



June 25, 2019
Durham County Audit Oversight Committee Minutes

I. Call to order

The meeting was called to order at 3:30pm in the Admin II building, room 466, located at 201 East Main Street, Durham, NC 27701.

II. Members

Present: Mr. Arnold Gordon, Chair; Mr. Manuel Rojas, Vice Chair; Commissioner Wendy Jacobs and Commissioner James Hill.

Absent: Dr. Nicole McCoy, Secretary (excused); Commissioner Heidi Carter, Alternate; and Mr. Wendell Davis (Ex-Officio), County Manager (excused).

Presenter: Mrs. Darlana M. Moore, Internal Audit Director; Sheriff Clarence Birkhead; Mr. Lowell Siler, County Attorney.

Others Present: Corporal Eric Campen, Forensic/Property Units (Sheriff); Captain Thomas Cote, Operations (Sheriff); Ms. Janelle Owens, Risk Management & Safety (County Attorney).

III. Business

A. Prior Meeting Minutes – Mr. Arnold Gordon

Mr. Gordon moved, and Mr. Rojas seconded the motion to approve the minutes from March 12, 2019. The minutes were approved unanimously.

B. Discuss of 2020 Annual Audit Plan – Mrs. Darlana Moore

Mrs. Moore explained that the 2019 Annual Plan was not completed due to inadequate staffing and every audit resulting in an investigation. Mrs. Moore asked the members to turn to page 6 of the 2020 Annual Plan under "Planned Audits" and discussed the upcoming 2020 audit projects. Mrs. Moore explained that the "Foster Care and Adoption Eligibility" audit was added to the plan. She explained that this audit was added as a result of recurring audit findings explained in the annual

external audit report¹ performed by Cherry Baekart. The SSAE 18 was added in order to inventory all system utilized within Durham County.

Mr. Rojas inquired as to whether the Audit Oversight Committee (AOC) would be updated on the outcome/status of current investigations. Mrs. Moore stated the committee would be updated at the end of the investigation. Mr. Rojas requested the committee be briefed concerning the special investigations and the circumstances surrounding the investigations whether they have been completed or not. Mr. Gordon reminded Mr. Rojas that these items needed to be addressed during closed session. Mr. Rojas requested a more detailed report at the September 10, 2019 meeting.

Mrs. Moore further explained that as of July 2019, the Internal Audit department would be fully staffed. Mr. Gordon asked if there were any new hires. Mrs. Moore confirmed that all vacant positions have been filled and the 2020 Annual Plan was based on a staff of three full-time employees.

Commissioner Jacobs expressed concerns regarding any future audits of the Department of Social Services (DSS). Commissioner Jacobs expressed that this department is audited constantly by the state. She went on to state that additional audits from Internal Audit would become time consuming and disruptive. She asked why Mrs. Moore would add DSS to the Annual Audit plan knowing this information. Mrs. Moore stated the Child Protective Services and Adult Protective Services audits were requested by DSS Director, Ben Rose. Secondly, DSS must be kept on the plan because if it fails one state audit, the state could take over the department. Finally, the external audits that have occurred continue to have the same audit findings, and the existence of recurring findings means there is a breakdown of internal controls that need to be addressed. Therefore, Internal Audit will keep DSS on every plan to ensure its internal controls are in place and that the department is operating effectively, and, for that reason, the Foster Care and Adoption Eligibility division were also added to the plan.

Commissioner Jacobs continued by asking whether the internal audits were being conducted to help support the state audits that are already in-process. Mr. Rojas responded by stating that every audit has a different scope and DSS has not been audited in a while. Mr. Siler explained that the last audit at DSS was concerning the gift cards. Mrs. Moore stated she could not remember when the last audit occurred, but that Mr. Rose did ask for gift cards to be revisited.

During the course of this discussion, Mrs. Moore stated that she needs additional staff to assist with carrying out the duties outlined in the audit plan. Mr. Gordon stated the record should show that although Mrs. Moore has hired more staff, it's still a short staff situation, explaining that a county of this size needs more internal auditors. Mr. Rojas stated he agreed. Commissioner Jacobs stated that she

¹ *Durham County, NC Schedule of Expenditures of Federal and State Awards*, pages 10-20, June 30, 2018, Cherry Baekart.

understood, and that every single department has requested additional staff. But she acknowledged that it is a legitimate request. Mr. Gordon stated if something goes wrong, the first-place people are going to look, and question is the Internal Audit department.

Mr. Gordon motioned to accept the 2020 Annual Audit Plan and Commissioner Jacobs seconded the motion. The 2020 Annual Audit Plan was approved unanimously.

Commissioner Jacobs requested the plan be sent to all County Commissioners.

C. Discussion Concerning Confiscated Weapons – Sheriff Clarence Birkhead

Sheriff Birkhead stated the Office of the Sheriff (OoS) has made great strides since the last meeting on March 12, 2019, in disposing of and storing confiscated weapons. Corporal Eric Campen (Supervisor, Property Units) stated on April 1, 2019, the Property Unit obtained additional space in the basement of the Sheriff's office. It is a 480 square foot room used strictly to house guns. This space was needed because guns were overflowing into the evidence room (which is against CALEA standards). Corporal Campen stated they have since corrected the issue and are currently in compliance with CALEA standards.

Mr. Gordon asked who is CALEA. Sheriff Birkhead responded, "the Commission on Accreditation for Law Enforcement Agencies." He further stated, the OoS has subscribed to a certain set of standards and industry best practices to ensure compliance with CALEA standards.

The firearm storage issue was once of the issues in which OoS was out of compliance until obtaining the additional space in the basement. The OoS is now back in compliance.

Corporal Campen explained that the law changed in 2013 wherein the Sheriff was prevented from destroying firearms. The Sheriff had to either sell the guns, keep them on hand or trade them in for additional law enforcement equipment. The latter meant the guns would end up back on the streets. To prevent this from happening, the previous Sheriff decided to just store the weapons. This is what all other agencies within the state of North Carolina are doing right now. The OoS cannot destroy the guns unless the serial number has been altered or the gun is non-functional. Mr. Gordon asked if the OoS has ever gone before a judge in order to get rid of guns? Corporal Campen responded, "prior to 2013, yes." A judge cannot order a gun destroyed. If he does, he is violating the law.

Mr. Gordon asked who can destroy guns. Sheriff Birkhead stated that right now it is in the hands of our state legislatures. As a result, the OoS has hit a bit of a brick wall; however, every state agency is currently dealing with this issue and the lack of space.

Mr. Gordon asked, "if a miracle occurred tonight and you were given the approval to get rid of those guns, would you know which ones to get rid of?" Corporal Campen stated, "we're still in that process. It's a case-by-case lookup."

Mr. Rojas asked how much the weapons room has grown in the last twelve months or so? Corporal Campen stated, "in the past two months, we've taken in 19 guns. We are currently sitting on 1,492 guns."

Mr. Rojas inquired on the progress of an inventory of the weapons. Sheriff Birkhead stated the OoS is working in two phases. The first phase has been completed by finding more space to store the weapons. Mr. Rojas stated this is a perfect time to inventory the weapons being they are all in one place. Sheriff Birkhead concurred; however, the second phase of inventorying the weapons has not begun yet.

D. Discussion Concerning Upcoming Risks as Viewed by the Legal Department – Mr. Lowell Siler

Mr. Siler discussed the Fennell case. This was a case in which a 17-year-old committed suicide in the Durham County jail. The family filed a wrongful death lawsuit against the Sheriff's office. The County settled for \$650,000.

The current Sheriff is in the process of correcting several things with one being a proper assessment of individuals entering the facility. The Board of County Commissioners (BOCC) has approved funds to conduct a study of having 16 or 17 pods for teenagers only. There are new laws in affect concerning 16 and 17-year-old pre-trial detainees, stating that they should not be imprisoned with adults. The Sheriff is not federal; therefore, he does not have to adhere to that statute. However, best practices would dictate that he did adhere to it. The County is also removing or altering a few other things that would cause an individual to harm himself/herself (e.g., towel bars, HVAC grates, beds, etc.).

Mr. Rojas stated it is important to have evidence to support our exercise of due diligence when reviewing the holding cells and who goes where based upon the psychological evaluation. Mr. Siler feels there is a new culture at the jail in his opinion.

Mr. Siler stated the architects who built the jail are conducting a study to see if the prior mentioned pods are possible. He will report once this study has been concluded. In addition, the BOCC is looking at the possibility of reconstructing a new youth home. The current youth home on Broad Street is very, very old. There are only two County youth homes within the State, and we have one of the two stated Mr. Siler. Mr. Siler further stated, "we currently house 14 youth in the youth home. Should we expand, we will go up to 36 to 38 youth and may be able to rent out cells to other counties."

There is another case dealing with motorcycle funeral escorts. The County is in an agreement with various other counties and the City of Durham where motorcycle riders provide escorts during funerals. A city rider complained about another rider from another county. The city rider stated the county rider was a poor rider. The county rider the city rider complained of was in an accident and has huge medical bills. The County Legal department is still trying to assess its liability concerning this case.

There's another case concerning another employee that use to be a Deputy County Manager here for the County. That case is currently in the Fourth Circuit Court of Appeals in federal court. This case has been around for about four years now. Mr. Siler feels good concerning the facts and the law concerning this case and that the County will come out on top.

Mr. Siler introduced Janelle Owens. Janelle is the new Risk Manager for Risk Management & Safety. The Legal department is separated into three parts: 1) general government, 2) Social Services, and 3) Risk Management & Safety. Janelle's job is to handle the workers compensation cases and to keep our employees' safe.

Ms. Owens stated Risk Management does conduct quite a bit of training, but also try to transfer some of the risk with insurance. One of the big things they are working on now is drivers license checks on people who drive County vehicles and drive their personal vehicles for County business. It will be a large endeavor but would like to complete this task within the next year.

Another thing Safety and Risk Management is working on is fall protection assessments on the County's larger facilities and roofs. This liability stems from individuals working on our roofs. We are rolling out an electrical safety and lockout/tagout program. This program ensures that when people are working on equipment, they are de-energizing it. If not, they could possibly lose limbs, etc.

Additionally, Safety and Risk Management is keeping watch on a couple of bills currently going up to the legislature that is of concern if they get passed. They are pertaining to: firefighters, EMS personnel, and police officers. This bill deals with these individuals who have Post Traumatic Stress Disorder (PTSD) and local governments providing compensation for these individuals through workers compensation. If these bills go through, this will expand the County's risk a great deal, especially with the loose definitions within the bill. The County has had two PTSD claims within the past year. They were both from EMS.

Mr. Siler stated the County is trying to recruit students directly out of high school. This will help eliminate individuals who may come to the County with a pre-existing PTSD condition. In addition, Legal (Safety/Risk Management) has hired an individual from the state who worked on all of the state Occupational Safety and Health Administration (OSHA) cases. This individual is now working on all County OSHA claims and HR claims. Mr. Siler also stated that he hired a safety person who used to be the safety person for all of the state universities, etc. This individual traveled all over the state handling OSHA issues, he is now a part of the Legal office. Mr. Gordon stated he is jealous that Mr. Siler is hiring all of these individuals and audit is being overlooked.

Mr. Rojas asked Ms. Owens if she was working alone or had staff. She stated she has four other individuals working with her; however, she is fully staffed. She stated she does need an additional claims person. Mr. Rojas stated he is glad the organization is recognizing corporate risk as being an entity within the scope of control.

Mr. Rojas asked if we had insurance to help us mitigate losses due to whatever? Mr. Siler stated, "yes." Mr. Siler stated the County has certain immunities that negate liabilities against the County. The County also has insurance to handle quite a few of the prior mentioned things (i.e., jail, fleet, cybersecurity, etc.). It is Ms. Owen's job to stay on top of these things and to make sure the County is protected.

The County has two restaurants moving into the Admin II building. These establishments will sell alcohol.

E. New Business

Mr. Rojas stated the voting members will nominate new officers in September. These individuals can be commissioners or public members. Mrs. Moore stated Mr. Gordon has only been in his position for one full year; therefore, his position cannot be voted on this year. Mr. Rojas stated there needs to a vice chair and secretary appointed. Mr. Rojas further stated he hopes the secretary becomes more active in the meeting.

F. Old Business

None.

G. Next Meeting Date:

September 10, 2019, 3:30pm.

IV. Adjournment

There being no further business, the meeting was adjourned at approximately 4:39pm.