

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

Monday, August 6, 2001

9:00 A.M. Worksession

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

Citizen Comments

The following citizens requested time on the agenda to make comments to the Commissioners:

Gerald L. Bowen, 3838 Shoccoree Drive, proposed that a central contact phone number with a person(s) on duty 24 hours a day, seven days a week, be established by Durham County for citizens to report any type of stream pollution. Mr. Bowen stated he has a lot of stream pollution on a small pond on his property.

County Manager Mike Ruffin said that County staff is aware of some contacts with the City and we will look into the problems associated with the stream pollution. We need to coordinate with the City on these problems.

The Commissioners asked questions and made remarks about the stream pollution problems.

Nancy Cripps spoke to the Commissioners about wild dogs that are running loose in Durham County communities. She told the Board about the wild dogs that killed her kitten. The Durham County Animal Control program should be improved and updated in reference to salaries, personnel, and capital expenditures. She wanted to know what the Commissioners' short- and long-term plans are to solve the problems.

Chairman Black called on the County Manager for remarks about the dog problem. He commented that three vacant positions have been filled and the pay grade has been increased. During the last advertising period, 25 applications were received.

The County Commissioners asked questions and made comments about the Animal Control program to which Chairman Kim Willis (Animal Control Advisory Committee), General Services Director Mike Turner, and Animal Control Administrator Gilles Meloche responded.

Commissioner Heron said an effective program to control the population must be implemented. Additional employees are needed to provide animal control services seven days a week/24 hours a day. The citizens want this service. The capital improvement program will help provide additional space for the animals.

Chairman Black suggested that articles be placed in the two newspapers to let the public learn more about the Durham County Animal Control program and the responsibilities of pet owners.

Sheza Healey, 3408 Bonaparte Way, spoke to the Commissioners about the problem of stray animals and dog packs in the Durham area. She expressed concerns and proposed possible solutions.

The Commissioners asked questions and made comments to which staff responded.

Commissioner Heron said the citizens should help the Animal Control officers by letting them know where the dogs are roaming.

Chairman Black thanked Ms. Cripps and Ms. Healey for coming to the worksession.

Ralph McKinney talked about the democratic leadership in North Carolina. He discussed the crime in the community and the protection of citizens' rights. He also talked about protecting women from abuse and rape.

No official action was taken on the citizens' comments.

Sovereign Development Company, L.L.C.—Quasi-Judicial Hearing

On July 26, 2001, Durham County received a request from Attorney Robert R. Chambers, pursuant to N.C.G.S. §105-228.37, for a refund of excise tax paid by his client, Sovereign Development Company, L.L.C. on a deed conveying property to a Coral Stone, L.L.C. This request was made by Attorney Chambers who has indicated that this tax was paid in error because his client made this transfer for convenience to comply with a bank's loan requirements.

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

County Manager's Recommendation: The Manager recommended that the Board of Commissioners conduct a hearing and determine whether a refund would be appropriate pursuant to the North Carolina General Statute.

Chairman Black asked that anyone wishing to speak should come forward so the Clerk to the Board could administer the oath.

Attorney Robert R. Chambers was administered the oath.

County Attorney Chuck Kitchen explained the agenda item to the Commissioners.

Robert R. Chambers, P. A., the Petitioner, presented his evidence. The attorney introduced into the record a certified copy of the recorded deed which showed that the tax stamps were not due.

The certified copy of the recorded deed was entered into the record as item No. 1.

Attorney Chambers requested a refund of the County's portion of the excise taxes.

Commissioner Heron said she was unclear as to what this entails.

County Attorney Chuck Kitchen responded to her concerns and questions.

Chuck Kitchen also responded to questions raised by Vice-Chairman Reckhow.

Chairman Black closed the quasi-judicial hearing.

Vice-Chairman Reckhow moved, seconded by Commissioner Bowser, to refund the excise tax paid by Sovereign Development Company (the County's portion).

The motion carried unanimously.

Chairman Black instructed County Attorney Chuck Kitchen to place the draft document on the August 13, 2001 consent agenda.

Presentation: Durham Fitness Leadership Council—Capital Improvements

Commission Vice-Chairman Ellen W. Reckhow requested that the agenda include a presentation by James Emery, MPH, UNC School of Public Health. The presentation regards capital improvement requests for the Durham Fitness Leadership Council.

Resource Person(s): Commission Vice-Chairman Ellen W. Reckhow

Chairman Black called on Vice-Chairman Reckhow to introduced the agenda item to the Commissioners.

Vice-Chairman Reckhow said she wanted all of the governing bodies in Durham to be thinking about these issues as we plan for improvements in our community and as we plan for the upcoming bond referendum. The schools should be community hubs, and we should be thinking about multi-use of those facilities. As we plan for those facilities, we must be thinking about how to incorporate recreational use for our citizens. That is a strong selling point.

Vice-Chairman Reckhow asked Mr. Emery to make his presentation. The Durham Fitness Leadership Council was convened in October of last year. Vice-Chairman Reckhow and Dr. Leroy Walker co-chair the council which comprises concerned leaders with various backgrounds. The main purpose is to influence Durham policymakers to improve opportunities for people to be more physically active.

The following requests were made to the School Board, City Council, and the County Commission:

1. Develop policies and operational procedures for joint facility planning.
2. Allocate capital funding for development and upgrading of facilities.
3. Retrofit our existing facilities to promote expanded use.
4. Work with other agencies to plan for sidewalk and greenway connectivity from communities to destinations.
5. Connect our work sites to our neighborhood and shopping areas.
6. Plan how we can connect our neighborhoods to schools.

The Commissioners asked questions and made remarks to which the County Manager responded.

Vice-Chairman Reckhow asked County Manager Ruffin if any action was taken on the memorandum that she sent him with an attachment of resolutions adopted by all three governing bodies a few years ago. It calls for laying out a specific procedure in reference to multi-use planning in terms of convening a group to plan for multi-use planning.

County Manager Ruffin responded that the city manager, county manager, and school superintendent are meeting on a monthly basis to address matters of common interest. There has not been a follow-up as yet, but there is communication with the three governing bodies to meet before the bond referendum. The three governing bodies want input into the design of any new schools.

County Manager Ruffin said he has circulated a proposed Memorandum of Understanding. He expressed his opinion that this is a natural place to inject expectations to ensure the school board as policy makers are working with you to implement that kind of strategy.

Chairman Black said the Manager sent the Board a draft of the Memorandum of Understanding. She requested the Commissioners review it and send any suggestions to

the County Manager so the Board can talk about it. The collaboration with the City of Durham's Parks and Recreation Department should be in the Memorandum of Understanding.

A lengthy discussion was conducted on this agenda item by the County Commissioners.

Commissioner Bowser said he wanted to see a fitness committee set up to assure that the City, County, and schools governing bodies adhere to the Memorandum of Understanding. Commissioner Bowser said this responsibility could be added to the Durham Fitness Leadership Council. The Commissioners concurred with the recommendation.

Request for Approval of the Board of Elections to Place Durham County's Voter Registration Database on the BOE Website

The Board of Elections is requesting permission to place the voter registration database on-line for public access.

Resource Person(s): Ronald Gregory, Chairman of the Board of Elections, and Michael Ashe, Director of Elections

County Manager's Recommendation: The Manager's recommendation is that the Board receive the presentation and deliberate on the pros and cons of having the voter registration database available for public access. Given that the State is ultimately going to make this data available on-line, the County's efforts would be consistent with both the State and other jurisdictions within the region.

Chairman Black called on Michael Ashe, Director of Elections, to make his report to the Board of County Commissioners.

Mr. Ashe said the purpose of this agenda item is to request approval to place Durham County's Voter Registration Database on the BOE Website.

Mr. Ashe made a formal presentation to the Board of County Commissioners. He discussed all phases of the program and answered questions for the Commissioners.

After the presentation, a lengthy discussion was held by the County Commissioners, County Manager, Director of Elections, and County Attorney.

County Manager Mike Ruffin said if the Board deems that this should be for information only and the Board doesn't believe it should take any action, he would interpret that it is within his purview to decide whether it should be integrated or not and move accordingly. He advised his intent to authorize the integration of the database and post it on the Website. The main reason to put it on our website is to make it easier to access by the vast number of citizens that call and want the information.

Chairman Black said the Manager has the directions, and he will proceed with that.

Triangle Wastewater Treatment Plant Improvements (Option 5 Analysis)

Durham County is proceeding with the design of improvements to its wastewater treatment plant to improve operational efficiencies, provide greater treatment levels, and provide additional capacity for future customers. During the development of the required Environmental Assessment for the project, various wastewater disposal alternatives were evaluated including pumping some or all flows from the County's service area to the City's South Durham Treatment Plant on Farrington Road. The City has more recently proposed an alternative not originally considered by the County, and named it Option 5. Staff reviewed the analysis of Option 5 and provided additional information as requested by the Board.

Option 5 consists of the measurement of all County sewer basin flow inside of the City limits and the subsequent transfer of this quantity of flow to the City's south treatment plant with a pump station and force main.

The County would be responsible for the design and construction of the pumping facilities, would give them to the City, and would pay the City capital charges based on the quantity of flow transferred to the City plant. The County would transfer ownership of the existing sewer lines in these areas to the City.

The City would own and maintain the lines and pumping facilities for these areas and charge any capital charges needed in the future. The City would treat the flows pumped to the south plant and charge the customers for the treatment.

Staff review is summarized as follows:

- Option 5 would result in a plant upgrade and expansion to 6.9 MGD instead of 12 MGD.
- The comparison of the Total Present Worth of Option 5 and the County's current proposed improvements (to 12 MGD) show almost equal values.
- Option 5 reduces the County's billable flows by approximately 50%.
- Option 5 would result in more significant rate increases for County sewer customers due to the reduced customer base.

Based on this review, Option 5 does not appear to be feasible. Staff recommended proceeding with the current improvement plan for the County's wastewater treatment plant.

Resource Person(s): Wendell Davis, Deputy County Manager; Glen Whisler, County Engineer; Chuck Hill, Utility Division Manager; and Tim Baldwin, McKim & Creed

County Manager's Recommendation: The Manager's recommendation is that the Board receive the update on Option 5 and provide guidance as necessary.

County Manager Mike Ruffin made a brief comment. It appears that the outstanding issue holding up adoption of the Capital Improvement Plan is the expiration of all these alternatives with the Triangle Wastewater Treatment Plant. If we can get consensus from you today about the Triangle Wastewater Treatment Plant, that will shorten the next item on the agenda. It is the major issue out there today that confuses the Capital Improvement process. The four other major projects have been resolved. This appears to be the major issue that the Board needs to resolve. This is the expiration of alternative 5 which the staff is ready to discuss with you.

Deputy County Manager Wendell Davis introduced the staff that would make the presentation. He gave the Commissioners the history of the project. Phase 1 design has been completed on the project. Phase 2 is 50 percent completed with the design work, and design will be complete by the fall of the year.

Tim Baldwin, McKim & Creed Consulting Firm; Glen Whisler, County Engineer; and Chuck Hill, Utility Division Manager, made a presentation to the Commissioners.

Glen Whisler started with a brief introduction of some of the activities that the County has been involved in since the last update to the Board of County Commissioners.

Tim Baldwin went through option 5 evaluation and the subsequent modifications to that option.

The Commissioners asked questions and made comments about the agenda item to which County Manager Ruffin and the engineering staff responded.

Chairman Black said the County should proceed with this item and do what is needed to ensure we are upgrading our plant and taking care of our citizens. This should be handled so the County can proceed with other projects.

Glen Whisler discussed the permit requirements for the Commissioners.

Commissioner Bowser moved, seconded by Commissioner Cousin, that we proceed with the project to implement alternative plan three.

Commissioner Reckhow asked questions and discussed alternative three.

Chuck Kitchen said for the record that he does not believe it is legal for the City to be charging the customers of the County's wastewater treatment system additional fees other than what is approved by this Board.

The motion carried unanimously with a 5 to 0 vote.

Chairman Black said it is very clear that the path the Board is now taking is that County government controls this and an upgrade to the plant should proceed. She stated her opinion that the City does not need to bring another proposal to the Board.

City of Durham Sewer Fees Owed the County of Durham

County Manager Ruffin said that a draft Request for Proposal has been prepared that everyone has agreed on. Now the County can employ someone to come and calculate the damage.

The City Legal Department is reviewing the RFP at the present time to determine how the MWBE policy will be applied. The County used its standard contract. The City is studying the County's contract to determine whether the City Legal Department would be willing to accept it. The County is ready to send out the RFP.

Adoption of Fiscal Years 2002-2011 Capital Improvement Plan

The 2002-2011 Durham County Manager's Recommended Capital Improvement Plan, including moving the County Courthouse project to G.O. Bonds per the Board of County Commissioners, was presented for final approval by the BOCC. This CIP will be reviewed and approved by the Board of County Commissioners on an annual basis.

Resource Person(s): Mike Ruffin, County Manager, and Pam Meyer, Budget Director

County Manager's Recommendation: The Manager recommended that the Board approve the 2002-2011 Durham County Capital Improvement Plan.

County Manager Mike Ruffin made introductory remarks about the adoption of the 2002-2011 Capital Improvement Plan. All major capital projects have now been properly disposed to the Board's liking. It is confirmed that the courthouse can be placed on the bond issue.

Chuck Kitchen said that everything we have proposed about GO and 2/3 Bonds has now been resolved. The Local Government Commission and Bond Counsel are now satisfied with what you have in front of you. We are ready to go from the legal point of view.

The Manager said the County should have an adopted CIP now so we can prepare for bond rating interviews in November. If it doesn't, it could appear we are indecisive as to how we really plan to spend the \$500,000,000 over the next ten years.

If we could adopt it today and put it in print form, I think it would very much position us for a better bond rating interview with the two bond rating companies we will visit in November.

The Board of County Commissioners and County staff held a lengthy discussion about the FY 2002-2011 Capital Improvement Plan. Related subjects were also discussed. The Commissioners asked questions and made comments about the Capital Improvement plan to which the Manager responded.

Commissioner Bowser said he would like to see Durham County operate its own parking decks. He said his reason was that the parking decks would be built with public dollars; therefore, the public should have the right to run them as seen fit. Chairman Black said she wanted to continue seeking to prioritize the parking decks.

Commissioner Heron wanted the Commissioners to revisit the American Tobacco Company project in order to update the figures and to see if the project has changed. Chairman Black commented that she has asked Mike Hill with Capitol Broadcasting Company to come to the Commissioners meeting to update the Board on the American Tobacco Company project.

Vice-Chairman Reckhow requested that another letter signed by the Chairman be sent to the Durham Delegation to let it know the Commissioners may have to raise taxes to fund some Durham County capital projects. We need their help. The capital projects budget should be attached to the letter. Durham County needs the impact fees for capital construction.

Vice-Chairman Reckhow moved, seconded by Commissioner Heron, to approve the CIP as recommended by the County Manager, with the inclusion of a cover explanation indicating that this Board is on record in asking the staff to seek some downsizing or reduction of the courthouse size and cost and to seek the potential of privatizing parking deck facilities.

The motion carried unanimously.

Closed Session

Chairman Black advised the Board should go into Closed Session to discuss two personnel issues pursuant to N.C.G.S. §143-318.11(a)6.

Commissioner Heron moved, seconded by Commissioner Reckhow, to adjourn to Closed Session to discuss two personnel matters pursuant to N.C.G.S. §143-318.11(a)6.

The motion carried unanimously.

Introduction of New Employee

County Manager Mike Ruffin introduced Heidi Duer as the new Senior Policy Analyst in the County Manager's office. She replaces Marcia Margotta.

Reconvene Into Open Session

Chairman Black said directives were given to the Tax Administrator Steven Crysel in Closed Session. The Tax Administrator will provide a brief report to the Board regarding the status of revaluation at the August 13, 2001 Regular Session.

Adjournment

Chairman Black adjourned the meeting at 1:30 p.m.

Respectfully submitted,

Garry E. Umstead, CMC
Clerk to the Board

GEU:SBP