

**REVISED**

**Item No. 2a added. Closed Session Item No. 7--G.S. § 143-318.11(a)(4) deleted.**

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

Monday, August 5, 2002

9:00 A.M. Worksession

**AGENDA**

**1. Citizen Comment?Mr. Jack Steer**

Mr. Jack Steer has requested time on the agenda to make comments to the Commissioners about the American Tobacco project.

**2. Waiver of Bidding Procedures for Previously Bid Contracts and Approval to Purchase Vehicles for Sheriff?s Office**

In October 2001, University Ford successfully completed a public, formal bid process required by N.C.G.S. §143-129. University Ford was awarded the contract to furnish vehicles to the County and is now willing to furnish the same type of vehicles at the same prices, terms, and conditions as those provided under the previous contract in FY 2001-02.

Pursuant to North Carolina General Statute §143-129(g), the governing board may waive the formal bidding procedures for the purchase of equipment, such as vehicles, if: (1) the vendor has successfully completed a formal bidding process in the past 12 months resulting in a contract to furnish equipment; and (2) is now willing to furnish the same equipment at the same price or more favorable price, terms, and conditions as those provided under the previous contract.

The statute also requires that a Notice of Waiver of Bidding Procedures be advertised for 10 days prior to the Board waiving the procedures under §143-129(g), which requirement has been satisfied. The purchase of vehicles with University Ford qualifies under this statute, and therefore allows the County to enter into a contract and proceed with the purchase of vehicles with University Ford without going out for a formal bid. If approved, the County would realize savings of at least \$31,500.00. The contract for the purchase of vehicles will be for 35 vehicles in the amount of \$747,148.50, or \$21,347.10 per vehicle.

The funding for this purchase was appropriated in the Equipment Leasing Fund.

The County?s required M/WBE participation for the purchase of vehicles is normally 6.27 percent with African Americans. No minority vendors in this area can provide new vehicles that meet the Sheriff Department?s needs: therefore, we normally receive a waiver for M/WBE participation in purchases of this nature.

Resource Person(s): Capt. R. D. Buchanan, Sheriff?s Office, and George Quick, Finance Director

County Manager's Recommendation: Suspend the rules, waive the bid procedures for previously bid contracts under N.C.G.S. §143-129(g), and authorize the purchase of vehicles from University Ford in the amount of \$747,148.50.

**2a. Discussion of Proposal for County Participation in the American Tobacco Project**

Negotiators for Durham County, the City of Durham, and the Capitol Broadcasting Corporation (CBC) have reached an agreement in principle on redeveloping the former American Tobacco facilities located in downtown Durham. The site represents a prime component of the County and City's efforts to revitalize downtown by linking the area between the Durham Freeway and the railroad right of way to the central business district. When complete, the overall project should represent a taxable investment by CBC of over \$127 million, 603,200 square feet of office space, 179,000 square feet of retail stores and restaurants, and 174,400 square feet of hotel and/or residential space. The development is estimated to bring 3,600 jobs into downtown Durham and will complement other future developments such as the new County Courthouse, the Performing Arts Center, and the Multi-Modal Transportation Center. The County's \$19.5 million contribution to the project will be used to help construct public parking garages.

**Resource Person(s):** Mike Ruffin, County Manager; Chuck Kitchen, County Attorney; Carolyn Titus, Deputy County Manager; George Quick, Finance Director; Pam Meyer, Budget and Management Services Director; and Glen Whisler, County Engineer

**County Manager's Recommendation:** The Manager recommends that the Board suspend its rules, approve the proposal in principle, and authorize staff to prepare the Business Deal Points and Development Agreement(s) in accordance therewith.

3. **Triangle Transit Authority?Presentation on the Financial Report**

Mr. Don Carnell, Interim General Manager, Triangle Transit Authority, will present the Triangle Transit Authority's Annual Report for the fiscal year ended June 30, 2001.

4. **Mental Health Reform?Governance**

The County Attorney will make a presentation regarding the October 1, 2002 deadline for notifying the State as to the governance model to be used for the provision of Mental Health services in Durham County. The Board of Commissioners will have the option of determining whether to continue with an Area Authority or creating a County Program to deliver services. The County Attorney will explain the differences among the various models; including liability and personnel.

**Resource Person(s):** Chuck Kitchen, County Attorney

**County Manager's Recommendation:** Receive the information presented by the County Attorney and give direction to staff.

5. **Benefits Renewal**

The Human Resources Department has put out its entire benefits package for bid. Based on responses to the RFP and input from the Benefits Committee, the Human Resources Department would like to make recommendations on health insurance, dental insurance, life insurance, short-term and long-term disability insurance, ancillary coverages and to present proposals for new out-of-pocket benefits, i.e. long-term care insurance and a prepaid legal plan.

**Resource Person(s):** Jackye Knight, Human Resources Director, and Debbi Davidson, Benefits Manager

**County Manager's Recommendation:** Provide input and directions to Human Resources staff in preparation of formal award of contracts to be placed on a future consent agenda.

6. **Report from County Attorney on Juvenile Court Appeals**

The County Attorney will report on three appeals which his office has taken from payment orders entered in District Court. Two of the cases, *In re Braithwaite* and *In re Gurley*, are pending cases in the Supreme Court; petitions for Writs of Certiorari have been filed in both cases. Since these cases are pending, only the procedural history will be discussed. The merits of the cases may be discussed in closed session.

The Court of Appeals did not decide, in either case, whether the District Court properly ordered the County to pay for the care of these two juveniles. Instead, the Court decided that it did not have jurisdiction to decide the case and the only review possible is by the Supreme Court. Following these opinions stating that the only review is by the Supreme Court, the County petitioned the Supreme Court to review the propriety of the orders in these two cases.

In general, the cost to the County to petition the Supreme Court (and normally to have a case reviewed by the Court of Appeals) is less than \$1,000. People have made statements that the County is spending far more than \$1000; however, they fail to recognize that the attorneys in the County Attorney's office are not paid the same rate as private attorneys.

The primary issue in any appeal is whether the trial judge committed reversible error. In reviewing cases involving payment orders in juvenile cases, the issue is not normally whether the juvenile needs treatment but whether State or County funds are used to make the payment. Or, in the appropriate case, the parents may be required to make the payments. These appeals are not personal attacks on the judge involved but instead question the propriety of the ruling. The third case, which was appealed with the above two cases, *In re Mercer*, is instructive in this regard. A copy of the Petition for a Writ of Supersedeas, which was filed in the Court of Appeals, illustrates the facts of the case. In this case, the statutory provisions were not followed by which the County could be ordered to pay for the juvenile's treatment. However, the trial court ordered the County to pay for treatment which was not appropriate under Medicaid regulations. The County was sent a bill in the amount of \$14,493.72 for this treatment. Subsequently, the State arranged payment of the costs in the amount of \$8,125.00. The facility accepted this amount as payment in full.

In the vast majority of juvenile cases, State monies have been available to pay treatment costs. When the proper procedure is followed, the juvenile may get the appropriate treatment, and the County is not required to spend the money of its taxpayers for this treatment.

Resource Person(s): Chuck Kitchen, County Attorney

County Manager's Recommendation: Receive the report of the County Attorney.

7. **Closed Session**

The Board of Commissioners is requested to adjourn to closed session to consult with an attorney concerning *In Re Braithwaite*, COA01-832, and *In Re Gurley*, COA01-833 and to consider the conditions of appointment of a public officer pursuant to G.S. § 143-318.11(a)(3) & (6).

8. **Settlement of 2001 Property Taxes**

As required by N.C.G.S. 105-373, the Tax Administrator is herewith submitting the settlement report of 2001 property taxes.

N.C.G.S. 105-373(h) further authorizes the Board of County Commissioners to relieve the Tax Collector of the charges of taxes on classified motor vehicles that are one year or more past due.

Additionally, the General Statutes bar use of any remedies for collection enforcement that is not instituted within ten years of said taxes becoming due.

The Tax Administrator requests authorization to relieve charges of taxes that are beyond the statute of limitation of ten years and those vehicles that are more than two years past due. This request is consistent with last year's settlement, which was authorized by the Board.

Resource Person(s): W. Steven Crysel, Tax Administrator

County Manager's Recommendation: Suspend the rules and receive and approve the 2001 Property Tax Settlement Report. Charge the Interim Tax Collector with 2002 Property Taxes. Authorize the relieving of taxes that are more than ten years past due and motor vehicles taxes that are more than two years past due.