

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

Monday, April 4, 2016

9:00 A.M. Worksession

MINUTES

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

Present: Chairman Michael D. Page, Vice Chair Brenda Howerton and Commissioners
Fred Foster, Jr., Wendy Jacobs and Ellen Reckhow

Presider: Chairman Michael D. Page

Citizen Comments

The Board of County Commissioners provided a 30-minute comment period to allow Durham County citizens an opportunity to speak. Citizens were requested to refrain from addressing issues related to personnel matters.

David Theurer reiterated the Durham Jail Investigation Team's demands of being given access to the Durham County Jail in order to conduct an investigation into whether community standards of safety and humaneness were being met.

Commissioner Foster requested clarification on the preventable death of an inmate Mr. Theurer mentioned. Mr. Theurer described the circumstances under which Dennis Edward McMurray died in custody on January 19, 2016 in the Durham County Detention Facility.

Gregory Williams clarified that the Durham Jail Investigation Team wanted professionals to investigate the jail, but not the professionals chosen by the Sheriff's Office and that inmates who had written anonymous letters feared retribution. He read a letter written by Tony King, a current Durham County Detention Facility inmate, detailing Mr. King's observations and first hand experiences.

Discussion Items:

16-97 Removal of Citizen Board Members Due to Poor Attendance

The Board was requested to remove the following members from the Women's Commission in keeping with the Attendance Policy approved by the Board of County Commissioners in August, 2014. "If an appointee has absences (excused or unexcused) which constitute more than 50% of the meetings in any calendar year or three (3) consecutive unexcused absences or five (5) consecutive excused absences in any calendar year, he or she is obligated to resign."

- Jocelyn Harper
- Jo Ann Pennix
- Gloria Trowers

The Clerk's Office was notified by the Women's Commission of the absences and attempted to contact each of the board members. There was no response.

Commissioner Reckhow moved, seconded by Vice Chair Howerton to suspend the rules.

The motion carried unanimously.

Vice Chair Howerton moved, seconded by Commissioner Foster that Jocelyn Harper, Jo Ann Pennix, and Gloria Trowers be removed from the Women's Commission due to poor attendance, in keeping with the County's policy on Citizen Appointments.

The motion carried unanimously.

16-990 Resolution Condemning Passage of "Public Facilities Privacy & Security Act"

The Board was requested to review a resolution that was prepared expressing strong opposition to and seeking repeal of the new state law entitled, "Public Facilities Privacy & Security Act" that was approved by the General Assembly and signed into law by Governor Pat McCrory during a special session on March 23, 2016. The bill, also known as House Bill 2 (HB2), was in fact viewed as an act of hate and attacked the dignity of the lesbian, gay, bisexual and transgender residents of our community and state. Negative reaction to this law was swift, coming from Fortune 500 companies, national professional sports organizations, the White House and other elected officials. The legislation was described as a "threat to our state's economy."

The Board was asked to discuss, suspend the rules and approve this resolution, joining other local governments across North Carolina and send copies to the leadership of the General Assembly, Governor Pat McCrory and Durham lawmakers urging its repeal.

Vice Chair Howerton noted that omitted from the resolution was how HB2 harmed economic development and education. Deborah Craig-Ray, Assistant County Manager, stated that the particular wording in the fourth paragraph of the resolution included those topics.

Lowell Siler, County Attorney, mentioned his discussions with attorneys regarding the potential impact of the legislature and voiced that there was already discussion by the general assembly to amend it.

Commissioners Jacobs and Reckhow noted that the law would be impossible to enforce and could be considered another unfunded mandate.

Chairman Page requested an overview on HB2. The overview given by Danielle Briggs, Senior Assistant County Attorney, was a collective attempt to determine which ordinances, policies,

rules, or procedures would probably be impacted. Attorney Briggs summarized the memorandum and Part I of the Bill which legislated which people could use which public bathrooms. Part II of the Bill affected local governments' ability to enact policies or mandates on their vendors and/or local businesses—those affected included living wage and anti-discrimination policies. Attorney Briggs stated that while Part II also focused on wage and hour contracting, Part III focused on discriminatory employment practices and discrimination in public accommodations.

Commissioner Reckhow mentioned the memorandum by the Town Lawyer for the Town of Chapel Hill and wanted to keep it in mind in the future so as to determine the amount of latitude allowed within the Bill. Attorney Siler assured her that they would continue to look into it.

Commissioner Jacobs suggested adding language to the resolution that clearly explained the impact of Section 3.2 (page 4, line 13-21) of the Bill. She referenced the language in Resolution #9969 put forth by the City of Durham as seen below:

“WHEREAS, the legislation also appears to eliminate the right of any person to bring a civil action in the state courts of North Carolina for a claim of discrimination in employment or public accommodations on account of race, religion, color, national origin, age, or biological sex (as well as handicap for employment only)”;

Commissioner Jacobs was concerned with citizens not knowing how HB2 could affect even those that did not identify as transgender via the obscure sections such as 3.2. Commissioner Reckhow concurred.

Commissioner Foster believed that the purpose of HB2 was to affect labor and prevent lawsuits against the State by forcing would-be plaintiffs to take their cases to federal court, placing much of the burden on the plaintiff to seek justice. Being a Right-to-Work State made it more difficult for employees to unionize in order to demand better wages and/or benefits, now HB2 was prohibiting local governments from placing any employee compensation requirements on their vendors or local private businesses. He suggested adding stronger language in the resolution to address the important economic factors affected by the Bill. Commissioner Jacobs agreed.

Vice Chair Howerton requested information on how the Bill could affect federal funding of educational institutions. Attorney Briggs stated that the provisions in Part I could affect federal funding of schools since sexual discrimination was prohibited by Title IX; highway funding could be affected as well. Commissioner Jacobs suggested adding “and in violation of Title IX of the Education Amendments of 1972” in the fifth paragraph as well as adding a “whereas” addressing the prohibition of taking complaints to the State level. She noted that other ordinances discussed HB2's portrayed lack of understanding and knowledge of trans people's experiences and lives; it was a law created with a desire to use discriminatory intent for political gain by invoking fear to target trans people as predators in order to mask the true intentions of the Bill—which were to affect labor and the workforce, therefore harmful to everyone. She concurred with the Board's demand that HB2 be repealed.

Vice Chair Howerton assented with Commissioner Jacobs's comments and stated that many businesses were threatening to depart from North Carolina and other state governments were disallowing their employees to travel to the state.

Commissioner Reckhow inquired as to the makeup of and who made the appointments for the State's Human Relations Commission. She stated that the only recourse someone would have for being discriminated against would be through the Commission. She reiterated that HB2 would negatively affect the retention of existing companies, ability to attract conferences, conventions, and other events, as well as the ability to attract migrants and new residents.

Chairman Page requested that the edited resolution be put on the consent agenda for the Regular Session on Monday, April 11, 2016.

Commissioner Foster requested that the Board see the resolution before it was added to the consent agenda. Ms. Craig-Ray asked that the Board submit any specific language they wished to see added to the resolution and stated she would submit it once complete.

16-972 Approval for Change in Health Plan Vendor and Health Plan Options

The Board was requested to approve a change in health plan vendors for F16-17 from Blue Cross/Blue Shield of North Carolina (BCBSNC) to Aetna, as well as the addition of a new option to the health plan.

Manager Davis stated that a large projected FY16-17 health plan renewal increase (22.5%) led staff to explore different health plan options as well as different health plan vendors. The resulting analysis revealed a new Accountable Care Organization (ACO) health plan option that provided more comprehensive care coordination with significant cost savings. BCBSNC and Aetna were the only two health plan vendors that offered this option in North Carolina.

An extensive comparison of the BCBSNC and the Aetna ACO options showed Aetna's to be the most robust when it came to outcome based health results, care coordination and lower employee cost.

John Gasiorowski, Benefits Broker with Independent Benefits Advisors, presented a PowerPoint to the Board.

Diane Pearson, Benefits Manager, explained how the County would implement the health plans if Aetna was approved as a health plan vendor.

Vice Chair Howerton asked how people with chronic or serious conditions would be affected. Mr. Gasiorowski informed her that because of transitional care, those with future surgeries, pregnancies, and chronic conditions would still be covered.

Commissioner Jacobs inquired as to how many of the existing providers that were covered under BCBSNC were also covered under Aetna. Mr. Gasiorowski stated that they could provide her with the information at a later time. She asked how patient experience would change and how County employees would benefit from the ACO. Mr. Gasiorowski informed her that the ACO provided a group medical concept in which providers communicated and collaborated together to treat one patient—this method provided better healthcare outcomes.

Commissioner Reckhow thanked everyone who had worked on the item.

Commissioner Foster moved, seconded by Commissioner Jacobs, to suspend the rules to approve the change in health plan vendor and health plan options.

The motion carried unanimously.

Commissioner Reckhow moved, seconded by Commissioner Foster, to approve the recommended change in health plan vendor and health plan options to Aetna.

The motion carried unanimously.

16-995 Report on March 15, 2016 Election

The Board was requested to hear the presentation from Board of Elections staff on the 2016 Primary Election process. Staff also presented desired changes and expectations for the November Presidential Election.

Michael Perry, Board of Elections Director, discussed the selection process for polling places and poll workers. He addressed the citizen complaints submitted from the March 15, 2016 primary election.

Commissioner Jacobs described the problems she observed at polling places on March 15th and wanted to work on ensuring that they were not repeated in the November 8, 2016 general election. Director Perry explained why long lines occurred on election days and that the wait time would be greatly alleviated by poll workers that were fast and knew how to use the computers efficiently as well as encouraging voters to participate in early voting.

Vice Chair Howerton thanked Director Perry and staff for all their work. She suggested that there be more than one (1) person performing curbside voting and inquired as to why students were claiming that they were turned away. Director Perry clarified that sometimes voters would go to a polling place in which they were not registered in; the poll workers would suggest going to the correct location and the voter would leave with the assumption that they were not allowed to vote. Director Perry emphasized that regardless of the situation, a voter would always be offered the option to cast a provisional ballot.

Chairman Page and Director Perry discussed how provisional ballots could be cast and which were counted partially or not counted at all. Chairman Page was concerned with voters who were harassed or threatened at polling places and hoped there would not be similar behaviors in the future.

Commissioner Reckhow was concerned with the amount of hours that poll workers were required to work and the lack of breaks they could take. Director Perry stated that there was nothing they could do to shorten the day, but they strongly encouraged poll workers to take their breaks even if it added to a voter's waiting time.

Vice Chair Howerton, Commissioner Reckhow, Commissioner Jacobs, and Director Perry further discussed what could be done to make the voting process easier and faster for poll workers and voters. Discussion included using more churches and/or schools, consolidating voting locations for smaller precincts, splitting very large precincts, having workers outside of polling locations checking that voters were showing up to the correct one, and even a possible voting building.

16-987 Durham Tech ConnectFunds Scholarship Update

The Board was requested to receive an update from Dr. William (Bill) Ingram, President of Durham Technical Community College, on the ConnectFunds Scholarship program. ConnectFunds were financial awards designed to assist Durham residents who needed further education, career training, or retraining. ConnectFunds could be used for some Continuing Education programs as well as for curriculum programs, in addition to high school completion and GED® testing.

Dr. Ingram went over a handout titled ConnectFunds Summary.

Dr. Christine Kelly-Kleese, DTCC Vice President of Student Engagement, Development and Support, described the programs that DTCC was able to develop due to ConnectFunds. These included a work study program, scholarship program, and college liaisons in DPS high schools. Existing partnerships included Made in Durham (this partnership helped create the Gateway to College Program, Achievement Academy, and Bridgescape Academy), DPS, and other community organizations.

Chairman Page and Dr. Ingram discussed the three (3) college liaisons and the culture change happening within high schools' views of community colleges—this aided in ConnectFunds information being relayed to more graduating high school students.

Commissioner Reckhow felt that having five (5) total college liaisons would benefit all eight (8) high schools and hoped that each high school would eventually have their own college liaison. She suggested including Michelle Young, Cooperative Extension's Project BUILD Director, in the Re-ConnectFund taskforce. Dr. Ingram stated that they would collaborate with the County Manager to determine which staff member would best serve as the County representative.

Vice Chair Howerton thanked the panel for their work and felt that college liaisons and high school counselors made significant impacts on student success, including her own son's.

Commissioner Jacobs requested that the ConnectFunds Summary be converted into budget format in order to better display how programs were interacting together. Dr. Ingram stated that they could provide a spreadsheet with information including dollar amounts as well as how many students were being helped through each program. Commissioner Jacobs inquired as how many students were being served by the program. Dr. Ingram stated that there were approximately 500 students being served by the program in the current year.

Commissioner Jacobs, Commissioner Reckhow, and Dr. Ingram discussed what would be the next steps and which other programs would be created to serve populations that were not eligible for ConnectFunds.

16-973 FY 2017-2026 Capital Improvement Plan Update

The Board was requested to receive a presentation from staff on the FY 2017-2026 Capital Improvement Program (CIP) update. The overview explained the guiding principles used to develop the 10-year CIP, showed the recommended funding levels for County projects, explained the Bond Referendum next steps and discussed a proposed May BOCC Worksession agenda. This conversation laid the foundation for the following months as staff refined the 2017-2026 CIP and clarified the approaches required to liquidate debt to support future capital project needs.

Manager Davis made opening remarks.

Claudia Hager, Director of Budget and Management, and Keith Lane, Senior Budget Analyst, presented a PowerPoint to the Board which detailed the Durham CIP Process Recap, CIP requests, preliminary CIP recommendations-guiding principles, and overview Bond Referendum next steps.

Commissioner Reckhow was concerned about the parking problems at the North Carolina Museum of Life and Science, and felt that they would benefit from a parking deck. Mr. Lane stated that of the \$14 million NCMLS requested in GO Bond funding, \$7 million was allocated for a parking deck. Commissioner Reckhow requested for that to be made clear in the presentation.

Commissioner Reckhow inquired if the parking deck wrap was being considered. Director Hager answered that the request was made for a mixed-use parking deck—which did include a wrap. Commissioner Reckhow and Commissioner Jacobs hoped that staff would research and find ways to reduce the amount of debt the County issued for the requested projects in order to stretch how many could be completed and to ensure effective spending. Manager Davis assured her that they were and would continue to do so.

Commissioner Reckhow and Jay Gibson, Director of Engineering and Environmental Services, discussed storm water taxation practices and she suggested a more equitable, utility-based approach. Commissioner Jacobs reminded them to keep farmers in mind as well as they would be the ones toiling with the watersheds that gave City dwellers clean water.

Commissioner Reckhow advised against loading up the CIP with so many projects during a presidential election, it would be unfortunate to put in so many work hours only to have the citizens reject it. Manager Davis stated that the internal committee created to administer the GO Bond would also administer surveys beforehand to gauge whether the public was agreeable enough to vote in favor of it.

Commissioner Reckhow inquired as to whether the funds requested by DPS were directly tied to their priorities. Director Hager informed her that their original ask was for over \$400 million and

staff helped them with prioritization in order to reduce it to \$186 million for the first four (4) years. Commissioner Reckhow expressed her concern with the lack of redistricting after DPS opens new schools—they open them as magnets and then they do not fill up.

Ms. Craig-Ray described the next steps in the process.

Vice Chair Howerton stated her interest in knowing why certain voters voted the way they did. Ms. Craig-Ray stated she would research into it to gain some understanding.

Commissioner Reckhow was surprised at the estimate for a county staff growth rate of 50% in the next 20 years and inquired as to how it was calculated. She wanted to ensure that the data was accurate by challenging assumptions. Director Hager assured her that they would perform due diligence.

16-994 Organizational Realignment under the Managing for Results Business Model

The Board was requested to receive the County Manager's organizational realignment presentation.

A video was shown with the organizational realignment under the Managing for Results Business Model.

16-998 Closed Session

The Board was requested to adjourn to Closed Session pursuant to 143-318.(a)(3) to consult with an attorney in order to preserve the attorney-client privilege between the attorney and the general body, which privilege was hereby acknowledged.

Commissioner Reckhow moved, seconded Vice Chair Howerton by that the Board move to Closed Session pursuant to 143-318.(a)(3) to consult with an attorney in order to preserve the attorney-client privilege between the attorney and the general body, which privilege was hereby acknowledged.

The motion carried unanimously.

Reconvene from Closed Session

The Chair announced that the Board met in Closed Session and direction was given to staff.

Closed Session

The Board was requested to adjourn to Closed Session pursuant to G.S. 143.318.11 (a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

Vice Chair Howerton moved, seconded by Commissioner Reckhow that the Board move to Closed Session pursuant to G.S. 143.318.11 (a)(6) to consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer

or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee.

The motion carried unanimously.

Reconvene from Closed Session

The Chair announced that the Board met in Closed Session and direction was given to staff.

Adjournment

Commissioner Foster moved, seconded by Commissioner Jacobs, that the meeting be adjourned.

The motion carried unanimously.

Respectfully submitted,

Tania De Los Santos
Administrative Assistant