

THE BOARD OF COUNTY COMMISSIONERS

DURHAM, NORTH CAROLINA

Monday, February 28, 2000

AGENDA

5:00 P.M. – 6:30 P.M.

1. **Joint Meeting—Board of County Commissioners and Social Services Board**

The Board of County Commissioners has requested a joint meeting with the Social Services Board from 5:00 p.m. until 6:30 p.m. in the County Commissioners' Meeting Room. The DSS Board's accomplishments and goals per its annual workplan will be discussed.

6:30 P.M. – 7:00 P.M.

2. **Closed Session**

The Board is requested to adjourn to closed session pursuant to G.S. § 143-318.11(a)(6) in order to discuss a personnel matter.

7:00 P.M.

3. **Opening of Regular Session**—Pledge of Allegiance

4. **Agenda Adjustments**

5. **Minutes**

- a. January 3, 2000 Worksession
- b. January 10, 2000 Regular Session

6. **Resolution Honoring David F. Thompson**

A resolution honoring outgoing County Manager David F. Thompson has been prepared. Mr. Thompson joined Durham County on May 6, 1996 and will leave on March 3, 2000.

7. **Resolution Honoring Mr. Gary Hock**

A resolution honoring Mr. Gary Hock has been prepared at the request of Commissioner MaryAnn Black. For many years, Mr. Hock has faithfully shared his resources during the holidays to help children, primarily those who live in the Oxford Manor neighborhood.

County Manager's Recommendation: Present the resolution to Mr. Hock, and extend sincere congratulations to him for his efforts to bring smiles to so many children in this community.

8. **Proclamation for "National School Breakfast Week"**

A proclamation has been prepared recognizing "National School Breakfast Week" during March 6 – March 10. Ms. Tracey Bates, MPH, RD, LDN of the Public Health Department's Nutrition Division, will be present to make remarks and say a few words about the events scheduled during that week.

County Manager's Recommendation: Approve the proclamation for "National School Breakfast Week," and present a copy to Ms. Tracey Bates.

9. **Consent Agenda**

- a. Street Annexation Petition—Gray Hawk Trail (Gray Hawk Subdivision) (adopt the resolution to approve the addition of Gray Hawk Trail to the state's road maintenance system subject to the certification of eligibility by the appropriate officials of the NC Department of Transportation);
- b. State Applicant Disaster Agreement & Designation of Applicant's Agent Form (approve Carolyn Titus, Deputy County Manager, as the agent for the County of Durham in the agreement with the North Carolina Department of Emergency Management. Designating an agent allows the County of Durham to move forward in the process to receive public assistance from the North Carolina

Department of Emergency Management regarding the Presidential Emergency Declaration Severe Snow Storm FEMA 1312-DR-NC);

- c. Establish Pay As You Go Project and Approve the Architectural Design Services Contract With DTW Architects and Planners, Ltd. for the Expansion and Renovation of the Shelter for H.O.P.E. (establish the Homeless Shelter pay as you go project in the amount of \$140,000 (00CPA000011) and authorize the execution of an architectural services contract with DTW Architects and Planners, Ltd., in the amount of \$108,000);
- d. Standard Non-Reimbursable Utility Contract for Extension of the County Sanitary Sewer System--Page Moor Subdivision (authorize the execution of the utility contract for this addition to the County sanitary sewer system);
- e. Budget Amendment 00BCC000035 to Recognize an Increase in Intergovernmental Revenues due to Revised State Allocation Figures (approve Budget Amendment #00BCC000035 in the amount of \$211,459 to increase The Durham Center budget to reflect the State's FY99-00 allocation. This is the annual budget reconciliation with The Durham Center and the State Division of Mental Health);
- f. Offer to Purchase County Property (118 & 110 Plantation Drive) (pursue the upset bid process at this time. The Board will have the authority to accept or reject any offer at the conclusion of the upset bid process as it so desires);
- g. Resolution to Release Funds to Triangle J Council of Governments (approve the resolution on the consent agenda since it requires no a local appropriation and it is an annual action);
- h. Budget Amendment #00BCC000038 to Accept New DSS Revenues for Unified Child Care Subsidy System (approve Budget Amendment #00BCC000038 for DSS to accept new revenues in the amount of \$150,000 from the Durham Partnership for Children [Smart Start] for the Unified Child Care Subsidy System. I have placed this on the consent agenda as the project was discussed and reviewed at your February 7, 2000 Work Session);
- i. Lease Agreement for the Department of Social Services (DSS) for the Unified Child Care Subsidy System (authorize the execution of a thirty-nine month lease with mechanics and farmers bank for 5,757 square feet of space at 2634 Chapel Hill Boulevard, Durham, NC at an annual rate of \$48,528.00 to house the unified child care subsidy system); and
- j. New Hope Creek Open Space Acquisition (approve the 37.5-acre acquisition [PIN #0800-01-25-0443] as an important addition to the County's New Hope Creek Corridor open space project).

Note: The purpose of a consent agenda is to handle consensus items with one motion to save time on meeting agendas. Any item a Board member pulls for discussion should be placed at the end of the agenda so public hearings can be concluded as early as possible. This will provide for the least inconvenience to the general public attending the public hearings.

10. Public Hearing on Commute Trip Reduction Program

The Board is requested to hold a public hearing and receive comments on the proposed Commute Trip Reduction Program. The proposed Program has been modified slightly since the February Worksession when it was presented to the Board. The modifications are primarily to clarify the first goal in the community goals section. The first change makes it clear that the goal is to measure the use of other than single occupancy vehicles during peak commute hours. The second minor change reflects the desirability and possibility that additional communities will join in this program. To accommodate this, the advisory board membership may grow to 20 members with the inclusion of additional communities. The remainder of the Program remains unchanged as a primarily voluntary program.

Resource Person(s): Ellen Reckhow, Vice-Chairman, BOCC; Kennon Borden, Co-Chair of the TDM Committee; Mary Clayton, Parsons Brinckerhoff; and Chuck Kitchen, County Attorney.

County Manager's Recommendation: Hold the public hearing and adopt the Program if the Board feels it is justified based on the information received.

11. To Conduct Public Hearings to Consider Amendments to Improve the Efficiency of the Zoning Ordinance

To adopt the amendments to: a) revise Section 4A.8 [multi-family residential] regarding accessory dwellings and building frontages (TC90-99); b) revise Section 8 [Performance Standards] regarding buffers on Interstate 540 (TC91-99); c) revise Section 4C.1 [Office and Institutional -1] regarding personal service establishments as a permitted use in certain circumstances (TC92-99); d) revise Section 4D.5.2 [Commercial Trade] district to allow artist studios and artist galleries (TC-93-99); e) revise Section 9 [Parking] and Section 17 [Site Plans] to encourage TDM measures (TC 94-00); f) revise Section 4B.2 [Mixed Use] regarding parking standards (TC95-00); g) revise Section 12.9

[Signs] and Section 8.1 [Performance Standards] regarding obsolete signs and junk cars/manufactured homes in residential areas (TC 96-00); and g] revise Section 20.2 regarding notices of violations (TC97-00).

Resource Person(s): Bonnie Estes and Norm Standerfer will present the item.

County Manager's Recommendation: Adoption of the amendments.

12. Wastewater Treatment Plant Design Contract – Phase 2

The Board is requested to authorize the County Manager to enter into a contract with McKim & Creed for Phase 2 of the Wastewater Treatment Plant Upgrade and Expansion Project. The Phase 2 Scope of Services provides engineering services to design and construct Nitrogen removal facilities and increase capacity from 6 MGD to 12 MGD at the County's wastewater treatment plant on Highway 55 in southern Durham County.

This project was discussed at the May 3, 1999 Worksession. Phase 1 was approved on May 10, 1999 to design a new influent pump station, a new effluent pump station, a new ultraviolet disinfection system, and also included an evaluation of three options to pump some or all flows to the City plant on Farrington Road. The City evaluation was presented to the Board on December 6, 1999 and design work is proceeding on Phase I.

The cost of the services for Phase 2 is not to exceed \$1,375,600. These funds are currently budgeted in the Enterprise Fund for Treatment Plant improvements.

The Board requested that staff initiate further discussion with the City to determine if the City was amenable to negotiating the cost of pumping the County's flow to the City's Wastewater Treatment Facility on Farrington Road. City and County Staff met to discuss this issue on February 18, 2000. The results of those discussions implied that the County should move forward with the design of Phase I and Phase II. The Phase I design can incorporate the capability to pump flows to the City using the same structural facilities. Phase II can be phased to provide improvements at 6 MGD, and expansion to 12 MGD. The improvements proposed in Phase 1 and in the 6-MGD portion of Phase II will be needed even if some flows are ultimately pumped to the City.

Resource Person(s): Wendell Davis, Deputy County Manager; Glen Whisler, County Engineer; Sandra Phillips, Purchasing Director; Chuck Hill, Utility Division Manager; and Patty Gravinese, Finance Director

County Manager's Recommendation: Authorize the County Manager to enter into a contract with McKim and Creed for the Phase 2 improvements at a cost not to exceed \$1,375,600.

Phase 2 addresses two major issues related to the County's wastewater treatment plant--permit compliance and additional capacity for future customers. Based on regulatory requirements mandating more stringent treatment requirements and increasing flows approaching the plant capacity, it is imperative that the County proceed with the design of Phase 2.

13. Lease for the Youth Coordinating Board

The Board is requested to authorize the execution of a lease between the County of Durham and TeerMark Associates, LLC for 1,645 square feet of space located at 212 West Main Street, Durham, NC Suite #104. This is a five-year lease at a cost of \$10.50/square foot held constant over the term of the lease, an annualized cost of \$17,268.00. The term of the lease is June 1, 2000 through May 31, 2005. This space is needed for the daily operations of the Youth Coordinating Board (YCB) and appropriate funds have been budgeted in the YCB's FY '99-00 budget.

From its inception in August 1998 until July 1999, the YCB was housed with the Durham Community Prevention Partnership (DCPP) at 115 Market Street, Suite 400. The City of Durham provided this space at no charge to the County. Due to decisions by the City and County to transfer the DCPP staff to The Durham Center, the City terminated the lease of this space. Since July 1999, the YCB has been located at 117 Market Street. When presented with a five-year, \$12.00/square

foot lease at 121 Market Street in August 1999, the Board expressed concerns about the term and rate, and asked staff to seek a more affordable location. A four-month lease was approved in the interim. All three Market Street locations are a part of the Bull City Business Center.

Under the TeerMark lease, the Landlord shall be responsible for electricity, water, sewer, heating and air conditioning and the maintenance of such systems, roof and exterior structural walls, elevators and associated maintenance, stairs, common area maintenance, and all real estate taxes and assessments. The County shall be responsible for telephone and related equipment/services, janitorial services for the primary lease space, maintaining the space in neat, clean, safe and sanitary condition, and repair of damage due to any act or negligence on the part of the County or its guests.

While it is recognized that the Board's preference is for a three-year lease, the Landlord would not negotiate on this point, as any term less than five years would not allow the Landlord to satisfactorily recoup investments made for facility renovations.

With the exception of one clause, the County Attorney has approved the lease as to legal form. The County Attorney can not agree to the Exculpation Clause as a legal matter, and TeerMark can not agree to removal of this Clause. In the event of default, the Exculpation Clause allows the County to only look to the Landlord's equity in the premises for satisfaction of remedies and does not allow for personal liability in such an event.

Resource Person(s): Sandra W. Phillips, Director of Purchasing, and Anita Daniels-Kenney, Director of the Youth Coordinating Board.

County Manager's Recommendation: The County Manager recommends that the Board approve the lease at the rate and term noted, and inclusive of the Exculpation Clause. Upon examination of the County's potential exposure, it was determined that worst case scenario in the event of Landlord default and inadequate Landlord equity in the premises is approximately three months of lease payments (~\$5,000.00). The County Manager believes that it is operationally in the best interest of the County to proceed with the lease as proposed. Funds have been budgeted in YCB's FY'99-00 budget to cover the cost of the lease.

14. Contract for a Consultant to Conduct a Disparity Study for the County of Durham

The Board is requested to authorize the County Manager to negotiate and enter into a contract with Mason Tillman Associates, Ltd. to conduct a second-generation disparity study for the County at a cost not to exceed \$164,500.00. The County is seeking to determine whether race and gender discrimination continue to affect prime contractor and subcontractor participation in the public contracting activities of the County. This study will be used as a basis for developing policies regarding the practices of public contracting. The disparity study must be conducted to meet the legal requirements set forth in Croson and any other decisions that bear on the rights and responsibilities of governments to implement minority and women business programs. If it is ascertained that discrimination is a cause of disparate participation, the study will recommend remedial policies that may include race and gender neutral non-discrimination programs, as well as narrowly tailored race and gender conscious programs, within the Croson principles. The County's original study enacted into ordinance in November 1994 has now sunset. It is the position of the County Manager, County Attorney, and Director of Purchasing that a second-generation study is essential to ensure a legally defensible position for the County in whatever type of program the County establishes in ensuring an equitable field for the County's procurement dollars. The memo to the County Manager dated February 18, 2000 explains the process used and the rationale for the recommendation of this firm. Board approval of transfer funds from the contingency fund to the Purchasing Department is requested (BCC000037).

A Request for Qualifications process was employed. The RFQ was advertised in six publications and mailed to 12 firms on September 2, 1999. An Evaluation Team was established to analyze the responses and make a recommendation to the Board. Responses were received from four (4) firms: Mason Tillman Associates, Ltd., D. J. Miller and Associates, MGT of America, and Griffin & Strong PC.

Mason Tillman offered the lowest responsible proposal. In conducting the analysis, it was determined the firm's written response, demonstrated capability during the interview, and reference responses established this firm as well qualified to conduct the Second Generation Disparity Study for the County of Durham.

Cora Cole-McFadden, City of Durham Equal Opportunity/Equity Assurance Director, participated in the interview portion of the County's review. It is our understanding that the City is currently exploring the opportunity of conducting a second-generation disparity study as well. The County should be able to realize approximately \$8,000 in savings should we be able to coordinate the work with the City.

Resource Person(s): Chuck Kitchen, County Attorney; Sandra W. Phillips, Director of Purchasing; Jackye Knight, Director of Human Resources; and Jan Bryant-Berry, Business Development Manager

County Manager's Recommendation: Authorize the County Manager to negotiate and enter into a contract with Mason Tillman Associates, Ltd. in an amount not to exceed \$164,500.00 to conduct a second-generation disparity study for the County of Durham, and approve transfer of funds from the contingency fund to the Purchasing Department as requested (BCC000037).

15. **Ordinance Extending M/WBE Provisions**

Pending the disparity study, the current M/WBE ordinance is proposed to remain in effect. This will keep the status quo until the results of the study are available. It is anticipated that the results will be available around the end of the calendar year. Once the results are in, the Board will then have the information available to determine the appropriate action to take regarding the ordinance.

Resource Person(s): S. C. Kitchen, County Attorney

County Manager's Recommendation: Approve the ordinance so that the current program can continue pending the results of the disparity study. Without the study results, an informed decision about the future of the M/WBE ordinance cannot be made.