

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

Monday, April 7, 2008

9:00 A.M. Worksession

AGENDA

1. **Citizen Comments**

20 min.

1. Mr. Jack Steer, 2416 Dawn Trail, Durham, NC 27712, requested time on the agenda to speak to the Commissioners about the FY 2008/09 Budget.
2. Mr. Ralph McKinney Jr., 500 Fairfield Road, Durham, NC 27704, requested to speak to the Board about violence and racial division.
3. Ms. Gail Winton, 2625 Chapel Hill Road, Durham, NC 27707, requested to speak to the Commissioners about child abuse and protection.
4. Ms. Theresa El-Amin, PO Box 52731, Durham, NC 27717, requested to speak to the Commissioners about the prepared food sales tax.

2. **Women's Commission—Removal of Tiketha Collins and Cheryl Dawes as Board Members due to Poor Attendance**

10 min.

On June 26, 2006, the Board of County Commissioners appointed Cheryl Dawes to serve a full term on the Durham County Women's Commission; on August 28, 2006, the Board of County Commissioners appointed Tiketha Collins to serve a full term on the Durham County Women's Commission. Based on information from Women Commission Chairman Yvonne Dunlap, Ms. Dawes and Ms. Collins have failed to comply with the Policy and Procedures for Appointments to the County Boards, Commissions, Committees or Authorities, set forth by the County Commissioners. Section 1.(F) of the Policy states, "*If an appointee has absences (excused or unexcused) which constitute more than 50% of the meetings in any calendar year which he or she is required to attend pursuant to his or her appointment, he or she is obligated to resign.*"

The Clerk to the Board's Office has attempted to contact both Ms. Collins and Ms. Dawes several times via telephone, courier mail, and email, requesting their resignation; no response has been received.

County Manager's Recommendation: The Manager recommends that the Board suspend the rules and remove Ms. Collins and Ms. Dawes from the Women's Commission.

3. **Annual Contract Performance: Downtown Durham, Inc.**

15 min.

The Board of County Commissioners appropriated \$55,000 to the Downtown Durham, Inc. (DDI) in Fiscal Year 2008 pursuant to a contract that requires the organization to submit an annual report in April. DDI representatives will present their finding and respond to questions that the Board may have.

Resource Person(s): Bill Kalkhof, President, Downtown Durham, Inc.

County Manager's Recommendation: The Manager recommends that the Board receive the report and advise the staff if any additional information or action is necessary.

4. **Annual Contract Performance: Greater Durham Chamber of Commerce**

15 min.

The Board of County Commissioners appropriated \$128,000 to the Greater Durham Chamber of Commerce in Fiscal Year 2008 pursuant to a contract that requires the organization to submit an annual report in April. Chamber representatives will present their findings and respond to questions that the Board may have.

Resource Person(s): Casey Steinbacher, President, Greater Durham Chamber of Commerce

County Manager's Recommendation: The Manager recommends that the Board receive the report and advise the staff if any additional information or action is necessary.

5. **Durham Center for Senior Life—Request to Modify Kitchen**

15 min.

The Council for Senior Citizens has requested permission to modify the kitchen space currently housed in the Center for Senior Life. Specifically, the Council wants to divide what is now designated as the kitchen area into two spaces: a storage area and a multi-purpose room. The multi-purpose room would include sinks and provide space for caterers, meetings, etc. Costs for all modifications would be borne by the Council.

Resource Person(s): Gail Souare, Executive Director, Council for Senior Citizens; Mike Turner, General Services Director; Glen Whisler, County Engineer; and Carol Hammett, Assistant County Attorney

County Manager's Recommendation: The Manager recommends that the Board approve the request as presented.

6. **American Tobacco East Parking Deck—Architectural Façade Treatments**

20 min.

In 2007, the County of Durham entered into a performance contract for the provision of economic development incentive funds with Capitol Broadcasting Company, Inc. (CBC) for American Tobacco's Diamond View II office building and adjacent parking garage

known as the East Deck. As a part of the agreement, CBC is to design and install architectural façade treatments to the west and south walls of the East Parking Deck if a residential wrapper is not built prior to the opening of the performing arts theater. The façade treatments are to be approved by the Durham Appearance Commission and the Board of County Commissioners. The Board is being asked to receive a presentation on the design of the architectural façade treatments, provide feedback, and approve them as per the contract.

The design was recommended for approval by the Durham City/County Appearance Commission on February 20, 2008 and is scheduled to go before the City Council on April 7, 2008 for consideration.

Resource Person(s): Carolyn P. Titus, Deputy County Manager; Glen Whisler, County Engineer; Carol Hammett, Assistant County Attorney; Michael Goodman, Capitol Broadcasting Company, Inc. and Phil Szostak, Architect

County Manager's Recommendation: The Manager recommends that the Board receive the presentation, provide feedback, and if acceptable place on the April 14, 2008 meeting agenda for approval **subject to review by the Appearance Commission.**

7. **Update on Utilities Ordinance Amendment**

10 min.

The Board is requested to receive a presentation on proposed amendments to Chapter 26 of the Durham County Code of Ordinances, Utilities. Articles 1, 2, and 4 of the Utilities Ordinance are to provide uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the County and enable the County to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 CFR, Part 403).

In an effort to better provide those uniform requirements and comply with changes to applicable laws and regulations, staff recommends several amendments to the Ordinance. The proposed amendments include:

- Consolidation of Article 1, entitled “In General” and Article 2, entitled “Sewer Service” into Article 4, entitled “Sewer Use”
- Updates related to the industrial pretreatment program incorporating federal and state pretreatment regulations,
- Adjusting the local limits for discharged pollutants into the system,
- Adding requirements for fats, oil & grease removal systems, including minimum design requirements and minimum maintenance,
- A prohibition of discharging waste from cleaning or jetting sewer lines,
- A requirement that each user shall pay their specific cost of lateral installation to the sewer collection system,
- The use of permit self-monitoring data for surcharge evaluations,

- The specific allowance for the Publicly Owned Treatment Works (POTW) director to require a continuously monitoring effluent flowmeter for users with sewer credits,
- Specifying that sewer credits are annual, and
- Specifying that users must immediately contact the Triangle Wastewater Treatment Plant of a discharge violation, and provide written notice to the POTW director within 24 hours.

As the amendments involve many sections of the Utilities Ordinance, the proposed Utilities Ordinance Articles 1, 2 and 4 are provided for your review in a lined version. A descriptive summary of the amendments is also provided. NCDENR Division of Water Quality has approved a previous draft of the proposed amendments concerning the updates related to the industrial pretreatment program and the local limits for pollutants of concern. The proposed amendment will become effective upon Board approval.

Resource Person(s): Glen Whisler, P.E., County Engineer; Joseph Pearce, P.E., Utility Division Manager; Carol Hammett, Assistant County Attorney; and Nadine Blackwell, United Water Regional Manager

County Manager's Recommendation: The County Manager recommends that the Board receive the presentation on the proposed amendments to Chapter 26 of the Durham Code of Ordinances, Utilities, and schedule adoption of the amendments for April 14, 2008.

8. **Donated Leave Policy**

20 min.

The Human Resources Department has developed a Donated Leave Policy designed to provide temporary financial relief to employees facing a catastrophic illness or injury. The Donated Leave Policy establishes a Donated Leave Bank which will be funded by voluntary donations of vacation and/or sick leave from employees. The policy requires an employee to exhaust all available leave options before making application for donated leave. The Donated Leave Bank creates no additional financial liability for the organization as hours donated will be converted to its monetary equivalent.

Resource Person(s): Marqueta Welton, Director of Human Resources

County Manager's Recommendation: The Manager recommends that the Board review, discuss and approve the policy and authorize staff to implement the policy immediately.

9. **County of Durham v. Lynne Graham**

20 min.

The Board is requested to consider whether to adopt Administrative Law Judge Beecher R. Gray's Order entering judgment in favor of Lynn Graham. Judge Gray ruled that "the matter has been fully resolved by prior litigation and the Doctrine of Res Judicata should apply." This request for Board action is made pursuant to N.C.G.S. section 150B-36 entitled Final decision, which provides in pertinent part within subsection (d):

For any decision by the administrative law judge granting judgment on the pleadings or summary judgment that disposes of all issues in the contested case, the agency shall make a final decision. If the agency does not adopt the administrative law judge's decision, it shall set forth the basis for failing to adopt the decision and shall remand the case to the administrative law judge for hearing. The party aggrieved by the agency's decision shall be entitled to immediate judicial review of the decision under Article 4 of this Chapter.

Resource Person(s): Glen Whisler, County Engineer, and Marie Inserra, Assistant County Attorney

County Manager's Recommendation: It is the recommendation not to adopt Judge Gray's decision as the decision does not address the time in violation that was not considered by the Court in the first action; the decision in the first action did not constitute a final binding judgment under the doctrine of res judicata.

10. **Discussion of Issues for Durham County Legislative Agenda**

35 min.

An initial discussion was held on March 3 to begin the process of developing the Durham County Legislative Agenda for the upcoming General Assembly Short Session. Based on the input from members of the Board, additional items have been added for consideration. Staff will lead a discussion of proposed legislative issues. Following that conversation, a more complete listing will be developed for final approval prior to the start of the legislative session.

In addition, a meeting with the Durham Legislative Delegation has been calendared for April 30 at 8:00 a.m. in the County Commissioners' Chambers.

The North Carolina General Assembly will convene the Short Session at noon on May 13 in Raleigh.

According to the adjournment resolution, Budget Bills must be submitted no later than 4:00 p.m., Friday, May 16 to bill drafting. Local Bills must be submitted to bill drafting by 4:00 p.m., Wednesday, May 21 and filed in the House or Senate by May 28.

Resource Person(s): Deborah Craig-Ray, Assistant County Manager, and Chuck Kitchen, Durham County Attorney

County Manager's Recommendation: The Manager's recommendation is that the Board receive the proposed agenda and direct staff.

11. **Closed Session**

30 min.

The Board is requested to adjourn to closed session to discuss matters relating to the location or expansion of business or industry pursuant to G. S. 143-318.11(a)(4).

12. **Public Hearing for Nonprofit Agencies Applying for FY 2008-2009 Funding**

2 hrs.

To hear presentations from nonprofit organizations that applied for funding in the 2008-2009 Fiscal Year.

Resource Person(s): Pam Meyer, Budget & Management Services Director

County Manager's Recommendation: The Manager recommends receiving the nonprofit presentations.

5½ hrs.