

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

Monday, June 4, 2001

2:30 P.M. ABC Board Hearing

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

Continuation of ABC Board Hearing

Chairman Black opened the hearing, which was a continuation from the May 31, 2001 hearing regarding the possible removal of the Durham County ABC Board. The hearing was conducted in accordance with the resolution adopted by the Board at its May 14, 2001 meeting.

Commissioner Bowser made a comment directly to Ms. Mary Ellen Williams, ABC Board Chairman, in reference to a letter she received from the County Attorney dated June 2, 2001. He wanted her to know that the letter did not speak for him because he had voted against proceeding with the May 31 hearing since Ms. Williams could not be in attendance.

Chairman Black stated that the parties who were sworn in at the last meeting would not need to be sworn in again. She reminded them that they were still under oath. The Clerk to the Board would swear in those who planned to testify and were not sworn in last Thursday.

Ms. Williams was sworn in by Clerk Garry Umstead.

County Attorney Chuck Kitchen referred to a letter he received from Attorney Larry Hall in which Mr. Hall complained about various questions or personnel matters raised at the last hearing on May 31. For the record, Attorney Kitchen indicated that nothing illegal had taken place.

Chairman Black said that at this time, the Commissioners would proceed with the hearing. Since Ms. Williams was unable to attend the May 31 hearing, she was asked if she wished to make comments.

Ms. Williams made remarks during which time she waived her right to confidentiality regarding discussions with Mr. Wendt, mediator for the ABC Board members.

Chairman Black asked Mr. John Horton and Mr. James Randall, ABC Board members, if they, too, wished to waive their rights to confidentiality.

They replied in the affirmative.

Chairman Black asked County Attorney Kitchen whether the ABC Board members must give Mr. Wendt permission in writing to discuss their conversations or is the taping of this proceeding sufficient.

County Attorney Kitchen replied that the taping is sufficient.

Chairman Black stated that she did not interpret a letter from Mr. Wendt to say that the ABC Board members as individuals had refused mediation.

Chairman Black asked the County Attorney to address other issues related to the proceedings.

County Attorney Kitchen stated that the proceedings were to determine whether the ABC Board should be removed for cause. The cause cited in the resolution goes beyond whether the board agreed to mediation. It addresses the possible failure of the ABC Board to work together as a board, which has led to the detriment of the system. The Commissioners will consider whether one or more of the members should be removed based on their failure to work together and whether it is causing harm to the system.

Ms. Williams was allowed to give testimony as to why she felt the ABC Board members should not be removed.

Chairman Black gave ABC Board members Mr. Horton and Mr. Randall an opportunity to cross-examine Ms. Williams.

Mr. Horton had no questions of Ms. Williams; however, he did wish to agree with her testimony.

Mr. Randall, too, agreed with statements made by Ms. Williams.

Chairman Black asked Commissioner Cousin if he had questions of the ABC Board.

He answered that he did not wish to begin the questioning.

Vice-Chairman Reckhow's questions centered on why the board felt a need to have their meeting minutes transcribed verbatim, personnel issues, mediation discussions, and whether the board took action to protect itself against allegations regarding acceptance of illegal gifts. She expressed concern that the ABC Board used public dollars to have minutes transcribed verbatim simply because the board couldn't agree on the minutes.

Commissioner Heron asked questions of the board members regarding operating procedures, the open meetings law, the purchase and use of a vehicle, travel expenses, cost overruns on the Guess Road site, EEOC harassment complaints, property confiscated by the ABC Law Enforcement Officers, donations, gifts, and computer generated reports.

Chairman Black entered into evidence materials submitted by Commissioner Heron regarding travel expenses.

During statements by Ms. Williams, County Attorney Kitchen interrupted to advise her she was under oath, that the meeting was being recorded, and that she may wish to consult an attorney before continuing.

At that point, Ms. Williams declined to answer a question put forth by Commissioner Heron.

Commissioner Bowser questioned the board members on their length of service on the board, missed meetings, the policy manual, EEOC complaints, board disagreements, the purchase of a vehicle, and the Guess Road store.

Commissioner Bowser entered information into the record as evidence and continued his questioning.

County Attorney Kitchen made a decision to rescind exhibits J, K, and L. Chairman Black asked anyone who had received those exhibits to give them back to Attorney Kitchen. The members of the press, being informed to the laws as they relate to personnel issues, chose to keep their exhibits.

Commissioner Heron made a motion, seconded by Vice-Chairman Reckhow, to call Ms. Christine Cates, former ABC employee, as a witness.

The motion carried with the following vote:

Ayes: Cousin, Heron, and Reckhow
Noes: Black and Bowser
Absent: None

Ms. Cates gave a prepared statement to the County Commissioners.

Chairman Black asked the ABC Board members if they wished to cross-examine Ms. Cates.

Mr. Randall and Mr. Horton asked one question of Ms. Cates; Ms. Williams had no questions.

Chairman Black asked if any Commissioner would like to cross-examine Ms. Cates.

Commissioner Bowser asked Ms. Cates questions regarding her work history, volunteer history, her basis for stating that the ABC Board should be removed, past and present ABC Board members' relationships, and personnel issues.

No other Commissioners had questions of Ms. Cates.

Chairman Black addressed the issue of whether Ms. Williams or Mr. Horton had reimbursed the ABC system for travel expenses not covered by the system. She also asked questions of the board regarding the purchase of a vehicle, trust among the ABC Board members, working relationships, and whether the members feel that the board should be resolved.

Chairman Black gave each ABC Board member an opportunity to give a closing statement.

Chairman Black stated that the County Commissioners were not allowed, under the law, to meet in closed session with the ABC Board about personnel issues, as had been requested by Mr. Horton.

The Commissioners agreed to continue discussions at their June 11, 2001 Worksession at 4:00 p.m. and to take action at that time.

Adjournment

Chairman Black adjourned the meeting.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board