

**DURHAM COUNTY BOARD OF COMMISSIONERS
SPECIAL BREAKFAST MEETING WITH
DURHAM COUNTY LEGISLATIVE DELEGATION**

Tuesday, May 2, 2006

8:00 A.M.

MINUTES

Place: Commissioners' Room, second floor, Durham County Government Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chairman Ellen W. Reckhow, Vice-Chairman Becky M. Heron, and Commissioners Lewis A. Cheek and Michael D. Page

Legislators: Representatives Paul Luebke, Henry Michaux Jr., and W. A. Wilkins and Senator Robert Atwater

Absent: Commissioner Philip R. Cousin Jr.

Presider: Chairman Reckhow

Staff Present: County Manager Michael M. Ruffin, Deputy County Manager Carolyn P. Titus, County Attorney Chuck Kitchen, Public Information/Governmental Affairs Director Deborah Craig-Ray, and Clerk to the Board Vonda Sessoms

Welcome

Chairman Reckhow welcomed everyone to the meeting, stating that no introductions were necessary. She stated that the full legislative request would be reviewed with a good deal of time allocated to the mental health issue.

Items and Discussion Regarding the 2006 Legislative Agenda

Priority Local Items:

Court System Legislative Request: Durham County Commissioners seek legislation to provide an additional district court judge, related staff, and two assistant district attorneys. Senate Bill 61 is an alternate bill that was held over from 2005 and contains the district judge and two assistant district attorneys for the 14th Prosecutorial District. This high priority item was not funded by the end of the session.

Assistant County Manager Deborah Craig-Ray mentioned that last year's priority item was an additional district court judge.

Chairman Reckhow spoke about the request from the court system for a district court judge, related staff, and two assistant district attorneys.

Rep. Michaux stated that he was working on obtaining two district court judges, one to be appointed and one to be elected. Several bills are still thriving, and the money is available.

Rep. Luebke expressed optimism about the request being approved.

Cathy Shuart, Court Administrator, spoke about a meeting that was held on Friday with court officials from several urban districts, AOC Director Ralph Walker and his assistant, and Chief Justice Sarah Parker. The status of the court systems' request in the legislative session was the large topic of discussion, as well as the communication between the AOC and the Trial Courts across the state. Many districts struggle in their relationships with the state. Ms. Shuart stated that at the meeting, Chief Justice Parker encouraged that the court districts support the entire judicial branch budget proposal. Ms. Shuart distributed copies of the Judicial Branch—Administrative Office of the Courts—2006 Short Session—Expansion Budget Proposals.

Ms. Shuart briefly reviewed the expansion budget request. She stated that the Conference of District Attorneys and the Conference of Elected Clerks have asked the AOC not to use weighted caseload tables. Chief Parker commented that she would communicate with the conferences for guidance when placing the positions that the General Assembly may give. Regarding District Court Judge positions, Chief Parker will turn to Conference of District Court Judges if the General Assembly gives them.

Discussion was held about the allocation formula and the numbers being decided in an unfair, inappropriate manner.

Ms. Shuart noted that improved communication about the process is beginning to transpire.

North Carolina Association of County Commissioners Priority Items:

Medicaid Relief (Number 1 Priority): Durham County Board of Commissioners supports the NCACC in seeking legislation to implement a phase out of county participation in the costs of Medicaid. North Carolina Counties are projected to spend nearly \$488 million for Medicaid services in 2007, an 85% increase since 2000, according to the NCACC. The state requires counties to pay 15% of the non-federal share of all Medicaid service costs. The General Assembly sets the county share annually in the State budget bill. There is no federal requirement that counties participate. North Carolina is now the only state requiring county participation in all Medicaid services.

Ms. Craig-Ray referred to the handout regarding the NCACC proposal, which would reduce Durham County's share by approximately \$1.7 million. (Durham County's current amount is \$12.7 million.) She conveyed that this relief is extremely important.

Chairman Reckhow stated that a decision by mid-May would be most helpful in making budget decisions regarding taxes.

Rep. Michaux remarked that a move is underway to eliminate the county's share of Medicaid costs. "This will be a top priority."

Rep. Wilkins added that Medicaid relief is one of six top proposals coming from issues in the House.

Menu of Revenue Options: Durham County Board of Commissioners supports the NCACC in seeking legislation to allow all counties to enact any or all of several revenue options, including impact fees, land transfer tax, meals tax, and occupancy tax, from among those that have already been authorized for any other county. House Bill 1142 was introduced in 2005 by Representative Mickey Michaux, but never made it out of the Finance Committee.

Rep. Wilkins stated that the homebuilders and realtors associations are using their power to block the passage of any bill (individual or overall) dealing with real estate transfer tax, impact fees, etc. for counties. County commissioners should counter their arguments; Durham County Commissioners are doing a great job raising the importance of the issue.

Rep. Michaux expressed his opinion that the NCACC has been tepid in approaching this matter and should be urged to become more aggressive.

Chairman Reckhow thanked Rep. Michaux for the feedback.

Chairman Reckhow and Vice-Chairman Heron spoke about the importance of impact fees for educational expenses, as property taxes do not cover the costs.

County Attorney Chuck Kitchen explained why the opposition of impact fees is not in the best interest of homebuilders—county commissioners can impose a moratorium on construction.

Commissioner Cheek requested that the impact fee aspect be removed from the revenue options if they are the cause of all menu items being rejected. Property taxes cannot meet the needs; other methods to create revenue must be adopted.

Reps. Michaux and Luebke opposed removing the impact fees and land transfer tax, stating that sales tax would affect the lower-income population. The equity in raising revenue must be balanced.

Vice-Chairman Heron suggested a local law.

Commissioner Cheek and Rep. Michaux stated reasons for their respective positions.

Discussion ensued regarding the increase of sales tax versus property tax.

The Representatives urged the Commissioners to speak to the NCACC about the importance of the menu of revenue options.

E911 Fees: Durham County Board of County Commissioners joins NCACC in opposing any legislation that prohibits the placing of a surcharge on telephone lines for 9-1-1 systems and wants the ability to set the fee in accordance with appropriate expenditures. North Carolina Statute 62A (Public Safety Telephone Service and Wireless Telephone Service) was amended last legislative session to include a study as to the funding of 9-1-1 systems by use of a surcharge on the telephone bills and whether it is better to seek other methods. The legislation also froze the amount that can be collected at current levels or lower. NCACC says there is a strong likelihood that another proposal to remove E911 service fees from telephone bills will be pushed by the phone companies in the 2006 session.

Vice-Chairman Heron stated that the funds received from the surcharge could only be used for equipment at the 911 Center.

Rep. Luebke remarked that the importance of the surcharge is clearly understood.

County Manager Ruffin requested that the delegation be watchful of a move for counties to lose control of the administration of the surcharge funds; a state controlled group would act as administrator.

Eminent Domain: Durham County Board of County Commissioners supports efforts to modify state eminent domain legislation but support compromise language that offered by County Attorney Chuck Kitchen rather than the draft legislation to revise North Carolinas laws. (In light of the US Supreme Court decision in *Kelo v City of New London*, North Carolina and other states have initiated reviews of state laws relating to eminent domain or condemnation authority granted to public and private “condemnors”. A House Select Committee met and prepared the suggested proposal.)

County Attorney Chuck Kitchen explained the eminent domain item and gave reasons for opposing the draft legislation prepared by the House Select Committee to address the *Kelo* decision. The Committee has proposed major changes. He expressed concern that the proposed “broad” legislation creates an economic disincentive to sell property to the government; it forces eminent domain. County Attorney contended that the statutes should be the same for buying property (negotiating) as well as condemning property.

Rep. Michaux informed the Commissioners that he is a member of the House Select Committee, which has expressed that the government should share the responsibility of the costs (i.e. loss of business) when eminent domain is utilized.

Chairman Reckhow summarized that County Attorney Kitchen would work with the NCACC to put forward a written proposal. When completed, it would be sent to the delegation.

Additional Statewide issues:

Mental Health: Durham County Board of Commissioners supports legislation to preclude the Secretary of the Department of Health and Human Services from removing Screening, Triage, and Referral Services and Medicaid Utilization Review Services, together with the associated funding, from Mental Health Area Authorities. The state is urged to address Mental Health Reform by providing adequate funding to serve the needs of our citizens by providing money to local communities to support clients who are being integrated into local communities following the closing of state institutions.

County Attorney Chuck Kitchen gave background information about the lawsuits (filed on behalf of The Durham Center Board and Durham County Government) against the North Carolina Department of Health and Human Services. The basis for the suits is breach of contract and failure of the Department to follow State statutes in the proposed reorganization of mental health services.

Beth Melton, Clinical Director, The Durham Center, made remarks about the importance of the Mental Health legislation to Durham's citizens who receive services from The Durham Center.

Ellen Holliman, Director of The Durham Center, reviewed the Legislative Oversight Committee (LOC) proposal (findings and recommendations) to address the money issue and to clarify and strengthen the role of local communities to manage Mental Health, Developmental Disabilities, and Substance Abuse Services.

County Attorney Chuck Kitchen pointed out that the state did a review of The Durham Center and authorized The Center to perform Medicaid Utilization Review; however, the state is now attempting to delete this. He stated there is a real problem with the state government and the LOC points it out in the document reviewed by Ms. Holliman. The state administration is of no help to county government, which is why the LOC is becoming involved. With the proposed funding cuts, our mental health staff may be reduced by 50 percent on June 1.

Chairman Reckhow stated The Durham Center would then be operating with a "skeleton" staff. She stressed how well the mental health reform is working in Durham County.

Rep. Luebke inquired about how Durham has been affected.

Ms. Melton responded that the process has been interrupted several times. The role of the rule-making authority should remain unambiguous. Recruitment and morale problems have resulted.

Senator Atwater remarked that his observation is that a lack of a good decision-making has severely affected the good programs.

Ms. Holliman stated that the mental health reform was fully embraced by The Durham Center by December 2004. (The County Commissioners led and supported by the effort.) Many additional services are now available to our citizens through private agencies. The role of The Center is to monitor those agencies and ascertain that good, quality services are being provided, which is a huge task.

County Attorney Kitchen provided a brief history of the mental health reform and how the proposed changes have occurred.

Chairman Reckhow commented about the tremendous change that has transpired in the mental health system in Durham County. The secretary is now proposing another change.

The Representatives concurred that the Local Management Entity is working for Durham County.

Rep. Michaux expressed concern about whether the funding will be included in the Governor's budget.

Ms. Holliman encouraged that the LOC proposals be adopted as an entire package, which has met resounding support. She stressed urgency on the legal side because the statewide vendor is claiming authorization responsibilities concerning Medicaid on June 1.

Discussion proceeded about the cost of LOC's proposals.

Rep. Michaux stated that the Delegation would seek guidance from the County Commissioners. The budget regarding Mental Health has been a big question because of the conflict between Secretary Odom and other forces involved.

Chairman Reckhow beseeched the Delegation for legislative assistance in reaffirming the Legislatures current reform.

Ms. Craig-Ray mentioned the following items and asked for any questions or remarks:

Transportation: Durham County Board of County Commissioners supports the Joint Transportation Funding Task force, which will identify a unified action plan for transportation funding for the region consistent with the North Carolina Blue Ribbon Urban Transportation Commission. Based on the funding needs in the Triangle and other funding initiatives in North Carolina, the emphasis items in order of priority are:

- (1) Permanently end the transfer of Highway Trust Fund Revenue (over \$250 million/year) to the North Carolina General Fund.
 - (2) Modernize the equity formula to address congestion related needs.
 - (3) Create transportation and infrastructure local revenue option authority.
 - (4) Ensure that any toll revenue generated in a region stays in that region
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School Funding Needs: Durham County Board of County Commissioners supports legislation that provides adequate and reliable public school funding for our school district as well as other districts statewide, decreasing the reliance on local funding and the growing inequities in educational opportunities across the state related to local funding ability.

Indigent and Uninsured Health Care Delivery Costs: Durham County Board of County Commissioners supports legislation to establish a legislative study commission to develop recommendations on the state's health care delivery system and the needs of the uninsured population. The influx of new residents without health insurance into the state has manifested itself in an ever-increasing demand on local health care services. As such, county governments find themselves bearing major expenses for indigent and uninsured health care delivery costs.

Franchising Authority: Durham County Board of County Commissioners opposes legislation to weaken or eliminate the ability of local government to exercise franchise authority over utilities, telecommunications, video and cable services, and/or interferes with the ability of local government to protect its public rights-of-way and property.

Tax Assessment Authority: Durham County Board of County Commissioners opposes legislation to exempt builders "inventory" from full market value by allowing an increase in value attributable to subdividing or improving real property held for resale to be excluded from ad valorem taxation until sold. Two such bills from the 2005 Session S 508 and H 648 are expected to be pressed this session by the building and development lobby.

Land for Tomorrow: Durham County Board of Commissioners supports the "Land for Tomorrow" initiative, a proposed statewide bond referendum to increase conservation spending in North Carolina by \$200 million per year. The funding is to represent new dollars and should not be used replace existing state monies that currently fund open space and land conservation.

Chairman Reckhow and Ms. Craig-Ray elucidated Land for Tomorrow for Rep. Michaux. Support for the concept was requested, not necessarily for the dollar amount.

Commissioner Cheek voiced that funding for Land for Tomorrow should not be taken from issues that are more significant.

Chairman Reckhow raised another issue not on the list. She asked that the formula for the lottery remain as is. She asked that the 40% for school capital (\$4.6 million) be earmarked early in the session to help with balancing Durham's budget by defraying debt service on the school bonds.

Vice-Chairman Heron expressed opposition to the move by the toll road authority to use a portion of the highway trust fund for toll roads. She asked that the Delegation be watchful of this move.

Chairman Reckhow informed the Delegation that the regional Metropolitan Planning Organizations are collaborating satisfactorily.

Adjournment

The breakfast meeting adjourned at 10:05 a.m.

Respectfully submitted,

Vonda C. Sessoms
Clerk to the Board