

REVISED
(Addition—Item No. 7)

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

Monday, January 4, 2010

9:00 A.M. Worksession

AGENDA

1. **Citizen Comments**

20 min.

1. Ms. Thelma White has requested time on the agenda to address the Commissioners about turn signals at Fayetteville Street and Riddle Road, and at Highway 55 and Riddle Road. She also seeks support for traffic signals at Riddle Road and Old Alston Avenue.
2. Mr. Lee Lambert has requested time on the agenda to address the Commissioners regarding land development.
3. Ms. Linda Huff has requested time to address the Board of County Commissioners regarding the replacement of the Bridge 151 on SR 1614. She would like to request a letter of support from the Board in an effort to appeal to Governor Perdue regarding the replacement of said bridge.
4. Mr. Ricky Hart has requested time to address the Commissioners regarding his bill with Durham County EMS.

2. **FY 2009 Audit Report**

15 min.

The Audit Oversight Committee requests permission to present the results of the FY 2009 external audit report. The report was presented to the Audit Oversight Committee on December 2, 2009, by April Bush, Audit Manager for Cherry, Bekaert & Holland, L.L.P., Durham County's external auditors.

Resource Person(s): Karen Percent, Chair, Audit Oversight Committee

County Manager's Recommendation: The Manager recommends that the Board receive the report.

3. **Durham Cooperative Extension's Project BUILD Presentation**

15 min.

Durham Cooperative Extension requests time to present to the Board of County Commissioners information related to the mission, goal, implementation and current status of Project BUILD. This project continues the implementation and operation of

the Gang Intervention Team, a cornerstone of OJJDP's Comprehensive Gang Model and establishes a county-wide Gang Prevention Partnership.

Durham Cooperative Extension's Project BUILD is made possible with funding from the North Carolina Department of Juvenile Justice and Delinquency Prevention (DJJDP), Byrne/JAG appropriation through the American Recovery and Reinvestment Act of 2009 and Durham Juvenile Crime Prevention Council (JCPC).

Resource Person(s): Delphine Sellars, County Extension Director; Dr. Kedrick Lowery, Project Manager

County Manager's Recommendation: The Manager recommends that the Board receive the presentation.

4. **Review of November BOCC Directives**

10 min.

It was requested that at each month's worksession, the Board of County Commissioners have the opportunity to review the previous month's directives for staff and make comments as necessary.

Resource Person(s): Mike Ruffin, County Manager, and Laura Jensen, Assistant to the County Manager

County Manager's Recommendation: The Manager recommends that the Board review the November BOCC directives and make comments to staff as necessary.

5. **2010 MWBE Report**

45 min.

For the past year, considerable discussion has occurred at Board of County Commissioners' meetings about perceived shortcomings of Durham County's M/WBE Program. Much of the conversation comes on the heels of the construction of the Health & Human Services Complex and the new Justice Center, the two largest public construction projects in the County's history. In light of the numerous issues raised at the September 14, 2009 and September 29, 2009 Commissioners' meetings, staff were directed to evaluate and assess the County's M/WBE Program and report back to the Board.

Specifically there were several matters staff were directed to investigate: the possibility of merging the County and City of Durham's M/WBE Program, the lack of minority contractor participation on major construction projects, the method of bidding used by the County (Single Prime versus Construction Manager at Risk) and the absence of local minority contractor participation. In addition, staff were also directed to determine how Durham Public Schools were addressing minority contracting.

Over the past two months staff conducted an assessment of the County's M/WBE Program, working with the City of Durham's Equal Business Opportunity Office (which manages the Small Disadvantaged Business Enterprise (SDBE) initiative) as well as Durham Public Schools. This effort has resulted in the attached position paper with accompanying recommendations. In addition a legal review is included, highlighting the Croson case and the most recent case law pertaining to minority contracting.

Resource Person(s): Wendell M. Davis, Deputy County Manager; Jacqueline Boyce, Purchasing Director; Pamela Gales, Assistant Purchasing Manager and MWBE Coordinator; Glen Whisler, County Engineer; Drew Cummings, Assistant County Manager; Laura Jensen, Assistant to the County Manager; Katrina English, Duke Law Intern; Karla Smith, NCCU MPA Intern

County Manager's Recommendation: The Manager recommends that the Board receive the report, consider staff recommendations, and provide further direction to staff for the M/WBE Program.

6. **Interlocal Agreement with Durham Public Schools**

20 min.

On October 9, 2006, the Board approved an Interlocal Agreement with the Durham Public Schools to construct three school buildings due to the inability of the school system to recover sales taxes paid by the system. Since then, the parties have amended the agreement three times to include 17 additional school projects. Pursuant to the Interlocal Agreement, school properties are deeded to the County, DPS handles the bidding and recommends for approval the design and construction contracts and acts as construction manager for the County. As owner of the school properties the County is also responsible for all real property matters such as permit applications, easements, and ROW agreements. The County, in turn, obtains the sales tax reimbursement for the schools needs. The current Interlocal and its process is complicated and time consuming to both the County and DPS. There are other ways to obtain the same result that is less complicated and shifts the majority of the burden to DPS instead of the County.

The proposal for the Board's consideration is to allow the schools to retain ownership of the schools, lease the property to the County and delegate the authority to enter into and manage the contracts on behalf of the County, subject to the terms of a new Interlocal agreement. The key differences in this proposal is that the Schools will continue to own the properties, the County will instead lease the properties, and the schools will act as the agent of the County for construction, having the powers and duties of the Board for purposes of bidding, award and general management of the contracts. This proposal is similar to how Wake County is handling their multiple school construction projects, is less cumbersome and time consuming for County and DPS staff, eliminates the property ownership issues for the County and reduces the County's participation in the process of construction, including processing and handling claims. A detailed summary of the current process compared to the proposed process is attached for further information.

The County Attorney's Office has worked with DPS to draft a new Interlocal Agreement and Master Lease to address the concerns of both parties. The proposed Interlocal Agreement addresses reporting, the use of County form contracts, County M/WBE policies and indemnification of the County among other matters. The proposed new Interlocal Agreement is attached for your consideration as well as the Master Lease Agreement. If the Board agrees to the new Interlocal, all of the school properties will be deeded to DPS and immediately leased back to the County. New schools may be added through a simple lease addition and may also be removed from the Lease through a lease removal form; both forms are included as an attachment to the Lease. All of these real property instruments will be recorded in the Register of Deeds Office. County and DPS staff are available for any questions you may have.

Resource Person(s): Michael M. Ruffin, County Manager, Carol Hammett, Assistant County Attorney.

County Manager's Recommendation: The Manager recommends the Board review the request, make changes as it deems appropriate, and move the item to the January 11 Consent Agenda for approval.

7. **Closed Session**

10 min.

The Board is requested to adjourn to closed session pursuant to G.S. § 143.318.11(a)(3) to consult with an attorney in order to preserve the attorney-client privilege and to discuss the case in the matter of IBM Credit Corporation Case No. COA 08-1514 (N.C. Property Tax Commission No. 01 PTC 544).

Tour of Animal Control Department*

60 min.

*The van will depart for Animal Control 10 minutes after the meeting is adjourned.

3 hrs. **5 15 min.**