

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

Monday, January 4, 2010

9:00 A.M. Worksession

MINUTES

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

Present: Chairman Michael D. Page and Commissioners Joe Bowser, Becky M. Heron, and Brenda A. Howerton

Absent: Vice-Chairman Ellen W. Reckhow

Presider: Chairman Page

Citizen Comments

Ms. Thelma White requested time on the agenda to address the Commissioners about turn signals at Fayetteville Street and Riddle Road, and at Highway 55 and Riddle Road. She also sought support for traffic signals at Riddle Road and Old Alston Avenue. She made the following remarks:

- "I would like for the Board to consider reducing salaries of County workers making \$90.00 plus. Most of those salaries were set during a robust time under President Bill Clinton. Also, please consider reducing holiday pay until the economic recovers.
- Anyone working for the County would have to live in Durham County or pay a commute tax.
- Lincoln Community Health Center system of seeing patients needs to be revised. People who do not work, line up two to three hours before it opens does not afford working people who do not have insurance to receive medical treatment. There needs to be a system that everyone has to pay a minimum co-pay and allowing patients who are U.S. Citizens or legal aliens to be able to make an appointment. My husband is an 11-year naval veteran who is not disabled, but still has to pay a co-payment for all meds and a \$50-emergency room fee if he does not have an appointment. A U.S. military veteran has to pay a minimum co-payment for clinic visits and co-payments for all meds at a public clinic.
- Add a left turn signal in the eastbound lane on Highway 55 and Riddle Road. This is a very dangerous intersection when you try to turn left. People run this red light all the time.
- Add a left turn lane and a left turn signal on Riddle Road (heading from Fayetteville Road onto Highway 55).
- Add a left turn signal at the intersection of Fayetteville Road and Riddle Road.

- Due to the number of school buses (four times a day) and other traffic traveling on Riddle Road. Riddle Road from Fayetteville Road to Highway 55 needs to be resurfaced every two years and widen the shoulder.
- Precinct 34 has continued to call for the elimination of two-year terms for the mayor's seat in Durham, for all state legislators, U.S. Congressmen, and for off-year elections. The cost savings for the City and the County would be tremendous".

Chairman Page made comments about Buxton and Fayetteville Roads and wondered what could be done to address the issue.

Mark Ahrendsen, Transportation Manager, City of Durham, provided an explanation for the construction project that would align Riddle Road with Buxton Road. He assured the Board that staff would review ways to address the Board's concerns.

Commissioner Bowser asked if it would be a possibility for the State to handle the concerns without the City's involvement, per a petition by the County. He suggested that a letter be sent to the State on behalf of the Commissioners to handle the matter and include that the Board is in favor of the upgrades.

Mr. Ahrendsen provided clarification per Commissioner Bowser's request regarding whether the roads belong to the State. He stated that both intersections are considered North Carolina Department of Transportation (NCDOT) routes. He added that the stimulus project at N.C. Highway 55 and Riddle Road was to provide a left turning lane that did not exist previously; however he was unsure whether the signal would provide a protected left- turn phase.

Commissioner Howerton concurred with Commissioner Bowser's suggestion. She implied that staff also consider the increased traffic in the area of concern.

Chairman Page expressed concerns with accountability and follow-up pertaining to Ms. White's issues.

Chairman Page asked whether the County was in accord with the City regarding the projects.

Commissioner Bowser encouraged Mr. Ahrendsen to revisit the traffic signal at Hwy 55 and Riddle Road.

The Board held discussions about the left turn traffic signal.

Chairman Page addressed Ms. White's concerns pertaining to Lincoln Community Health Center. He informed her that he would have discussions with the Lincoln Community Health Board Director and Chair to address her concerns and submit his findings in writing.

Commissioner Heron inquired about the latest traffic count on Kerley and Cornwallis Roads.

Mr. Lee Lambert requested time on the agenda to address the Commissioners regarding land development. He made the following remarks:

“Over the past ten years, I have been a partner in a number of land developments. I was the person who met with the neighbors, held meetings, met with some of the planners, and represented our developments in front of the County Commissioners. I started every meeting I had with neighbors the same way. You know me. I have been in front of you before. Have I kept every promise I ever made to you? In every case, in every meeting, I had kept every promise. (There was a fence for a neighbor I was waiting to construct after we got a little closer, and he asked if I was still going to build it; but other than that, I never had any questions at all.) One of my partners attended one of my meetings once and was appalled that I asked them if I had done everything. He told me ‘you can’t do that’. But I did do that because I kept every promise.

This great economic crisis that is gripping our City, our State, and our Country took away all of my business. I lost every project where I was a partner. I will not be able to keep every promise I have made during the development process. To the best of my knowledge, everything we promised to do to proceed with our projects was either conditional upon development proceeding or bonded. The bonding company is and has been in the process of fulfilling those bonding requirements.

It was important to me that I appear in front of the Commissioners and explain to them what happened. I am sure they already know, but I wanted to take five minutes to explain I did everything I could. I don’t know if I will ever be able to develop again, but, if I do, I want to be able to appear before them with a clean conscience.”

County Attorney Lowell Siler responded to Commissioner Heron’s question regarding the event if the bonds are not carried out.

County Manager Mike Ruffin recommended that Planning Director Steve Medlin verify that the bonding companies are honoring its verification and to make certain that there are no other committed elements that are not being honored and report back to the board.

Mr. Ricky Hart requested time to address the Commissioners regarding his Durham County EMS bill.

Mr. Hart expressed frustration with the EMS ambulance service billing. He stated the following:

“In late July of this year, I had a medical situation and was transported to Duke ER. A few days later, I received a bill from Durham EMS for \$55.00, and I was confused. I thought, ‘why they would bill me since this is a public service paid by the citizens of Durham County through our taxes.’

I ignored the bill and later found that Durham EMS had garnished my wages for this bill. As you can imagine, I was furious. I investigated this and called EMS and looked at the budget.

I have found out to my amazement that the Durham County Commissioners have authorized EMS to bill and collect a fee for transportation to medical facilities. From the General Funds Revenue budget under service charges it shows that EMS collected \$3.4 million in 2007-08 from the citizens of Durham County on top of their budget.”

Mr. Hart recommended that the Board stop the funds going into the trust fund or change the tax rate. He also requested that citizens be informed about EMS ambulance service billing.

County Manager Ruffin clarified that no property tax dollars are used to fund EMS services. He referred to the EMS 2008 & 2009 actual charges comparison.

Commissioner Heron asked about the cost of a fully equipped ambulance.

Mike Smith, EMS Director, replied to Commissioner Bowser’s inquiry about transport fees and what percentage of the fees is collected from non-Durham County residents. He stated that he would research the information and present it the Board. He added that EMS representatives attend community health fairs and share information as it relates to EMS charges.

Ms. Linda Huff requested time to address the Board of County Commissioners regarding the replacement of the Bridge 151 on SR 1614 and to request a letter of support from the Board in an effort to appeal to Governor Perdue regarding the replacement of said bridge; however, she was not in attendance.

Directives

1. Mr. Ahrendson to bring a report to Board that addresses Ms. White’s concerns within 30 days.
2. Draft a letter to NCDOT regarding upgrades to Hwy. 55 and Fayetteville and Riddle Roads.
3. Staff to explore ways to inform citizens about the EMS charges, the need for the charges, and how the charges are determined.

FY 2009 Audit Report

County Manager Ruffin introduced this item, stating that the Audit Oversight Committee (AOC) requested permission to present the results of the FY 2009 external audit report. The report was presented to the Audit Oversight Committee on December 2, 2009 by April Bush, Audit Manager for Cherry, Bekaert & Holland, L.L.P., Durham County’s external auditors.

Karen Percent, Chair, Audit Oversight Committee, stated that the AOC reviewed the report of the independent auditors for the financial statements which indicated an unqualified yet clean opinion. The AOC also reviewed the independent auditors report on the revenue bond covenant compliance, which was considered unqualified. She affirmed that the AOC reviewed the single audit compliance report which identified two findings based on the testing—significant deficiency over the eligibility quality control reviews as well as non-material, non-compliance issue that involves a caseworker who failed to maintain proper eligibility documentation which would be rectified in 2010.

Ms. Percent informed the Board that in accordance with the AOC bylaws and responsibilities for best practices of the audit committees, the AOC accepted the auditor's report and used the audit independence in accordance with the Statement of Auditing Standards No. 114 (SAS114)—communication of the independence. As part of the AOC's self assessment, the AOC reviewed the bylaws and would be presenting changes to the BOCC in the future.

Ms. Percent added that the AOC identified validation of the outstanding action plans which must be completed with the inclusion of the two items identified in the report.

County Manager Ruffin stated that more detailed information about the fund balance would be provided at the Commissioner's Retreat. He explained that any changes made to the self assessment would be presented to the Board within the calendar year.

Ms. Percent commended Richard Edwards, Durham County Internal Auditor, on his hard work.

The Board thanked Ms. Percent for her report.

Motion to Excuse

Commissioner Heron moved, seconded by Commissioner Howerton, to suspend the rules

Commissioner Heron moved, seconded by Commissioner Howerton, to excuse Vice-Chairman Reckhow from the January 4, 2010 BOCC Worksession.

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Page

Noes: None

Absent: Reckhow

Durham Cooperative Extension's Project BUILD Presentation

Durham Cooperative Extension requested time to present to the Board of County Commissioners information related to the mission, goal, implementation, and current status of Project BUILD. The project continues the implementation and operation of the Gang Intervention Team, a cornerstone of OJJDP's Comprehensive Gang Model, and establishes a county-wide Gang Prevention Partnership.

Delphine Sellars, Cooperative Extension Director, stated that Project BUILD is made possible with funding from the North Carolina Department of Juvenile Justice and Delinquency Prevention (DJJDP), Byrne/JAG appropriation through the American Recovery and Reinvestment Act of 2009 and Durham Juvenile Crime Prevention Council (JCPC).

Dr. Kedrick Lowery, Project Manager, gave the following presentation:

What's going on?

Every day in the US

- Four children are killed by abuse or neglect
- Five children or teens commit suicide
- Eight children or teens are killed by guns
- 181 children are arrested for violent crimes
- 380 children are arrested for drug related crimes/offenses
- 1900 public school kids are corporally punished

Who is Project BUILD?

- In 2007 Durham conducted an assessment that focused on our level of gang related activity. The assessment concluded with 45 recommendations that would assist Durham in adhering to the issue at hand. The top recommendation was implementation of the Office of Juvenile Justice and Delinquency Prevention's Comprehensive Gang Model. Project BUILD has incorporated the OJJDP Comprehensive Gang Model as a means of gang intervention based upon the assessment's recommendation.
- The OJJDP Comprehensive Gang Model is designed to reduce gang activity in targeted neighborhoods. The program's goals seek to integrate intervention, prevention, and suppression and use existing community resources to sustain the program. The OJJDP Comprehensive Gang Model consists of six entities working as one to decrease gang and potential gang activity.

Let's Build—Laying Foundation that Leads to a Production Tomorrow

- Gang: A group or association of three or more persons who may have a common identifying sign, symbol, or name and who individually or collectively engage in, or have engaged in, criminal activity which creates an atmosphere of fear and intimidation.
- Criminal activity includes juvenile acts that if committed by an adult would be a crime

What is the Purpose of Project BUILD?

- The purpose of Project BUILD is to serve as a catalyst for positive growth, development, and change in the Durham community. We are dedicated to enhancing young lives by directly linking them to:
 - Educational and employment resources
 - Mentors
 - Pro-social role modeling
 - Encouragement

All is in an effort to decrease negative activity and more importantly to increase productivity. Although we aim to serve most populations between the ages of 14-21, our primary focus is gang and potential gang members. It is our goal to Build, Uplift, & Impact Lives Daily.

How does Project BUILD work?

- Project BUILD is designed to function as a wrap around (system) structure. Upon being referred to BUILD, individuals are assessed and assigned an Outreach Worker. Each case is individually reviewed by our Intervention Team (IT). The IT makes appropriate resource referrals based upon goals, aspirations, circumstances coupled with the presented information. Lastly, the BUILD Outreach Workers assist the youth in following through on the resource referrals and conduct aftercare services until goals are achieved.
- We function under the Office of Juvenile Justice and Delinquency Prevention's Comprehensive Gang Model. There are Five core service strategies:
 - Community Mobilization
- Project BUILD solicits the support of the community in responding to issues concerning youth and gang problems.
 - Opportunities Provision
- BUILD presents both educational and employment opportunities as a means of setting and accomplishing goals and increasing productivity.
 - Suppression
- BUILD partners the community and community based agencies in an effort to reduce crime, violence and harm to the community.
 - Social intervention
- BUILD addresses social deficits and issues such as mental health, family dysfunction, substance abuse, and other factors that would diminish an individual's ability to disengage from the gang and gang activity.
 - Organizational Change and Development
- Through education and communication, BUILD aims to improve the ability of organizations and agencies to respond to gangs.

In addition, the Model includes a comprehensive assessment process and provides a framework for the coordination of these strategies among key community agencies such as law enforcement, education, criminal justice, social services, community-based agencies, outreach programs, faith-based services, and grassroots community groups.

The OJJDP Comprehensive Gang Model remains one of the few approaches to gangs that encompass a multidisciplinary response to gangs on multiple levels-interventions, prevention, and suppression and that has been shown to offer a reduction in serious gang-related crimes in gang-affected communities.

A closer glance at Project BUILD

- Project Director was hired at the close of February 2009
- Two Outreach Workers were hired April 2009
- Intervention Team was selected and locally trained June 2009
- The Intervention Team is comprised of representatives from:
 - Durham (Citizen)
 - Cooperative Extension
 - DSS/Mental Health

- Durham At-Risk Youth Collaborative
- Durham Police Department
- Durham Public Schools
- Faith-Based Community
- Juvenile Court
- Project Safe Neighborhoods
- PROUD
- YES program
- Intervention process began July 2009
- Since July 2009 Project BUILD has:
- Directly served 36 youth from the Durham community
- A waiting list of 19 youth
- Linked 28 youth to services including, but not limited to:
 - AAMLA
 - Durham At-Risk Youth Collaborative
 - Durham Parks and Recreation Ropes Course
 - Education resources—Tutors, Parent/Teacher Conferences, School Visitations
 - EL Centro Youth Leadership Program
 - Employment
 - Project Safe Neighborhood Workshops
 - STARS Program
 - The PROUD program
 - YES Program
 - YO Durham

It is our goal to:

- Build
- Uplift &
- Impact
- Lives
- Daily
- We are laying the foundation that leads to a productive tomorrow?

Mr. Lowery added that the greatest motivations regarding the program are the street outreach workers. There is a two- to three-year after-care program that allows the outreach workers to do a monthly follow up to monitor the progress of individuals who have completed the program. He reminded the Board that the group meets every Monday from 4 p.m. – 6 p.m. at Cooperative Extension.

County Manager Ruffin replied to Commissioner Heron's concerns regarding the Gang Intervention Director hired by the City and the County.

Commissioner Heron asked about coordinating of services and how many other organizations offer similar services for the particular age group.

Per Commissioner Howerton's request, Mr. Lowery explained how Tim Henderson, Anti-Gang Program Coordinator, connects with Project BUILD. He stated that there had not been a direct connection financially but a direct connection to services.

Mr. Lowery stated that the meetings are not opened to the public for confidential reasons. He also addressed a concern as it related to the Sheriff's Department not being included on the list of partnering organizations.

Chairman Page thanked Ms. Sellars and Mr. Lowery on the report and appreciated the work that is being done in the community.

Directives

1. Staff to provide a list of agencies that the County funds.
2. Provide quarterly reports on what is being done, the youth that are being serviced, and successes and failures.

Review of November BOCC Directives

Laura Jensen, Assistant to the County Manager, introduced this item, stating that it was requested that at each month's worksession, the Board of County Commissioners have the opportunity to review the previous month's directives for staff and make comments as necessary.

Ms. Jensen noted that all of the September directives have been completed. However, she assured the Board that she is making every effort to follow up on all directives assigned or not completed.

Commissioner Howerton expressed concerns about the language in the Urban Ministries report regarding security.

Commissioner Bowser made comments about reducing the train speeds to its initial speeds. He noted that Anderson Street should be included as it relates to better signage as well as the rail lines from Apex to Durham. He requested a copy of the letter before it is sent to the City and NCDOT.

The Board addressed Dr. E. Lavonia Allison's concern about the process for addressing issues at Board of County Commissioners' worksessions.

Interlocal Agreement with Durham Public Schools

County Manager Mike Ruffin introduced this item. He stated that on October 9, 2006, the Board approved an Interlocal Agreement with the Durham Public Schools (DPS) to construct three school buildings due to the inability of DPS to recover sales taxes paid by DPS. Since then, the parties have amended the agreement three times to include 17 additional school projects. Pursuant to the Interlocal Agreement, school properties are deeded to the County, DPS handles the bidding and recommends for approval of the design and construction contracts and acts as construction manager for the County. As owner of the school properties, the County is also

responsible for all real property matters, such as permit applications, easements, and ROW agreements. The County, in turn, obtains the sales tax reimbursement for the schools' needs. The current Interlocal and its process are complicated and time consuming to both the County and DPS. There are other ways to obtain the same result that is less complicated and shifts the majority of the burden to DPS instead of the County.

Carol Hammett, Assistant County Attorney, stated that the proposal for the Board's consideration is to allow DPS to retain ownership of the schools, lease the property to the County and delegate the authority to enter into and manage the contracts on behalf of the County, subject to the terms of a new Interlocal agreement. The key differences in this proposal is that the Schools would continue to own the properties, the County would instead lease the properties, and DPS would act as the agent of the County for construction, having the powers and duties of the Board for purposes of bidding, award and general management of the contracts. This proposal is similar to how Wake County is handling their multiple school construction projects, is less cumbersome and time consuming for County and DPS staff, eliminates the property ownership issues for the County, and reduces the County's participation in the process of construction, including processing and handling claims.

Ms. Hammett also stated that the County Attorney's Office had worked with DPS to draft a new Interlocal Agreement and Master Lease to address the concerns of both parties. The proposed Interlocal Agreement addresses reporting, the use of County form contracts, County M/WBE policies, and indemnification of the County among other matters. If the Board agrees to the new Interlocal, all of the school properties would be deeded to DPS and immediately leased back to the County. New schools maybe added through a simple lease addition and may also be removed from the Lease through a lease removal form; both forms were included as an attachment to the Lease. All of these real property instruments would be recorded in the Register of Deeds Office.

In response to Commissioner Heron's question about the lottery funds, County Manager Ruffin stated that the lottery money would not be affected and is budgeted and controlled by the Durham Public Schools (DPS) and County. The County is not proposing any changes as far as how the lottery money is handled. He informed the Board that quarterly reports are provided that includes the information.

Commissioner Heron asked what happens to the site plans once they come forward.

County Manager Ruffin added that the Interlocal does not affect the Board's authority to approve the site plans; it is solely for the purpose of construction. He spoke about the statutory obligations to approve purchases of school properties and managing the construction contracts. He responded to Commissioner Bowser's question about DPS having to pay sales tax.

Commissioner Bowser inquired about a possible requirement of how the MWBE is administered now verses how it would be administered after the change.

Rod Malone, Attorney, Tharrington Smith, referred to Sections Nos. 1(g) and 1(i) of the Interlocal that discusses compliance and reporting.

Minnie Forte-Brown, DPS Board of Education Chair, noted that the MWBE is an important issue for the DPS and the Board of Education.

Ms. Hammett responded to concerns about what would happen if the County's MWBE requirements are not being met under the agreement. She continued to discuss the following:

- Background
- Legal Authority
- Current Process under the Interlocal entered into in October 2006
- Proposed changes to the Interlocal Agreement

Chairman Page raised concerns in terms of how MWBE is addressed. He stated that the County must ascertain that the areas are being handled, to ensure that the community is treated fairly. He mentioned leverage in terms of meeting the requirements.

The Board held a lengthy discussion about sales tax.

Commissioner Bowser voiced his opinion about circumventing what the legislators are trying to do in Raleigh, N.C.

Ms. Forte-Brown addressed calculated savings and recouping sales tax.

Commissioner Heron asked about the minimum amount that can be recovered and would the sales tax be applied to DPS or the County.

George Quick spoke to whether the sales tax would go to DPS or the County. He explained cash flow process as well as the projects affected by sales tax. He continued to explain the process.

Ms. Forte-Brown elaborated on the legislators support for the initiative.

Commissioner Bowser asked how the sales taxes are controlled when a contractor receives a contract to build a school. He suggested reviewing DPS's record on what has been done with the WMBE program prior to the Board's vote.

Directives

1. Staff to highlight the information requested in the next quarterly budget report.
2. Place on the January 11 Regular Session.
3. Provide MWBE participation from DPS and the City.
4. Bring the voting record on the sales tax legislation.

2010 MWBE Report

Wendell Davis, Deputy County Manager, introduced this item, stating that for the past year, considerable discussion had occurred at Board of County Commissioners' meetings about perceived shortcomings of Durham County's M/WBE Program. Much of the conversation comes on the heels of the construction of the Health & Human Services Complex and the new Justice Center, the two largest public construction projects in the County's history. In light of the

numerous issues raised at the September 14, 2009 and September 29, 2009 Commissioners' meetings, staff were directed to evaluate and assess the County's M/WBE Program and report back to the Board.

Mr. Davis highlighted specific matters staff were directed to investigate: 1) the possibility of merging the County and City of Durham's M/WBE Program, 2) the lack of minority contractor participation on major construction projects, 3) the method of bidding used by the County (Single Prime versus Construction Manager at Risk), and 4) the absence of local minority contractor participation. In addition, staff was also directed to determine how Durham Public Schools were addressing minority contracting.

Mr. Davis proceeded to state that over the past two months staff conducted an assessment of the County's M/WBE Program, working with the City of Durham's Equal Business Opportunity Office (which manages the Small Disadvantaged Business Enterprise [SDBE]) initiative) as well as Durham Public Schools. This effort has resulted in the attached position paper with accompanying recommendations.

Katrina English, Duke Law Intern, expounded on the following:
Legal Requirements

- Demonstration of a compelling governmental interest:
 - Identify past discrimination in the practices of government contracting and/or identify discriminatory practices aimed specifically at minority and women businesses within the contracting field.
 - Discrimination identified must have objective proof obtained through specific findings on the part of Durham County (i.e. a disparity study).
- Factual predicate to support all individuals/entities covered by the program:
 - Objective proof or specific findings must factually support the inclusion of all individuals and entities covered or affected by the program.
 - Scope of the program must be narrowly tailored to redress proven discrimination only.

Pamela Gales, Assistant Purchasing Manager and MWBE Coordinator, discussed the following:
Comparative Analysis of Minority Programs

Durham County

- M/WBE Program – Minority and Women Business Enterprises
- Focus on Minority and Women
- Certified by State HUB Office utilizing a centralized database

City of Durham

- SDBE Program – Socially Disadvantaged Business Enterprises
- Focus on small disadvantaged businesses with a net worth less than \$750K
- Certification done by City's Equal Opportunity/Equity Assurance Office and State HUB

How are Goals Set?

Durham County

- Established goals as a result of a Disparity Study completed in 2007
- Goal percentages range from 2.14% to 14.67%
- Goals are set for construction, services, & goods, if dollar value is > \$30,000 and requires competition
- Note: North Carolina State goals are set at 10% across the board and this goal is used by most State & Local Governments.

City of Durham

- Project specific goals – based on two or more available certified firms
- Percentage set by utilizing a unique formula for a particular project
- Goals are set for construction, services, and goods, if dollar value is > \$100,000 and have firms in their database
- Note: There are occasions where a project will have no goals set because no minority firms are in the City's database to perform the work

Staffing for Program Management

- ½ FTE Program Administrator
- Staffed under the Purchasing Division of the Finance Department

City of Durham

- Six people consisting of a Program Director, Senior Specialist, two Specialists, Executive Assistant, and Administrative Assistant
- A separate city department

Best Practices

- Establish a policy and top management support
- Develop a minority business development plan
- Establish comprehensive internal and external communication
- Identify opportunities for MBEs in strategic sourcing and procurement
- Establish tracking, reporting, and goal-setting mechanisms

Glen Whisler, County Engineer, continued the following:

Construction Delivery Methods

- Single Prime (SP)
- Construction Manager at Risk (CMR)

Single Prime (SP) Method

Pros:

- Lowest initial cost
- Bidding market is more favorable in a declining economy
- Maximizes the allocation of money to the building construction and not fees and general conditions

- More transparent process
- Allow for completion of construction documents
- Provides a single source of responsibility
- Own/Architect relationship stronger

Cons:

- Typically national firms with ability to cover bonds on large projects
- Construction typically starts later than County Manager delivered project
- Does not provide pre-construction services
- Harder to divide into packages

Construction Manager At-Risk (CMR) Method:

Pros:

- Able to start construction earlier (before construction documents are finalized)
- Easier to divide project into multiple packages or phases
- Generally has pre-construction participation, which assists in constructability and cost issues
- Generally attracts larger construction companies

Cons:

- Project can cost more (design and construction)
- Fees and general conditions not competitive
- Typically requires more administrative documentation
- Can require building scope reduction with no reduction in CM fees or general conditions

Laura Jenson, Assistant to the County Manager, gave the following presentation:

Durham Public Schools MBE Program

- Overall goal of 10% (based on State goals) for contracts awarded by DPS.
- Durham County M/WBE goals are used for school project contracts awarded by Durham County.
- DPS monitors participation by requiring monthly updates and records information in database. Quarterly participation reports are generated from the database.

Jacqueline Boyce, Purchasing Director, spoke about the following:

Lessons Learned

- Bonding & Licensing Issues
- Weakness in Statutory Requirements for Good Faith Efforts
- Advantages/Disadvantages in Single Prime versus County Manager at Risk Bidding Methods
- Unfairness in the Subcontractor Bidding Process (Bid Shopping).
- Payment Issues
- Need for better Contracting Relationships.

Mr. Davis concluded the presentation by providing the following recommendations:

- Average cost for a Disparity Study is approximately \$150K - \$300K
- Cost for City of Durham to operate their Equal Opportunity/Equity Assurance Office (of six people) is approximately \$530K per year which includes salaries, benefits, and operating expenses.
- Estimated cost for Durham County to operate an M/WBE Office (of three people) is approximately \$200K - \$340K per year

The Board and staff held discussions about the bidding process.

Chairman Page voiced his opinion regarding the lack of fairness with minority contractors.

Commissioner Bowser informed the Board about focal group discussions regarding minority contractors relating to single prime methods.

Mr. Davis pointed out commentary offers during the context of the focal group discussions. He mentioned the importance of utilizing the construction at-risk manager model as it relates to the single prime method.

Mr. Whistler spoke about change orders received for the Human Services Complex. He clarified that when the guarantee maximum price is given for the construction manual at-risk project, it includes a contingency for the unexpected conditions.

Chairman Page asked if the County had exhausted ways to improve the relationships to engage the smaller firms and how relationships with prime contractors developed.

Ms. Boyce discussed outreach efforts, resources, and building the database. She stated that without the resources, it is impossible to be comparable to the City. She mentioned that additional staff would provide the opportunity to dedicate the changes and time needed. She pointed out that a statewide certification database requires that Durham County utilize certified businesses.

County Attorney Siler spoke about past efforts to get with young entrepreneurs, contractors, and suppliers as it relates to bonding.

Commissioner Howerton shared her experience with trying to obtain a contract with Durham County.

Chairman Page expressed concerns about the lack of resources with running the office and cited budgetary implications.

Commissioner Heron expressed concerns about higher tax rates.

In response to Commissioner Bowser's question regarding an engagement relationship with DPS pertaining to MWBE, Ms. Boyce stated that DPS currently utilizes the County's construction

template, which includes the MWBE process that contains the same goals. She pointed out that DPS does their monitoring.

Chairman Page thanked staff on the report. He attempted to address a citizen's concerns regarding the Interlocal agreement.

Directives

1. Staff to put strategies together for the Board's consideration.
2. Consider recommendations for including increased resources, construction methods, and legislative changes.

Closed Session

Commissioner Bowser moved, seconded by Commissioner Howerton, to adjourn to closed session pursuant to G.S. § 143.318.11(a)(3) to consult with an attorney in order to preserve the attorney-client privilege and to discuss the case in the matter of IBM Credit Corporation Case No. COA 08-1514 (N.C. Property Tax Commission No. 01 PTC 544).

The motion carried with the following vote:

Ayes: Bowser, Heron, Howerton, and Page
Noes: None
Absent: Reckhow

Reconvene to Open Session

Chairman Page announced that the Board met in closed session; directives were given to staff; no action was taken.

Adjournment

There being no further business to come before the meeting body, Chairman Page adjourned the meeting at 2:00 p.m.

Respectfully submitted,

Angela M. Pinnix
Administrative Assistant
Clerk to the Board