

A Regular Meeting of the Durham County Board of Health, held April 11, 2013 with the following members present:

James Miller, DVM; John Daniel, Jr., MD; Stephen Dedrick, R.Ph, MS; Commissioner Brenda Howerton; F. Vincent Allison, DDS; Bergen Watterson, MSCP, BA; Michael Case, MPA and Heidi Carter, MSPH

Excused Absences: Jill Bryant, O.D.F.A.A.O; and Nancy Short, DrPH, MBA, RN

Others present: Gayle Harris, Eric Ireland, Becky Freeman, Rosalyn McClain, Melissa Downey-Piper, Robert Brown, Dr. Jim Harris, Dr. Miriam McIntosh, Dr. Arlene Sena, Eric Nickens, Hattie Wood, Marcia Robinson Michele Easterling, Marcia Johnson, Attorney Bryan Wardell, County Attorney Lowell Siler and NCCU Students.

CALL TO ORDER: - Chairman Jim Miller called the meeting to order at 5:06pm with a quorum present.

DISCUSSION (AND APPROVAL) OF ADJUSTMENTS TO

AGENDA: The following adjustments were made to the agenda.

- Move closed session after Public Comments
- Move “Conducting Quasi-Judicial Hearings” training after Staff Recognition
- Add:
 - Policy Update
 - Budget Amendments
 - Smoking Rule Update
 - Pew Charitable Trust

Dr. Allison made a motion make the adjustments to the agenda. Mr. Dedrick seconded the motion and the motion was approved.

Chairman Miller welcomed 3rd Year NCCU Health Education students present at the meeting.

REVIEW OF MINUTES FROM PRIOR

MEETING/ADJUSTMENTS/APPROVAL: Dr. Allison made a motion to approve the minutes for March 14, 2013 meeting with the following change “remove Teme Levbarg’s name from Board members present”. Mr. Dedrick seconded the motion and the motion was unanimously approved.

PUBLIC COMMENTS:

There were no public comments.

Dr. Miller made a motion to adjourn into closed session pursuant to G.S. 143-318.11 (A) (6) to discuss a personnel matter. Dr. Levbarg seconded the motion and the motion was unanimously approved.

The board reconvened into regular session.

STAFF RECOGNITION:

Mr. Nickens introduced Tiffany Jones, Communication Specialist working in the Diabetes Coalition Grant. Ms. Jones is a graduate from NC A&T State University, with a BS in Journalism.

**TRAINING: CONDUCTING QUASI JUDICIAL HEARINGS:
(Activity 36.3)**

County Attorney Lowell Siler provided training on Quasi-Judicial Procedures to the Board. County Attorney Siler stated to the board that most of the decisions that are made by the board are legislative decisions;

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you have people come before you; listen to them, ask questions, discuss and make a decision. Before the discussion the public is able to lobby and talk with you and you are able to bring the information before the board before rendering a decision. The Quasi-Judicial Hearings are different.

County Attorney Siler stated that the appeals would be mostly for Board rules/ordinances (restaurant and bar smoking appeals). County Attorney Siler stated the hearings should be advertised to the public.

County Attorney Lowell Siler stated that the reference materials distributed to the board contains excerpts from the book entitled "Land Use Law in North Carolina." The author is David W. Owens.

When a quasi-judicial decision is made, due process requirements mandate that the decision-making process adequately protect the rights of affected persons. The procedures that must be followed dictate a decision-making process that is considerably different from a legislative rezoning or an administrative approval.

A fair evidentiary hearing must be conducted to gather the evidence that serves as the foundation for the decision. There must be competent, substantial evidence properly in the record to support the decision, with sufficiently detailed written findings to explain the basis of the decision.

I. Initiating a Quasi-Judicial Hearing

Time Period to Initiate Action

Where the board involved is making the initial decision, the process is initiated by filing a complete application with the governmental unit involved.

If no specific time is specified by the ordinance or board rules of procedure, the appeal to the board must be taken within a "reasonable" time of the decision being appealed. The time period begins to run when the affected person receives actual or constructive notice of the decision being appealed. Failure to appeal within the allotted period waives any right to raise defenses.

A board of adjustment has no authority to waive a mandatory time period within which appeals must be filed (*court case cited in document not included in minutes*).

- a) **Standing to Participate:** A series of cases have held that an "aggrieved" person is one who would suffer some special damage, distinct from the rest of the community. Though the statutes and cases are not entirely on this point, it is likely that the test for standing to seek judicial review and the test for standing to participate as a party in the quasi-judicial proceeding are substantially similar.

In most cases the party initiating a quasi-judicial action will be the person or entity applying for a variance or special or conditional use permit, appealing a notice of violation, or appealing an interpretation of the zoning officer affecting their property.

A person bound by contract to purchase the land in question also has standing. By contrast, a mere optionee does not have standing. Also, it has been held that the estranged wife of a month-to-month lessee whose lease had been terminated does not have an interest in property sufficient to confer standing. It is not uncommon for a lessee to file an application for a special

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or conditional use permit or to file a variance petition. As long as the lessee has the authority under the lease to undertake the development for which approval is sought, it seems the lessee would have standing to initiate the quasi-judicial proceeding.

While a directly affected person who is not an applicant also has a right to participate, the mechanics of doing so are less clear. Quasi-judicial procedures are more informal than court proceedings. Those who are official “parties” are not identified, and the distinction between witnesses and parties is simply not as precise as it is in a judicial setting. It is not uncommon for hearing attendees who did not initiate the matter to seek or be offered the opportunity to present testimony. While this in and of itself does not pose a significant legal problem, it is incumbent upon the board to remind itself and all participants that a quasi-judicial hearing is formalized mean of gathering relevant evidence, not an opportunity for citizens to speak their minds, as is the case with the public hearing on a legislative matter. The board chair has the authority and duty to maintain decorum, to secure efficient presentation of information and use of the board’s time, and to assure that testimony is limited to relevant evidence that can be considered by the board in making its required factual findings.

- b) **Notice of Hearing:** The constitutional due process rights for quasi-judicial matters require that timely notice of the opportunity to be heard be afforded to interested parties.

II. Gathering Evidence

- a) **Quality and Quantity of Evidence Required:** There must be SUBSTANTIAL, COMPETENT, AND MATERIAL evidence in the record to support the board’s findings and decision. Substantial evidence is “that which a reasonable mind would regard as sufficiently supporting a specific result. (*Court case cited in document not included in the minutes*).
- b) **Burden of Production:** As a general rule, the burden of production evidence rest with the person initiating the action.
- c) **Oaths:** Generally, all persons presenting evidence to a board making a quasi-judicial decision should be under oath. This includes the application, neighbors, governmental staff members, and any other person who may be presenting information to the board, such as a surveyor, engineer, or real estate agent. Any attorney for a party sometimes directly presents facts and information to the board (as opposed to simply questioning witnesses and making arguments to the board). Although an attorney should generally not appear as a witness in a case that he or she is trying, such an appearance is not absolutely prohibited. If an attorney testifies as to the facts in the case, the attorney should be sworn as a witness.

The chair of the board (and any member serving as the chair) is authorized to administer the oath in quasi-judicial proceedings. Any notary public can also administer this oath. The form that is usually used is the same as for civil cases. Persons with religious objections may affirm rather than swear an oath.

- d) **Presentation of Testimony and Exhibits:** Most ordinances require applications and petitions for quasi-judicial decisions to be made on forms provided by the jurisdiction. The applications are designed to solicit submission of written

information necessary for board action. These applications, along with staff reports and analysis, become part of the record before the board.

It is permissible for a board to establish reasonable time periods for presentation or testimony and for the presiding officer to limit repetitive or irrelevant testimony. While strict time limits may well be appropriate for legislative decisions (such as three minutes per speaker for a rezoning hearing), care must be taken not to unduly limit the presentation of the substantial, competent, material evidence that is necessary to support a quasi-judicial decision.

III. Cross –Examination and Rebuttal Evidence

- a. Parties to a quasi-judicial hearing have a right to cross-examine witnesses. If opponents to a variance or a special use permit present a witness, the applicant can also ask questions of that witness to probe the strengths and weaknesses of his or her testimony. As with the right to have sworn testimony, the rights of cross-examination and presentation of rebuttal evidence are deemed neither waived if not raised at the hearing.
- b. Since quasi-judicial proceedings lack the formal structure and rules of judicial proceedings, exercise of the right of cross-examination can pose practical difficulties. Unlike a judicial proceeding, parties in quasi-judicial hearings are often not clearly identified. While the person initiating the action is clearly a party, the status of others is blurred. The staff of the local government is a party for appeals of staff determinations, but a staff member may well be only a witness in variance or permit cases. There may be a large number of persons who want to offer testimony, some of whom have standing to be parties and some who do not. Frequently many if not all of these persons are not represented by counsel. Further, the physical layout of the hearing usually differs from a courtroom. Rather than counsel tables and a witness stand, it is common for all of those offering testimony and asking questions to share a single podium in front of the board.
- c. Some boards that make quasi-judicial decisions have adopted rules of procedure to provide a degree of order to this process. For example, the rules may state the order of presentations and questions. But since the vast majority of these cases are conducted informally by laypersons, often with few individuals attending and with little attendant controversy, it is not uncommon for there to be no set rules for determining who can offer testimony or conduct cross-examination. In these instances it is incumbent upon the presiding officer to maintain decorum and an orderly process of securing quality evidence in a manner that assures fairness to all who are affected. Time limits on presentations, requiring groups of persons with common interests to designate a spokesperson, and admonitions to avoid repetitive, irrelevant, or incompetent testimony (as long as such are reasonable and fairly applied) are all acceptable means of providing the necessary structure to these proceedings. However, since parties to a quasi-judicial proceeding have due process rights to present evidence and cross-examination witnesses, a rigidly applied time limit on individual witnesses or a set time limit for the entire hearing (both of which are acceptable for a legislative zoning decision) would be appropriate if applied in a way that precluded a party

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from fairly presenting or challenging legally sufficient evidence. (*Court case cited was not included in the minutes*).

- d. **Hearsay Evidence:** As a general rule, the person asserting a particular fact should be physically present before the board to testify on that matter. Purported statements by those who are not present, letters from those who are concerned but not present, as well as petitions and affidavits from those not in attendance are hearsay evidence. While hearsay evidence can be presented, a board may well accord it considerably less weight. Critical factual findings must not be based solely on hearsay evidence.

The court in several cases has upheld the admission and consideration of letters from persons not testifying at the hearing. In particular letters from government officials that provide unbiased information that is within the specialized professional knowledge of that official or that is based on records or information kept by the official's agency in the normal course of business are generally admitted. For example, a letter from a state agency may be considered even though the author of the letter is not present but the recipient of the letter is present and testifies under oath and subject to cross-examination. The court has also allowed consideration of technical reports on noise impacts where a civil engineer presented test results from another consultant.

If reports are to be considered, particularly where the author of the report is not presenting testimony in person, it is important that the report itself (rather than just a reference to it) be formally entered into the hearing record. The report so included in the record become part of the hearing record available to a court on judicial review.

- e. **Opinion Evidence:** A common issue in quasi-judicial hearings is the weight to be given generalized objections and opinions from neighbors, non-experts, and even expert witnesses. This is particularly problematic where general standards are involved (such as compatibility with the surrounding neighborhoods or adverse impacts on neighboring property value) and the testimony is not supported by cite specific facts.

For the most part the appearance of expert witnesses is still relatively uncommon in quasi-judicial hearings in North Carolina, but the practice seems to be on the rise. A 2005 School of Government survey indicated that with special and conditional use permit hearings, 55 percent of the jurisdictions report that expert witnesses either never or only rarely appear. However, 16 percent of the jurisdictions report experts appear frequently or more often. This is a marked increase in the frequency of expert testimony compared to the 2003 survey of zoning variance experience, where only 8 percent of the jurisdictions reported that experts appeared frequently or more often.

When expert testimony is offered in a quasi-judicial hearing, a proper foundation must be established. Key factual findings cannot be based upon the unsupported allegations and opinions of non-expert witnesses, even if the witnesses are neighboring property owners.

- f. **Ex Parte Evidence:** Board members hearing quasi-judicial matters are members of the community in which these land use cases arise. They may well have a personal knowledge about the site or a personal acquaintance with the parties. It is not uncommon for a board member to have had casual conversations about the case prior to the hearing with staff, the applicant, or the neighbors. While the strict rules about ex parte communications that apply to the judiciary would prevent such conduct, the courts have applied a rule of reason to ex parte communication in quasi-judicial proceedings.

While prior knowledge or modest communications prior to a hearing do not automatically disqualify a board member from participating in a case, a board member must not enter the hearing with a fixed opinion about the case, and the parties have a right to know all of the evidence being considered by the board. Undisclosed ex parte communications can make evidence impermissible bias or rise to a level of unfairness that will lead to judicial invalidation of the decision. It is important to note that the limitations on ex parte communication apply to contacts with the decision makers. It is common and not legally inappropriate for applicants, neighbors, interested citizens, and the representatives of such persons to have contact with staff to the board outside of the hearing context. In addition to constitutional due process considerations, the zoning statutes also mandate non-participation in such instances. G.S. 160A-388(e1) and 153A-34S(e1) provide that members of boards exercising quasi-judicial functions must not participate in or vote on any quasi-judicial matter if they have a fixed opinion prior to hearing the matter that is not susceptible to change or have undisclosed ex parte communications.

If a board member has prior or specialized knowledge about a case, that knowledge should be disclosed to the rest of the board and the parties during the hearing (*court case cited was not included in minutes*). As with personal knowledge of the facts, the courts have long held that site visits by board members are permissible. Board members should during the course of the hearing note any pertinent facts they discerned from the visit so as to allow all parties to know the basis of the decision and have the opportunity to present rebuttal information. Evidence submitted after the hearing may not be considered.

- g. **Local Procedural Standards:** Where an individual ordinance sets additional standards for quasi-judicial procedures, they must be allowed.
- h. **Record:** A detail led record of the evidentiary hearing is required. The routine summary minutes that are acceptable for legislative hearings and routine governmental meetings will not suffice. However, there is not a requirement that a verbatim transcript be prepared for each evidentiary hearing or that every hearing be recorded on tape. Documents and physical evidence submitted at the hearing (including photographs, models, charts, and the like) should be retained and made a part of the record. While it is not mandated, courts strongly encourage the production of a verbatim transcript of the evidentiary hearing. Thus most boards make audio tapes of these hearings in case a transcript is desired later. The courts have observed that, while not strictly prohibited, use of a videotape of the hearing as a substitute for a written transcript

is strongly discouraged. However, handwritten records and detailed summaries of the testimony received are acceptable.

IV. Making A Decision

- a. **Deliberation:** The entirety of a board's quasi-judicial hearing and deliberation should be conducted in open session. State law requires that every official meeting of a public body must be open to the public. The law does allow limited exceptions for closed sessions, but those will rarely arise in the contest of making quasi-judicial decisions.
- b. **Impartiality:** An impartial decision maker is required for quasi-judicial decisions. A board member who has a financial interest in the decision, a close family or business tie to party, or a predetermined fixed opinion that is not susceptible to change must not participate in that matter (*examples given are not included in minutes*).

As a general rule, a member with a bias or conflict of interest makes that determination and recuses him or herself. If the board making the decision is the governing board, the member generally requests that the entire board vote to approve the recusal. For planning boards and boards of adjustment, the member may simply announce the recusal at the initiation of the matter. If a member does not initiate recusal and an objection to participation is raised, the remaining members are to rule on the participation by majority vote. If a party to the hearing believes there is a potential for inappropriate participation, it is permissible for the party to query the board for potential bias, and any objection to participation should be raised at the time of the hearing rather than initially on appeal.

V. Change in Board Membership

- a. A board's vote on a quasi-judicial decision is not invalidated by the change in membership of one member between the time of the hearing and the vote if the new member has complete access to the minutes and records for the hearing. Thus a new board member who had been furnished a copy of the full record prior to the vote is eligible to vote, as are members who did not attend an initial hearing on the matter but did attend a second hearing and had full access to the minutes and exhibits from the initial hearing.

VI. Voting

- a. Formal action by the board is required for a quasi-judicial decision. This action is generally taken by a vote of the board to grant or deny the application. When a vote is called on a quasi-judicial matter, the minutes should clearly indicate not only the vote total but also how each individual member voted.

VII. Findings of Fact

- a. When a vote is called on a quasi-judicial matter, the minutes should clearly indicate not only the vote total but also how each individual member voted. The findings of fact that are adopted by the board must be sufficiently detailed to inform the parties and a reviewing court as to what induced the decision. Use of a preprinted form with only a notation that the standards are or are not met is insufficient. A conclusory statement that a standard has or has not been met is similarly insufficient, as is a mere recitation of testimony received about a particular standard. A finding may not be based solely on an unsupported assertion in the hearing that the standard has or has not been

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met. As a practical matter, many boards do not officially approve the written findings until the minutes of the meeting at which the decision was made are approved.

Findings of fact are required for permit or variance denials as well as for affirmative decisions. However, a board's failure to make any factual findings does not necessitate a remand where there is no dispute as to material facts and a full understanding of the issues was presented by the record. Also, an exception to the requirement for written findings of fact exists where the board dismisses an action due to hear it, as where a use variance has been requested. In such instances factual findings are not needed because the board has no authority to act, regardless of the facts.

VIII. Conclusions

- a. In addition to setting out the factual basis for its decision, a board making a quasi-judicial decision must explicitly state its conclusions as to whether the applicable standards have been met or not, with a clear indication as to why that is the case. Only those factors explicitly set out as the standards for decision may be considered in making a quasi-judicial decision.

Where multiple standards are involved, as is the usual case, the board should clearly indicate its conclusions regarding all of the applicable standards.

While a written statement of the findings of fact and conclusions regarding the standards is required, there is not a requirement that the statement be adopted at the close of the hearing unless that is specially required by the local ordinance. A written statement that supports a permit decision may be included with the formal permit decision rather than being adopted at the conclusion of the hearing.

IX. Conditions

- a. Appropriate individualized conditions or limitations are often imposed on quasi-judicial decisions. It is critical, however, that the conditions be limited to those authorized by the ordinance or statute. Each condition that is imposed must be supported by adequate evidence in the record.

Questions:

Q: Dr. Allison: Who has the right to cross-examine the witness?

A: County Attorney Siler: It could be a county representative (involved in the process) or the applicant. Yes, parties can have cross examinations or rebuttals and you have to manage that properly.

Q: Mr. Dedrick: Is a simple majority vote on the issue.

A: County Attorney Siler: Yes, good question

Q: Chairman Miller: In a quasi-judicial hearing how many board members need to be present? How many members need to vote?

A: County Attorney Siler: A quorum. I would think it would be 6 out of 11. Let me find out for sure and get back with you.

ADMINISTRATIVE REPORTS/PRESENTATIONS:

• **FINANCIAL REPORT**: (*Activity 39.2*)

Ms. Robinson provided the board with a budget report for Public Health that clearly details financial information by cost center to assure that the essential services of public health are being provided.

Questions:

Q: Mr. Dedrick: Do you get to carry money forward.

A: Ms. Harris: Only if it is grant, contract, unspent HomeHealth sale money or federal funds.

Q: Ms. Carter: Why are the percentages lower than what we should expect? I am looking at school health.

A: Ms. Wood/Ms. Robinson: Lots of nurse vacancies (2-high school, 2-elementary). Some of these positions are 10 months and are very hard to fill. Most of these low percentages are personnel

Q: Chairman Miller: What are encumbrances?

A: Ms. Robinson: Those are purchase requests that Finance is waiting for documentation to pay.

The board requested that headers be added to the pages for more organization and clarity to the report. The board requested to review the financial report on a quarterly basis.

• **VACANCY REPORT** (*Activity 37.6*)

Ms. Robinson provided the board with a copy of the vacancy report which includes information on the currently vacant positions (19.05 FTEs) in March 2013 (*7 new positions, 5.5 resignations 2.55 transfer 1 promotions, 1 reclassification, 1 termination and 1 retirement*). (A copy of the vacancy report is attached to the minutes)

• **HEALTH DIRECTOR REPORT**

Division / Program: Administration / Information and Communications

Program description

- The Information and Communications program provides timely and relevant information to the residents of Durham County on key health issues.

Statement of goals

- Increase the public's awareness and understanding of important health information and the Department of Public Health's programs and services availability
- Increase the public's utilization of the Department of Public Health programs and services.

Issues

• **Opportunities**

- With staff dedicated to information and communications, the Department of Public Health can provide more information to the public on health issues
- Media/reporters are eager to use information provided to them by the Department of Public Health for their viewers/readers.

• **Challenges**

- Prioritizing the topics to publicize

Implication(s)

- **Outcomes**
 - Information and communication about health issues and department programs and services are being publicized in a timely, organized manner and with greater frequency.
 - Visibility of public health information from the department has substantially increased.
- **Service delivery**
 - Partnered with the American Diabetes Association and Radio One Raleigh for Diabetes Alert Day and diabetes awareness radio spots that aired throughout the month of March.
 - Disseminated 8 media releases/advisories during the month of March, resulting in over 22 stories being aired (radio and television), printed in the news, or posted to the web. These included pieces for Diabetes Alert Day/Durham Diabetes Coalition, Water Fluoridation, National Nutrition Month, and County Health Rankings.
 - Completed the entry of retrievable archived media releases into the new web content management system. Public Health media releases now date back as far as 2009, with a small period of interruption in 2010, due to un-retrievable/transferable data.
- **Staffing**
 - The new Information and Communications Specialist (CMS funded) will begin work on April 1, 2013, increasing the number of communications staff for the Durham Diabetes Coalition to two.

Next Steps / Mitigation Strategies

- Continue building/developing various communication channels as well as the Department of Public Health's delivery of information and communications.

**Division / Program: Nutrition Division / Clinical Nutrition—
Enhancing CenteringPregnancy® Program thru March of Dimes
Community Grant Funds**

Program description

- Durham County's Department of Public Health Nutrition Division is working with the Maternal Health Division to provide enhancements to its Centering Pregnancy® program. Remaining funds from the 2011 Community Grant awarded by March of Dimes to DCoDPH are being used to offer nutrition services and incentives to Centering participants.

Statement of goals

- To enhance the CenteringPregnancy® program to increase its nutrition and physical activity related content.

Issues

- **Opportunities**
 - CenteringPregnancy® has been shown to reduce low birthweight births. CenteringPregnancy® is an evidence-based model of group prenatal care, which provides facilitated discussion and activities meant to enable learning, peer support, and individual health empowerment among participants.
 - The March of Dimes grant was awarded for the enhancement of the CenteringPregnancy® curriculum to increase its nutrition and physical activity-related content and to support the addition of postpartum (Reunion) groups focusing on nutrition, physical activity, and well-being.

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- Postpartum groups based on the Centering program help women reach and maintain a healthy postpartum and interpartum weight.
- **Challenges**
 - In Durham, 65% of the population is estimated to be overweight or obese. (*2011 Durham County Community Health Assessment*. Durham, NC: Durham County Department of Public Health; 2012.)
 - Overweight and obese women are at increased risk for pregnancy complications such as gestational diabetes and pre-eclampsia, and their infants are at increased risk for preterm birth and birth defects.
 - According to the 2010 Durham County State of the County Health report, the overall low birthweight rate in Durham County is 9.5%. The rate for minorities is 13.9%.

Implication(s)

- **Outcomes**
 - Excessive weight gain during and after pregnancy can lead to unhealthy conditions in future pregnancies. This program provides education, support, and a motivating environment for healthy eating, physical activity, and weight loss after pregnancy.
- **Service delivery**
 - Approximately \$7,000 will be spent over the next 4 months to purchase incentives and educational tools for Centering program participants. Nutrition/exercise tools such as pedometers, exercise balls, measuring cups, relaxation tapes, and yoga mats will be made available to participants.
- **Staffing**
 - A bilingual Registered Dietitian is contributing to the Centering and Reunion classes by offering healthy eating and nutrition lessons during the group meetings.
- **Revenue**
 - There may be opportunities to generate revenue for the Nutrition Clinic by offering individual counseling to Centering and Reunion group participants. Fees for nutrition counseling are based on a sliding scale fee and Medicaid and other 3rd party reimbursement sources are billed if applicable.

Next Steps / Mitigation Strategies

- Utilization of the remaining funds of the March of Dimes grant by the DCoDPH Nutrition and Maternal Health Divisions will provide for attainment of the grant goals of improving the eating habits and well-being of women during and between pregnancies and reducing the incidence of low birth weight infants. Remaining grant funds will be expended in 2013.

Division / Program: Administration / Durham Diabetes Coalition (DDC) Media Activities

Program description

- The DDC project is a multi-grant funded project focusing on type 2 diabetes in Durham County.
- The Department of Public Health is contracting with Duke University Health Systems to provide staffing for implementation of grant activities.
- Implementation of the grant activities involves staffing from Administration, Health Education, and the Nutrition Divisions.

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Statement of goals

- Reduce death and disability from type 2 diabetes.

Issues

- **Opportunities**
 - The two grants that fund the Durham Diabetes Project (Bristol Myers Squibb Foundation and Center of Medicaid and Medicare Innovations) have allowed the Durham Diabetes Coalition to produce a 30-minute TV show, “Living Healthy.”
 - The goal of the TV show is to educate Durham residents about type 2 diabetes and give individuals living with diabetes resources to manage their disease successfully.
 - “Living Healthy” highlights Durham Diabetes Coalition activities, successes, coalition partners, and local resources.
- **Challenges**
 - Sharing the first episode of “Living Healthy” with an audience that does not have access to Time Warner Cable local government channel 8.

Implication(s)

- **Outcomes**
 - At a February 26 focus group, participants stated, “I like that they used people from Durham, and I also liked that they had people talking that actually had the disease.” “I liked the food discussions. You know how to prepare food.” “I thought it was very informative because I didn’t know anything about it.”
- **Service delivery**
 - The first episode of “Living Healthy” is available on the Durham Diabetes Coalition YouTube channel and through the website, <http://durhamdiabetescoalition.org>
 - The first episode is currently airing nightly on Time Warner Cable local government channel 8.
 - Episode two is in post production tentatively scheduled to air at the end of April.
 - Episode three is nearing the end of production.

Next Steps / Mitigation Strategies

- Complete an addendum to the current video production contract to film up to two more episodes this fiscal year.
- Draft a contract to film up to six episodes of “Living Healthy” during the 2014 fiscal year.

Division / Program: Health Education/Syphilis Elimination Efforts (SEE) and New Tactics and Strategies (NTS)

Program description

- Durham County Department of Public Health Syphilis Elimination Efforts, NCCU Student Health & Counseling Services and Project SAFE (Save A Fellow Eagle) conducted free HIV and Syphilis testing as part of the iTESTED events that take place every spring semester. The kickoff event took place March 21st from 6pm – 12 midnight.
- Durham County Department of Public Health New Tactics and Strategies Testing conducted free HIV and Syphilis testing as part of its continued street outreach to reach African American heterosexuals and African American and Hispanic men who have sex with men (MSMs).
- Testing efforts were done in collaboration with Health Education’s NTS (New Tactics & Strategies) & the Enhanced Jail team.

Statement of goals

- Educate students, faculty, staff and visitors on HIV/AIDS and other STIs.
- Offer free, convenient, confidential testing and community resources for education and awareness.
- Provide education, counseling, and testing in homeless shelters, community-based clinics and other outreach venues, with a special emphasis on African American heterosexuals and African American and Hispanic men who have sex with men (MSMs).

Issues

- **Opportunities (SEE)**
 - Reaching freshman and the MSM (men who have sex with men) community
 - Reaching those who have never been tested and empowering them to get tested annually if risky behaviors are not an issue
 - Making testing a social norm
 - Partnering with NCCU
- **Opportunities (NTS)**
 - Non-traditional testing efforts increased in the month of March with outreach being conducted at Lyons Park Clinic, Durham Center Access, McDougald Terrace, Briggs Ave, Holloway St., the Budget Inn Motel, NCCU, Imani Metropolitan Community Church (targeted testing with Triangle Empowerment), and the Inkwel Tattoo Shop.
 - Non-traditional education sessions continued with education sessions about HIV/STI's at the Women of Color Conference, Southern High School, Russell Memorial CME Church, PCSA of Durham (Psychotherapeutic Services of Durham), the Rights of Passage Program, Quality All Girl Staff, and Tom Cats of Durham.
 - Provided 2 days of street outreach training for 3 individuals from the Nash County Health Department to increase their testing effort.
 - Located 2 new high risk testing sites where commercial sex is being performed on a consistent basis.
- **Challenges**
 - Limited number of phlebotomists
 - Short turnaround time for completing paperwork and processing bloods
 - Inconsistent weather and varying temperatures.
 - Lack of enticing incentives for clients to participate.

Implication(s)

- **Outcomes- together both programs**
 - Tested 102 individuals in one month
 - Reached more individuals from the MSM community; these individuals actually identified themselves as MSM (this is usually not the case)
 - Educated over 175 individuals on HIV/AIDS and other STIs and prevention methods
- **Service delivery**
 - Offered free HIV/Syphilis testing
 - Provided HIV/AIDS and other STI education, resources and prevention methods as incentives.
- **Staffing**
 - 4 Health Educators with 2 being the lead
- **Revenue**
 - None

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- **Other**
 - None

Next Steps / Mitigation Strategies

- Identify ways to encourage more individuals to know their status

Division / Program: Environmental Health/ Public Health Preparedness

Program description

- The Public Health Preparedness coordinator is responsible for the development, maintenance and exercise of plans and procedures assuring that the Durham County Department of Public Health (DCoDPH) and its community partners can effectively respond to public health emergency events, including responses to widespread communicable disease, natural and man-made disasters, and other events that require medication of large numbers of people.
- Matt Leicester, who came to Durham in January 2011, accepted a position with the NC Public Health Preparedness and Response (NCPHP&R) program as the Mass Fatality Planner effective April 4, 2013. During his tenure in Durham, Mr. Leicester built the Preparedness Program and accomplished many goals. Among his many accomplishments were the completion of a Continuity of Operations Plan (COOP), development of a local Medical Reserve Corp, bringing the Respiratory Fit-Testing Program into compliance, scoring back to back 100%'s on the last two yearly SNS plans and writing several other Preparedness related plans.

Statement of goals

- The position is being advertised and will be filled when a qualified person is offered and accepts the position.

Issues

- **Challenges**
 - A candidate with public health preparedness experience and exposure to emergency management is desired.
- **Opportunities**
 - Matt Leicester has been approved by NCPHP&R to assist Durham during the interview process to provide his feedback on potential applicants.

Implication(s)

- **Service delivery:**
 - Robert Brown, Environmental Health Director will coordinate responsibilities of the Preparedness Coordinator until the position is filled.

Division / Program: Environmental Health / General Inspections

Program description

- Jan Jackson REHS is the Environmental Health representative of the DCoDPH Quality Improvement Team. DCoDPH Divisions are encouraged to review internal processes and improve program efficiencies through the use of Quality Improvement techniques.

Statement of goals

- Ms. Jackson has been requested to join a Quality Improvement Kaizen event project group, as a facilitator, at the State Food

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Protection Branch (formerly known as DEHNR). A Kaizen Event is a focused, intense, short-term project to improve a process that includes analysis, design, and re-arrangement of the studied process.

Issues

- **Opportunities**
 - Jan Jackson will be co-facilitating this event by providing assistance with the use of QI methods and tools to improve the delivery of consistent information related to Food Code implementation to local Environmental Health programs.
- **Challenges**
 - There will be multiple teams that will be assigned to review issues related to information dissemination.
 - Collaboration with the State on the review of regulatory processes benefits our local program.

Implication(s)

- **Outcomes**
 - The expected outcome is a Kaizen event that will assist the delivery of information from the NC Food Protection Branch to County Environmental Health programs.
- **Service delivery**
 - The DCoDPH Environmental Health Division is pleased to be invited to assist the State with projects that support the program.
- **Staffing**
 - No effect on staffing is anticipated beyond Jan Jackson's time.
- **Revenue**
 - No effect on revenue is anticipated.

Next Steps / Mitigation Strategies

- Project will lead to improvements in the Food Code adoption and training process which will benefit the DCoDPH Environmental Health Program.

COMMITTEE REPORTS:

- There were no committee reports.

OLD BUSINESS:

• **ACCREDITATION UPDATE:**

Ms. Harris provided the board with an update on the accreditation activities. Ms. Harris stated the DCoDPH submitted the Health Department Self-Assessment Instrument (HDSAI) on April 1st. State Consultant Lynn Conner continues to work with staff to assure that appropriate documents have been included to meet all requirements for each activity. The Accreditation Management Team worked tirelessly to provide supporting evidence according to written guidance and the consultant's historical knowledge of evidence required by site visitors. Ms. Harris stated that she would send the board a copy of the general and specific sample questions for the board. (A copy of the initial site visit schedule is attached to the minutes).

• **FY 13-14 BUDGET UPDATE: (Activity 39.2)**

Ms. Harris provided the board with information regarding FY 13-14 budget progress:

- The proposed budget document and the Health Director's transmittal letter were submitted to County Administration on March 18th. On April 10th, Chair Jim Miller, Vice Chair Teme Levbarg, Marcia Robinson and Gayle Harris met with Deputy County Manager Marqueta Welton, Budget Director Pam Meyers and Budget Analyst Laura Jenson to discuss DCoDPH's proposed

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budget. The team requested that the items included as “Priority 1” be prioritized.

- The County Manager will present the recommended budget to the Board of County Commissioners on May 28th. Budget presentations will be scheduled to occur over the next 2-3 weeks.

- **STRATEGIC PLAN (Activity 15.1) (Eric Ireland)**

Mr. Ireland discussed with the Board the Strategic Plan procedure revision in compliance with NC State Public Health Accreditation Benchmark Activity 15.1. The Strategic Plan Goals must reference the appropriate goals of the Durham County 2011 Community Health Assessment. Mr. Ireland requested the board to approve the additions to the Strategic Plan in accordance with the NC State Public Health Accreditation requirements.


Mr. Dedrick made a motion to accept the changes to reference the appropriate goals of the Durham County 2011 Community Health Assessment in the DCoDPH Strategic Plan. Ms. Watterson seconded the motion and the motion was unanimously approved.

Mr. Ireland requested the Board approval to make any needed changes to the DCoDPH Strategic Plan as the implementation of the plan changes.

Dr. Levbarg made a motion to approve DCoDPH ability to make changes to the DCoDPH Strategic Plan as needed. Ms. Carter seconded the motion and the motion was unanimously approved.

- **RECRUTMENT, RETENTION AND WORKFORCE DEVELOPMENT POLICY: (Activity 37.6)**

Mr. Ireland requested the Board approval of the Recruitment, Retention and Workforce Development Policy in compliance with NC State Public Health Accreditation Benchmark Activity 37.6. No changes were made to the policy.

 Public Health	
Policy Name:	Employee Recruitment, Retention and Professional Development Policy
Policy Number:	HD: 20
Effective Date:	12/20/2012

Policy:

Durham County Department of Public Health (DCoDPH) endeavors to recruit and retain highly qualified, competent personnel. Furthermore, DCoDPH requires and supports training and professional/career development for all employees. Employees will complete mandatory initial and annual trainings related to topics required by governing bodies, the accreditation process, NC Department of Health and Human Services, DCoDPH, County government, and those dictated by funding and regulatory sources. DCoDPH employees will complete continuing education to maintain licenses, certifications and/or registrations required for their positions. DCoDPH will support employees in the maintenance of continuing education and training requirements and encourage additional training and continuing education to enhance performance and promote career development as guided by the performance management process.

Purpose:

The purpose of this policy is to document procedures and practices for recruiting and retaining employees as well as specify requirements for training/continuing education and professional development for employees. The policy sets forth requirements for employee documentation of professional development. The scope of the policy applies to all members of the Durham County Department of Public Health (DCoDPH) workforce.

Procedures:

I. Employee Recruitment

Durham County Department of Public Health

- A. Collaborates with universities and other educational institutions to provide student internships and/or opportunities for volunteer experience that exposes students and volunteers to public health practice. Students/volunteers apply for consideration with various divisions depending on their interest areas as well as division personnel availability to precept or supervise.
- B. Participates in recruitment outreach through career days in high schools, presentations in local universities, and displays in job fairs.
- C. Submits requisitions to County Human Resources for advertising for and recruiting personnel.
- D. Follows County personnel policies and procedures as administered by County Human Resources for recruitment and selection of employees for all positions.
- E. Encourages Divisions to send position postings to various state list serves as well as to local and state professional groups.
- F. Encourages Divisions to distribute job postings through emails and posting copies for positions being recruited internally.
- G. Recruits a diverse workforce that reflects the Durham County population.

II. Employee Retention

DCoDPH and County government promote employee engagement and retention through

- A. Opportunity to participate and/or lead in Departmental and/or County committees,
- B. Various awards, such as DCoDPH quarterly award, County anchor award, County On-the-Spot award, County service awards at defined longevity increments
- C. Performance management process
- D. County pay plan and performance merit pay
- E. Opportunity and support for professional/career development
- F. Opportunity to cross train for critical positions
- G. Potential for promotion in Department as well as in County government
- H. Employee health benefit package
- I. Additional County employee policies on leave, compensation, training, etc.

III. Employee Professional Development

- A. Employees will develop a professional development plan annually for their workplan professional development work objective that is approved by their supervisor
- B. Employees will include mandatory trainings/meetings as described in the DCoDPH Training Spreadsheet.
- C. Managers will ensure that new supervisors complete supervisory training as required by Durham County Government.
- D. In addition to mandatory and specialized training requirements, employees are encouraged to attend trainings that promotes professional/career development i.e. communication and listening skills, team building, health literacy, leadership/supervision skills, customer service as well as advanced professional practice knowledge and skills.
- E. Supervisors and employees will utilize all training venues such as classrooms, webcasts, videoconferences, professional journals, and teleconferences.
- F. Supervisors will review employee training requests for consistency with their professional development plan, content and cost. Supervisors shall approve/deny training requests in a timely manner to accommodate travel plans, coverage of duties, and encumbrance and/or payment of applicable registration fees. Supervisor forwards approved requests to management for approval. The Travel and County Vehicle Usage Policy and Travel Policy and DCoDPH Travel Policy Supplemental will be followed.

IV. Documentation

A. Durham County Department of Public Health Training Spreadsheet

Educational requirements for DCoDPH employees, as determined by applicable laws, rules, certifications, licenses, and program addendum, are outlined in the DCoDPH Training Spreadsheet.

- a. Division Directors or their designee will update continuing education requirements for their division staff at least annually or as program training requirements change, in the DCoDPH Training Spreadsheet, ensuring compliance with program addendum and federal, state, and local law and policy.
- b. Public Health Preparedness Coordinator will maintain and update public health preparedness continuing education requirements for all staff at least annually, or as program training requirements change, in the DCoDPH Training Spreadsheet ensuring compliance with federal, state, and local law and policy as it relates to Emergency Preparedness.
- c. Quality Improvement Coordinator will maintain and update the DCoDPH Training Spreadsheet, ensuring that all general training requirements relating to staff and management for both new and continuing employees will meet compliance with federal, state, and local law and policy.

B. Employee Training Log

- a. Employees will develop an annual Training Log that reflects their training requirements and plans for their work plan professional development objective
- b. Supervisors will approve employees Training Log at the beginning of their work plan anniversary date.
- c. Employees will update their Training Log as training is completed.
- d. Employees will keep a copy of certificates and other sources of attendance documentation for verification of trainings completed.
- e. Employees will provide their completed Training Log and verification of attendance documents to their supervisor for preparation of their annual performance appraisal.

C. Employee Training Acknowledgment Form

- a. All trainings/continuing education conducted in the DCoDPH will be documented along with signatures of attendees on the Training Acknowledgement form.
- b. The meeting facilitator or trainer will initiate the Training Acknowledgement form and ensure all attendees sign.
- c. The meeting facilitator will ensure that appropriate paperwork is provided for documentation of the training and given to the Department personnel officer, along with the signed training form, for storage.
- d. Individual trainings may be verified by the Individual Training Acknowledgement form.
- e. Training Acknowledgement Forms are available in the Workforce Development folder on the Department share drive.

REFERENCES:

Durham County Policies/Procedures

- Appointment Policy
- Benefits for Retirees Administrative Procedure
- Business Training & Travel Policy
- Funeral Leave Policy
- Leave Policy
- Longevity Policy
- Management Leave Policy
- Performance Bonus Policy
- Performance Management Process Policy
- Personnel Ordinance
- Recruitment and Selection Administrative Procedure
- Supplemental Pay Policy for Employees Called to Military Duty
- Training and Development Administrative Procedure
- Tuition Assistance Administrative Procedure
- Use of Leave During FMLA Parental/Maternity Leave
- Volunteer Policy
- OSHA Manual

Durham County Department of Public Health Policies/Procedures

- Employee Orientation Policy
- Training Spreadsheet
- Training Log Form

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- Training Acknowledgment Form
- Travel Policy Supplement

CHANGE HISTORY:

Version	Date	Comments
A	12/20/2012	Original document.
B	4/11/2013	Added signature line for Chair, Durham County Board of Health
Annual Review		4/11/2014
Approved By: _____ Chair, Durham County Board of Health _____ Public Health Director		Program Area(s) Affected: All DCoDPH Programs

Ms. Carter made a motion to approve the recruitment, retention and workforce development policy. Mr. Dedrick seconded the motion and the motion was unanimously approved.

- **BUDGET AMENDMENTS:** *(Activity 39.2)* *(Gayle Harris)*
The health department request Board approval of the following budget amendments.
 - Recognize \$2,500 in additional state grant from the North Carolina for the Refugee Health Program. Funds will be used to provide telephone interpretation during clinic visits, purchase supplies to be used during patient examinations, and provide continuing education to the staff
 - Recognize \$200,000 from NC DHHS, Division of Public Health to implement the evidence based Triple P (Positive Parenting Program) in Durham County. This project will be funded for 39 months to work closely with Triple P America and the state and in collaboration with community partners to implement this evidenced-based parenting education and support program focusing on parents of young children ages 0 – 5 years old. Triple P benefits children, parents and families, and health care providers with resulting positive public health outcomes and cost savings. When implemented as a public health approach, Triple P positively impacts key child welfare indicators. This project supports Durham County Department of Public Health’s Strategic Plan Goal 6, Education, by focusing on the strategy, “Establish relationships with other community agencies that help parents access needed information, programs, and resources.” This project will support one FTE Triple P Coordinator at \$16,745 (salary & benefits) for 3 months and associated operational expenses including supplies and materials for training groups.

Ms. Carter made a motion to approve the \$2500 (Refugee Health Program) and \$200,000 (Triple P Grant) budget amendments. Dr. Levbarg seconded the motion and the motion was unanimously approved.

- **SMOKE-FREE INITIATIVE UPDATE:** *(Activity 34.5)* *(Gayle Harris)*
The City would like for Public Health staff to educate City employees on the smoking rule.

NEW BUSINESS:

- **Agenda Items May 2013 meeting**
 - Triple P Project
 - Public/Private Partnerships Proposal-Commissioner Howerton and Mr. Henry McKoy
 - County Health Rankings
 - YRBS Analyzed 2011 Data

OTHER BUSINESS DISCUSSED:

- **Pew Charitable Trusts**

Dr. Levbarg discussed the Pew Charitable Trust Dental Health Campaign that has been in effect for the last two years. Ms. Levbarg stated that there are some amazing pieces that have been put together to support efforts to keep fluoridation going. The campaign for dental health is strong, they also asked for organizations to join. Dr. Levbarg stated that she will share some of the information with the Health Director to see if it would be appropriate for the department to join. The Trust is very interested in getting the information on the fluoridation process that the Board has undergone.

March 2013 On-Site Water Protection Notices of Violation Report was distributed. Robert Brown stated that was only one addition to the report (Farrington Road). The violation has been sent to the County Attorney to process legal notices. Mr. Brown stated the County Attorney is presently working on several others as well. Mr. Brown stated that if you look at the report, most of the violations are in compliance now. Some of the tougher situations are the failing septic tanks with very little options for repair. Mr. Brown will look into putting regulatory/maintenance information in designated areas for the public to access (Solid Waste, Little River Community, bulk mailing, etc.).

An updated organizational chart was distributed.

INFORMAL DISCUSSION/ANNOUNCEMENTS:

County Attorney Bryan Wardell will be a presenter on the Smoking Rule at the Legal Conference on April 17-18, 2013.

Mr. Dedrick made a motion to adjourn the meeting at 7:30pm. Dr. Levbarg seconded the motion and the motion was unanimously approved.

Jim Miller, DVM-Chairman

Gayle B. Harris, MPH, Public Health Director