THE BOARD OF COUNTY COMMISSIONERS DURHAM, NORTH CAROLINA

Monday, October 2, 2017

9:00 A.M. Worksession

MINUTES

Place: Commissioners' Chambers, second floor, Durham County Government

Administrative Complex, 200 E. Main Street, Durham, NC

Present: Chair Wendy Jacobs, Vice Chair James Hill and Commissioners Heidi Carter,

Brenda Howerton, and Ellen Reckhow

Presider: Chair Wendy Jacobs

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.

James Chavis submitted copies of email correspondence between members of the Durham City-County Planning Department and members of PAC 1 addressing the lack of notification received by PAC 1 regarding the zoning change case Angier Avenue Residential (Z1700009). He requested that the next PAC 1 meeting be attended by Patrick Young, Planning Director; Jacob Wiggins, Senior Planner; and Grace Smith, Planning Supervisor. The meeting was scheduled to take place on October 21st at Holton Career and Resource Center, 401 North Driver Street, Durham, NC 27701 at 9 a.m.

Commissioner Howerton noted that after speaking with Mr. Young, she understood that PAC 1 desired notification of an occurrence that had nothing to do with PAC 1. Mr. Chavis stated that he personally received the notification for case Z1700009, but the PAC did not. PAC 1 wanted Planning Department staff to attend their meetings in order to provide such notifications and information to the organization as a whole. Commissioner Reckhow suggested that PAC 1 members individually request to receive notifications of all zoning changes. Mr. Chavis informed her that PAC 1 did not have a central email address. Chair Jacobs inquired whether Planning staff was expected at every meeting. Mr. Chavis stated that periodic attendance was requested.

Discussion Items:

17-0431 Light Rail Update

Danny Rogers, D-O LRT Project Director for GoTriangle updated the Board on the status of the Durham-Orange Light Rail Transit (D-O LRT) project. The project was progressing quickly and GoTriangle staff had agreed to regularly update the Durham County Board of County Commissioners on the progress of this community project. There was a brief discussion of the

form and timing with which the Cost Sharing MOA for the Commuter Rail Portion of the Major Investment Study would be brought back to the County Commissioners for approval.

The Federal Transit Administration (FTA) assigned a Project Management Oversight Contractor (PMOC) to the D-O LRT. This was a group of people from around the country with an abundance of experience and expertise assigned with ensuring that the project stayed on track. Chair Jacobs wondered how staff interacted with the PMOC. Mr. Rogers stated that the FTA was still evolving in its implementation of the program, but staff talked with or met in-person with PMOC once a month. GoTriangle staff submitted status reports to the PMOC every month, the PMOC reviewed the reports, the monthly meeting/conference call was held, and the PMOC then submitted reports to the FTA.

Commissioner Reckhow inquired whether the PMOC was in support of GoTriangle attempting the proposed acceleration. Mr. Rogers stated that they were aware. Commissioner Reckhow hoped that the PMOC would be supportive of accelerating the project—it would be favorable for Durham and the FTA. She mentioned that Congress had been pushing for the acceleration of such projects due to the suspicion that the inflation of costs was influenced by how long it took to deliver a project.

Mr. Rogers stated that the Blackwell-Mangum Station addition required approval from the Durham County Commissioners, Orange County Commissioners, DCHC MPO and GoTriangle Board of Trustees. It was intended to serve the Durham Performing Arts Center as well as the rest of the downtown area. The item was scheduled to be submitted for approval in December 2017 or January 2018.

The design changes that the Board would be requested to comment on were the Gateway Station location adjustment; Patterson Place Station location adjustment; University Drive alignment shift; and the rightsizing of the platform links due to the type of ridership that was expected—efficient ridership would allow the shortening of the platforms to facilitate two (2) car trains rather than three (3) car trains. Chair Jacobs suggested using graphics to help explain the size reduction of the platform and rider efficiency. She felt that visual aids during sessions would help the public understand the changes.

Commissioner Howerton asked if there was any financial impact due to the proposed Gateway Station location adjustment. Mr. Rogers confirmed that there was a cost increase associated with the change, but the cost estimate was not complete. He encouraged the Board to keep in mind that the project budget was set and any added costs must be offset by savings elsewhere. If spending surpassed the budget, federal funding assistance would cease.

Chair Jacobs emphasized of significance of the Wake-Durham Commuter Rail study and stated that it was the next step in the creation of a regional transit system. She inquired about right of way acquisition and whether owners of commercial properties had been contacted regarding this. Mr. Rogers confirmed that there had been successful communication with a few owners and they would continue to reach out.

Commissioner Carter wondered about Orange County's response to the changes and if they would request a cost-share adjustment. Commissioner Reckhow stated that they had not. Mr. Rogers noted that the Blackwell-Mangum station cost was smaller than the Gateway Station cost, the changes were balancing themselves out in regards to the cost-share.

Commissioner Carter and Mr. Rogers discussed the net cost savings, an estimated \$18 million. He would send the final number to the Board once he completed the calculations.

Commissioner Reckhow asked whether GoTriangle would seek community input on the appearance of stations and whether sustainability would influence any features. She also inquired as to when the planning for the finer grain details would occur. Mr. Rogers stated that staff was in the process of setting up a way to receive public involvement. He understood the importance of consistency in certain station features, but also noted the opportunity to make stations reflect their community in some ways. Chair Jacobs brought up the importance of Go Triangle working with the City-County Planning Department in order to ensure consistency in transit-oriented development and place-making. Discussion was had about public art and how it could be funded—public art could not be part of the project cost, thus it would require local fundraising or private partnerships.

Matthew Clark, Go Triangle Government Affairs Manager, spoke on Go Triangle's increased capacity of public involvement and community partnership. He also described Go Transit Partners, Go Triangle's nonprofit organization that was seeking 501(c)(3) status.

Chair Jacobs felt that an overall timeline would be helpful. Mr. Rogers stated that it would be worked into the future quarterly report.

Commissioner Reckhow recommended that the website for the D-O LRT project be updated periodically to show the general public the project's progress.

Mr. Rogers stated that future updates to the Board would be quarterly reports. Mr. Clark added that they would include progress on all projects and the transit plan. The first report was expected to be complete and sent to the Board in December. A presentation, if desired, would take place the following month.

Directive:

• Update the website for the D-O LRT project periodically to show progress to the general public.

17-0417 Research Triangle Park Updates

The purpose of this item was to give the Board of County Commissioners the opportunity to meet Scott Levitan, the new CEO of the Research Triangle Foundation (RTF), and to receive an update on the Park Center project in RTP. Mr. Levitan described his history in real estate development and management with Harvard University, Georgia Tech, and in the private sector as well as the priorities that he had for the RTF.

Mr. Levitan talked about priorities which included the business model for the RTF. There were 450 acres remaining, which no longer made it a sustainable model. One of the objectives was to make sure the organization had sustainable revenue. Creating incubators such as Frontier would continue to be important for affordable space for start-ups at a low cost.

He discussed the County's support of the Park Center, which was another high priority. The infrastructure and mix of uses was still valid, but would have to be reviewed by Planning. He did not feel having all of the retail in the center of the project was marketable, and would update the Board when he had more information. Commissioner Reckhow hoped that the related Agreement for the \$20 million County investment with RTF would be refreshed and updated—it was signed on October 12, 2015. She stated that the Agreement called for the County's first payment to RTF—the County would have reimbursed RTF for expenditures on infrastructure—in early 2016, but no payments had been made a year and three (3) quarters later. Chair Jacobs asked staff whether any funds had been spent on this project. Mr. Levitan confirmed that RTF had not received any funds.

Commissioner Reckhow encouraged Mr. Levitan to be innovative and not feel bound to the past Agreement. Commissioner Howerton concurred with revisiting the Agreement. Chair Jacobs felt that the concept of equity was missing from the Agreement, especially in terms of affordable housing.

Mr. Levitan noted that he did not feel they would find a master developer to take on the entire project. They had come up with a residential and retail non-binding developer; and were in a study period to come up with some amendments to the concept based on what the market was telling the experienced developers. The Board would get to weigh in following the study period.

Mr. Levitan discussed the commuter rail priority. Mr. John Tallmadge, Go Triangle Director of Regional Services Development, clarified the Wake Commuter Rail project. The original 10-year Wake Transit plan only showed the commuter rail connection. There was an earlier look at extending the bus rapid transit (traveled from downtown Raleigh to downtown Cary to RTP), but it was scaled back when the 10-year plan was adopted. The adopted plan and major investment study focused on the Commuter Rail. Commissioner Reckhow stated that GoTriangle planned to discuss an investment by Wake and Durham counties for a commuter rail study that cost over \$600,000; she cautioned against spending money if there were folks arguing for different modes. Mr. Levitan stated that RTF had already conveyed 25 acres for a multimodal station. He felt duty-bound to not only figure out the last mile solution to serve RTP, but also to serve RTP internally. Mr. Tallmadge stated that staff would investigate the issues raised regarding modes and stations in preparation for when the cost-share agreement went before the Board and the GoTriangle Board of Trustees.

Commissioner Reckhow mentioned the pilot First Mile-Last Mile shuttle bus which was a great lunch time option for RTP and Park Center.

Commissioner Reckhow and Chair Jacobs hoped to have a meeting with Mr. Levitan about the RTP Foundation or RTP Service District committing funding towards the commuter rail study. Mr. Levitan stated that he would take the initiative to meet within the next week. Commissioner

Howerton hoped that the Board of Commissioners would be kept informed and included in future meetings.

Mr. Levitan added that another priority RTF was working on was the Google project that was going to extend fiber. It was planned to have it run and managed by MCNC. The backbone that connects Duke and UNC to NC State runs down Highway 54 thru the middle of RTP. A number of owners raised the issue and it was taken on as a priority. For \$3.5 million, a network of laterals from the backbone would give highly reliable, inexpensive fiber network to RTP.

The Manager would make sure that the Board was in the communication loop with Mr. Levitan.

Manager Davis commented on the \$20 million pay out. He believed that there was one (1) small initial outlay made. He asked that staff to look into it. General Manager Jay Gibson stated that in late 2015, RTF's former CEO Liz Rooks and staff asked the Board that the Agreement (originally for a flat \$2 million per year over a period of 10 years) be modified to allow for more of a draw schedule categorized by activities accomplished—this was consistent capital construction and redevelopment. RTF applied for a small payment immediately thereafter. Commissioner Reckhow stated that there was no background material attached to the agenda related to this nor an attachment of the amendment to the Park Center executed incentive agreement. Mr. Gibson stated that the information would be gathered and given to the Board.

Mr. Gibson described another ongoing initiative which was the extension of reclaimed water going out to RTP. It was being funded by the County's Utility Division and was authorized by the Board in February 2015 at an estimated cost of \$3 million.

Directives:

- Staff to look into refreshing and including the concept of equity in the Agreement with RTF.
- Scott Levitan to initiate a meeting with Commissioners in next 3 weeks regarding the commuter rail study.
- Jay Gibson to gather and submit information to the Board about the small payment made to RTF from the \$20 million Agreement. The original Agreement was modified in late 2015 and the payment was made shortly after. An amendment to the Park Center executed incentive agreement was to be included.

Commissioner Howerton stated that she had a meeting later in the day and requested that the Board consider having Closed Session during lunch time. The Board agreed to the change.

<u>17-0453 Revised Board of Health Rule: Regulation of Smoking in Prescribed Public Areas</u>
The Board was requested to receive a presentation regarding changes made to the Board of Health Rule: Regulation of Smoking in Prescribed Public Areas following recommendations from a Capstone Team from the UNC Gillings School of Public Health.

After receiving the recommendations from the team on April 14, 2016, the Board of Health appointed a committee to review the recommendations and bring forth recommended changes to

revise the existing Rule. During the May 11, 2017 Board of Health meeting, a draft of the proposed revisions was presented to the Board of Health.

The intent to revise the rule and to hold a public comment period during the June 8, 2017 meeting was advertised in the Herald Sun newspaper. There were no public comments regarding the proposed changes to the Rule during the Board of Health meeting. The Board unanimously approved the recommended changes to the Board of Health Rule: Regulation of Smoking in Prescribed Public Areas.

General Manager Gayle Harris spoke on the possibility of requesting County funds in order to install 5,000 "smoking prohibited" signs into the community. Commissioner Reckhow was concerned with the number of signs that were made and weary about hiring an outside, private contractor to put them up. A contractor unfamiliar with Durham would probably not install the signs in areas where they were most effective and needed. Ms. Harris and Manager Davis clarified that staff would work closely with the contractor to ensure the signs were installed in the proper areas.

Chair Jacobs suggested that the City partner with the County in order to have signs put on City buses. Bryan Wardell, Senior Assistant County Attorney, stated that the City had been very reluctant on participating in this initiative.

Commissioner Howerton inquired as to the total cost of having the signs made and installing them in the community. Ms. Harris did not know how much it would cost to have the signs put into the community because the RFP for this service had not been completed. Commissioner Howerton wondered whether people who lived in the community could be included to help put them out. Ms. Harris stated that they could ask.

Commissioner Carter requested that the last "Whereas" paragraph on page two (2) of the Health Rule be revised as follows:

"WHEREAS, in 2015 the Centers for Disease Control and Prevention (CDC) stated that emitted e-cigarette aerosol is not just water vapor, but contains nicotine and can contain additional toxins, making it less safe than clean air. and Eecigarette use has the potential to involuntarily expose children and adolescents, pregnant women, and non-users to aerosolized nicotine and, if the products are altered, to other psychoactive substances."

Ms. Harris stated that the item would be added to the consent agenda for the October 9, 2017 meeting and they hoped to have it become effective on July 1, 2018.

Directive:

• Edit the Revised Board of Health Rule: Regulation of Smoking in Prescribed Public Areas as outlined above.

17-0288 Discuss Possible TEFRA Policy

The Board was requested to discuss Durham County's Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) Policy.

Chair Jacobs wanted the Board to be able to decide whether to refer an application to the municipality and to ensure that the municipality had input regardless of the situation. Commissioner Reckhow suggested changing the following sentence in section II. Applicability for this purpose:

"Applications submitted to the Board of Commissioners for projects located in whole or in part within the corporate limits of a municipality shall include evidence of support review of the project from by the municipality, and, if applicable, information as to why TEFRA approval cannot be sought from the governing board of the municipality."

County Attorney Lowell Siler asked whether the Board should bring this up at Joint City-County Committee meeting. Commissioner Howerton noted that those reviewing would be the City-County Planning Department. Commissioner Reckhow concurred and did not think that the City Council would need to review applications, only staff.

Chair Jacobs and Commissioner Reckhow added more edits on pages three (3) and four (4), section h. as follows:

"Applications submitted to the Board of Commissioners for projects located in whole or in part within the corporate limits of a municipality Page 4 of 6 shall include evidence of support review of the project from by the municipality, and, if applicable, information as to why TEFRA approval cannot be sought from the governing board of the municipality. Unless County approval is specifically required by applicable law, the County remains free to determine that other governmental bodies are more appropriate bodies to hold the public hearing and issue TEFRA approval with respect to the proposed bond financing."

Directive:

Edit the TEFRA Policy as outlined above.

17-0463 Closed Session

The Board was requested to adjourn to Closed Session pursuant to G.S. 143.318.11 (a) (3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege was hereby acknowledged.

Commissioner Reckhow moved, seconded by Commissioner Howerton, to adjourn to Closed Session.

The motion carried unanimously.

Reconvene from Closed Session

Chair Jacobs requested that the Manager give a briefing of the information provided by staff regarding the confederate statue's value.

Manager Davis stated that in 1923, the County spent \$5,000 to purchase and erect the monument. The overall value of the entire monument in "present day" dollars was just over \$71,000. Two-thirds (2/3) of the cost was applied to the granite base of the monument and one-third (1/3) of the cost was applied to the statue on the top of the base. Thus, the statue's value, prior to being toppled, was estimated to be \$23,789. In respect to the replacement value, the County received several informal bids and the lowest was a quoted \$28,000.

Attorney Siler reminded the Board that the statue was toppled by individuals who were not associated with Durham County Government; those individuals were criminally charged for their actions. He stated that the state statute did not address the situation at hand nor did it place the responsibility of repairing or replacing the confederate statue on Durham County; i.e. Durham County was not responsible for repairing or replacing the monument because it was not the County that removed it, further the statute did not dictate instructions in the event of an unlawful removal.

Chair Jacobs outlined the statement made by District Attorney Roger Echols—it included a request for the monetary value of the monument (statue and the granite base) before damage and the monetary cost of replacing the statue. The Board of County Commissioners drafted a proposed statement which attempted to address the overall issue of the statue's value. In addition to the monetary cost, the Board also acknowledged the complexity of what value was and how it was a relative term that depended on context. The statue was public property in a place of public prominence, therefore its value had to include the overall value to the community as a public asset.

Commissioner Carter felt that the phrases "moral value" and "its former location" should not be included together in the statement; if one was included, the other should be removed. Commissioner Reckhow suggested that the last sentence read as:

"Given the concern and controversy described above, the statue has no moral value for our community."

Commissioner Howerton hoped that the Board would not be expected to repeat the process of assigning value for publicly owned items in legal matters.

Commissioner Carter wanted to note that the Board had put a lot of effort and time into this statement. She thanked everyone for their cooperation. In regards to the statement itself, she felt that she would personally make a stronger stance as to the statue not having any value to the community and quite possibly negative value.

Vice Chair Hill tried to imagine what it felt like to be a Black citizen seeking justice at a courthouse that had a statue outside dedicated to "the boys that wore the grey," a reminder that North Carolina took up arms to keep them in chattel slavery. He added that the monuments were erected during two (2) times in the last century: at the height of the Klu Klux Klan's power (end of the 1920s) and again during the Civil Rights Movement (1950-60s). Vice Chair Hill concurred that the statue did not have moral value.

Commissioner Howerton stated that this was a difficult conversation. As a Black woman, she had a painful history, but she wanted to consider the views of the entire community. She felt that the statement allowed the Board to speak to the community and fulfill the request made by District Attorney Echols.

Commissioner Reckhow felt that there was great controversy within the community as well as within the Board, but it was important to listen and come to an agreement. She stated that the toppling of the statue toppled the veil of peace over the community. Commissioner Reckhow believed that everyone should be respectful of other's opinions and there would be more discussion of this in the future.

Chair Jacobs appreciated everyone's comments and collaboration. She acknowledged Commissioners Carter and Reckhow for working together on the statement. She spoke on the powerful symbol that the statue was and the necessary process of truth and reconciliation that never happened in the country. Chair Jacobs stated that she would have preferred different wording, but felt that it was important to find common ground as a Board.

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

The motion carried unanimously.

Commissioner Howerton moved, seconded by Commissioner Reckhow, to send the letter to District Attorney Roger Echols.

The motion carried unanimously.

Chair Jacobs proposed that, during the Worksession on November 6th, the Board discuss ideas related to having a type of commission look at all other memorials, historic monuments or markers as well as to work with the City at the Joint City-County Planning Committee meeting in December.

Commissioner Reckhow noticed that the Joint City-County Planning Committee meeting was on the same day as the City's primary election day (October 10th). She wondered if the meeting would be changed to a different day. County Clerk Michelle Parker-Evans, would contact the City Clerk and let the Board know of any changes.

Consent Agenda (Discussion)

The Board was requested to review Consent Agenda items for the October Regular Session meetings. Staff was present to address questions the Board had regarding the items. The following consent agenda items were reviewed:

17-0387 Approve Contract to Purchase Three (3) Fire Apparatus for Durham County Fire Rescue (DCFR) and Budget Ordinance Amendment No. 18BCC000011 Appropriating Durham County Fire and Rescue Tax District Fund Fund Balance and Appropriating Loan Proceeds to the General Fund to Support the Purchase

No comments were made regarding this item.

17-0441 Vision Internet Contract Amendment Requested Will Increase Current Contract from \$39,700 to \$78,730. Phase II of the Project Will Deliver a Fully Hosted Economic Development Themed Website to Durham County

Commissioner Reckhow wondered whether a separate website or a sub branch of dconc.gov would be created for economic development. Greg Marrow clarified that a sub-site would be created. A search performed on dconc.gov would yield results from that sub-site, but the subsite would have its own unique URL.

Commissioner Reckhow hoped that the current Economic Development policy and guidelines would be on the website. She noted that Wake County had theirs available online.

Commissioner Reckhow and Mr. Gibson briefly discussed the functionality and features of the website.

17-0448 Capital Project Amendment No. 18CPA000005 - Appropriate \$403,216 Collection System Rehabilitation Fund fund balance and appropriate the funds to the Slater Road Pump Station Improvement Capital Project SE053 and Award of the Slater Road Pump Station Improvements (IFB 18-002) contract to Carolina Civil Works, Inc.

Chair Jacobs and Mr. Gibson discussed the service area for the Slater Road pump station. Funds from the Enterprise Fund were used to cover the project.

17-0449 Budget Ordinance Amendment No. 18BCC000012 to Recognize \$1,046.50 in Donations to Support Project BUILD

No comments were made regarding this item.

17-0456 Request for Matching Funds for the NCDOT Apprentice Program Grant

No comments were made regarding this item.

17-0460 Approve FY2017-18 Contract with Greater Durham Chamber of Commerce

Commissioner Howerton raised concerns about the funding amount and agreed upon duties the contract had listed. Commissioner Reckhow added that Chamber's scope of services included the maintenance of their website which had information intended for economic development—information very similar to what the County's economic development website would have. She felt that the Chamber of Commerce and the County should curtail their efforts. Mr. Gibson stated that, while there were overlaps, the County's economic development website would be much more focused and targeted on Durham County. The Chamber of Commerce planned to have their website cover a broader spectrum.

Commissioner Reckhow wanted the Board to consider adding Work Ready Communities to the scope of services in the contract. Work Ready Communities would call for the Chamber of Commerce to help join all relevant parties (Durham Public Schools, major businesses, etc.) to create a certification process for high school students that enabled them to graduate with Work Ready certifications. Chair Jacobs noted that Durham Public Schools participated in the WorkKeys program, but the business community did not recognize the certification. Manager Davis stated that staff would add it to the contract.

Commissioner Carter inquired as to how the Chamber worked with DPS and Durham Technical Community College to facilitate workforce training and development in order to meet the employment needs of the new industries and companies. She wondered if they reported what their plan was to the Board. Mr. Gibson stated that staff was attempting to add specificity to contracts so as to align with the MFR model. He added that they would continue working with them.

Chair Jacobs stated that the County was paying the Chamber a lot of money and it was hoped that the Chamber would be more actively engaged with the partners in the community. She wanted staff to include language about helping existing Durham homegrown businesses to grow, the focus should not solely rest on increasing more businesses in Durham. Mr. Gibson stated that that goal was already a part of the Chamber's mission and the growth of a business depended on the owner and what their business plans/goals were.

Commissioner Reckhow requested that in the Scope of Services attachment, a G. section be added addressing the request for the Chamber to work towards becoming a "Work Ready" community consistent with the NC Chamber framework.

Chair Jacobs requested that the dates on the 2nd page of the attachment be corrected as the wrong years were used.

Directives:

- In the Scope of Services attachment, a G. section should be added addressing the request for the Chamber to work towards becoming a "Work Ready" community consistent with the NC Chamber framework.
- The dates on the 2nd page of the attachment be corrected, the wrong years were used.

17-0462 Approve Contract with Downtown Durham, Inc. for Certain Downtown Economic Development and Business Support Services

Chair Jacobs was concerned about the metrics that were included in the contract. Mr. Gibson stated that DDI provided detailed information and produced high quality data. Staff recommended leaving the scope of work as it was with ongoing evaluation.

Commissioner Carter requested that the Board receive email notifications when updates were made to the agenda. After some discussion, it was decided that if any updates were made after the agenda's publication, an email notification would be sent by 5 p.m. on Friday.

Commissioner Comments

The Board was requested to allow each Commissioner three minutes to report on conferences or make comments regarding issues that may be of interest or concern to the Board.

There were no Commissioner comments.

Adjournment

Commissioner Carter moved, seconded by Vice Chair Hill, that the meeting be adjourned.

The motion carried unanimously.

Respectfully submitted,

Tania De Los Santos Administrative Assistant