed Project:** Mr. Billy Baldwin, Mr. Le Flowers, and Mrs. Wilhelmina Johnson.

Agreement With Pee Dee Electric Cooperative To Provide \$20,000 To The County For The Provision Of Infrastructure Project

MOTION was made by Mr. Baldwin and seconded by Ms. Nicholson to approve the agreement with Pee Dee Electric Cooperative wherein Pee Dee Electric Cooperative would provide \$20,000 to the county for the provision of infrastructure project.

Mr. Flowers wanted to know how much more funds would be needed to develop the designated area.

Mr. Baldwin explained that the funds would be used towards the installation of water lines (along Freight Road and Camp Sexton Road located near I-95 near the Petro Truck Center) for the school (Choices). However, the total project would cost about \$181,000. Two additional grants had been applied for. Mr. Baldwin did not know the size of the water lines.

The motion carried unanimously.

County Transportation Committee's Allocation Of An Additional \$22,023.85 For Improvements To Gum Circle, Located In Hartsville (Off E. Bobo Newsom Hwy.), PCN 35947

MOTION was made by Mr. Douglas and seconded by Ms. Nicholson to approve the CTC's allocation of additional funds for improvements to Gum Circle.

The motion carried unanimously.

Agreement For Medical Services For Inmates At The County's Prison Farm

MOTION was made by Mr. Flowers and seconded by Mr. Baldwin to approve the agreement for medical services for inmates at the Prison Farm.

Mrs. Johnson questioned whether this agreement would provide the same services as offered at the jail. She also wanted to know whether the Prison Farm would provide and dispense medications.

Mrs. Griffiths confirmed that the Prison Farm and the Detention Center would be using the same firm and doctors for medical services. Prison Farm Director Jonathan McFadden and Mrs. Griffiths confirmed that Prison Farm staff would dispense medication as they have always done.

Sheriff Byrd indicated that the Detention Center and the Prison Farm would be using the same type of agreement for medical services. The agency would provide all medical services to include nurse, doctor, medication, etc. The only thing excluded would be hospitalization. Sheriff Byrd said his employees do not dispense medication. All medications are dispensed by the medical service.

The motion carried unanimously.

Appointment To FY09/10 Accommodations Tax Advisory Committee

MOTION was made by Mrs. Johnson and seconded by Mr. Douglas to reappoint the members of the Accommodations Tax Advisory Committee.

The following individuals were reappointed to the FY09/10 Accommodations Tax Advisory Committee: **Mrs. Gaye Tallon**, *Mims House/Catering* (Lodging); **Mr. Steve Tinney**, *Oak Manor Inn* (Lodging); **Ms. Carol Bishop**, *Lynn's Place Social Club & Bar* (Hospitality Business); **Ms. Marie W. Melton**, *Jewel's Deluxe Restaurant & Catering*, Hospitality Business; **Mr. Travis Bishop**, Citizen At Large; **Mr. Scotty Jeffords**, Citizen At Large; and **Ms. Joyce Wingate**, *Cultural Realism Center*, Cultural.

The motion carried unanimously.

Request For Appointment To Fill An Unexpired Term On The Planning Commission

Mr. Flowers nominated Mr. John Arnold of Darlington and Mr. Shaw nominated Mr. Edward Krajack as recommended by Ms. Michal Baird and the Planning Commission.

Mrs. Johnson stated that Council had said individuals would have to complete an application to be nominated to Boards and Commissions. An application from Mr. Daniel Boykin, Mr. William Carter Weaver, and Mr. Jimmy W. Cassidy was included in the agenda package. However, there was no application from Mr. Arnold.

Mr. Flowers indicated that he had not appointed a person to the Planning Commission in sixteen years.

MOTION was made by Mr. Shaw and seconded by Mrs. Johnson for nominations to come to a close.

The motion carried with Ms. Nicholson not voting.

Chairman Blackwell clarified that two individuals had been nominated and Council had voted to close the floor for nominations.

Ms. Nicholson indicated that she did not vote because she thought it was required for individuals to complete and submit an application so that Council would have information prior to voting on appointments.

Mr. Cox pointed out that three applications were included in Council's agenda packet. However, the two individuals nominated had not submitted an application.

Ms. Nicholson stated that Council had acted and voted on the application form as a requirement.

Chairman Blackwell and Mr. Cox clarified that the application form was not a requirement of Council, but a procedure that was used in the past. The application would provide information about the individuals.

MOTION was made by Mr. Baldwin and seconded by Mrs. Johnson to carry over the appointment to fill the unexpired term on the Planning Commission.

The motion carried with Mr. Flowers and Mr. Shaw opposing.

Consent Agenda

Included in the Consent Agenda were the following:

<u>ITEMS</u>	<u>ACTION</u>
A. Marlboro/Darlington County Beaver Program Report, December 2008	Receive As Information
B. Building Permit Reports, November & December 2008	Receive As Information
C. Animal Control Report, November 2008	Receive As Information
D. Planning Commission Minutes, Nov. 18, 2008 & Dec. 16, 2008	Receive As Information
E. Hartsville Recreation Department Calendar Of Events, January - March 2009	Receive As Information
F. Tentative FY09/10 Accommodations Tax Advisory Committee Activity Calendar & Notice	Receive As Information
G. Letter From Time Warner Cable RE: Programmers/Channels	Receive As Information
H. Email From Stephen Baird, Of Dabear Aviation, Commending Mr. Barry Kennett, Darlington County Jetport Manager	Receive As Information
I. Library Director's Report & Library Board Minutes, Dec. 2008	Receive As Information

MOTION was made by Mr. Baldwin and seconded by Mrs. Johnson to receive the Consent Agenda items as information.

The motion carried unanimously.

Personal Appearance - Mrs. Marifaye Haselden - Request For Council's Approval Of A 40 Ft. Variance Off Penn Road As Previously Approved By The Darlington County Planning Commission

Mrs. Marifaye Haselden, wife of Mr. Scott Haselden, indicated that they were the owners of the DHEC (Department of Health and Environmental Control) approved turkey facility located off Penn Road that was currently being held up by the appeal of the Back Swamp Association to the Administrative Law Court. She was present to ask County Council for a variance of the 50 foot public road frontage requirement. Mrs. Haselden explained that on April 15, 2008, this request was presented to the Planning Commission, and the Planning Commission voted unanimously to grant the variance as the deed was being prepared. She presented Council members with a copy of the deed showing that the land was hers and not her father's. Mrs. Haselden stated that Planning Director Doug Reimold and her father's attorney, Mr. Marshall Rogol, former member of the Planning Commission, did not realize that the Planning Commission did not have jurisdiction over the Agriculture Ordinance. This was not realized until opponents of Haselden Turkey Farm hired Attorney Willcox who brought the fact forward that the Planning Commission had made a mistake at the expense of the Haselden Farm. Mrs. Haselden reminded Council that the Planning Commission members were appointed by County Council to make decisions regarding variances for all types of uses to include subdivisions, houses, mobile home parks, commercial uses, etc. However, it appeared that the Planning Commission could not make a decision on a variance on a farm road.

Mrs. Haselden stated that according to the Director's Notes (Planning Director) dated April 15, 2008, the 50 foot frontage rule was adopted from the South Carolina Department of Transportation Access and Roadside Management Standards for state paved roads. However, Penn Road was a county dirt road. As explained to her, this rule would protect the frontage of adjacent landowners. Mrs. Haselden indicated that she owns the adjacent frontage and the adjoining property was owned by Mr. Danny and Mrs. Virginia Lewis, where the easement lays. She stated that to ensure that traffic does not hinder Mr. and Mrs. Lewis' property, the 40 foot easement was marked off with red safety poles as indicated on pictures that were presented to Council. Mrs. Haselden stated that to be good neighbors and to ensure that traffic does not over step the bounds of the 40 foot easement, they took an extra step by making a road around the light pole on the adjacent property so that traffic could go straight onto the 40 foot easement (Trimble Road, formally known as Farm Road).

Mrs. Haselden read an excerpt from section 3-54(2) of the County's Agriculture Ordinance which states, "*Parcels upon which the production unit is located shall have direct access via public road frontage or indirect access via a recorded easement to a public local street. Access roads/easements shall maintain a minimum travel surface of 20 feet and have a width of 50 feet at the entrance intersection with a public local street, so as to accommodate truck traffic.*" She reported that a turkey house only gets three flocks of turkeys a year which would equate to six times per year for delivery and pick-up of the turkeys. Food delivery would occur once or twice per week equating to, at most, 104 times in a year. Clean up would occur once a year with all the waste removed in one day. Therefore, truck traffic would not be high in

volume. Mrs. Haselden said she was presenting the same variance request to Council that the Planning Commission receives for subdivision roads, mobile home parks, etc.

Mrs. Haselden then presented "*Fast Facts*" about poultry farming in South Carolina according to the United States Department of Agriculture and the Cooperative Extension of Clemson University. Based upon some of the facts, Mrs. Haselden stated that she did not know why Council would deny the variance of 10 feet off a county dirt road onto a farm road when they were trying to make an honest living and add to the overall productivity of Darlington County. She stated that many times, people who are opposed to poultry farms promote excessive restrictive rules for the purpose of preventing or making it exceedingly difficult for farmers to stay in business based upon negative perceptions, which, often times, are due to the lack of accurate knowledge about modern farm practices and general intolerance of poultry farming. Mrs. Haselden mentioned the history of growing, processing, and marketing poultry in South Carolina without causing environmental or nuisance problems, the consistent tax base provided by poultry farms, farming being beneficial to the environment, etc. (*A copy of Mrs. Haselden's prepared statement is attached to the minutes.*)

Mr. Baldwin questioned the need for a request for an additional 10 foot variance when Mrs. Haselden owns the adjacent property.

Mrs. Haselden explained that her father owns and has a lifetime right to the property. After that, the property would be deeded to her. She said Mr. and Mrs. Danny Lewis own the property where the easement lays - the adjoining property. She owns the adjacent property. Mrs. Haselden clarified that she has a 40 foot easement. However, the county ordinance requires a 50 foot easement to accommodate truck traffic.

Mr. Cox explained that the county adopted the state guidelines for 50 foot off state maintained highways.

Personal Appearance - Attorney Walker H. Willcox - Opposition Regarding The Request For Approval Of A 40 Ft. Variance Off Penn Road

Mr. Walker Willcox indicated that he was representing Mr. Danny and Mrs. Virginia Lewis, owners of the farm and property with the easement. He reported that in 1995, the owners gave Mr. Dorla Lewis, Mrs. Haselden's father, a 40 foot easement for the purpose of accessing his farm. He said that from the land records that he had reviewed, Mrs. Haselden does not own Mr. Dorla Lewis' farm and has no ownership rights in the easement. Mr. Willcox said he did not know that Mrs. Haselden should be requesting the variance, unless she had drawn up a deed that had not been filed with the Clerk of Court. He said Mr. Danny Lewis owns the property and the easement, and Mr. Dorla Lewis only has rights to ingress and egress the easement. By law, Mr. Danny Lewis was allowing Mr. Dorla Lewis to use the easement to access his farm. Mr. Willcox also pointed out that no one notified Mr. Danny Lewis about issuing a variance for 50 foot. He stated that this requirement was in DOT's (South Carolina Department of Transportation) guidelines because when trucks turn in, they destroy the landowners' property. Mr. Willcox said he saw the turnabout that the Haseldens had created. However, it was just push over dirt and trucks would not use it. The trucks would just turn in. He said one tractor trailer per week would be significant. However, there may be more than one truck per week, which would destroy Mr. Danny Lewis' property. Mr. Willcox said Mr. Danny Lewis owns the property and the easement and does not want the variance. He felt that Council would need Mr. Danny Lewis' permission because this would strip him of his rights to use his property. Essentially, Council would be taking property away from Mr. Danny Lewis. He added that the notice requirements were not met. No actual notice was given to Mr. Danny Lewis. He found out about the hearing by calling

to inquire. No one asked Mr. Danny Lewis whether it would be okay to take an additional ten feet from his property, which the trucks would trample. Mr. Willcox said the DHEC (Department of Health and Environmental Control) permit was still being contested and appealed; it was far from being approved. He reiterated that the easement was given 13 years ago that goes through Mr. Danny Lewis' farm, and Mr. Lewis has a right to enjoy his property and cultivate his crops. Mr. Willcox stated that until now, Mr. Lewis was never given an opportunity to contest the variance. He concluded by stating that Mrs. Haselden does not have the right to request a variance.

Mr. Flowers questioned a document that was given to Council members that was recorded in the Office of the Clerk of Court on April 7, 2008, involving Mr. Dorla Lewis, Mrs. Faye Lewis, and Mrs. Marifaye L. Haselden.

Mr. Willcox indicated that he had a deed dated December 2008 wherein Mr. Dorla Lewis was taking the land back from Mrs. Marifaye Haselden. He said Mr. Dorla Lewis never granted Mrs. Marifaye Haselden full ownership of the property; he kept his life estate. He saw nothing where Mr. Dorla Lewis had assigned the easement to Mrs. Haselden. Mr. Willcox also pointed out that Mrs. Haselden had applied for the DHEC application, and maybe this was why this matter got through the Planning Commission so easily. He clarified that Mrs. Haselden was not the adjacent landowner. The adjacent landowner was Mr. Danny Lewis. Mrs. Haselden's father owns the property across the county road. He said this was misrepresentation and misleading to the governing body.

Mrs. Haselden indicated that she had given Council a copy of the deed to her property.

Mr. Cox confirmed that Council had received a copy of a deed dated December 2008, which states that Marifaye L. Haselden, Faye Lewis, and Dorla Lewis deeded all their rights and title and the land in question to Dorla Lewis. He said that if this was the last deed, then Dorla Lewis would be the owner.

Mrs. Haselden indicated that the last deed had not been recorded at the Courthouse because her attorney, Mr. Marshall Rogol, was waiting to do the bank loan and deed at the same time.

Mr. Cox said it would be Mrs. Haselden's duty to record any unrecorded deed.

Personal Appearance - Mr. & Mrs. Billy Stokes And Mr. Danny Lewis - Opposition To The Variance Off Penn Road

Mrs. Minnie stated that the road marks that the Haseldens had erected were keeping them from driving their tractors from one field across to another field.

Mr. Danny Lewis stated that he owns the road and the Haseldens were acting like they own it. They took over the road and erected stakes without asking him anything.

Personal Appearance - Attorney Lovic A. Brooks, III - Ownership Dispute Between Sheriff Byrd And William Self Involving A Dog

Mr. Brooks, representing Mr. William Self, reported that Mr. Self, an experienced K-9 Officer, had expressed an interest in being a K-9 Officer at Darlington County Sheriff's Office and was hired in November 2006. At the time, Darlington County Sheriff's Office did not have K-9 capabilities or dogs. There was no funding for any dogs for the Sheriff's Office. Subsequently, Mr. Self had ongoing conversations with Chief Tom Gainey (a former employee) about pursuing the K-9 opportunity and offered to purchase a dog for himself, if the county was willing to do this. Mr. Brooks said Mr. Self was told that the county's first priority was to get a

narcotics dog, and there were no funds for a narcotics dog. Eventually, there were funding for a narcotics dog. Therefore, with this funding and funding through Mr. Self's mother, Ms. Leslie McKelvey, two dogs were purchased. The narcotics dog was purchased by the county and the dog for Mr. Self was purchased by the county with funds from Mr. Self and his mother. He said the understanding and agreement was that it was Mr. Self's dog. Mr. Self kept the dog, fed the dog, cared for the dog's medical attention, and incurred all the expenses as opposed to the narcotics dog that was purchased simultaneously. The county paid all the expenses for the narcotics dog distinguishing between the two situations. Mr. Brooks said that with the recent change in Sheriff in Darlington County, Mr. Self, for personal reasons unrelated to this issue, decided not to continue in his capacity as a Deputy Sheriff with Darlington County. Upon his resignation several weeks ago, he retained possession of the dog because it was his dog according to the understanding and agreement. He said Mr. Self received word that a warrant would be issued for his arrest if he did not turn the dog back over to the Sheriff. Therefore, Mr. Self returned the dog and obtained the services of Mr. Brooks. Mr. Brooks said he wrote the Sheriff asking that the attorney respond on his behalf. The county attorney did so and told him that the ownership dispute was between Mr. Self and the county, and a matter that Mr. Brooks needed to take up with County Council. Therefore, Mr. Brooks was appearing before Council and requesting that the dog be immediately returned to Mr. Self because the dog was his property. Mr. Brooks said the cost of the dog was about \$8,000 plus there would be the cost for legal dispute. He said Mr. Self had a personal interest in the dog, a bond with the dog. Therefore, they would like to work this out and have the dog returned without the necessity of legal actions. However, he was prepared to move forward with a lawsuit on Mr. Self's behalf to claim ownership, to seek injunctive relief, to retain the dog, and let the courts resolve this issue. Mr. Brooks' specific request was for the dog to be returned immediately by Council's approval. He would be willing to work with Mr. Cox to resolve this issue.

Mrs. Johnson clarified that the dogs were purchased with county funds.

Mr. Brooks said the dog was purchased using funds provided by Mr. Self's mother. The funds flowed through the county for apparent legal reasons. However, Mr. Self's mother provided the funds for the dog and the county funded the narcotics dog. He said Mr. Self paid all the expenses for his dog while the county paid all the expenses for the narcotics dog. The officer with the narcotics dog used a county credit card or some type of county funds to pay the expenses for the narcotics dog.

Mr. Douglas asked whether the dog was bought for the Sheriff's Department.

Mr. Brooks said the dog was bought with the understanding that the dog was being bought for Mr. Self to use while he was employed with the Darlington County Sheriff's Office and thereafter, if he left for any reason, he would take the dog with him, which he did but with the threat of being arrested, he returned the dog.

Ms. Nicholson asked whether this agreement was in writing.

Mr. Brooks said there were no documents of any kind relating to this issue other than the check his mother wrote, which in the memo section indicated that it was for Mr. Self. It was his understanding that all of the other documentation was in German where the dogs were purchased.

Ms. Nicholson and Mr. Baldwin suggested that this matter be deferred to the county attorney.

Mr. Flowers asked whether Mr. Self had any receipts or canceled checks for medical care or ongoing supplies for housing the dog.

Mr. Brooks said he was not sure. Mr. Self represented to him that he paid for everything out of his own pocket. Again, this being his dog, Mr. Self did not feel the need to retain receipts and document every penny he spent. Mr. Brooks added that Mr. Self was a K-9 Deputy Sheriff in Sumter County where the dog was retained on the county's behalf and documentation submitted to the county for reimbursement of expenses. With Darlington County, Mr. Self never submitted an expense request or anything else for the dog.

Mr. Flowers questioned whether Darlington County would be liable if law enforcement uses personal property in the line of duty and the personal property failed. He stated that whether the dog was county property or Mr. Self's property, if the dog bites someone, the county could be responsible. He questioned whether the County would still be responsible for the action of the dog if the dog belongs to Mr. Self and behaves inappropriately.

Mr. Brooks said this was his understanding of why the dog was assigned to the county. The county actually wrote the check, even though the funds were from Mr. Self's mother, in order to handle these types of legal issues. He said this was unrelated to the ultimate issue of the agreement that Mr. Self had that at such time that he left the Sheriff's Office, the dog would remain in his possession. At that point, Mr. Self would be responsible for any harm caused by the dog.

Mr. Flowers clarified that the purchaser on record was Darlington County and the entity that would assume all liability was Darlington County.

Mr. Brooks said this was correct during the term that the dog was being used by the county, by Deputy Self.

MOTION was made by Mr. Baldwin and seconded by Ms. Nicholson for Mr. Brooks and Mr. Cox to work together to come up with a solution and bring a recommendation back to Council.

MOTION was made by Mr. Flowers and seconded by Ms. Nicholson to amend the motion to request an executive session with Sheriff Wayne Byrd on tonight. Mr. Flowers stated that if Council defers this matter to the County Attorney, it would become a legal matter and anything the Sheriff has to say should be in executive session.

The motion carried unanimously.

Chairman Blackwell then called for the vote for Mr. Brooks and Mr. Cox to work together to come up with a solution and bring a recommendation back to Council.

The motion carried unanimously.

Request For 40 Foot Variance Off Penn Road

Mr. Cox stated that the Planning Commission followed the procedures it has always followed when presented a request for variance. He said the Planning Commission's authority comes from the Development Standards Ordinance, Section 6.7.1 which states that the Planning Commission may approve developments not in compliance with certain articles called variances. This sets forth the articles that the Planning Commission has jurisdiction to grant variances. Mr. Cox said the County later approved the County Agriculture Ordinance, Section 3-54(2). Passing the Agriculture Ordinance did not give the Planning Commission the authority to grant a variance. Although the Planning Commission followed its normal procedure, the Planning Commission later realized that they granted a variance that they did not have the authority to grant. Part of this information came from Mr. Willcox and his law firm asking questions about the ordinance. Since the Planning Commission did not have the authority to grant the variance

and because this was a County Council ordinance where Council did not give anyone the authority to grant a variance, the variance request has to go before Council. Mr. Cox said that from history, County Council has granted variances when it appeared to be in the face of all statues and laws. The variance that Council granted for Chesterfield Lumber Company was an example wherein Council said it was Council's ordinance and Council granted the variance.

Mr. Cox said this situation also was complicated by the fact that the state has the Right to Farm Act which says local governments (city or county) cannot pass ordinances or restrictions that would restrict agriculture activities that would not be placed on any other industry. He said the issue was the County Council Agriculture Ordinance requiring a 50 foot easement for turning from the highway which could be narrowed down to a 20 foot easement. Council adopted a state ordinance, the Highway Department's recommendation that mainly dealt with turning from paved highways. The issue here involved a county dirt road. He said the people asking for a variance have a 40 foot easement that was granted but lacked the 50 foot easement. There was also the issue as to whether or not the deed that Mrs. Haselden says she has had been recorded. As an attorney, Mr. Cox said a deed not recorded was not a deed until it is actually recorded. He said the decision was whether or not Council was ready to consider the request for the variance (40 foot easement) off a county dirt road.

Chairman Blackwell stated that because of the apparent legal questions that were presented, Council needed to investigate more before making a decision. He requested that Council carry this matter over or not take any action until the legal ramifications could be investigated.

MOTION was made by Chairman Blackwell and seconded by Mr. Shaw to carry over or not take any action until the legal ramifications could be investigated.

Mr. Flowers pointed out that this was not an action item. The matter was a personal appearance.

Therefore, Chairman Blackwell suggested that Council just defer its decision.

Mr. Cox clarified that this was for information under personal appearance and Council did not have to take any action on this matter.

Chairman Blackwell did not think that Council should take any action on this matter.

Administrative Update - Sheriff Wayne Byrd - Grant Applications

Sheriff Byrd stated that during Council's last meeting, he had overlooked a grant that the Sheriff's Department had an opportunity to apply for. The grant application would be for a Criminal Domestic Violence Investigator and Violence Against Women Investigator. He said this grant was under the same program as the other grant applications that Council had approved at its last meeting. The paperwork had been submitted in order to meet the deadline. However, Sheriff Byrd requested Council's approval to obtain the necessary signatures.

MOTION was made by Mr. Flowers and seconded by Ms. Nicholson to approve the submission of the grant application for a Criminal Domestic Violence Investigator and Violence Against Women Investigator.

The motion carried unanimously.

Administrative Update - Mr. Mike Dorriety, Environmental Services Director - Bid For Off-Roll Truck

Mr. Dorriety provided Council with a handout and explained that previously, he had requested funds for an off road truck and a front loader truck. He stated that he had been looking

at various off road trucks and solicited bids for new and used trucks. In order to purchase the truck, he needed a transfer of an additional \$70,000 for a total of \$140,000. Mr. Dorriety requested to transfer \$70,000 from the front loader truck account to the off road truck account in order to have enough funds to purchase the off road truck.

MOTION was made by Mr. Shaw and seconded by Mr. Baldwin to approve the transfer of \$70,000 from the front loader truck account to the off road truck account to purchase the off road truck from Flint Equipment in the amount of \$139,597.

Mr. Flowers stated that when comparing the used 2006 truck with 1420 hours from Flint Equipment with the other used 1999 truck with 4271 hours, the truck from Flint Equipment appeared to be a good deal.

The motion carried unanimously.

MOTION was made by Mr. Flowers and seconded by Mr. Shaw to accept the bid for the new off road truck from Flint Equipment of West Columbia, South Carolina.

The motion carried unanimously.

Administrative Update - Mrs. Sue Rainey, Library Director

Mrs. Rainey showed a plaque that was awarded to Lamar Library on last week by the Darlington County Chamber of Commerce. The plaque was presented to Lamar Library for the Community Pride Award. She mentioned that Lamar Library, which consists of 4200 square feet, was already too small. Mrs. Rainey reported that 23,000 people visited Lamar Library last year, 37 programs were held in the facility during December 2008, and 130 people attended a program there last week. She also talked about the businesses that have come into this community.

Administrative Update - Mrs. Phyllis Griffiths, County Administrator - Update

Mrs. Griffiths did not have an update.

Requests / Comments – Members Of Council

Mr. Shaw thanked everyone for attending the Council meeting. He also mentioned that Council will have to work together to satisfy the citizens. Mr. Shaw requested to be excused from the meeting.

Mrs. Johnson asked Council members to return their completed paperwork that she had distributed at the worksession. She commended the recent Economic Development Forum and expressed concerns about there not being a One Stop Center within the City of Darlington. She asked Council members serving on the Council of Governments Board to follow-up on this matter. She then commended the County Employee's Appreciation Banquet that was held last Friday evening and the Planning Commission for the public meeting that was recently held in the Palmetto Community.

Mr. Baldwin thanked the staff for planning the Employees' Appreciation Banquet.

Ms. Nicholson talked about sending prayers and flowers for Councilwoman Anne Warr.

Mr. Flowers reminded Council of Farm Bureau's Legislative Dinner meeting scheduled for 7 p.m. on February 9th at Lydia Community Center; spouses invited.

Chairman Blackwell also commended the Employees' Appreciation Banquet.

Vote For Executive Session - Discussion Of Matters Relating To The Proposed Location, Expansion, Or The Provision Of Services Encouraging Location Or Expansion Of Industries Or Other Businesses In The Area Served By The Public Body

MOTION was made by Mr. Baldwin and seconded by Mrs. Johnson to vote for executive session for discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body.

The motion carried unanimously.

Executive Session - Discussion Of Matters Relating To The Proposed Location, Expansion, Or The Provision Of Services Encouraging Location Or Expansion Of Industries Or Other Businesses In The Area Served By The Public Body

MOTION was made by Mr. Baldwin and seconded by Mrs. Johnson for Council, Economic Development Director Robert Long, County Attorney Jim Cox, and County Administrator Phyllis Griffitts to go into executive session for discussion of matters relating to the proposed location, expansion, or the provision of services encouraging location or expansion of industries or other businesses in the area served by the public body.

The motion carried unanimously.

Council recessed at 7:30 p.m. prior to going into executive session and reconvened at 8:09 p.m. Upon reconvening, Chairman Blackwell announced that no action was taken.

Vote For Executive Session - Possible Pending Litigation/Legal Advice Involving The Sheriff's Department And Nettles Road

MOTION was made by Mr. Baldwin and seconded by Mrs. Johnson to vote for executive session for the discussion of possible pending litigation/legal advice involving the Sheriff's Department and Nettles Road.

The motion carried unanimously.

Executive Session - Possible Pending Litigation/Legal Advice Involving The Sheriff's Department And Nettles Road

MOTION was made by Mr. Flowers and seconded by Mrs. Johnson for Council, Chief Deputy Thompson, Sheriff Wayne Byrd, County Administrator Phyllis Griffitts, and County Attorney Jim Cox to go into executive session for the discussion of possible pending litigation/legal advice involving the Sheriff's Department and Nettles Road

The motion carried unanimously.

Council went into executive session at 8:11 p.m. and reconvened at 8:40 p.m. Upon reconvening, Chairman Blackwell announced that no action was taken.

Adjournment

MOTION was made by Mr. Baldwin and seconded by Mrs. Johnson to adjourn the meeting. There being no further business, the meeting was adjourned at 8:41 p.m.

Respectfully submitted,

Mrs. J. JaNet Bishop, Clerk to Council

Mr. Wesley Blackwell, Chairman
Darlington County Council

Approved at meeting of February 16, 2009.