

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

Monday, June 3, 2019

9:00 A.M. Worksession

MINUTES

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

Present: Chair Wendy Jacobs, Vice Chair James Hill and Commissioners Heidi Carter,
Brenda Howerton and Ellen Reckhow

Presider: Chair Wendy Jacobs

Citizen Comments

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

Gil Johnson spoke on behalf of Dr. Jean Spooner, chair of the Umstead Coalition, to urge the Board to step in and oppose the RDU quarry on the Odd Fellows tract—a 105-acre tract of forested land adjacent to the William B. Umstead State Park and the East Coast Greenway Trail that the RDU Airport Authority (RDU) would be leasing to Wake Stone Corp. for a rock quarry. He argued that the lease was a financially bad deal, the purchase proposal of an RDU Forested Trail Center made by the Umstead State Park was not considered, and that RDU had no legal authority to lease the land for that purpose without approval of the four governmental owners listed on the deed (County of Durham, City of Durham, City of Raleigh, and County of Wake). He requested that Durham demand that RDU follow the law by officially requesting permission before leasing (which he argued was essentially selling due to the nature of a quarry and how it would permanently alter the land) publicly owned land to a private, for-profit business.

Tamara Dunn requested that the Board intervene on her behalf and oppose the RDU quarry. She described the lack of communication she received from RDU and Wake Stone regarding how the quarry, which would be built beside her house, would impact her home's air quality, well water, and foundation.

Casim Noble presented the Board with a petition on behalf of Swans Mill subdivision residents which detailed reckless endangerment to their safety due to the discharging of firearms in their direction originating from resident property owners outside of the perimeter of the development on the opposite side of the county line—the Swans Mill development was within the City limits. He stated that each incident was reported to both the City Police Department and the County's Sheriff's Office and, while the incidents were acknowledged and investigated, both entities determined that they had insufficient jurisdiction to stop the firearm discharge and failed to enforce the Durham County Firearms Ordinance which made it unlawful for any person to

discharge a firearm within 600 feet (200 yards) of a residence located within a predominantly residential area of the County. The petitioners requested the following:

- To define and mark a perimeter measuring 200 yards from the boundary of the Swans Mill development extending north, east, west, and south equally;
- To declare and mark a gunfire free zone extending from the geographical border of Swans Mill to adjacent areas under County jurisdiction;
- That all space within this designated area be a no firearm discharge area and that all persons and residents within this designated area be required to comply under penalty of criminal prosecution;
- To provide public legal notice and signage of such; and
- To mandate a joint taskforce between both the Durham City Police Department and the Durham County Sheriff's Office, local elected officials, and Swans Mill residents empowered with the mandate to enforce compliance along this boundary.

County Attorney Lowell Siler informed the Board that Curtis Massey, Senior Assistant County Attorney, was researching the issue and that a response would be given to Mr. Noble soon. Chair Jacobs requested that Attorney Siler capture Mr. Noble's contact information. Commissioner Reckhow requested that Mr. Noble provide staff with the petition he read from because it contained constructive suggestions for facilitating the firearm ordinance enforcement.

Jim Svava, from Coalition for Affordable Housing and Transit, advocated for Durham County to consider participating in a local version of the state circuit breaker approach that permitted a deferred tax payment for the amount that exceeds a limit based on income. This would help alleviate high property tax burdens for low-income families.

Matt Thompson discussed why the RDU quarry proposal was a bad deal, why Durham County should oppose it, and what Durham County could do about it. He requested that the Commissioners oppose the Wake Stone lease and exert their power to prevent the quarry from proceeding and support the community effort to purchase this land for addition to the William B. Umstead State Park.

Dave Anderson, representing Triangle-Off Road Cyclists, spoke in opposition of the RDU rock quarry and described how it would negatively affect Umstead State Park as well as the greenway infrastructure investments made by the neighboring municipalities. He hoped that Durham would consider whether a rock quarry was the best use of the publicly owned land on which it would develop.

Isabel Mattox, attorney of Mattox Law Firm representing the Umstead Coalition, summarized the legal situation with regards to the proposed rock quarry and how RDU violated three provisions of state law. She stated that the Odd Fellows tract was co-owned by County of Durham, City of Durham, City of Raleigh, and County of Wake; it was deeded in the 1970s. On two days' notice and with no public comment, RDU approved and signed a lease of publicly owned property to a private company, Wake Stone Corp., for a quarry. RDU acted outside its scope of authority because state law dictated that RDU may enter into leases for aeronautic purposes or things that were complementary to the airport, but a quarry was not either of these. RDU was required to obtain the approval of the four owning municipalities before disposing of real property for nonaeronautical purposes—the NC Supreme Court ruled that a mineral lease

where minerals were removed from the ground forever constituted a sale regardless of whether it was called a lease. Leases with terms of over 10 years were treated as sales under municipal law and sales required public notice and adherence to a number of procedures which RDU—considered a municipality under state law—failed to follow. She requested that Durham County intervene and subsequently expose this to a public process.

Consent Agenda

The Board was requested to review Consent Agenda items for the March Regular Session meetings. The following consent agenda items were reviewed:

19-0225 Capital Project Amendment No. 19CPA000021 - Creation of the Alliance Behavioral Healthcare Backfill Renovation Project (47302635DC145), and Execution of Contract for Architectural Design Services with Perkins + Will Architects for the Alliance Behavioral Healthcare Backfill Renovation and Budget Ordinance Amendment No. 19BCC000059 to Appropriate Debt Service Fund fund Balance of \$150,000 and transfer the funds to the Pay as You Go County Contribution Fund and appropriate this amount to Alliance Behavioral Healthcare Backfill Renovation Project

Peri Manns, Interim General Manager, discussed what would happen to the old Veteran Services space (Alliance Health requested to use the space) and confirmed that the County would save money by relocating child care services from Briggs Avenue.

19-0252 Budget Ordinance Amendment No. 19BCC000056 recognizing \$29,998 in CCTA Grant funds in the Fire Marshal/Emergency Management Department supporting a workshop on the 4/10/19 explosion in Durham

Jim Groves, Fire Marshal/Emergency Management Director, stated that the federal funds were already accepted to do the workshop.

19-0261 Resealing of Kennel Floors at Durham County Animal Shelter (RFP 19-028)

The Board questioned how long the sealing on the floors was expected to last. Shawn Swiatocha, Assistant Director of General Services, stated he would need to check the product specifications, but he thought it was around 10 to 15 years.

Upon questions regarding the creation of a new facility to house the Durham County Animal Shelter, Mr. Manns stated there were funds set aside for a feasibility study.

19-0274 Budget Ordinance Amendment No. 19BCC000060 - Approve Appropriation of \$2,500,000 of General Fund Fund Balance and Transfer to the Benefits Plan Fund for Increased County Self-Funded Medical Costs

General Manager Claudia Hager and Manager Davis addressed questions relating to increases in costs of healthcare benefits, the rising costs of healthcare in general, as well as the relationship between the claims submitted and the growth that the County experienced in the premiums annually. They stated the increased expenses required that the County allocate more funds for employee health benefits in the County budget.

Kathy Everett-Perry, Director of Human Resources, discussed the portion that the insurance company paid for the claims that the County incurred., She stated the County had a \$200,000 stop-loss in place which meant the County would self-fund each employee benefit plan up to

\$200,000 before the stop-loss took effect. Ms. Everett-Perry stated the County currently paid \$85.25 per employee per month in administration fees to Aetna and would pay \$91.02 the next fiscal year, upon switching to Cigna.

19-0280 Conveyance of Surplus Real Property to the City of Durham for Affordable Housing

Nancy Mitchell, Senior Real Estate Officer, discussed what would occur with the parcel that the City of Durham was not able to purchase, the unbuildable lots, and the parcels which did not have street access or infrastructure available.

19-0288 Budget Ordinance Amendment No. 19BCC000063 to Recognize \$400,000 from North Carolina Biotechnology Center for Local Economic Development Awards

Directive: Andy Miracle, Economic Development Officer, to invite AveXis to attend a Work Session because they were a strong partner with respect to internships, apprenticeships, and creating the school to career pipeline.

19-0290 Approval of Interlocal Agreement with the City of Durham for YouthWork Internship Placements and Reimbursements

Staff confirmed that the County was continuing to fund the same number of YouthWork internships as in previous years. Drew Cummings, Chief of Staff, discussed how the Interlocal Agreement operated. David Ades, Assistant Director of Budget, confirmed that the funds for the YouthWork Internship placements and reimbursements were housed in the budget of the Human Resources department and totaled \$75,000.

Staff was recommended to consider providing an overview of City and County government functions to the YouthWork interns.

Directives:

- **Drew Cummings to provide the Board with information regarding how many Bionomic Educational Training Center (BETC) program interns were funded over the last few years and where the funding for the interns came from.**
- **Staff who ran the summer YouthWork Internship program to provide the Board with a presentation in the fall of 2019.**
- **Staff to highlight the County's participation in the YouthWork Internship program and the 50 positions the County funded in the budget book.**

There were no comments made for the items below:

19-0108 Request to Award Library Contract for Audiovisual Materials and Cataloging & Processing Services

19-0185 Budget Ordinance Amendment No. 19BCC00051 Appropriating Lebanon Fire Tax District Fund Fund Balance (\$110,000), and Transferring to the General Fund for Personnel Costs that were not included in the Original Budget for FY2018-19

19-0210 Contract Amendment to annual Microsoft Premier Support Agreement for additional support hours in the amount of \$47,125

19-0240 Execution of Consulting Services Agreement with SEDC Engineering, P.C. dba NV5 for the Fundamental LEED Commissioning Services for the Durham County Administration Building Renovation. Project No.: 4730DC137

19-0250 Award of Contract to Upgrade Nurse Call System at Health and Human Services

19-0251 Contract Amendment with Robert Half International (RHI) in the amount of \$15,040

19-0259 Budget Ordinance Amendment No. 19BCC00058- Appropriating \$226,564 of Durham County Fire Rescue (DCFR) Fire Service Tax District Fund Fund Balance for Multiple Funds for expenditures incurred after July 1, 2018, the effective date of the City/County Fire Merger Interlocal Agreement (ILA)

19-0266 Budget Ordinance Amendment No. 19BCC000061 - Recognize Continuation of Durham County Library Grant Revenue: “NIH - All of Us Durham”

19-0270 Amendment of Xylem d/b/a Godwin Pumps Services Contract in the Amount of \$59,335.64 for a Total Contract Value of \$212,835.64 for Emergency Pumping Services at the Stirrup Iron Creek Lift Station and Date Extension

19-0272 Approval of Increase in the Contract Amount for Intermedix for Emergency Medical Services (EMS) Billing and Collections in the Amount of \$90,000 to be Funded within the Current EMS Budget

19-0275 Budget Ordinance Amendment No. 19BCC000057- Social Services Budget Reduction of \$1,161,500 for Medicaid Transportation and \$150,000 for Medicaid Cost Settlement Funds in FY2018-19

19-0277 Lease Renewal with Animal Protection Society of Durham, Inc. for 2117 East Club Blvd.

19-0279 Purchase of Real Property Located at 11894 and 12018 N Roxboro Road

19-0281 Service Contract with Evoqua Water Technologies, LLC for Collection System Odor and Corrosion Control Services

19-0284 Capital Project Amendment No. 19CPA000022 to Amend the Main Library Renovation Project to Accept Funding from the Library Foundation for Main Library furniture as well as Approval of the Purchase of Goods contract(s) with various vendors for the Private Office, Conference and miscellaneous furnishings from the U.S. Communities/GSA and/or NC State Contracts Buying Programs for the Main Library Renovation Project No.: 6110DC094

Discussion Items

19-0276 Presentation on the new Comprehensive Plan

Sara Young, Assistant Planning Director, discussed the process of selecting the consultants for the development of the Durham Comprehensive Plan. Jamie Greene, Planning NEXT Principal, provided the Board with an overview of their philosophy, previous experience, communication strategy, and engagement process. Dr. Irma McClaurin of Irma McClaurin Solutions discussed her expertise and experience with fostering inclusivity in the engagement process.

The Board encouraged staff to keep in mind the concurrent work with the Transit Plan, Aging Plan, Sustainability Plan, as well as the City's and County's focus on racial equity. It was also pointed out that staff would need to rebuild trust with citizens due to their previous experiences with lack of inclusion, late inclusion, or ignored suggestions. The Board gave suggestions on how to approach the challenge of reaching these populations.

Staff discussed the neighborhood ambassadors and the grassroots approach.

Chair Jacobs requested a timeline of the phases that were outlined in the scope. Patrick Young, Planning Director, stated that it was their intention to use the Joint City-County Planning Committee as the group that provided direct feedback. Staff would work out a timeline and organization approach and planned to return to the Board on a periodic basis to provide updates.

19-0174 2018 Durham Historic Preservation Commission Annual Report

The Board did not have any questions regarding the Report.

19-0186 City-County Planning Department FY20 Work Program

The Board was requested to approve the proposed FY20 Planning Department Work Program. The Interlocal Cooperation Agreement between the City and County for merged planning functions charged the Planning Director with preparing and submitting to the Joint City-County Planning Committee, the Planning Commission and both Managers a work program and annual budget that must be forwarded to both governing bodies for approval. The proposed work program was structured on the department receiving sufficient resources for 49 full-time employees and operational overhead. Staff resources were fully allocated for the tasks reflected in the proposed work program with no capacity to take on additional tasks without either revising the work program to modify tasks by deleting existing tasks or changing expected outcomes and/or timelines.

A question arose regarding the requested supplement (\$250,000) the County provided the Planning Department for outreach related to the Comprehensive Plan in the 2018-2019 budget. Mr. Young clarified that the requested funds (split 50-50 with the City) were used to contract with Planning Next and Irma McClaurin Solutions and would be used to pay for the ambassador program.

Directive: Keith Lane, Budget Director, to investigate why the County's contribution to the Planning Department's "baseline" budget was approximately \$10,000 higher than the previous year's contribution.

19-0207 Environmental Affairs Board Annual Report

The Board did not have any questions regarding the Report.

19-0215 2018 Durham Planning Commission Annual Report

The Board did not have any questions regarding the Report.

19-0222 2018 Durham City-County Appearance Commission Annual Report

The Board did not have any questions regarding the Report.

19-0223 2018 Board of Adjustment Annual Report

The Board did not have any questions regarding the 2018 Board of Adjustment Annual Report

19-0229 2018 Durham Open Space and Trails Commission Annual Report

The Board did not have any questions regarding the Report.

19-0255 300 and 500 Blocks of East Main St. Redevelopment - Update on the Process for Selection of Development Partner(s) and Discussion on the Next Steps (Update #8)

The Board received an update from the University of North Carolina School of Government Development Finance Initiative (DFI) Project Manager Sara Odio on the 300 and 500 Block East Main Street Development.

The Solicitation(s) for Development closed on April 5, 2019 with a total of nine (9) responses. The purpose of this update (Update #8) was to discuss the next steps of the selection process with the Board, receive input, and update the public on the process.

Brinshore Development – 300 block proposal comments:

- Chair Jacobs was excited about 20% AMI and liked the open space in the front because it could become a public area.
- Commissioner Reckhow liked how the lot was treated as well as the plaza effect on East Main Street to activate it and make it safer. She felt that the 20% AMI was clever because of the potential partnership with Urban Ministries of Durham.

Brinshore Development – 500 block proposal comments:

- Commissioner Reckhow voiced her love for the playground in the corner. She felt that the site plan was well thought out and childcare was put into a good location.
- Chair Jacobs concurred with Commissioner Reckhow.
- Commissioner Carter questioned whether they would be committed with the 20% AMI units. Ms. Odio stated that, according to references, Brinshore Development tended to work hard to fulfill the promises that they came in with.
- Vice Chair Hill was concerned with citizens assuming that 20% AMI units were going to be in the designs due to those being mentioned in the massings and site plans.

Laurel Street Residential and ZOM Living – 300 block proposal comments:

- Commissioner Reckhow was concerned with the logistics of parents dropping their children off at Pre-K on East Main Street. Ms. Odio responded that state law mandated children be walked into daycare rather than dropped off; Laurel's site plan included a dedicated parking area for Pre-K in the parking deck.
- Chair Jacobs pointed out that Laurel had previous experience integrating early childhood centers into their projects.
- Vice Chair Hill liked that the play area appeared to be located in a more secure location—in comparison to Brinshore's proposal which placed the playground in the corner of East Main Street and South Elizabeth Street. He also liked that it complied with the historical requirement.

Laurel Street Residential and ZOM Living – 500 Block Proposal comments:

- Chair Jacobs questioned the practicality of having commercial space facing North Queen Street stating it would be across the street of the homeless shelter. She felt that having the

apartment amenities on East Main Street may not provide the vibrancy the Board hoped for.

- It was noted that this proposal included three-bedroom units (as did the proposal made by WinnCompanies).

WinnCompanies – 300 block proposal comments:

- Commissioner Reckhow noted that the parking deck was a longer walk to the Main Library.

Chair Jacobs requested that DFI help dig into the financials to determine how much per unit was being projected versus the land versus the gap in funding. She also requested “recommended questions” for the developers. Ms. Odio agreed to ask the developers for more details and to provide the Board with an internal memo that would outline what the numbers meant for the County.

Commissioner Howerton wanted to know what other ways there were to fill the gap rather than asking the County.

The Board recommended scheduling interviews with the leading development teams on Monday, July 8th.

The Board felt that it was important to be aware of an estimated total number—or at least a minimum expectation—of parking spaces that the County would need to pay for. Discussion was had regarding the requirements of providing an unshared parking spot for affordable housing units even though studies demonstrated the parking spots were usually empty between 8 a.m. and 6 p.m.

Directives:

- **Ms. Odio to ask the developers for more details and to provide the Board with an internal memo that would outline what the numbers meant for the County.**
- **Staff to schedule interviews with the Board and leading development teams on Monday, July 8th.**

19-0287 Economic Development Policy Revision Update

Andy Miracle, Economic Development Officer, presented the Board with an update on the County’s Economic Development Policy and the revisions that were being considered. Over the course of the last 15 months, the Board received several presentations and engagements to help shape and inform what a revised policy might resemble; those included:

1. Review of Current Policy - Board Feedback and Revision Goals (Spring Retreat, 2018)
2. School of Government Presentation - ED Fundamentals and Legal Parameters (June Worksession, 2018)
3. Policy Benchmarking of NC Peers - Identify Strategies to Revise Policy (Fall Retreat, 2018)

The next iteration of this conversation involved the consideration of approaches to improve contract terms and structure, as well as the assessment of criteria and threshold refinement that served to inform which projects were eligible for consideration and how projects were evaluated.

This conversation would identify both immediate and longer-term implementation criteria and strategies to revise the Economic Development Policy.

Jay Gibson, General Manager, clarified the term “vendor” used in the policy referred to contractors who helped build a facility—it only focused on the front end, not the supply chain of the vendors.

Mr. Gibson discussed the study that the Board could require be performed by a consultant—the study would establish that the proposed commercial development would not materialize at the proposed level of taxable investment without incentives paid pursuant to the Economic Development Policy. Staff was advised to add documents or PowerPoints relating to such studies onto the Economic Development website.

It was discussed that the policy was not meant to be used for reasons other than convincing a business to choose Durham, it needed to be a prudent investment that showed returns for the County.

The Board discussed the pros and cons of requiring environmental sustainability from companies as an incentive criterion.

Chair Jacobs hoped that the Chamber of Commerce would partner with the County to enable full use of the policy.

Since the County did not have a large economic development team, staff was encouraged to be careful with the types of projects that were accepted and to consider staff and time.

Mr. Miracle and Mr. Gibson described how the County and the City collaborated to fill the gaps and keep companies and projects inside of the Durham ecosystem, specifically those that were growing and might find it harder to remain due to space or resource limitations.

Commissioner Carter wondered whether there was any interest in having an employee who focused on agriculture economic development. The Board felt this was a good idea. Mr. Gibson stated that the County funded small programs to help with agriculture economic development and made managerial realignments within Goal 4 to stop duplicated efforts and subsequently freed up about 20% of a Soil and Water Conservation District FTE’s time. He stated the newly freed time was meant to be dedicated to agriculture economic development, but staff would confirm whether this was occurring.

The Board agreed for this item to return at the August 5th Work Session.

Directives:

- **Staff was advised to add documents or PowerPoints relating to studies which showed a company’s need for economic development incentives onto the Economic Development website.**

- Staff was suggested to include wording in the performance-based criteria that held companies to the commitments they made in their workforce development or community benefits plans.
- Staff to add an item focusing on economic development in a Joint City-County Committee meeting in the fall of 2019 to allow for an overview from the City and the County regarding their policies and programs.
- Staff to confirm whether the recently freed time (about 20% of an FTE in Soil and Water Conservation District) was being dedicated to agriculture economic development.

19-0187 Approval of Fourth Amendment to the Management Agreement for the Durham Convention Center

The Board was requested to suspend the rules and vote on the fourth amendment to the Management Agreement for the Durham Convention Center. This item was discussed at the May 6, 2019 Work Session but was not placed on the May 13th Regular Session agenda for approval. The Board’s approval was needed to collect the remaining signatures on the Agreement.

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

The motion carried unanimously.

Commissioner Carter moved, seconded by Commissioner Reckhow, to approve the amendment.

The motion carried unanimously.

19-0289 Review of BOCC Directives

The Board had no comments or questions regarding the BOCC directives.

Adjournment

Commissioner Reckhow moved, seconded by Commissioner Carter, that the meeting be adjourned.

The motion carried unanimously.

The meeting adjourned at 1:21 p.m.

Respectfully submitted,



Tania De Los Santos
Administrative Assistant