

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

Monday, May 2, 2005

9:00 A.M. Worksession

MINUTES

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

Present: Chairman Ellen W. Reckhow, Vice-Chairman Becky M. Heron, and Commissioners Lewis A. Cheek, Philip R. Cousin Jr., and Michael D. Page

Absent: None

Presider: Chairman Reckhow

Chairman Reckhow noted Jack Steer's written comments regarding Durham Public Schools' budget, which he had placed at each Commissioner's station.

Proposed Reduction in Funding by Legislature

District Court Judge Richard G. Chaney stated that members of the Durham County Judiciary wished to address the Board concerning funding reduction for the courts in the State's proposed budget, including possible elimination of Sentencing Services, Family Court, Drug Treatment Court, District Court Arbitration, and District Attorney Investigator Position as proposed by the Joint House/Senate Justice and Public Safety Committee.

Judge Chaney addressed the Drug Treatment Courts (Adult, Family, and Youth), spoke of their successes, and informed the Board of the negative consequences that funding reduction would create. He summarized by saying that the Legislature is being shortsighted to propose these cuts because the programs are more cost efficient than the alternatives.

Judge Craig B. Brown highlighted Sentencing Services, Family Court, and District Court Arbitration, stating that these proposed cuts will have a serious negative impact on criminal and civil justice in Durham County and on the poor, the disadvantaged, and the addicted. He asked the County Commissioners to support a resolution opposing these cuts and asking the Durham County lobbyist in the General Assembly to oppose these cuts on behalf of the County.

At the request of Vice-Chairman Heron, Judge Brown stated that he would provide the Commissioners with information on court-related fines, fees, and costs and revenue distribution.

Commissioner Cheek moved, seconded by Commissioner Page, to suspend the rules to allow a vote on the resolution.

The motion carried unanimously.

Commissioner Cheek moved, seconded by Vice-Chairman Heron, to approve the following resolution:

RESOLUTION

WHEREAS, the joint House-Senate Justice and Public Safety Committee has released a list of Budget Reduction Options that include the elimination of Sentencing Services, Drug Treatment Court, Family Court, District Court Arbitration, and the District Attorney Investigator position;

WHEREAS, the proposed cuts will have a tremendous adverse, negative impact upon the administration of criminal and civil justice in Durham County;

WHEREAS, the Criminal and Civil Courts must have adequate resources to address the many criminal, substance abuse, mental health, domestic, employment, and educational and other problems confronted by the citizens of Durham county;

WHEREAS, these programs help the Courts by addressing multiple underlying problems rather than merely resolving the legal matter brought before the court;

WHEREAS, these cuts will have particular negative impact upon the poor, the disadvantaged, and the addicted, and further decrease their ability to become productive taxpaying citizens:

NOW, THEREFORE, we, the members of the Durham County Board of Commissioners, do hereby resolve that:

- 1) All members of the Durham delegation in the General Assembly be advised that the Durham County Commissioners oppose the elimination of Sentencing Services, Drug Treatment Court, Family Court, District Court Arbitration, and the District Attorney investigator position; and
- 2) The Durham County lobbyist be directed to lobby all members of the General Assembly to oppose all of these cuts, and further to inform the General Assembly that these programs save Durham County and the State of North Carolina money that would otherwise be spent for additional prison and jail facilities.

This the 2nd day of May, 2005.

/s/ Five Commissioners
Durham County Commissioners

The motion carried unanimously.

Chairman Reckhow announced that the resolution would be transmitted to Raleigh this afternoon. After the Board receives data requested by Vice-Chairman Heron from Judge Brown about the flow of revenue, the Commissioners may write a follow-up letter to General Assembly members.

Commissioner Cheek expressed pessimism that the resolution or letter would be beneficial. He requested that the County Manager include in the budget, or as an addendum to the budget, the cost for maintaining these programs on the local level, as well as other matters that have been discussed to enhance law enforcement. He voiced support for the continuance of these programs, enhancements for law enforcement, and the judicial system in Durham County; these must be budget priorities.

Vice-Chairman Heron dissented that the funds should come from the County's budget, expressing that funding should be provided by the State. The burden to support these programs should not be placed on the taxpayers.

Chairman Reckhow asked County Attorney Kitchen to communicate with Jim Blackburn, General Counsel, North Carolina Association of Counties, to determine the level of concern across the state in regards to the proposed funding reduction. She endorsed Vice-Chairman Heron's remarks that Judiciary networks should be used to communicate opposition to the cuts; this issue must be publicized.

Vice-Chairman Heron appealed to the press to report on local negative impacts of the proposed Legislative funding cuts.

Public Library Facilities Naming Policy

County Attorney Chuck Kitchen reviewed the main points of the proposed Public Library Facilities Naming Policy.

Ken Berger, Durham County Library Board of Trustees member, stated that the Board of the Directors of the Durham Library Foundation Inc.; the Campaign Cabinet for The Campaign for the Library—Branching Out; the Executive Board of the Friends of the Durham Library Inc.; Library administrators; and staff request that the Commissioners approve the proposed Public Library Facilities Naming Policy.

Background

In recognition of the fact that endowment and capital fundraising are essential elements of any strategy to create world-class library facilities, collections, services, programming, and resources for the citizens of Durham County, a group of library supporters created the Durham Library Foundation Inc. (Foundation) in 2000. Although the Friends of the Durham Library Inc. (Friends) began supporting the Library in 1968, the group's focus has

always been and continues to be short-term assistance. The Foundation and Friends are working in concert and complement one another perfectly in addressing both the current and long-term financial needs of the Library.

The Foundation immediately established an annual fund campaign that has raised more than \$180,000 over the past five years. It has used these funds to provide timely support both unilaterally and in partnership with the Friends for library programs, acquisitions, staff development, grant matching, and resources development. However, the Foundation realized the need to mobilize as quickly as possible for the purpose of creating larger, long-term funding pools that could be leveraged to support the Library family's future efforts toward creating a world-class library system.

The Foundation formed a fundraising subcommittee in the spring of 2003 and hired Capital Development Services (CDS), a fundraising consulting firm, to assist with the process of framing a major campaign. The subcommittee, which is now the Campaign Cabinet, includes some of Durham's most influential leaders. The Foundation Board, CDS, and the Campaign Cabinet have put in place the strategy for The Campaign for the Library—Branching Out, which received its first major gift late in 2003.

Early in its planning process and through the collective experiences of its members, the Campaign Cabinet understood that a naming opportunities strategy would be critical to the success of the fundraising effort. Cabinet members knew that this is common protocol of large fundraising efforts. Several potential donors had already expressed an expectation that a discussion of possible naming opportunities would be part of the negotiations for their pledges. Cabinet members worked with library administrators and CDS to identify those naming opportunities that would be made possible during the Campaign—primarily spaces within and on the grounds of the new regional libraries and the historic Stanford L. Warren Branch Library, which is currently undergoing “Restoration, Renovation, Renewal.” All parties involved quickly realized that no uniform naming policy existed to govern the process, should there be any attempt to add a naming opportunities element to the fast developing campaign. The Campaign Cabinet made the Foundation Board and the Library's Board of Trustees aware of this serious impediment to the use of a naming opportunities strategy.

The Foundation Board, the Library's Board of Trustees, the Friends' Executive Board, library administrators, and staff collaborated to prepare and endorse the policy, application documents, and agreements to govern all naming opportunities for the Durham County Library. The Library's Board of Trustees acknowledged that the process created has implications not only for the immediate campaign, but also for any future desire the community might express concerning the naming of spaces within and on the grounds of library facilities.

Chairman Reckhow announced that the vote on this policy would take place at the May 9, 2005 Regular Session of the Board. She asked Library Director Philip Cherry to convey appreciation to all persons who worked on the policy.

Continuing Review of Durham County's Ten Year Capital Improvement Program (CIP) for FY 2006-2015—Durham Technical Community College

Dr. Phail Wynn Jr., President, Durham Technical Community College (DTCC), made a presentation to the Board stating that DTCC respectfully requests an additional sum of \$5 million in its FY 2006-2015 capital improvement program starting in FY 2007-08. The current FY 2006-2015 request is for \$5 million, which includes \$4 million for the renovation and expansion of the George W. Newton building on Cooper Street and \$1 million (to match \$1 million in state bond funds) for expansion of the Northern Durham Center. This new request includes \$3 million for campus improvements and \$2 million for main campus expansion.

The successful November 2003 General Obligation Bond Referendum is providing a total of \$8.2 million to fund DTCC's CIP through FY 2006-07. The \$8.2 million includes \$3 million to match \$6.3 million in state bond funds for the student services center and \$5.2 million for general campus improvements. The campus improvements include renovating and upgrading the Edward L. Phillips and Nathaniel B. White buildings, campus parking expansion and improvements, and improving campus access to citizens with disabilities. These campus improvements are much needed due to aging, heavily used facilities, and student enrollment that has increased by almost 30% during the past four years.

Dr. Wynn reported that the first \$1.2 million of the funds for general campus improvements was budgeted for the purchase of nearby properties for student parking and for renovations and building improvements necessary to improve campus access. The remaining \$4 million was to be used for the White building (\$2 million) and the Phillips building (\$1.5-2 million). However, as master campus planning nears completion, the architects have determined that the cost of renovating and upgrading the White building may be closer to \$4 million. (The building was constructed in 1961.) The plan was to replace the facade, upgrade the main entrance, add restrooms, and replace the electrical and HVAC (heating, ventilation, and air conditioning) systems. Additional challenges involved in the project are asbestos abatement, foundation and structural repairs, and replacement of the entire roof. The additional \$3 million will enable DTCC to complete the renovations and upgrades necessary for the adaptive reuse of the White building.

Dr. Wynn continued by explaining the second part of the new request (\$2 million) for main campus expansion. Due to the recent expansion of the Collins building to add additional science classrooms and laboratories, the college must lease space off campus for displaced facility services functions. A critical need exists to acquire space to centralize facility services, shipping and receiving, security, motor pool, print shop, mailroom, and other related services. Two owners of different properties adjoining the main campus on Lawson Street have recently informed DTCC of the availability of the properties and their interest in selling. The requested \$2 million would allow for the purchase of either property and the repair and renovation of the building.

The Commissioners asked various questions of Dr. Wynn about the student population from Orange County and associated costs.

Commissioner Cheek informed the Board that he has served as DTCC counsel for the past 28 years; therefore, he will not participate in budget or capital outlay discussions. He thanked Dr. Wynn and his staff for providing the best community college in the state, if not the nation.

County Attorney Kitchen conveyed for Chairman Reckhow that when the Commissioners vote on the CIP or any substantial budget item, the DTCC portion need not be severed for Commissioner Cheek's benefit, since it is an incidental piece of a larger item. If a vote must be taken on a DTCC item only, a motion would then be in order to excuse Commissioner Cheek from voting.

Resolution of Support for Legislation to Reestablish a Mediation Center in Durham

Chairman Reckhow noted a Herald-Sun article that had been distributed by County Manager Mike Ruffin. In reference to the article, Chairman Reckhow requested that Grace Marsh, Executive Director of Women In Action Inc., inform the Board whether she has discussed the mediation issue with Carolina Dispute Settlement Services (CDSS) staff.

Ms. Marsh responded that she and CDSS Director Diann Seigle met about two years ago and failed to agree on ideologies.

Ms. Marsh proceeded to explain the request for the resolution of support for the initiative. Members of the Committee to Reestablish a Mediation Center in Durham are working with Rep. Mickey Michaux to request legislative funding for mediation services and to reestablish these services in Durham. With legislative funds, Women In Action plans to establish the Elna B. Spaulding Center for Dispute Resolution that will meet the conflict resolution needs of the Durham Community.

History of Dispute Settlement Center of Durham:

The Dispute Settlement Center was lead by Michael Wendt from the time it was founded in the early 1980s. The center operated using community mediation model which means its focus was not just mediation district court cases but serving as a resource to the entire community. It also meant that trained community volunteers handled the majority of the cases. The Center also provided training and used the volunteers to help with trainings also.

The Center had a strong commitment to using volunteers as a way to extend resources, promote community involvement, and encourage connections among individuals within Durham's diverse community. The Dispute Settlement Center's trained mediators and facilitators played an instrumental part in the success of the Durham school merger.

Utilizing trained facilitators and mediators, the Center was asked to conduct informational sessions with the public. They also conducted public forums where concerned citizens were allowed to ask questions of public officials about the merger.

Services that were provided by the Dispute Settlement Center of Durham:

In addition to lightening the caseload for the judicial system by providing an alternative way to settle disputes, the Center worked throughout the community to prevent conflicts,

enhance the skills of citizens to handle their own problems, strengthen relationships within and between community groups, and help people resolve issues before the courts were involved. A full range of services were provided including: Mediation—helping two individuals or small groups resolve a specific issue; facilitation—helping groups of people plan or discuss issues in ways that assured all views are considered; and training—enhancing the communication/problem solving skills of individuals or groups

Successes of Dispute Settlement Center:

- Merger of the City/County school system
- Mediation between gangs to diffuse potentially violent situations and keep students in school
- Public forums dealing with race relations
- Mediation between principals and parents
- Training to help teachers learn effective ways of handling disruptive students
- Settlement of personnel disputes within RTP companies and City and County government
- Training for public schools, businesses, universities, and hospitals in setting up their own conflict resolution programs
- Building bridges between neighbors of different ethnic backgrounds
- Training for police officers in mediation and community policing
- Resolving custodial, support, visitation, and property issues when couples are divorcing

Durham Dispute Settlement provided evening mediations four nights a week for cases referred by the DA so people would not have to miss work. DAs could refer cases any time during office hours. Carolina Dispute Settlement Services do not offer the extensive services named above.

Why did Dispute Settlement Center merge with Wake?

The merger was not with Wake but with Carolina Correctional Services (CCS). After a series of meetings with Diann Siegel and representatives of CCS, The Dispute Settlement Center of Durham merged with CCS in 1999. Ms. Siegel had already merged the Wake Mediation Center. She played a big part in convincing Durham that the merger would be beneficial. The purpose of the merger was to free the directors to handle programs while CCS sought additional funding and managed the finances. Durham's board agreed to the merger believing that it would lead to strengthening both centers and the services they provided.

Durham Dispute Settlement owned a building on Chapel Hill Road in Durham. After the merger, CCS sold the building at a profit of \$48,000. Durham Dispute Settlement moved into a small office downtown. After about one year, the Durham staff became disenchanted and resigned from the staff of CCS. Shortly afterwards, Wake Mediation Center decided to pull out from under CCS. When they left, they established themselves as Carolina Dispute Resolution Services, a regional center, and took the allocated funding for Durham. Unfortunately, the Durham community was not involved in the decision that Durham be serviced by Wake. Since the merger in 1999 and later the founding of Carolina Dispute

Settlement Center, mediation services for Durham have dwindled. Court services were reduced to two days per week while court is in session.

The Dispute Settlement Center of Durham used a proactive approach to mediating district court cases. They actually studied cases in advance and selected cases that were appropriate for mediation. After getting approval from the district attorney, the Durham Center scheduled mediations to meet the needs of the disputants. If the cases were resolved, they were dismissed by the district attorney in advance and did not tie up the court calendar.

After five years, the merger clearly has not worked. Durham no longer has extensive mediation services. Durham no longer intervenes in public issues to help resolve conflicts. Carolina Dispute Settlement Services activities include training NCCU law students (under a fee for service agreement at approximately \$72,000/yr) and two days per week in district court. The pool of Durham mediators no longer has the opportunity to get involved in resolving community and public issues.

What Durham Wants:

Former board members of the Dispute Settlement Center and other concerned community members have formed a committee to revive the Durham Dispute Settlement Center. They want to re-establish a Center that meets the needs of the Durham community operated by Durham citizens. During the merger, it was agreed that if the merger was not beneficial to Durham, they would divest and re-establish the Durham center. Durham has gathered community support to operate its own mediation center and requests that the legislated funding be returned to Durham July 1, 2005.

Commissioner Page encouraged Ms. Marsh to talk with Durham Public Schools about grievances regarding school suspensions, etc., which are very difficult to resolve; a neutral party could be valuable.

Commissioner Cheek stressed the need for checks and balances to ascertain that a mediation center would provide help, not interference.

The Commissioners asked questions involving the budget, volunteers, staff members, operating costs, additional funding sources, and racial diversity among the mediators.

Commissioner Cousin moved, seconded by Commissioner Page, to suspend the rules to allow a vote on the item.

The motion carried unanimously.

Commissioner Page moved, seconded by Commissioner Cousin, to approve the following resolution of support:

RESOLUTION

WHEREAS, The Dispute Settlement Center of Durham successfully operated as a mediation model that included Mediation, Facilitation and Training and helped prevent and resolve conflicts; and

WHEREAS, in 1999, the Dispute Settlement Center merged with Carolina Correctional Services, but in the ensuing years, the merger has not worked; and

WHEREAS, former board members of the Dispute Settlement Center of Durham, Inc., and other concerned community members have formed a committee to revive a mediation center in Durham; and

WHEREAS, the committee seeks to have the legislative funding (\$87,000) currently going to Carolina Dispute Settlement Services (formerly Carolina Correctional Services) be redirected to Women in Action for the Prevention of Violence and its Causes, specifically for the Elna B. Spaulding Center for Dispute Resolution; and

WHEREAS, reestablishing a center for conflict resolution within the Durham community, and particularly within this existing nonprofit agency, will allow increased efficiency through the pooling of resources and the sharing of operational expenses; and

NOW, THEREFORE, BE IT RESOLVED that we, the members of the Durham County Board of Commissioners, do hereby support the efforts of this committee to reestablish mediation services in Durham County, and join in asking Rep. Mickey Michaux to submit an appropriations bill in the North Carolina General Assembly to return state funds for mediation services in Durham County.

BE IT FURTHER RESOLVED that we call on other members of the Durham Delegation to work in appropriate committees to see that mediation funds are redirected to Women in Action.

This the 2nd day of May, 2005.

/s/ Five Commissioners
Durham County Commissioners

Commissioner Cheek stated that he would vote in favor of the resolution, while he emphasized the importance of success of the mediation center.

The motion carried unanimously.

Chairman Reckhow recognized community leader Melvin Whitley and thanked him for his work.

County Manager Ruffin remarked that Deborah Craig-Ray, Assistant County Manager, would transmit copies of the resolution to the Durham Legislative Delegation.

Report on Tax Increment Financing

County Attorney Chuck Kitchen gave an overview of the item. He stated that Tax Increment Financing (TIF) is used throughout the United States. North Carolina's system is much more limited than in many states. This new financing is available due to the passage of the Constitutional Amendment known as Amendment One. TIF is a Special Obligation Bond (SOB) where a county pledges revenue other than taxes to pay off the bond (a special obligation, not a general obligation). The money can be used for public improvements associated with private development projects, particularly for revitalization or redevelopment of a distressed area or for under-utilized property. The County's AAA Bond Rating is contingent upon the SOB being repaid.

County Attorney Kitchen gave a PowerPoint presentation on TIFs, explaining generalities in other states including the concept, criteria, mechanics, coverage, and positives and negatives. He then presented a detailed report on TIFs as they relate specifically to North Carolina law. Attorney Kitchen's presentation is highlighted below:

TIF Generalities

- The laws vary from state to state on the type of taxes (real property, tangible property, sales, utility, etc.) used to fund TIF districts. The state laws also vary on the designation of qualifying areas and types of investments approved for TIF usage.
- Depending on the specific state, the following investments might qualify: acquisition of land, new facilities, infrastructure improvements, production machinery, utility improvements, and other capital investments.
- TIFs may be used to finance direct grants or loans to a company or to provide the local match for federal or state economic development assistance programs.

Tax Increment Financing (TIF) Mechanics

- The tax base is frozen at the designated level and taxing units continue to receive tax revenues at the same level as the year the TIF is established.
- Increases in the appraised value of the property are the captured value or increment in the district.
- Cost of improvements to the area is repaid by the contributions of future tax increment revenues.
- Property owners pay taxes at the normal rate; there is "no extra charge" of any kind.
- Government entity takes the lead or is petitioned to implement.
- Can either be a geographic area or project specific.
- There may or may not be a governing body.
- There may be a requirement for development and financing plans.
- Length, dollar amount, type of financing, eligible usage and projects funded varies.

Public Policy Criteria

- “But for Test”
- Revitalize or Redevelop Distressed Area
- Catalyst for Area Redevelopment
- Under-Utilized Property
- Site Constraints
- Need for Public Improvements or Services
- Employment
- Government Bond Rating

Tax Increment Financing Bonds

- May or may not be secured by the “faith and credit” of either the city, county, or state
- The debt usually does not count against the constitutional debt limit
- The debt may be tax exempt if it satisfies certain criteria set out in the federal Tax Reform Act of 1986
- Different TIF structure schemes

TIF Draws

- Voter opposition to tax increases
- Local government has control once law is in place; plans not subject to state approval
- Flexibility in financing economic development projects
- Provides an improved tax base after the TIF debt is paid off
- Can provide needed capital to blighted areas and capital projects

TIF Drawbacks

- Program can be costly
- Where there is overlapping jurisdictions
- Fragmentation of tax base
- Spillover of costs to taxpayers outside the TIF
- Distribution of development
- TIF obligation may default because of :
 - Project level of development may not occur
 - Reached but with significant delays
 - Increment may drop or grow slowly

Highlights of TIF Legislation

District Creation

- A city may create a district in:
 - A redevelopment area, as defined in the urban redevelopment law; or
 - An area that is blighted, deteriorating, undeveloped, or inappropriately developed, or appropriate of rehabilitation or conservation activities, or appropriate for economic development. (limits outside CBA)
- County may veto creation of district by City.

- A county may create a district in an area that is blighted, deteriorating, undeveloped, appropriate for rehabilitation or conservation activities, or appropriate for economic development.
- Maximum life is 30 years.
- LGC must approve the district.

Purposes for which TIF may be issued

- Airport facilities
- Art galleries, museums, art centers, and historic properties
- Auditoriums, coliseums, arena, stadiums, civic centers, convention centers, and exhibition facilities
- Hospital facilities
- Housing for persons of low or moderate income
- Industrial parks, industrial or commercial land, or shell buildings
- Parking facilities
- Public transportation facilities
- Railroad corridor preservation
- Redevelopment
- Sewer systems
- Storm sewer systems
- Streets (only money necessary to bring a street up to state standards)
- Water systems

Security for TIF

- Increment – Property taxes on any incremental value associated with parcel in the district.
- Property Owner Agreement – Contract with an owner of property within the district where minimum valuation of the property is set. Agreement runs with the land and is recorded.
- Other Revenues – Pledge of other revenues of the county (except sales tax) as long as revenues do not arise from taxing power.

The County Attorney answered Commissioner questions regarding his presentation.

Chairman Reckhow recommended that City and County Managers and Attorneys meet to develop draft criteria and guidelines for TIFs and place on a future Joint City-County Committee meeting agenda.

Update—Department of Juvenile Justice and Delinquency Prevention

Donnie Phillips, Chief Court Counselor, provided an update from the Department of Juvenile Justice and Delinquency Prevention. He distributed booklets containing information about how the department was created, its mandates, and components. Mr. Phillips' overview focused on the Durham Court Services Unit, specifically the risk and needs assessment developed from data collected between January and June 2004 involving approximately 165 youth. The risk portion of the presentation compared Durham County youth to youth in all other counties within North Carolina pertaining to:

- risk levels
- age when first delinquent offense alleged in a complaint
- number of undisciplined or delinquent referrals at intake
- most serious prior adjudication
- prior assaults
- runaway from home or placement
- known use of alcohol or illegal drugs during past 12 months
- school behavior problems during the prior 12 months
- peer relationships
- parental supervision

The needs assessment piece focused exclusively on Durham County youth in the areas of:

- total needs
- peer relationships
- school behavior/adjustment
- general academic functioning
- substance abuse (prior 12 months)
- juvenile parent status
- history of victimization by caregivers or others
- sexual behavior (prior 12 months)
- mental health
- basic physical needs/independent living
- health and hygiene (excluding mental health conditions)
- conflict in the home (prior 12 months)
- supervision skills
- disabilities of parent, guardian, or custodian
- substance abuse within past three years by household members; and
- family criminality.

The Commissioners requested clarification and inquired about certain topics in Mr. Phillips' report.

Chairman Reckhow recommended that Mr. Phillips' report be made available to Dr. Ann Denlinger, Durham Public Schools Superintendent, and key school personnel (i.e., guidance counselors, social workers).

11:40 A.M.

Lunch and Tour of Improvements at Museum of Life and Science

The Board of County Commissioners recessed and reconvened at the Museum of Life and Science for a tour of improvements that are being undertaken using County bond funds. County Manager Mike Ruffin, County Attorney Chuck Kitchen, Assistant County Manager Deborah Craig-Ray, and Clerk to the Board Vonda Sessoms participated in the tour.

Tour guides were Barry Van Deman, President and CEO; Roy Griffiths, Vice President for Exhibits and Planning; and Julie Ketner Rigby, Vice President for External Relations. Jason Clayton, Director of Facilities, and Leslie Ray, Rentals Manager, were the drivers.

The Commissioners expressed appreciation to the Museum of Life and Science staff for their hospitality.

1:00 P.M.

Civic Center Management Agreement

Carolyn P. Titus, Deputy County Manager, introduced Rod Abraham, Chairman, Civic Center Authority Board; Carol Hammett, Assistant County Attorney; Julie Brenman, Budget Director, City of Durham; George Quick, Finance Director; Vice President Rob Hunden and Project Director Todd Gruen, both with C. H. Johnson Consulting Inc.

Ms. Titus made a presentation on a new Civic Center Management Agreement with the Shaner Hotel Group, owner of the Marriott Hotel. As co-owners of the Durham Civic Center, the City and County have jointly held a Management Agreement and a Catering Agreement for operation of the facility since it was built in 1987. The current contracts with the Shaner Hotel Group were entered into in 1999 and were due to expire on March 14, 2004. However, the agreements were extended through May 31, 2005 to allow time for an extensive restructuring of the contractual relationship.

Ms. Titus stated that during this period, a Civic Center Negotiation Team, comprised of City and County staff and Civic Center Authority Board members, evaluated and reviewed a number of aspects of the operations including a study of the facility space, an analysis of performance measurements and financial data. The Team then engaged the services of a convention consultant to analyze national civic center design models and best practices as well as assist in the negotiation of a new contractual relationship.

The Civic Center Negotiation Team members follow:

Civic Center Authority Board:

Mr. Rod Abraham, Chairman
Ms. Angie Elkins
Mr. Jimmy Gibbs

Durham County:

Carolyn Titus, Deputy County Manager
Carol Hammett, Assistant County Attorney
Charlie Hobgood, Internal Auditor
George Quick, Finance Director

City of Durham:

Sharon Laisure, Assistant City Manager
Sherri Rosenthal, Assistant City Attorney
Jay Reinstein, Assistant to the Manager
Christina Cates, Senior Budget Analyst
Harmon Crutchfield, General Services

The Management Team, over the past 18 months, has studied the four legal agreements (Management, Catering, Air Lease, and Interlocal) that bound the arrangement with the hotel operator, Alan Nester, Durham Hotel Company, in 1987. All agreements were assigned to Shaner Hotel Group in 1996, were renewed in 1999, and were due for renewal last year. It was discovered that the County has been a distant and silent partner, paying almost \$900,000 annually (\$383,380 in debt service and \$450,000 in civic center hotel operations).

The Management Team process:

- became familiar with legal documents
- collected event data
- collected and analyzed financial information
- examined the physical structure
- reviewed marketing plans
- reviewed lost business reports
- hired national experts – C.H. Johnson Consulting to:
 - review data and information
 - advise on the current agreement/relationship
 - present national models and best practices
 - advise through the negotiation process

What the Management Team found:

1. Tremendous responsibility vested in Civic Center Authority Board.
2. True economic development project for downtown - subsidizing hotel operations as it was viewed as too high risk for private developer - purposely designed as a joint operation between hotel and civic center.
3. Two of the agreements had 75-year terms and presented some limitations.
4. Most/all civic centers around the country lose money.

What the Management Team concluded:

1. It was not feasible to have a separate hotel operator from civic center operator - due to shared staffing, shared space and shared operations, AND loss of Marriott Flag.
2. Determined Marriott Flag was very beneficial; it brings national recognition and bookings; the standards required keep Marriott first class.
3. Shaner Hotel Company has put in over \$3 million to upgrade the facility to meet Marriott standards.

Ms. Titus relayed that the Negotiation Team is recommending that the current Management and Catering Agreements be combined into one, simplified agreement known as the Civic Center Management Agreement for a period of five years. The two other agreements

governing the Civic Center operation, the Air Lease Agreement and the City-County Interlocal Agreement, remain in full force and effect until their expiration 75 years from the project inception in 1987.

Attorney Hammett, Ms. Titus, Mr. Abraham, Mr. Hunden, Mr. Gruen, and Ms. Brenman reported the following:

Executive Summary: The City and County of Durham are co-owners of the Durham Civic Center, which is operated by the Marriott Hotel owner, Shaner Hotel Group Properties Two Limited Partnership. The current management and catering agreements are due to expire on May 31, 2005. Staff recommends that the County enter into a contract, in conjunction with the City of Durham, retroactive to January 1, 2005, with the Shaner Hotel Group for management of the Civic Center through December 31, 2009, with an option for formal renewals through 2014.

Under the proposed agreement, the owners (City/County) pay 100% of the expenses of operating the Civic Center, and receive 100% of the income derived from the Civic Center, with Shaner providing its services for a \$100,000 per year fee. This contrasts with the current arrangement in which actual income and expenses of the Civic Center are not easily determined; currently, the City and County are paying expenses of the Civic Center as reported by Shaner in addition to the agreed upon \$568,000 per year management fee. This arrangement has been in effect since the Civic Center's inception in 1987. The new proposed management agreement is estimated to reduce the City and County's net expenditures by \$198,000 annually.

Background: The Durham Civic Center was initially built by the City and the County as equal partners in an economic development project for downtown. The structure was designed and built with shared operational facilities between the hotel and civic center.

Negotiation Process: Over the past 18 months, a negotiation team of City staff, County staff, and Civic Center Authority Board members worked to develop a new agreement with the Shaner Group for management of the Durham Civic Center. As a part of the negotiation process, the team conducted an analysis of best practices related to fees and formulas for revenue and/or profit sharing related to the management of a civic center, catering services, and fees and formulas for revenue and/or profit sharing related to payments by the Management Company to the City under the Air Rights Lease. In addition, first-rate performance measures for the Management Company were developed; alternatives for utility metering were ascertained; and comparable hotel properties were examined to make operating cost comparisons.

The deal points underpinning the current agreements were developed almost twenty years ago when the economic climate in downtown Durham was considered high risk for investment. Today, the City and County recognize that the business climate in downtown Durham has seen significant improvement, which bodes well for assets such as the Marriott Hotel and the Durham Civic Center. The negotiation team, therefore, desired to normalize the City and County's relationship with the Management Company to reflect the change in economic conditions and to follow "best practices" in the industry. It was determined that

this shift in philosophy would require several cycles of renegotiated contracts before being complete.

The negotiation team recognizes that the Management Company has performed well during the term of their contract. Shaner invested over \$3 million to convert and modernize the hotel to obtain the Marriott flag in 1998. The upgrade to the Marriott Hotel has enhanced the efforts to market the Durham Civic Center with convention and event planners. In addition, the Shaner Group has made notable contributions to Durham's nonprofit community. The Negotiation Team concluded it would be in the City and County's best interest to retain the Shaner Hotel Group as the management company under the terms of a new agreement.

History of Civic Center Management: The Durham Civic Center opened in fall 1987. Legal Agreements between the City, County, and the Durham Hotel Company (Durham Omni) stipulated the responsibilities for each in terms of the operation of the Civic Center. Pursuant to an Interlocal Agreement, the City and County agreed to bear the costs equally, including development and construction and share equally in the revenues. The City and County were assigned interest in the Center in proportion to their respective equity investment payments. Initial interests in the Center were the City 81.35% and the County 18.65%. Since then, the County has made 18 annual payments of approximately \$383,000 to the City, resulting in a current equity share of 48.60%. In January 2006, the County will make its final payment to the City and receive an undivided one-half interest in the Civic Center.

The Durham Civic Center Authority Board was established June 1988 pursuant to the Interlocal Agreement. Appointments are made by the City Council and County Commissioners. The major responsibilities of the Authority Board are to:

- Review, evaluate and make recommendations with regards to financial and budgetary matters;
- Administer, oversee, and evaluate the performance of the management company and other associated contractors; and
- Formulate policies and procedures for the operation and use of the facility.

In 1996, The Shaner Group purchased the hotel, and with the City and County's approval, assumed the existing legal agreements as a condition of the purchase. The Shaner Group provides the following services for the Civic Center:

- Supervisory/Management services
- Advertising/Marketing/Reservations
- Food/Beverage Services
- Audio/Visual Equipment Leasing
- Concession Arrangements;
- Revenue forecast
- Fiscal management and accounting of management/catering/air lease agreements
- Supervise day-to-day maintenance, repair, and renewal
- Developing a capital needs schedule for use in upcoming budgeting.

Issues: The review of the legal agreements indicates a presumption that the owner/operator of the Hotel could be different from the catering contractor and the manager of the Civic Center. Based on an analysis of the Center and uniqueness of the Hotel's shared infrastructure, shared staffing, evaluation of mechanical systems, and review of comparable properties, it became apparent that separating management of the Civic Center from hotel operations would result in a higher cost and decreased quality of services.

The proposed Management Agreement limits the term of the agreement to five years, given the current market and feasibility study currently underway by the City and County. However, the Shaner Group would have preferred a longer term agreement to provide more stability and opportunity for return on their investment. The parties may mutually agree to extend the Management Agreement's term for up to five successive one-year periods.

Financial Issues: It is anticipated that the shift in management philosophy and subsequent restructuring of the contractual relationship will reduce the City and County's net expenditures for the Civic Center. However, actual dollar amounts are difficult to project at this time. Specifically, the proposed agreement is based upon the following:

Management Fee: Under the current agreements with the Shaner Group, funds are allocated in the current fiscal year to pay Shaner a management fee of \$568,000 annually. With the new agreement and by normalizing the arrangement based upon best practices, the management fee will be reduced to \$100,000 annually, with an annual CPI adjustment beginning July 2007.

Revenues: Under the current agreement, Shaner receives a significant portion of the revenues. The City and County share only 8% of food and beverage net. Under the proposed agreement, the City and the County will receive 100% of the revenues from the Civic Center.

Expenses: Under the current agreement, Shaner pays for most operational expenses through the 92% net food and beverage revenues as well as \$568,000 management fee. All capital expenditures are paid by the City and County. Under the proposed agreement, the Owner (City/County) is responsible for 100% of the expenses associated with the Civic Center pursuant to an approved budget. Shaner cannot not exceed, commit, or contract to expend any sums in excess of those amounts allowed in the approved budgets, without requesting a formal budget amendment by both the City and the County. The joint facilities require certain building and operating expenses to be shared by the hotel operation and the Civic Center. An allocation of Shaner's gross expenses for these shared functions is necessary to approximate equitable distribution of costs. The shared operating expenses will be based on percentage splits by the Shaner Group, the City and County (see Management Agreement Attachment A). These percentages were negotiated line by line based on best practices and industry standards for the type of facility management currently being provided for the Center. The estimated costs for the Owner's share are included in the new budget.

Debt Service: The debt service is not affected by the Management Agreement and continues to be the responsibility of the City and County.

The City has and will continue to serve as the primary fiscal agent in fund management and budget monitoring.

Recommendations

Agreement	Current Agreement	Proposal/New Agreement
Management Fee	\$568,000/year	\$100,000 year beginning July 1, 2007, annual percentage inflationary increase equal to CPI
Revenues	City/County get 8% net food and beverage (\$148,000); Hotel revenues 92% (\$1.68 million); all meeting room rentals, concessions, telephone, sleeping rooms	City/County keep all revenue including meeting rooms, commercial space, equipment rental, and telephone
Expenses	City/County pay all expenses; Hotel Operator determines share of hotel salaries and operations borne by civic center	Civic/County pay 100% civic center expenses based upon an annual budget submitted by Manager approved by City Center Authority including percentage share of hotel expenses explicitly agreed to
Capital Outlay	City/County provide monies through budget process to fund capital items annually	City-County provide monies through budget process to fund capital items annually, no change
Shared Space	Not addressed	Revenues now 100% ours, including concession, agreements
Working Capital	Shaner may request cash advance	Clause deleted, all expenses are paid through the approved budget or an amendment to the budget if deemed necessary
Performance Standards	Minimal	Set forth in detail including cleanliness, inspections, facility to be run in a first class manner, and security
Marriott Flag to maintain Marriott Int'l Franchise	No mention	Added as performance measure to ensure first class facility in downtown Durham

Chairman Reckhow and Vice-Chairman Heron voiced concern over the lack of incentives to maximize revenue.

(Vice-Chairman Heron and Chairman Reckhow requested that future attachments to agenda items be delivered to the Commissioners with the agenda packages on Wednesdays.)

Chairman Reckhow suggested that the Civic Center Authority provide an annual report to the Commissioners. Staff would work with the Authority to determine the optimal month for the report to occur.

Chairman Reckhow recommended, assuming this contract is approved, that the Civic Center Authority provide a follow-up document relating to how the contract will be implemented and monitored, the appropriate timing for the Authority and City Council to provide annual reports, etc.

The Commissioners decided to place the vote on the Civic Center Management Agreement with the Shaner Hotel Group on the May 9, 2005 Regular Session agenda.

Continuing Review of Durham County's Ten-Year Capital Improvement Program (CIP) for FY 2006-2015

Human Services Complex

Glen Whisler, County Engineer, gave background information prior to the update on the Human Services Complex CIP project. He stated that this project is to build a new Human Services Complex to house the Department of Social Services, Public Health Department, and The Durham Center (formerly Mental Health). This facility was included in the Durham County Facility Master Plan completed in 2000 and amended in 2003 to reflect the changes generated by the downsizing and reorganization of Mental Health.

On February 9, 2004, the Board authorized the County Manager to enter into a contract with The Freelon Group Inc. to provide professional services for the programming, master planning, and pre-design phase of the new Durham County Human Services Complex. This effort has been completed and the architect will provide an update to the Board. This phase involved a series of meetings with DSS, Public Health, and The Durham Center staff during the past year to determine space needs and facility requirements. In addition, three public stakeholder meetings were held on April 6, 2004, September 14, 2004, and April 20, 2005, during which County staff and the architects presented the status of the project and received input from concerned citizens. Comments were evaluated and many were incorporated into the master planning component of this project.

During programming, the current and future space needs of each building occupant was determined and used to develop the size of the building and parking requirements that will serve as the basis for design and construction. The total space requirement for the Human Services Complex is approximately 236,000 square feet, plus parking facilities for approximately 1250 vehicles to support the complex and other County facilities. This project is included in the approved Capital Improvement Plan (CIP) with an estimated project cost of \$62,176,259. A revised project cost for \$78,226,967 is reflected in the proposed CIP FY 06-15 update currently under review by the Board. Construction is scheduled to begin in FY 2007 and be completed in FY 2010.

This project consolidates delivery of human services and improves service delivery by providing adequate facilities for each agency along East Main Street. Following the Board's approval of the program and master plan, the next phase of the project is to execute an architectural design service contract for the complex.

Mr. Whisler acknowledged the following committee members who have met many times with the architect during the past year and spent a tremendous amount of time providing data and reviewing information: Wendell Davis, Deputy County Manager; Brian Letourneau and Gail Harris, Public Health Department; Chuck Harris, Sharon Hirsch, and Gary Meares, Social Services Department; and Ellen Holliman and Vivian Harris, The Durham Center.

Philip Freelon, President, The Freelon Group Inc., led the presentation by introducing his staff and thanking the Commissioners for the opportunity to be heard.

Zena Howard, Architect/Project Manager, The Freelon Group Inc., presented details about the yearlong process which started with programming (two phases—operations analysis and traditional programming).

Chairman Reckhow asked for more information as to why Freelon is projecting such a significant increase in Social Services staff (a 20 percent increase) by Year 2010. She also wanted a thorough explanation about the addition of many parking spaces to accommodate persons attending meetings in the meeting hall.

Vice-Chairman Heron questioned the need for a large meeting hall.

Mr. Freelon replied that the answer would be provided in detail in follow-up.

Rick Kuhn, Principal, The Freelon Group Inc., described the building and parking schemes. He conveyed that the important driver for the project was how to extend this project as a part of downtown and how this project becomes a catalyst for development and enlightening the main street corridor.

Chairman Reckhow suggested the consideration of a small eatery and/or picnic area for employees.

County Manager Ruffin stated that the land area across the street from the proposed structure must be acquired soon to keep the project on schedule. Staff will ask for a consensus from the Board within the next month to move forward with the acquisition.

County Manager Ruffin highlighted reasons for building the parking deck.

County Manager Ruffin stated that the goal is to eliminate the need for the land acquisition in the lower tract, which would result in a huge project savings.

County Manager Ruffin informed Commissioner Page that the complex would be built according to Year 2020 thresholds.

Commissioner Cheek suggested that staff and the consultants consider cost efficiencies regarding the parking deck; alternative parking during deck construction; and how quickly the spaces will be needed for the work being done at the Library.

The Board gave staff informal authorization to begin negotiations on the land acquisition.

Mr. Whisler stated that the Board would be provided several options for building exteriors as the project progresses.

White Cross Community Center

Mr. Whisler gave a brief report on the White Cross Community Center. The Board was requested to review the information on the White Cross Community Center located at 4514 Erwin Road and provide direction as to the future use or disposition of the property. The building was constructed in 1935, acquired by the County in 1936, and has not been used for approximately 25 years.

Mr. Whisler stated that this matter was previously considered by the Board on January 7, 2002. At that time, staff was directed to research community use of the building. An advertisement was published in The Herald-Sun on June 23, 2002. No comments or inquiries were received as a result of the advertisement. The Historic Preservation Society of Durham (HPSD) indicated an interest in preservation of the building and recommended that it should be adapted for reuse as a residence. John Compton, Executive Directive of HPSD, recently indicated that HPSD remains interested in assisting with preservation of the building. There has also been recent interest in the property by adjacent owners. The condition of the property is declining, particularly the kitchen and bathroom addition at the rear of the building.

Chairman Reckhow asked about water and sewer service.

County Attorney Kitchen and the Board discussed various scenarios for future use and/or disposition of the property.

Vice-Chairman Heron suggested that the White Cross community be informed that the County is considering disposition of the property.

Chairman Reckhow suggested that the County Manager schedule a meeting involving Mr. Whisler, the Historic Preservation Society, and the community within the next two weeks at Forest View Elementary School. The sale of the community center should be placed on the Board's agenda for May 23 or June 13. She also recommended that County Attorney Kitchen, County Manager Ruffin, and General Services work together to determine what must be done to make the building safer in the interim.

Holton School

Chairman Reckhow announced that a meeting was held on Saturday morning with PAC 1 representatives who expressed excitement about the reuse of the building. She asked for Board discussion and input regarding the \$4 million in Contingency, which could be the Board's contribution to the building. The Board may direct a detailed assessment of the building to determine renovation costs for a vocational technical school in one part and a community center in the other part (in conjunction with the City).

After discussion, the Board concurred to leave the \$4 million in Contingency and expressed a willingness to continue to study the issue.

CIP (continued)

County Manager Ruffin stated that the vote on the Capital Improvement Program would be placed on the May 23 agenda. The entire document with the changes would be transmitted to the Commissioners.

Vice-Chairman Heron requested a revised Financial Model reflecting the changes each year to determine the impact on the County's tax rate.

Adjournment

There being no further business, Chairman Reckhow adjourned the meeting at 4:24 p.m.

Respectfully submitted,

Vonda C. Sessoms
Clerk to the Board