

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

Monday, March 3, 2003

9:00 A.M. Worksession

AGENDA

1. **Citizen Comments-E. L. Allison**

Dr. E. L. Allison has requested time on the agenda to speak to the County Commissioners regarding the M/WBE for Durham County.

2. **Little River Community Complex**

Mr. William Ross, President, Little River Community Complex, asks that the Board assist in funding the \$25,000 roof replacement cost due to the Senior Center's already failing roof and ice storm damage.

County Manager's Recommendation: The Manager recommends that the Board hear the request.

3. **Review of Legislative Agenda for Durham Crime Cabinet**

The Durham Crime Cabinet has adopted a Legislative Agenda for the 2003 Legislative Session. Several of the issues on that agenda address concerns voiced by several members of the Board of County Commissioners. Consequently, Chairman Reckhow requested that a review of the agenda might be appropriate.

Resource Person(s): Ellen W. Reckhow, Chairman, Durham County Board of Commissioners and Co-Chair of the Durham Crime Cabinet; Jim Hardin, District Attorney and member of the Durham Crime Cabinet

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

4. **Annual Report for the Minority/Women Business Enterprise (M/WBE) Program**

The Board of County Commissioners adopted a new ordinance relative to the M/WBE program on January 22, 2001, which requires that the County Manager provide an annual report for the preceding year.

It is the policy of Durham County to provide minorities and women equal opportunity to participate in all aspects of the County's contracting programs, including, but not limited to, employment, construction projects, and/or materials and service contracts consistent with law. It is also a policy of the County to prohibit discrimination against any business in pursuit of these opportunities on the basis of race, color, national origin, religion, sex, age, disability or veteran's status, and to conduct its contracting programs to prevent such discrimination, to investigate any claims of discrimination, and correct any discriminatory practices.

After completion of the disparity study in 2000 (which included several community meetings), various areas of need were identified such as additional training for M/WBEs, outreach notification, and modification of subcontracting requirements. These needs have been and are being addressed as the new ordinance is implemented.

The attached report of contractual activity will provide a synopsis of M/WBE and contractual activity

during the past calendar year.

Resource Person(s): George Quick, Finance Director and Yolanda Moore-Gaddy, Business Development Manager

County Manager's Recommendation: The County Manager recommends that the Board receive the M/WBE report for the 2002 Calendar Year and advise staff if any additional information is necessary.

5. **Revisions to County's 10-Year Capital Improvements Program (CIP)**

Staff has undertaken a review of the board-adopted, 10-Year CIP for FY 2004-2013 with the following goals:

- Review all project estimates for accuracy and ensure that all costs have been included to bring each project to fruition;
- Consider any new projects that may have surfaced since last revision;
- Revise project scheduling and funding to accommodate the earlier completion of several projects; and
- Revise revenue estimates for property taxes, sales taxes, and other dedicated revenues for the capital finance plan which supports the CIP.

Resource Person(s): Mike Ruffin, County Manager; Carolyn Titus, Deputy County Manager; Wendell Davis, Deputy County Manager; Pamela Meyer, Budget and Management Services Director; George Quick, Finance Director; Glen Whisler, County Engineer; Mike Turner, General Services Director; and Keith Lane, Senior Budget Analyst

County Manager's Recommendation: The Manager requests that the Board receive the presentation, set special meeting dates and times to continue review of the recommended revisions, identify any specific projects that it desires to review in greater detail, and advise staff if any additional information is necessary.

6. **Adequate Facilities Ordinance Amendment**

Attached is a proposed amendment to the zoning ordinance which would preclude the rezoning of property to a residential zone if the schools become overcrowded in the County. The draft ordinance provision does not attempt to set up zones for measuring overcrowded schools, but instead uses the entire county area. Maps showing attendance for magnet schools are also attached which demonstrate the problem with trying to create zones. Several pages from the School's CIP presentation are also attached to indicate the level of overcrowding in the various schools.

If the Board wishes to proceed with the proposed amendment, the next step would be to send the draft to the joint City/County Planning Committee. After that step, the amendment would go to the Zoning Committee of the Planning Commission, and then back to the Board of Commissioners for a public hearing.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Consider the proposed amendment language and forward it to the joint City/County Planning Committee with any changes desired by the Board.

7. **Impact Fee Ordinance**

The attached, proposed Impact Fee Ordinance would charge fees on residential property for the impact the property has on schools. One issue, which has not been fully resolved, is the definition of affordable housing. The definition in the proposed ordinance draft has not been changed since the last draft. Attached is a memorandum from Lanier Blum, Director, Regional Affordable Living Program, TJCOG. The memorandum outlines various levels at which the definition may be set as a

percentage of income together with the price house that could be afforded.

Also attached is a copy of the memorandum sent to the Board by the County Manager in October 2001. While the numbers reflected in the memorandum have not been updated, they give an idea of the amounts which could be raised.

Finally, attached is a copy of the study done by Tischler & Associates Inc. regarding impact fees. When the Board has a public hearing on the adoption of an ordinance with all the terms, including the definition of affordable housing, new estimates can be presented as well as a revised maximum amount of the impact fee.

Since various sources of legal authority are being used for adoption of the ordinance, it is recommended that the procedure for adopting a zoning amendment be used. This procedure is the most comprehensive in terms of review.

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

County Manager's Recommendation: Make changes in the proposed ordinance as desired, and then send the proposed ordinance to the Joint City/County Planning Committee.

8. **Closed Session/Lunch**

The Board is requested to adjourn to closed session to give directions to staff concerning the price and other material terms of a proposed contract for the acquisition of real property pursuant to G.S. § 143-318.11(a)(5). St. Joseph's Historic Foundation Inc. located at 615 Fayetteville Street owns the property being considered.

Resource Person(s): Deputy County Manager Wendell Davis

9. **Substantial Equivalency**

The State Personnel Act (NCGS 126) covers North Carolina State Department of Health and Human Services (DHHS) employees, namely those employed by the departments of Public Health, Mental Health, Social Services, and Emergency Management.

In September 2001, the Board of County Commissioners petitioned the State Personnel Commission for Substantial Equivalency, which is a delegation of the State's authority to administer Personnel functions at the County level for DHHS employees. The Commission granted this authority to the County in February 2002 in the areas of Recruitment, Selection and Advancement, Position Classification, and Compensation.

The Board of County Commissioners has expressed an interest in the pursuit of Substantial Equivalency in the area of Employee Relations (Discipline, Dismissal, Grievances and Appeals). The attached packet includes information concerning the process for applying for and obtaining Substantial Equivalency in this area.

Resource Person(s): Jackye Knight, HR Director and Elaine Hyman, HR Manager

County Manager's Recommendation: The Manager's recommendation is that the Board discuss this item and provide Human Resources with further instructions concerning application for Substantial Equivalency in the area of Employee Relations.

10. **Workers' Compensation Coverage for Smallpox**

President Bush instituted a smallpox vaccination program in December 2002. The first stage in the three-stage process is for persons who will be giving vaccinations to be vaccinated

themselves. The second stage is vaccinations for first responders and other medical providers; the third stage is vaccinations for the general public. Subsequently, Congress enacted Section 304 of the Homeland Security Act. This Act was intended to protect public health departments from liability from giving smallpox vaccinations. An unintended result of the Homeland Security Act was to create doubt concerning whether workers' compensation acts, the Federal Tort Claims Act, or private health insurance would be responsible for any adverse reactions to the vaccinations by Health Department nurses who must take the vaccination. Attached is an article concerning the confusion currently existing in the area of coverage. Also attached is an article from the Institute of Government regarding workers' compensation coverage. Unfortunately, the article from the Institute of Government fails to address whether the North Carolina Workers' Compensation Law is preempted by the Homeland Security Act; thus leaving confusion in the area.

In response to this issue, several Congressmen have written to the President to propose compensation coverage for medical professionals and first responders. A copy of the letter is attached. Also a bill has been introduced in the State Senate (S 153) which applies primarily to State workers, but also provides coverage under workers' compensation laws for Health Department nurses.

To provide protection for our Health Department nurses, it has been requested that the County Attorney be directed to ensure coverage under North Carolina Workers' Compensation laws for adverse reactions to smallpox vaccinations for the initial vaccination and any vaccinations for first responders or medical professionals, or until such time the law is clarified by legislation being enacted or case law being established. This coverage can be ensured by the County Attorney agreeing to binding coverage in the event of an adverse reaction. It should be noted that once coverage is acknowledged, it will continue regardless of a change in case law concerning liability.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: The Manager recommends that the Board suspend the rules, and authorize the County Attorney to accept coverage in the event that any of the Public Health nurses have an adverse reaction to the smallpox vaccination. This acceptance authorization will only continue during Stages I and II of the Smallpox Preparedness and Response Plan or until further determination by legislation or case law.



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