

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

Monday, March 4, 2002

9:00 A.M. Worksession

MINUTES

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

Present: Chairman MaryAnn E. Black, Vice-Chairman Ellen W. Reckhow, and Commissioners Joe W. Bowser, Philip R. Cousin Jr., and Becky M. Heron

Absent: None

Presider: Chairman Black

Citizen Comments—Mr. Jack Steer and Dr. Anita Keith-Foust

Mr. Steer, 2416 Dawn Trail, representing the Friends of Durham, requested time on the agenda to discuss FY 2002-2003 budget planning. He asked the Commissioners to read the prepared statement that was distributed to them. His intent was to aid the Commissioners in budget deliberations so they can make good decisions.

Mr. Steer commented that obtaining the right kind of information had been confusing. Sometimes it was not possible to get the answers. I was able to get some conclusions and some recommendations, which dealt with accountability and performance measurement. These two things must be stressed.

The review shows areas of possible cost reductions and revenue increases in the budget. In my opinion, I found as much as \$3 million that could be removed from the human services departments.

Mr. Steer said he recommended to Sheriff Worth Hill that he consider outsourcing certain functions at the Durham County Detention Center.

Mr. Steer stated that schools' budget reflected a faster growth in the budget than in student population which appeared to be largely due to more emphasis on over- and under-achievers. This budget is needed to help these students. However, cutting non-cost-effective programs in mental health and social services should be reviewed.

The other part of Mr. Steer's report dealt with benchmarking.

Dr. Keith-Foust spoke about the M/WBE program and procurement policies. She read the following prepared statement into the record:

“There has been a disparity study done for the County of Durham which documents the disparities. The establishment of the goals for expenditure of funds with M/WBEs in construction with African Americans is 19.45 percent and construction subcontracts 19.06 percent.

I have heard a lot of excuses from people that the goals can't be met from “we can't find them” to “they are not competitive.” These excuses are not good enough. With all of the construction opportunities coming up, the community wants to see an effort to make these goals happen.

Each department head's evaluation should include these goals and the others laid out in the disparity study. Exceptional performance where the goals are exceeded should be awarded accordingly. If the County Commissioners and the County Manager make these goals as important as the other employee evaluation goals, then we will see the results in no time.

There are deceptions that you all must be aware of in these times. There are Judas Goats who will come to you telling you that they have these amazing minority participation numbers. I am warning you in advance that you must look beyond what is said and setup a system that checks these facts continuously throughout the entire project.

If any contractor, no matter what gender, color or race, deceives the M/WBE program with claims that benefits them falsely, the penalty should be no more business from the Durham County government.

The community will be watching this process closely and will hold all parties accountable.”

No official action was taken concerning the citizens' comments.

Report to the Commissioners from the Durham County Library Board of Trustees and Recommended Bylaw Changes

The Durham County Library Board of Trustees presented its annual report to the Commissioners as required by its bylaws and G.S. § 153A-266(8).

In addition, the Library Board requested Commissioner consideration and action on proposed changes to the bylaws of the Board of Trustees. The purpose of the proposed changes is to clarify the authority and responsibilities of the Trustees and to bring the language of the delegated duties in line with the language in G.S. § 153A-266. The proposed changes were developed in consultation with Deputy County Manager Carolyn P. Titus.

Resource Person(s): Bessie M. Carrington, Chair, Durham County Library Board of Trustees; Dale Gaddis, Library Director; and Carolyn P. Titus, Deputy County Manager

County Manager's Recommendation: The Manager recommended that the Board receive the Library Board of Trustees' annual report and consider and approve the recommended changes to the bylaws of the Library Board.

Ms. Carrington presented to the Board of County Commissioners the Library's annual report as required by the North Carolina General Statute.

Ms. Carrington emphasized three very important sections of the annual report. The three sections follow:

1. The library is experiencing serious deficiencies in our computer access.
2. We are considering the impact of new federal legislation requiring the installation of filtering software on all library computers. This requirement comes under the Children's Internet Protection Act.
3. We have received good service from the Sheriff's Department for our security needs in the past years. We might have to change the way we are looking at security during the upcoming budget process.

The Commissioners asked questions and made comments about the annual report to which Ms. Carrington responded. Ms. Gaddis also assisted with the responses.

Chairman Black stated that the County Manager will schedule meetings with the Department Managers and the Board of County Commissioners to talk about the FY 2002-2003 budget. She wanted to give the Department Managers an opportunity to tell the Commissioners how a 5-percent budget reduction would affect their departments and the services that are provided.

Chairman Black asked Ms. Carrington to move the presentation ahead to talk about the bylaws.

Ms. Carrington made a presentation to the County Commissioners about the bylaws and the proposed changes. The trustees rewrote the Bylaws of the Board of Trustees of the Durham County Library. The Library Board of Trustees has approved the updated bylaws and wished to present them to the Commissioners for approval.

Chairman Black called on Deputy County Manager Titus to make remarks about the bylaws and the proposed changes.

Ms. Titus said that according to the bylaws, the Library Board would remain an advisory board. The changes made to Article V: Duties and Responsibilities of Trustees would more adequately reflect current operations.

The Board of County Commissioners asked questions and made comments about the bylaws. The Commissioners conducted a lengthy discussion about the bylaws.

Ms. Titus and Ms. Carrington responded to questions.

Ms. Carrington informed the Commissioners that under Article V, No. 3 would be changed from "Board of County Commissioners" to "County Manager."

County Manager Ruffin stated, for the record, that we are working together on our search for a library director. That process is going very smoothly. I don't want to lose sight of that. We have been and will continue to work together.

Chairman Black advised that this item be placed on the April 22, 2002 Regular Session agenda under "consent." The bylaws would be sent back to the Durham County Library Board of Trustees for review.

Request from Register of Deeds

The office of the Register of Deeds requested actions to:

1. Restore already trained temporary employees for the remainder of the fiscal year;
2. Allow us to continue work on the automation project, which is already funded and which is about 60-percent complete; and
3. Permit us to increase staff by two full-time employees in the upcoming budget year.
The two full-time employees will replace the two current temporary employees.

The above request was made necessary by the huge increase in volume over the past two years. While other areas of the economy have suffered, the Register of Deeds office volume has increased greatly. Our revenues have gone from \$1.5 million in FY 96/97 to a projected \$2.4 to \$2.5 million in FY 2001/2002. Our staff has increased from 12 full-time employees to 15 full-time employees for that same period.

The two requested employees will provide compliance with state statute and a two-week turnaround time for documents (in line with the Triangle area average).

The Office of Register of Deeds provides a service to the citizens for which they pay. We should be allowed to provide the level of service they deserve and desire, and which reflects well on us as a County.

Resource Person: Willie Covington, Register of Deeds

County Manager's Recommendation: The Manager recommended that the Board review the request and advise the staff if any additional action is necessary.

Mr. Covington made a presentation to the Board of County Commissioners concerning the effects of a 5-percent reduction and losing two temporary employees. His presentation consisted of calculations, charts, and graphs.

The Commissioners asked questions and made remarks to which Mr. Covington responded. A lengthy discussion was held on this agenda item.

Vice-Chair Reckhow said a good case has been made to keep these two positions.

Commissioner Bowser said a good case has been made, but I think we have to look at the whole picture. When the County Manager adopted this policy to offset the shortfall, two departments called to ask me to meet with the Manager to see if he would amend his decision for them. I would certainly not push the County Manager to do something for one department and not for the other departments.

Commissioner Heron said she had a problem with something this important coming to the Commissioners before the County Manager has access to the information.

Commissioner Cousin said this matter speaks to a service that we provide to the citizens of Durham County and also to the level of service that we desire to provide the citizens of Durham. This is a revenue-generating department, and it is a vital service to the County. I would like the Board to provide the necessary resources for this department to give not only a level of service equivalent to what is expected in our surrounding counties, but a level of service which would exceed those expectations.

At the request of the Commissioners, the County Manager spoke to the subject. He said he needs every dollar he can get to help overcome the shortfall that has occurred. He spoke about the actions he has taken to get through the next four months. If these two employees are reinstated, then how do you not reinstate the other seven? These seven employees are needed in each one of these departments. This wasn't a question of whether Mr. Covington needed the temporary employees, but rather whether the sacrifice could be made for four months.

Commissioner Bowser said that one individual who requested his assistance in keeping temporary employees dealt with services to children. I tried to make an argument to keep those temporary employees. We had to be equal in dealing with the employee situation in Durham County. I was not successful in keeping the temporary employees who provide human services. I have to look very closely at an area where we are dealing with business and industry and not human needs. The County Commissioners must think about this. We have cut people out of Public Health, Mental Health, and Social Services, which provide human services. We are looking at a department that does not provide any human service needs in Durham County. I would be very hesitant to overrule the County Manager, and I will not do it because these are not human service needs.

Vice-Chairman Reckhow said that the most compelling fact is that the Register of Deeds is tracking a 20-percent increase in revenue this year. We are asking a department to do 20 percent more work with the same amount of employees. We must consider that in our deliberations.

Chairman Black said she would continue to support human services, children, and mental illnesses. She is counting three votes in support of the request. I am going to ask the County Manager to move this request to the consent agenda for the upcoming meeting.

Commissioner Heron said that we are only looking at four months. I have a real problem with the County Manager taking steps that he does not want to take and this Board sits here and tells him he is all wrong. We are going to do what we want to do on this decision. I want the County Manager and the Register of Deeds to sit down and go over this information together to see if there is anything they can work out. If the Register of Deeds generates the \$2.4 million by July 1, give him the two additional employees in the upcoming budget. I cannot go against the County Manager on this.

Commissioner Bowser said he is going to concur with Commissioner Heron on most of her comments on this subject. We are going to cause friction in County Government because of this decision. Several Managers have come to us to get us to overrule the direction that the County Manager has taken. We are only four months away from the end of the budget year. I think it is wrong to accommodate one department. This request should go back to the County Manager. He and the Register of Deeds should come up with a compromise. The policy-making body should not become involved in this decision. If we are going to reinstate the employees in one department, we should do it for all the departments. The other Department Managers should come to the Board of County Commissioners to get their employees back.

Commissioner Cousin called for the order of the day and moved this item to the consent agenda.

Chairman Black said she wanted to suspend the rules.

Commissioner Cousin moved, seconded by Commissioner Reckhow, to suspend the rules to vote on this agenda item.

The motion carried with the following vote:

Ayes: Cousin, Reckhow, and Black
Noes: Heron and Bowser

Commissioner Cousin moved, seconded by Commissioner Reckhow, to move this item to the consent agenda for the March 11, 2002 meeting.

Commissioner Heron asked permission to offer a substitute motion.

Commissioner Heron moved, seconded by Commissioner Bowser, for approval of a substitute motion to refer the matter back to the County Manager and encourage the County Manager and Mr. Covington to work out a solution to this problem.

Vice-Chairman Reckhow said she would be willing to support that motion with the idea that the meeting occur this week.

Commissioner Heron said she could agree with that. That could be a part of my motion.

Vice-Chairman Reckhow said that this is a two-step process. We are asking the County Manager to get with the Register of Deeds to see if they can come up with a solution. If they do not, then I will support that it be on consent.

Commissioner Cousin asked Chairman Black if anything in his motion prevents the Manager and the Register of Deeds from engaging in discussion in the interim.

Commissioner Heron clarified that she never said that the Register of Deeds needs no additional employees. I never said that. The Manager was forced to take some very hard steps. We've all got to play by the rules. There is always room for middle ground.

Commissioner Bowser said he wanted to go on record echoing Commissioner Heron's remarks. Certainly I am not against the Register of Deeds having as many employees as necessary, but I am against this Board of Commissioners coming between the decisions of the Manager and the Department Managers. They should be able to solve their own problems. Willie Covington is a Department Head in County Government. The County Manager and Mr. Covington should work to bring some type of solution to this problem, not the County Commissioners. The motion Commissioner Cousin made to put this on the consent agenda does not allow for any further discussion between the County Manager and Mr. Covington. Where does the motion allow for discussion? The motion was to put this on the consent agenda. That was a directive from the Commissioners to the County Manager—to put the agenda item on the consent agenda.

Commissioner Heron called for the question on the substitute motion.

Chairman Black said the question has been called on the substitute motion.

All in favor of the substitute motion, please let it be known by saying "I."

The substitute motion carried with the following vote:

Ayes: Commissioners Bowser, Heron, and Reckhow
Noes: Commissioners Black and Cousin

Chairman Black said that after the conversation occurs between the County Manager and Mr. Covington, the item could still be placed on the consent agenda.

Vice-Chairman Reckhow said she would like to have this placed on the March 11, 2002 Regular Session agenda.

Land Use Plan Amendments Calendar Year 2001

According to adopted procedures, coordination of land use plan amendments is required on an annual basis. The procedures require a public meeting before each governing body

for the purpose of rectifying any differences between the adopted land use plans of the City and County. During calendar year 2001, the City Council approved three plan amendments for areas within the City's zoning jurisdiction while the Board of County Commissioners approved two plan amendments within the County's zoning jurisdiction. As a result of these actions, coordination of the affected plans is necessary. The NC 54/I-40 Corridor Study Area is presently the subject of pending litigation. A plan amendment for this area would be brought to the Board at a future date.

The resolutions amending the future land use maps of the East Central Durham and the Southwest Durham Plans were adopted by City Council on September 17, 2001 (13-0) and December 17, 2001 (6-0), respectively. Plan amendment procedures do not require the Board to adopt resolutions for an amendment; however, an affirmative vote by the Board to rectify differences between amended versions and adopted versions of the East Central Durham Plan and the Southwest Durham Plan was required.

Resource Person(s): Dick Hails, Interim Planning Director, and Dwight Yarborough, Senior Planner

County Manager's Recommendation: The Manager's recommendation was that the Board discuss these amendments and direct staff on the desired changes of the future land use maps of the East Central Durham Plan and Southwest Durham Plan. After the discussion and plan modifications, staff requested that the Board place these amendments on the March 11, 2002 agenda for action.

Mr. Yarborough said this agenda item requires a public hearing; therefore, this item could not be heard. The public hearing was scheduled for March 25, 2002.

Annual Report: Durham Open Space and Trails Commission

The Durham Open Space and Trails (DOST) Commission was created in 1994. The 22-member commission meets on a monthly basis in an effort to advise elected officials on matters relating to open space preservation and trail development, as well as the implementation of approved activities. The DOST operates under the authority of an Interlocal Agreement, which requires the provision of an annual report.

Resource Person(s): Annette Montgomery, Chairman

County Manager's Recommendation: Receive the report and advise the staff if any additional action is necessary.

Ms. Montgomery presented the annual report to the Board of County Commissioners. The report covered an 18-month time period from July 2000 through January 2002. It summarized primary commission activities during the time period and included several program recommendations. The agenda included background information and a progress report. She talked about several areas of work such as planning, development review, trails, open space, and finance.

The Commissioners asked questions and made comments about the annual report to which Mr. Annette Montgomery responded.

Discussion of Additional 1/2-Cent Sales Tax

The North Carolina Association of County Commissioners sent a form resolution implementing the new 1/2-cent sales tax. This new sales tax was passed by the General Assembly to take the place of reimbursements for repealed inventory and other taxes. This tax would not be effective until July 1, 2003. The Board would be required to hold a public hearing prior to adoption of the sales tax.

Resource Person(s): Mike Ruffin, County Manager, and Chuck Kitchen, County Attorney

County Manager's Recommendation: Receive the information regarding the loss of reimbursements from the State and the sales tax which replaces the reimbursements. Give direction to the staff as to setting the public hearing on the sales tax.

County Attorney Kitchen made a presentation to the Board of County Commissioners about the additional 1/2-cent sales tax.

The Commissioners asked questions and made comments to which Attorney Kitchen and County Manager Ruffin responded.

This agenda item was moved forward to the March 11, 2002 Regular Session agenda.

No official action was taken on this agenda item.

Insurance Renewals for the Upcoming Fiscal Year

The County's insurance broker, Marsh, has given the County estimates of insurance premiums for the ensuing fiscal year. While the exact amount of premium can only be estimated until actual renewal, these amounts are based on renewal of policies taking place currently. The insurance market has caused these significant increases in renewals, and the increases do not reflect claims on the part of Durham County.

Resource Person(s): Chuck Kitchen, County Attorney, and Cathy Whisenhunt, Risk Manager

County Manager's Recommendation: Receive the presentation by the Attorney's Office regarding insurance and give direction to the staff regarding any possible reductions in coverages.

County Attorney Kitchen gave a presentation on the insurance renewals for the upcoming fiscal year.

Attorney Kitchen distributed to the Commissioners the Notice of Non-Renewal of Insurance for malpractice insurance. St. Paul Fire & Marine Insurance Company is no

longer writing malpractice insurance in North Carolina. St. Paul had the cheapest rates in the insurance industry. We are in the situation where we have a shortfall of revenue this year and potentially one next year. To maintain our current levels of insurance for next year, you will see a rate increase of \$330,000. If you want to keep the current level of insurance for next year, I will have to put an additional \$330,000 in my budget for FY 03. A review of the policy shows that they have gotten up to the point now where the premiums really don't make good sense as far as the amount of coverage the County is getting.

Attorney Kitchen advised the Commissioners not to cancel the excess property insurance because of the \$143 million coverage. It would not be easy to replace that coverage. Public Official Bonds are required by law. The County has been paying for these bonds for the public officials. He recommended that we keep the public official bonds. The malpractice insurance is getting very marginal at this point. I would recommend that we keep it for one more year. The amount is more than doubling. However, if we do away with the malpractice insurance, we have a couple of issues to consider. We had to go to an insurance company that covers only the doctors. We are self-insured for the mental and public health employees. We have to pay the premiums out of a separate fund.

County Attorney Chuck Kitchen recommended to the Commissioners that the excess coverage be eliminated to give the County an insurance fee reduction of \$250,000 in the two coverages. We will try to keep the other three coverages.

The only real discussion would be on the malpractice insurance—whether you wish to eliminate it. The Commissioners and the County need to be looking at increasing the reserves over time in the Risk Management Fund.

Chairman Black echoed Attorney Kitchen's comments. He was recommending that we forgo the excess liability and excess workers' compensation policies for the ensuing year unless a cheaper rate could be obtained somewhere else. I want to keep the excess property, public officials bonds, and the medical malpractice policies at this point.

Chairman Black recommended that Attorney Kitchen check with the hospitals to see where they are getting insurance coverage.

The Commissioners asked questions and made remarks to which Attorney Kitchen responded.

Chairman Black recommended that the Commissioners move on to the next agenda item.

Designation of Members for 2002 E & R Board

North Carolina General Statute 105-322 requires adoption of a Resolution to appoint a special Board of Equalization and Review to hear tax appeal matters. The Board of Commissioners approved that resolution on February 25, 2002. However, the statute also requires that the Board finalize its appointments to that board, appoint the chairman and

vice chairman, and set the rate of compensation, all of which must be consummated by the first Monday in March.

The rate of compensation for the 2001 Board of Equalization and Review was \$50.00 per session plus \$15.00 an hour for any hour over the three-hour session. A session consists of a three-hour block of time that Board members actually attend for official meetings.

The Board currently consists of the following members with their noted attendance:

George Scott, Chair	met 28 of 29 sessions and is willing to serve in 2002.
Kelly Matherly, Vice Chair	met 25 of 29 sessions and is willing to serve in 2002.
Ollie Cook	met 24 of 29 and is willing to serve, but will be moving in June.
Warren Robinson	met 23 of 29 sessions and is willing to serve in 2002.
Freddie Stell	met 7 of 10 sessions and is willing to serve in 2002.

Resource Person(s): W. Steven Crysel, Tax Administrator

County Manager's Recommendation: The Manager recommended that the Board suspend the rules and consummate its appointments to the special Board of Equalization and Review, including the appointment of Chairman and Vice Chairman, and establish the rate of compensation for serving on this Board at \$50.00 per session and \$15.00 per hour after the three-hour session.

The County Commissioners said there were no changes to this agenda action form.

Chairman Black directed staff to move this item forward to the March 11, 2002 consent agenda.

Cancellation of Public Hearing on School Impact Fee Ordinance

The Board of County Commissioners agreed to schedule a public hearing on the School Impact Fee Ordinance on March 25, 2002. Since that time, Governor Easley's action to withhold reimbursements from Durham County will severely limit the ability of Durham County to meet its obligations under the proposed ordinance with regards to the establishment of an incentive program to reimburse eligible developers for impact fees paid on affordable housing. According to a study by the Triangle J Council of Governments, the projected annual cost to the County for the reimbursement could range from \$202,500 to \$753,750 for Fiscal Year 02-03.

Resource Person(s): Mike Ruffin, County Manager

County Manager's Recommendation: The Manager recommended that the Board suspend its rules and cancel the March 25, 2002 public hearing on the School Impact Fee Ordinance. In addition, any further review of the ordinance should be suspended until the impact of the state's financial crisis on Durham County's budget is fully understood.

The Commissioners asked questions and made comments about the agenda item to which County Manager Ruffin responded. County Attorney Kitchen also assisted with the answers.

The Board of County Commissioners concurred to cancel the public hearing on the School Impact Fee Ordinance.

Response to Questions Surrounding the Joint City/County Utility Audit

Wendell M. Davis, Deputy County Manager, began the presentation by responding to a question raised by Commissioner Bowser at the February 25, 2002 regular meeting.

The Commissioners asked questions and made comments to which County staff responded. A lengthy discussion was held on this agenda item.

The Commissioners asked that, in the future, staff send the summary of proposals to them with a cover letter in summary form.

Commissioner Heron said she wished to see the proposals signed by both the City and County and the work begin. Let's get this little question settled. We have been talking about this for two or three years.

Adjournment

Vice-Chairman Reckhow adjourned the meeting at 11:40 a. m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board