

Durham-Orange Transit Governance Study
DCHC MPO TC ILA Adoption Memo – November 16, 2022
From: Adam Howell, AICP, Atkins

Coordination across multiple agencies, jurisdictions, and stakeholders to achieve a specific goal requires clear direction and guidance. In 2021, through a partnership between Orange and Durham Counties, a need was identified for new Interlocal Agreements and supporting policies and procedures to be developed that reflected the priorities of updated transit plans. These sets of documents are to consider new or refined roles and responsibilities among the partners through a joint process. The primary partners include the County, DCHC MPO and GoTriangle. This study kicked off in August 2021 and aligns with each County's transit plan update schedule for adoption of a new ILA and subsequent approval of supporting policies and procedures.

Project Goals

Goals were identified early on through a joint conversation between County representatives. Travis Myren & Tom Altieri participate for Orange County; Ellen Beckmann participates for Durham County. Critical aspects for this study to accomplish were identified to be:

- To create a clear, operationally efficient governance structure that ensures that Durham and Orange Counties' priorities are funded and implemented with the County transit taxes and fees.
- To form new levels of accountability, that includes development of an equitable set of processes which seek to gain community trust.

To achieve the identified needs and goals, the Counties, DCHC MPO and GoTriangle selected Atkins to conduct this study. Atkins also partnered with Fountainworks during the first 10 months of the study to help facilitate joint stakeholder dialogues.

State Enabling Legislation

There are key State Statutes that inform the purposes of this governance study:

- **N.C.G.S Chapter 160A** defines how a government body exists. A portion of this chapter (**Article 26 – 'Regional Public Transportation Authority Act'**) defines how such a body functions to support public transportation services.
- **N.C.G.S Chapter 105** defines how a government body is enabled to raise and provide revenue for necessary uses and purposes. A portion of this chapter (**Article 43 – 'Local Government Public Transportation Sales Tax Act'**) defines how such revenues can be raised for the specific purpose of public transportation services and associated governance oversight.
- **N.C.G.S. Chapter 153A** defines enumerated powers and responsibilities for County's, but also defines the County role with levying revenue sources to support public transportation services (property tax assessment only).

Study Process

After the study kickoff, the process included two parallel tracks. The first is to review existing governance structures with respect to transit plan implementation/administration, both within the counties, as well as peer organizations (i.e., Wake County). The second is to develop a policies and procedures manual, which will be a set of support documents to guide detailed elements of each county's transit plan implementation efforts. The process to date has included the following major actions:

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Initial Stakeholder Interviews (Sept-Oct '21) – discussions with nearly 70 individuals from all local jurisdictions and regional coordinating agencies across Durham & Orange Counties that share an interest in public transportation investment. Goals of the interviews were to capture needs, wants and desires for how a new governance framework should serve the local and regional communities within and across the two counties.

Joint Elected Officials Workshop (Nov '21) – Facilitated a half-day forum, which included elected officials from each County and each local municipality within each County, to build on the Initial Stakeholder Interviews and begin to quantify desired level of change to be made on major elements that support a governance framework. A majority of elected officials in attendance indicated that there should be some aspect of change with almost every element highlighted. Such elements included:

- changing the structure to allow for more collaboration between municipalities within each County (*83% indicated more collaboration was needed*),
- defining a significant change in voting representation (both for governing board roles & responsibilities, as well as staff representation on the technical recommending body, the Staff Working Group; *100% indicated some level of change from existing framework regarding voting representation*), and
- defining how the annual budget development and decision-making process meet the desired change for greater representation (*67% indicated that some level of change was necessary to better define/guide the annual budget development and decision-making process*).

Wake County Transit Program Peer Interview (Dec '21) – learned from neighboring peer to the east, Wake County, regarding successes and challenges relative to the governance framework supporting the Wake County Transit Plan/Program.

Alternatives Development (Jan-Feb '22) – alternative concepts for consideration in a new governance framework were reviewed and developed.

Joint Staff Workshop #1 (Mar '22) – Facilitated a half-day workshop with staff from each of the four coordinating organizations (Durham & Orange Counties, DCHC MPO and GoTriangle), as well as staff from City of Durham/GoDurham, Town of Chapel Hill/Chapel Hill Transit and Orange Public Transit. This workshop focused on 17 proposed alternatives (each with a proposed recommendation) for consideration across 5 major elements that should comprise a transit plan governance framework, including Membership, Voting Structures, Financial Planning, Multi-Year Plan Development, and Annual Work Program Development.

Joint Staff Workshop #2 (Apr '22) – Facilitated a two-hour workshop with same staff representation as the Joint Staff Workshop #1. This workshop focused on 6 proposed alternatives (each with a proposed recommendation) for consideration across the 5 major elements from the first workshop.

Legal Roundtable (Jun '22) – Facilitated a two-hour discussion with legal representation from both Durham & Orange Counties as well as GoTriangle. Key staff were also invited, including DCHC MPO leadership.

Individual Organization Discussions (Jul-Aug '22) – Facilitated individual discussions with leadership from each of the four partner organizations to review major outstanding issues realized from previous workshops and roundtables to allow for final ILA and supporting policies & procedures development.

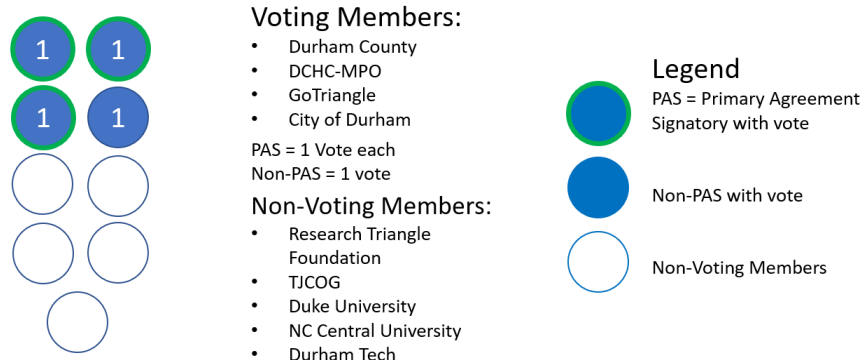
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ILA & Policies & Procedures Development (Sep-Oct '22) – Development of a new comprehensive Interlocal Agreement to meet the needs of all parties. Also began development of supporting policies and procedures to guide implementation needs, including Master Participation Agreements (formally bringing local jurisdictions in each County to the table), New Staff Working Group (SWG) Bylaws (technical recommending body for transit plan implementation), Financial Policies & Procedures, Lead Agency Assignments and a new Master Schedule that suggests annual process to meet new elements defined in the ILA.

Primary Outcomes of the Study:

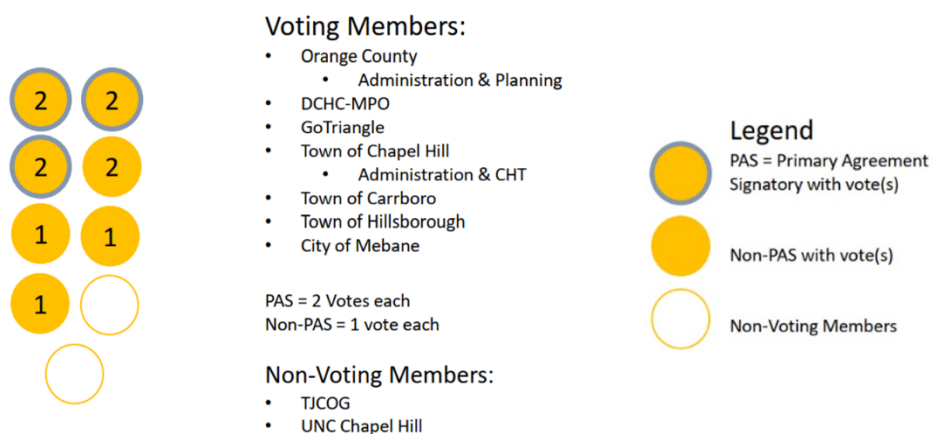
The new governance framework was developed around the following five goals: Representative, Equitable, Collaborative, Transparent, and Accessible.

Membership to the Durham County SWG & Associated Voting Structures



Quorum of this group involves a minimum of 3 voting members present.

Membership to the Orange County SWG & Associated Voting Structures



Quorum of this group involves a minimum of 7 voting members present

Purpose: The addition of the City of Durham as a voting member of the SWG provides for greater municipal representation and collaboration.

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Voting on Annual Work Program & Budget Approval Process

1. Durham/Orange County BOCC will receive SWG recommended Annual Work Program to approve; may approve or deny with technical corrections. If denied, SWG will correct and bring back a second time for approval.
2. GoTriangle Board of Trustees will take action to approve upon BOCC approval and may approve or deny with technical corrections.
3. If disagreement occurs between the two boards, an Interim Work Program may be authorized to allow continuation of all operating services from prior year (capital projects would freeze).

The addition of a requirement for the Durham/Orange County BOCC to approve the Annual Work Program, in addition to GoTriangle, provides for greater local representation in budget decisions, strengthens accountability to the residents of Durham County, and enhances collaboration between the two boards.

Agreement Development & Expectations

1. All parties shall endeavor to develop Master Capital/Operating Agreements to define the scope, funding, responsibilities, schedule, and performance expectations for projects.
2. MPO shall be a party to any project involving federal or state funds they manage or of regional significance.
3. Durham/Orange County shall be party to any type of agreement where GoTriangle is also the project sponsor
4. GoTriangle shall be a party to every agreement as the tax district administrator
5. The SWG will determine appropriate agreement structure and signatories for special case needs and projects of significant cost.
6. Required elements to define agreements shall be further detailed in the supporting Master Participation Agreement.

A Master Participation Agreement defines the responsibilities and expectations for project sponsors who receive Transit Plan funding. Capital and operating agreements will provide further specificity on the scopes, funding, responsibilities, schedules, and performance expectations for projects as needed. These agreements will provide greater collaboration with project sponsors and enhanced clarity, transparency, and accountability to the public and to the governing boards.

Reporting Expectations

1. An annual report shall be delivered to all parties of the ILA no later than December 15th of each year.
2. An Enhanced Q2 Financial and Project Status Report shall be delivered to all parties of the ILA no later than March 15th of each year.
3. Quarterly Financial Reports for Q1 and Q3 shall be delivered to all parties of the ILA no later than 45 days after the close of each of these quarters.
4. Reporting expectations and templates are to be further developed and negotiated by the SWG per indicated dates in the ILA.

The addition of reporting expectations will allow for improved transparency and accountability to the public and the governing boards on plan implementation.

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Delineation of Funding Sources & Supplantation Limitations

1. ILA endeavors to clearly define what funding sources this ILA governs:
 - a. Article 43 Half-Cent (0.5 percent) Sales and Use Tax
 - b. Article 51 Three-Dollar (\$3) increase to GoTriangle Regional Registration Fee
 - c. Article 52 Seven-Dollar (\$7) County Vehicle Registration Fee
 - d. Vehicle Rental Tax *(to accommodate future shifts of what this funding source will support, language has been included to acknowledge that it is under the control of the GoTriangle Board of Trustees and any future allocations of such funding are at the sole discretion of the GoTriangle Board of Trustees)*
2. Supplantation means the opportunity for parties to this agreement to use certain funding sources to replace existing funds or other resources for public transportation systems.
 - a. Local Funding Source that allows supplantation: the County Vehicle Registration Tax (N.C.G.S. 105-570) which is levied at its maximum amount of \$7.00 per year;
 - b. Local Funding Sources that do not allow supplantation:
 - i. Local Government Sales and Use Taxes for Public Transportation (N.C.G.S. 105-506:514) which is levied at its maximum allowable rate of one half percent *(non-supplantation cited in N.C.G.S. 105-507.3.b)*;
 - ii. Regional Transit Authority Registration Tax (N.C.G.S. 105-560:569) which is levied at its maximum amount of \$8.00 per year with \$3.00 of each \$8.00 collected allocated locally to Durham County *(non-supplantation cited in N.C.G.S. 105-564)*.

The definition of funding sources provides clarity on the resources available to support existing transit services and to implement new services. The language provides flexibility to decide how to equitably address financial needs of local and regional transit agencies while adhering to state statutes.

SWG Adherence to Public Meetings/Records Laws

DCHC MPO is currently designated as the administrator/convener of the SWG through June 20, 2023. The SWG will recommend to the three governing boards for approval which organization will administer/convene the SWG starting in FY24,. The administering/convening organization and all SWG members will adhere to North Carolina public meeting laws, as it is recognized as an ‘administrative and advisory arm to the parties’ of the ILA. This reference is found in state statute, N.C.G.S. 143-318.9:18, Article 33 of Chapter 143, “Meetings of Public Bodies.”

The definition of the SWG as a public body provides greater transparency and allows for more public participation in decision-making process.

Additional Documents in Development:

Following the approval of the ILA, the following supporting documents will be finalized and brought forward for review or approval:

- Master Participation Agreement – Approved by Durham/Orange County, DCHC MPO, GoTriangle, and the City of Durham
- Financial Policies and Procedures – Approved by Durham/Orange County, DCHC MPO, and GoTriangle
 - Includes:

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- Operating Fund Balance and Liquidity Policy and Guidelines
 - Capital Fund Balance Policy and Guidelines
 - Billing, Payment, and Reimbursement Policy and Guidelines
 - Debt Policy and Guidelines
 - Work Program or Multi-Year Vision Plan Amendment Policy
 - Increased Cost of Existing Services Policy
- Staff Working Group Bylaws – Approved by Durham/Orange County, DCHC MPO, and GoTriangle
- Lead Agency Assignment and Master Schedule – Reviewed by Durham/Orange County, DCHC MPO, and GoTriangle