

MINUTES OF MECKLENBURG COUNTY BOARD OF COMMISSIONERS

MAY 1, 2007

5:00 P.M.

**NORTH CAROLINA
MECKLENBURG COUNTY**

The Board of Commissioners of Mecklenburg County, North Carolina, met in Informal Session in the Meeting Chamber Conference Room of the Charlotte-Mecklenburg Government Center located at 600 East Fourth Street at 5:00 p.m. and in Formal Session in the Meeting Chamber of the Charlotte-Mecklenburg Government Center at 6:00 p.m. on Tuesday, May 1, 2007.

ATTENDANCE

Present: Chairman Jennifer Roberts and Commissioners
Karen Bentley, J. Daniel Bishop, Dumont Clarke
H. Parks Helms, Bill James, Norman A. Mitchell, Sr.
Dan Ramirez and Valerie C. Woodard
County Manager Harry L. Jones, Sr.
County Attorney Marvin A. Bethune
Clerk to the Board Janice S. Paige

Absent: None.

-INFORMAL SESSION-

Commissioners Bishop, Ramirez and Woodard were absent when the meeting was called to order and until noted in the minutes.

The meeting was called to order by Chairman Roberts, after which the matters below were addressed.

(1A) STAFF BRIEFINGS - NONE

(2A) CLOSED SESSION – A) LAND ACQUISITION, B) BUSINESS LOCATION AND EXPANSION, C) PERSONNEL MATTER AND D) CONSULT WITH ATTORNEY

Prior to going into Closed Session, Nancy Brunnemer with Real Estate Services announced the following land acquisition matters to be discussed in Closed Session:

- Tax Parcels 075-043-31 and 075-043-32 on Jennings Street
- Tax Parcel 005-142-10 at 9617 Westmoreland Road

Commissioner Clarke left the meeting and was away until noted in the minutes.

County Attorney Bethune noted that one of the Consult with Attorney matters concerned the Adelphia Bankruptcy Proceedings, also that one of the Personnel Matters had to do with a civil lawsuit filed by former Department of Social Services employees Lynn Becker and Brenda Jackson.

Motion was made by Commissioner Bentley, seconded by Commissioner Mitchell and carried 5-0 with Commissioners Bentley, Helms, James, Mitchell, and Roberts voting yes, to go into Closed Session to discuss A) Land Acquisition, B) Business Location and Expansion, C) Personnel Matter and D) Consult with Attorney.

The Board went into Closed Session at 5:20 p.m. and came back into Open Session at 6:20 p.m.

Commissioners Bishop, Clarke, Ramirez, and Woodard were present when the Board came back into Open Session. They entered the meeting during Closed Session.

(3) REMOVAL OF ITEMS FROM CONSENT

The Board identified items they wanted removed from consent and voted upon separately. The items identified were Items 11, 12, 15, 16, and 17.

The Board then proceeded to the Meeting Chamber for remainder of the meeting.

-FORMAL SESSION-

Invocation was given by Commissioner James, which was followed by the Pledge of Allegiance to the Flag, and then introductions; after which, the matters below were addressed.

PROCLAMATIONS AND AWARDS

(1A) GERALD G. FOX EMPLOYEE OF THE YEAR AWARD

The Board recognized the winner of the Gerald G. Fox Employee of the Year Award.

John McGillicuddy, General Manager and interim Human Resources Director, introduced Ken Colbert, president of The Employers Association, a Charlotte based non-profit organization, who then announced the winner of the Gerald G. Fox Employee of the Year Award, **Rodney Sellars**.

Mr. Sellars is a recreation coordinator/supervisor at the Mecklenburg County Aquatic Center. He has been employed with the Park and Recreation Department for 15 years and is responsible for developing swimming programs for youth, coaching a variety of programs, teaching aquatic safety and supervising the lifeguards.

He is the 44th annual recipient of the Employee of the Year award. He was nominated by his peers and was presented with a plaque and a monetary award in the amount of \$600. His name will also be engraved on a permanent marker in the Charlotte-Mecklenburg Government Center.

Note: The Gerald G. Fox Employee of the Year award is named in honor of former County Manager Jerry Fox. It recognizes an employee whose contributions exceed what is required in the job. This year, the monetary award was doubled from previous years, thanks to a sponsorship grant from The Employers Association.

(1B) WORLD ASTHMA DAY AND ASTHMA AWARENESS MONTH

Motion was made by Commissioner Mitchell, seconded by Commissioner Woodard and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to proclaim May 1, 2007 as World Asthma Day and May 2007 as Asthma Awareness Month in Mecklenburg County.

The proclamation was read by Commissioner Bentley and received by Dr. Wynn Mabry, Health Director. Dr. Mabry was joined at the podium by Asthma Management Nurse for the Health Department School Health, Beth Burton, NFL Player, Chris Draft, CMS student, McKenzie Smith, each of whom made comments about the importance of Asthma Awareness.

A copy of the Proclamation is on file with the Clerk to the Board.

(1C) MENTAL HEALTH MONTH

Motion was made by Commissioner Clarke, seconded by Commissioner Ramirez and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to recognize May as Mental Health Month and May 8, 2007 as National Children's Mental Health Awareness Day.

The proclamation was read by Commissioner Clarke and received by Grayce Crockett, Director of Area Mental Health.

A copy of the Proclamation is on file with the Clerk to the Board.

(1D) DRUG COURT MONTH

Motion was made by Commissioner Woodard, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to recognize May as Drug Court Month.

The proclamation was read by Commissioner Woodard and received by the Honorable Judge Hugh Lewis and the Honorable Judge Regan Miller, who were joined by Drug Court staff.

A copy of the Proclamation is on file with the Clerk to the Board.

(2) PUBLIC APPEARANCE

The following persons appeared to speak during the Public Appearance portion of the meeting:

Martin Davis addressed the Virginia Tech tragedy, the abortion rate, and the recent democratic Presidential debate that took place at South Carolina State University in Orangeburg, South Carolina.

Rev. Willie Simpson addressed the upcoming "WeeKare Festival" to be held on May 12, 2007. He asked Board members for their support by either volunteering and/or to make a financial contribution. Rev. Simpson also asked that consideration be given to placing a miniature basketball court in Progress Park for small children during the "WeeKare" Festival and hopefully on a permanent basis.

Commissioner Woodard asked Rev. Simpson to contact her regarding his request.

(3) APPOINTMENTS

AIR QUALITY COMMISSION

Motion was made by Commissioner Helms, seconded by Commissioner Ramirez and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to appoint Mark Everett Brown to the Air Quality Commission as the Health Profession representative for a three-year term expiring August 31, 2010; Keith Long to fill an unexpired term expiring August 31, 2008 and Robert Statnick to fill an unexpired term expiring August 31, 2009.

They are replacing Karen McMillan and Anthony Tindall and filling a vacant slot.

BUSINESS EXPANSION AND FUNDING CORPORATION

Motion was made by Commissioner Clarke, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to appoint Mark Yacovetta to the Business Expansion and Funding Corporation for a three-year term expiring April 30, 2010.

He is filling a vacant slot.

DOMESTIC VIOLENCE ADVISORY BOARD

The vote was taken on the following nominees for appointment to the Domestic Violence Advisory Board:

Brenda Adams	None
Tyyawdi Baker	Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard
Melissa Behrens	Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard
Marage Blakeney	Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard

Voting Ceased

Shakeya Davis
Christy Hunt
Pat Kelly
Iva Lawson
Yvonne McJetters
Javonda Peay
Nazanin Rostam-Abadi

Chairman Roberts announced the appointment of Tyyawdi Baker to the Domestic Violence Advisory Board for a three-year term expiring April 30, 2010 and Melissa Behrens and Marage Blakeney to fill unexpired terms expiring October 5, 2007.

They are replacing Betty Marlin, Judy Marshall, and Julie Owens.

PUBLIC HEARINGS

(4A) BRYTON PROJECT

Commissioner Bishop asked to be excused from participating in the discussion of and voting on the proposed Bryton Project to avoid a conflict of interest.

Motion was made by Commissioner James, seconded by Commissioner Ramirez and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to excuse Commissioner Bishop from participating and voting on the proposed Bryton Project to avoid a conflict of interest.

Commissioner Bishop left the dais and was away until noted in the minutes.

Motion was made by Commissioner Ramirez, seconded by Commissioner Woodard and carried 8-0 with Commissioners Bentley, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to continue the public hearing from the April 17, 2007 meeting to receive comments regarding financing public improvements associated with the proposed Bryton Project.

General Manager Bobbie Shields and County Attorney Marvin Bethune addressed this matter.

Note: Project Bryton is a planned mixed-use development that is proposed for the southeastern corner of the Town of Huntersville. The project will be situated on an approximately 425-acre site

east of Old Statesville Road and Hambright Road intersection. The development program for this project contemplates approximately 1,000,000 square feet of retail, 1,200,000 square feet of business park, 100,000 square feet of medical office, together with 2000 residential units (single family, multifamily, condominium and townhomes).

The construction for the retail is projected to begin in the third quarter of 2007 with the first phase completed in 2008. The total build out for the retail is projected to take 10 years. The construction for the business park is projected to begin in the third quarter of 2007 with the first building completed in 2008. The total build out for the business park is projected to take 15 years. The construction for the single family is projected to begin in the first quarter of 2008. The total build out for the single family is projected to take 7 years. The construction for the multi-family/condominium/townhome product is projected to begin by the end of 2007 with the first project completed by the end of 2008. The total build out for the multi-family / condominium / townhome product is projected to take 10 years.

Mecklenburg County plans to issue Bryton Debt in an amount not to exceed \$31,620,000 to finance those public improvements and to pay issuance costs and financed interest as permitted by the County's special counsel. The County will use its best efforts to enter into the Bryton Debt no later than March 30, 2008. The Owners agree to be responsible for any shortfall in the semi-annual debt service payments and to grant security for the payments, as required. Per the attached Interlocal Cooperation Agreement, the Town of Huntersville is committing to reimburse the County for the Town's pro-rata portion of Bryton Debt.

The Owners will engage American Asset Corporation to construct the public improvements. They reserve the right to apply excess funds based on any Town-approved elimination or reduction in scope to Town-approved alternate public road projects that serve the area and provide public benefit. In the event that there are more Bryton Debt proceeds than necessary for the above purposes, the County shall use such proceeds for payment of principal or interest on the Bryton Debt.

Due to the Bryton site ownership arrangement and the individual Owner's Bryton Debt repayment obligations, Mecklenburg County and the Owners agreed to draft the Developers Agreements as three (3) separate agreements with the only differences between the Agreements being the Owners' names, percent of total site ownership, and similar factual information, as applicable. The Agreement between Mecklenburg County and AAC Retail is attached and is representative of all three Agreements.

Generally, the disbursement of Bryton Debt proceeds and responsibilities for debt repayment are as follows:

- Mecklenburg County will determine whether the aggregate incremental taxes from all districts of the Bryton Project will equal or exceed the sum of debt service payments due during a given Fiscal Year. On or before December 31 of the same given fiscal year, the Owner must pay its proportionate share of any shortfall between the aggregate incremental taxes and the debt service payments - Section 3.2(a).
- Upon request by Mecklenburg County, the Owner must grant to the County a first lien on parcels held by the Owner within its District as security for its payment obligations - Section 3.3.
- The Owner will be allowed to "release" parcel(s) of land within its district from the security obligation if the value of the unreleased parcel(s) equals or exceeds one hundred fifty percent (150%) of its proportionate share of the principal balance – Section 3.7.
- The Owner shall have no future debt service payments obligation to Mecklenburg County when the incremental taxes generated in the Owner's district are sufficient to cover payment of its principal and interest – Section 3.6.

Attorney Bethune clarified that the actual amount of the debt would be closer to \$35 million. He said the maximum amount of funds that would be provided to the developer to construct the

improvements is the \$31.6 million, but that there will be some capitalized interests and issuance costs, so the total debt is closer to \$35 million.

The following persons appeared to speak in opposition of the County's participation in the Bryton Project:

Neal Howes said he views the Bryton Project as "corporate welfare." Mr. Howes said a town meeting was not held on the new figures associated with the Bryton Project. Mr. Howes concluded by saying there are other needs in the community that need addressing. He said in north Mecklenburg facilities are needed for seniors, troubled youth, and domestic violence victims.

Chris Bakis said he lives on the east side of Charlotte and that he made a request, along with others, to the MTC that the Independence corridor get light rail. He said the northern town mayors voted against it and instead voted for the Independence corridor to receive bus rapid transit. Mr. Bakis said if bus rapid transit is good enough for the Independence corridor, then it's good enough for the North corridor also. He said going with bus rapid transit for the northern corridor would save money.

The following persons appeared to speak in favor of the Bryton Project:

Sarah McAulay, Huntersville Town Board of Commissioners, said the Huntersville Town Board voted unanimously to endorse the concept of the Bryton Project and supported a request that the Mecklenburg Board of Commissioners approve the Resolution authorizing the County Manager to execute an Interlocal Cooperative Agreement with the Town of Huntersville and to execute Developer Agreements with Bryton Town Center Limited Partnership (AAC Retail), Bryton Corporate Limited Partnership (AAC Office), and Bryton Investments (BI).

Commissioner Ramirez left the dais and was away until noted in the minutes.

David Jones, Legal Counsel for the developers of the Bryton Project
Jerry Broadway, Executive Director Lake Norman Regional Economic Development Corporation

Commissioner Ramirez returned the dais.

Jack Simoneau, Planning Director for the Town of Huntersville
David Carol Project Manager with Charlotte Area Transit

Motion was made by Commissioner Mitchell, seconded by Commissioner Bentley and carried 8-0 with Commissioners Bentley, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to close the public hearing regarding financing public improvements associated with the proposed Bryton Project.

Commissioner Bentley asked the developers were they concerned about their ability to market Bryton and secure tenants in the event light rail doesn't come north. *The response by Paul Herndon with American Asset Corporation and Jim Medall with Rhein-Medall Communities was that from the beginning everything was done without transit contemplated in the project. Further, that the only contemplation of transit is if it's a place for a future rail stop. It was stated that the rail line has to be moved because of improvements that are needed now for Hwy. 115 to make the schools in the area safe. Further, that Hwy. 115 needs to be widen regardless of what project occurs and that moving the rail line accommodates that and it's also good planning for future transit.*

Commissioner Bentley said she plans to support Bryton because of the following reasons:

- The "but for" test because it's very clear that if Project Bryton is not approved, then New Village will be looked at, which is a significantly higher impact on schools
- Project Bryton minimizes the impact on schools
- The infrastructure improvements are needed

- That with respect to the economic model and what the developers are willing to do and what staff has designed that the numbers are good
- She's trusting that the developers economic projections are not dependent upon transit.
- She feels this project will be tremendous for Huntersville and the area
- The project brings diversification, which is needed in this part of the County.

Commissioner Ramirez expressed concern about a development that is occurring in Kannapolis. He said when the economic model and projections were presented one thing he noted was the influx of people that would be living in northeast Mecklenburg County as a result of the development in Kannapolis. He said the numbers projected are close to 20,000 – 25,000 people. Commissioner Ramirez said this would be good for Bryton's residential, but he is concerned about the impact of the Kannapolis development on this part of the County, especially the schools.

Commissioner Ramirez said sometime in September the Centralina Economic Development Committee will hold a summit addressing the issue of the influx of people into Mecklenburg County as a result of the development in Kannapolis, which will impact schools, infrastructure, and transportation.

Commissioner Ramirez asked the developers to comment on the impact of Bryton on the school system. *The response was that the projected student generation as a result of Bryton is approximately 50%. It was noted that the New Village project would have a greater impact on the school system compared to the Bryton Project.*

Commissioner Ramirez asked the developers to contact him regarding the upcoming summit. He said he would like for them to attend because it's for all of the stakeholders in the area.

Motion was made by Commissioner Ramirez, seconded by Commissioner Helms and carried 8-0 with Commissioners Bentley, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to adopt a Resolution authorizing the County Manager to execute an Interlocal Cooperative Agreement with the Town of Huntersville and to execute Developer Agreements with Bryton Town Center Limited Partnership (AAC Retail), Bryton Corporate Limited Partnership (AAC Office), and Bryton Investments (BI).

**MECKLENBURG COUNTY
BOARD OF COUNTY COMMISSIONERS**

RESOLUTION

**AUTHORIZING THE MECKLENBURG COUNTY MANAGER TO EXECUTE THE
BRYTON PROJECT AGREEMENTS**

WHEREAS, *The Town of Huntersville and Mecklenburg County have been working with Bryton Town Center Limited Partnership (AAC Retail), Bryton Corporate Center Limited Partnership (AAC Office), and Bryton Investments (BI) to prepare Developer Agreements for a proposed Bryton Project to be located in Town of Huntersville, which Project would include certain public improvements (i.e., rail realignment, existing public road improvements, and public thoroughfare road extension); and*

WHEREAS, *under Article 20 of Chapter 160A of the North Carolina General Statutes (the "Interlocal Act"), municipalities and counties are authorized to enter into interlocal cooperation undertakings with other units of local government for the joint exercise, or the contractual exercise by one unit for another unit, of any power, function, public enterprise, right, privilege, or immunity of local governments in North Carolina; and*

WHEREAS, *the Town and County have determined that the development is likely to generate more than enough additional tax revenue for the County and the Town to pay debt service on Bryton Project debt to be issued by the County; and*

WHEREAS, *the County and the Town want to enter into this undertaking under the Interlocal Act for the purpose of cooperating in the accomplishment of the Bryton Project and*

the incurrence of the Bryton Debt; and

WHEREAS, N.C. Gen. Stat. 160A-461 requires that such Interlocal Agreements “be ratified by resolution of the governing board of each unit spread upon its minutes”, now, therefore

***BE IT RESOLVED** by the Mecklenburg Board of County Commissioners, in regular session duly assembled, that the Bryton Project Agreements (the Interlocal Agreement between the Town of Huntersville and Mecklenburg County with respect to accomplishment of the Bryton Project and the incurrence of the Bryton Debt, the Developer Agreement between Mecklenburg County and Bryton Town Center Limited Partnership, the Developer Agreement between Mecklenburg County and Bryton Corporate Center Limited Partnership, and the Developer Agreement between Mecklenburg County and Bryton Investments) are hereby approved and the County Manager is hereby authorized to execute such Agreements in substantially the form presented to the Board of Commissioners with technical corrections and minor modifications as he may deem necessary consistent with the spirit and intent of the transactions, and that this resolution shall be spread upon the minutes.*

Resolution recorded in full in Minute Book 43-A, Document # _____.

Commissioner Bishop returned to the dais.

(5) ADVISORY COMMITTEE REPORTS – NONE

MANAGER’S REPORT

(6) MECKLENBURG COUNTY’S 2008-2010 STRATEGIC BUSINESS PLAN

Motion was made by Commissioner Woodard, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to approve the next three-year Mecklenburg County 2008-2010 Strategic Business Plan, as presented by staff.

Leslie Johnson, Planning & Evaluation Director presented the Plan.

Note: Mecklenburg County’s Strategic Business Plan sets the short-term direction for achieving the long-term goals identified on the Community & Corporate Scorecard. The plan also serves as the framework for aligning services and making budgetary decisions. The current three-year business plan expires at the end of FY2007.

A copy of the Plan is on file with the Clerk to the Board.

CONSENT ITEMS

Motion was made by Commissioner James, seconded by Commissioner Woodard and unanimously carried, with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to approve the following item(s) with the exception of Items 11, 12, 15, 16, and 17 to be voted upon separately:

(7) APPROVAL OF MINUTES

Approve minutes of Regular Meeting held April 17, 2007, Budget/Public Policy Meeting held April 10, 2007, and Closed Session meeting held April 17, 2007.

(8) TAX REFUNDS

Approve refunds in the amount of \$16,898.83 to be made by the Finance Department as requested by the Tax Assessor resulting from clerical errors, audits and other amendments.

A list of the refund recipients is on file with the Clerk to the Board.

(9) STORM WATER FEE – MAJOR SYSTEM – SET PUBLIC HEARING

Set a public hearing on May 15, 2007 at 6:30 p.m. on a proposed increase in the Major System component of the Storm Water fee.

(10) STORM WATER FEE – MINOR SYSTEM – SET PUBLIC HEARING

Set a public hearing on May 15, 2007 at 6:30 p.m. concerning the proposed increase in the Storm Water fee for the minor system inside the City of Charlotte.

(13) CONTRACT FOR DISPOSAL OF SOLID WASTE AT THE SPEEDWAY LANDFILL – LUESA

Approve the Amended and Restated Contract for Disposal of Solid Waste By and Between Mecklenburg County and Charlotte Motor Speedway Landfill, LLC.

(14) AREA MENTAL HEALTH AUTHORITY THIRD QUARTER FY 2007 REPORT

Recognize and receive the Third Quarter 2007 Area Mental Health Authority Report.

Finance

	Revenues		
	Budgeted	Actual	%
	Revenues	Revenues	Received
Revenue Source			
Medicaid	\$15,392,379.00	\$6,912,074.00	44.91%
Medicaid-CAP	544,000.00	406,966.00	74.81%
State and Federal	34,965,666.00	16,065,658.00	45.95%
Third Party/Other	229,957.00	106,387.00	46.26%
Grants	4,058,462.00	1,243,601.00	30.64%
County	40,100,894	25,423,076	63.40%
Total Revenues	\$95,291,358.00	\$50,157,762.00	52.64%

	Expenditures		
	Budgeted	Actual	%
	Expenditures	Expenditures	Spent
Service Continuum			
Children's Developmental Services	\$6,881,748.00	\$4,322,578.00	62.81%
Child & Adolescent Services	20,211,961.00	6,039,225.00	29.88%
Adult Mental Health	7,695,720.00	3,063,072.00	39.80%
Adult Substance Abuse	12,202,737.00	7,144,886.00	58.55%
Local Management Entity	11,929,756.00	7,154,955.00	59.98%
BHC Randolph	16,926,785.00	12,376,538.00	73.12%
Developmental Disabilities	19,442,651.00	10,056,508.00	51.72%
Total Expenditures	\$95,291,358.00	\$50,157,762.00	52.64%

Note: In accordance with General Statute 122C-115.1(e), within 30 days of the end of each

quarter of the fiscal year, the program director of the county program shall present to each member of the Board of County Commissioners a budgetary statement and balance sheet that details the assets, liabilities, and fund balance of the county program. This information shall be read into the minutes of the meeting at which it is presented. The program director of the county program shall provide to the Board of County Commissioners ad hoc reports as requested by the Board of County Commissioners.

A copy of the report is on file with the Clerk to the Board.

(18) FUNDING ADJUSTMENT – AREA MENTAL HEALTH AUTHORITY

1) Recognize, receive and appropriate State funds in the amount of \$241,819 from the Mental Health Trust Fund for MH Community for fiscal year 2007, and authorize the carry forward of any unused funds to fiscal year 2008.

2) Recognize, receive and appropriate State funds in the amount of \$41,895 from the Mental Health Trust Fund for MH Community to be received in fiscal year 2008.

(19) CLEAN AIR ACT, SECTION 103, SPECIAL PURPOSE FEDERAL GRANT – LUESA

Approve the submission of a supplemental revision to the County’s Section 103, Special Purpose federal grant application; and upon award of grant, recognize, receive and appropriate the Section 103 grant award.

(20) VOICEMAIL SYSTEM REPLACEMENT – IST

Approve replacement of current meridian voicemail system with a State of the art voicemail system provided by Call Coverage Inc.

(21) GOVERNMENT DISTRICT PARKING DECK – RETAIL TENANT LEASE

Adopt the resolution entitled “Mecklenburg County Board of Commissioners Resolution Authorizing Lease of Property to Thomas and Linda Hamilton, Owners of Down to the Bone Restaurant.”

Resolution recorded in full in Minute Book 43-A, Document # _____.

(22) PRIVATE SANITARY SEWER EASEMENTS

Authorize the County Manager to negotiate and execute sanitary sewer easements with Charter Properties for the Long Creek Club Apartments development.

(23) OGBURN PROPERTY ACQUISITION – LITTLE SUGAR CREEK

Approve purchase of +/- 0.22-acres of Tax Parcel # 125-213-28 at 1347 Harding Place for \$39,100 from Harold L. Ogburn.

Note: The subject property forms part of the stream bank of Little Sugar Creek between Baxter Street and Morehead Street. Acquisition of this land is critical for the Little Sugar Creek stream restoration project and for the Little Sugar Creek Greenway. In addition to being encompassed within the midtown stream restoration area, this property is also the site of the proposed Little Sugar Creek pedestrian bridge crossing.

(24) LAND EXCHANGE WITH MORNINGSIDE VILLAGE, LLC

Adopt a resolution authorizing the County Manager to negotiate, execute and implement the exchange of +/- 1.2522 acres of Tax Parcel 129-021-02 (Veterans Park) for +/- 3.3137 acres comprised of portions of Tax Parcels 129-022-04 thru -15, 129-037-01, -02, and -04 with Morningside Village, LLC.

Note: This land exchange will accommodate the Morningside Village redevelopment project by (i) allowing for the realignment of Iris Drive to create a four-way intersection with Hanover Street and McClintock Road, (ii) allowing for the development of on-street parking on McClintock Road adjacent to the park boundary, and (iii) facilitating the construction of a sidewalk at the interface of the eastern park boundary and the mixed-use development. The land exchange will benefit the County through the developer-funded design and construction of a greenway trail along Briar Creek Tributary, the landscaping of this new linear park area, and the removal of a small parking lot from the southwest corner of Veterans Park.

Resolution recorded in full in Minute Book 43-A, Document # _____.

THIS CONCLUDED ITEMS APPROVED BY CONSENT

(11) ADDITIONAL SMART START FUNDING – HEALTH DEPARTMENT

Motion was made by Commissioner Woodard, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to recognize, receive and appropriate \$27,332 from the Smart Start North Carolina Partnership for Children for three contract Health Check Coordinators.

Note: The Smart Start of Mecklenburg County will fund three contract Health Check Coordinators (HCC) from April 1 – June, 2007 to provide education, support and community outreach for high-risk populations to facilitate enrollment of Medicaid eligible children 1 to 5 into the Health Check and Health Choice Programs. These two Medicaid programs provide benefits to children based upon the family level of poverty.

Commissioner Woodard removed this item from Consent for more public awareness.

(12) RYAN WHITE TREATMENT MODERNIZATION ACT OF 2006, PART A – HEALTH DEPARTMENT

Motion was made by Commissioner Woodard, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes to:

- 1) Recognize, receive and appropriate \$2,854,516 from the U.S. Department of Health and Human Services, Health Resources and Services Administration under the Ryan White Treatment Modernization Act of 2006.
- 2) Approve the carry forward to the next fiscal year of any unspent grant funds at June 30, 2007.
- 3) Approve the creation of three new positions, a grants manager and two contract coordinators, to administer this grant.
- 4) Approve the allocation process involving regional participation in accordance with Health Resources and Services Administration of the US Department of Health and Human Services guidelines.

Commissioner Woodard removed this item from Consent for more public awareness.

Motion was made by Commissioner Woodard, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to approve Items:

(15) FREEDOM MALL RENOVATIONS – PHASE 1, MODULAR FURNITURE

Award a contract in the amount of \$1,494,187.08 to Knoll, Inc. for the renovation project at Freedom Mall, Phase 1, Modular Furniture.

(16) FREEDOM MALL RENOVATIONS – PHASE 1, TELECOMMUNICATION MATERIAL

Award a contract in the amount of \$289,499.96 to Gray Bar, Inc. for the renovation project at Freedom Mall, Phase 1, Telecommunication Material.

(17) FREEDOM MALL RENOVATIONS – PHASE 1, PROVIDE SEATING CONTRACT

Award a contract in the amount of \$145,512.37 to Haworth, Inc. for the renovation project at Freedom Mall, Phase 1 Seating.

Commissioner Woodard removed these items from consent to inquire about MWBE participation and to get clarification on the use of the term “qualified,” with respect to the modular furniture contract award.

Doug Buchanan with Real Estate Services said the use of the word “qualified” was a mistake and that it should be “certified.” He was joined at the podium by Todd Wilson with Carolina Business Interiors, the distributor that has been chosen by Knoll, Inc. for modular furniture.

Mr. Wilson said his company wants to be pro active in looking for a certified vendor and that they have worked with Mr. Buchanan and Teresa McDow, MWBE Coordinator to achieve this. Mr. Wilson said they have an existing partner that is a certified minority vendor that they have used for years to assist them in work of this nature. He noted that this particular vendor has been in touch with Ms. McDow.

Commissioner Woodard said it’s important that the County continues to put forth a “good faith” effort.

(2A) CLOSED SESSION – LAND ACQUISITION

Motion was made by Commissioner James seconded by Commissioner Ramirez and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to approve the purchase price of \$300,000 for Tax Parcel 005-142-10 at 9617 Westmoreland Road to be acquired from Janice and Kermit Mayhew for the Washam Elementary School Site as requested by Charlotte-Mecklenburg Board of Education.

STAFF REPORTS AND REQUESTS

(27) LAND SWAP INTERLOCAL AGREEMENTS WITH CMS AND CITY OF CHARLOTTE

General Manager Bobbie Shields addressed the proposed Land Swap Interlocal Agreements with Charlotte-Mecklenburg Schools and the City of Charlotte.

Note: On November 2, 2006, County Manager Jones sent a letter to City Manager Pam Syfert proposing an alternative approach to the implementation of the land swap concept that was first

introduced by Michael Smith, President of Charlotte Center City Partners. In order to execute the land swap, the revised plan contemplated that Mecklenburg County would assume primary responsibility for developing the necessary agreements with its public and private sector partners. The primary reason the County Manager suggested an alternative approach to the land swap proposal was to give Mecklenburg County more control over the implementation schedule and the activities associated with construction of the new park in Third Ward.

On December 12, 2006, the Board received a detailed report, which among other things outlined Mecklenburg County's six-year effort to build the Third Ward urban park as indicated in the County's 2015 strategic objectives. The accompanying PowerPoint presentation included a slide that summarized the new Mecklenburg County tax revenue expected after completion of projects enabled by the land swap. By 2010, new development around the proposed Third Ward Park will generate approximately \$11.5 million of new county taxes. The first phase of the Second Ward redevelopment (Brooklyn Village) will generate approximately \$2.0 million in new county taxes.

On March 20, 2007, the Board voted to ask the City of Charlotte to remove final baseball agreements as "conditions precedent" to executing a City/County Land Swap Interlocal Cooperation Agreement. The City agreed and the resultant Land Swap Interlocal Agreement is attached for Board approval. City Council is expected to vote on the final Agreement during its May 14, 2007 meeting. Concurrent with preparing the Agreement with the City, County staff worked with CMS staff to prepare the attached Land Swap Interlocal Agreement between the Charlotte-Mecklenburg Board of Education and Mecklenburg County. That Agreement establishes terms by which the Board of Education would convey the BOE Office Building Site to the County in exchange for more suitable replacement office space which (i) has a fair market value equal to or greater than the fair market value the BOE Office Building Site which has been determined by appraisal to be \$14,900,000 and (ii) provides equivalent or better utility to Charlotte-Mecklenburg Schools staff. The Board of Education is expected to vote on the final Agreement during its May 8, 2007 meeting.

Also on March 20, 2007, the Board directed the Manager consider the potential financial impacts to Mecklenburg County as a result of implementing a modified "land swap" implementation strategy and make the appropriate operating and capital requests as part of his FY-2008 budget recommendations. By approving the two attached land swap interlocal agreements, the Board would enable the land swap transactions, subject to affirmative votes by the Board of Education and the City of Charlotte and approval necessary capital requests. Actual land transactions, including a land exchange between Mecklenburg County and Spectrum/Mass Mutual could be completed before the end of July 2007.

Comments:

Commissioner Helms spoke in support of the land swap Interlocal Agreements. He said moving forward with these transactions will be of tremendous value to the community.

Commissioner James said he did not see in the draft agreement, section 2.02, where the City of Charlotte agrees to allow the County to sale Spirit Square. *The response was that the County is not required or prohibited from selling Spirit.*

General Manager Shields noted that there is a committee looking at the issue of Spirit Square and that an update is forthcoming.

Commissioner James said his problem with the land swap is the amount of public money that's going into a sports facility.

Commissioner James said he could not vote for Item 27 or 28 because in his opinion they're related or linked because the agreement references baseball. Commissioner James said further that he doesn't think it's legal for the Board to do the Third Ward "deal."

Commissioners Clarke and Mitchell spoke in support of the Land Swap and said there are tremendous benefits as a result of doing this. Commissioner Clarke noted that the County would be getting two "wonderful" parks as a result of this.

Commissioner Bishop said it remains “unclear” to him that government needs to lead developments; and that government needs to envision how portions of the city should develop and act as a “market maker” to see to it, that a transaction like that occurs. Commissioner Bishop said he feels the private market is capable of doing that without government involvement. He said the County does have a role in the provision of parks and should do that and do it well. He also questions the infrastructure investments.

Commissioner Ramirez said he supports the Land Swap, but he does have some concerns. Those being that when he voted for this previously, it was a “good” deal for the County. He said the Knights were going to build the stadium using their own funds and proceeds from the sale of portions of Spirit Square were going to be used to build the infrastructure, no County funds were going to be used. He said that Item 28 on the agenda, however, is asking that the Knights borrow the money for the infrastructure and that the County would in turn repay them back in the form a tax relief, which he’s okay with. However, this means County tax dollars will be used to fund the infrastructure. He said he has suggested to fellow Board members that as soon as the County sells portions of Spirit Square, those funds should be used to pay for that infrastructure as originally planned.

Commissioner Bentley said she would like something in writing saying that the County does plan to sell Spirit Square as initially proposed. *The response was that it would probably be a year from now before staff could provide that because there’s a process that has to be followed.*

General Manager Shields said also that it could be that the sale of Spirit Square would generate zero net proceeds. He said staff does not know the answer because it’s going through that process now, the process of looking at the best future for that site.

Commissioner Ramirez questioned the “zero net” proceeds comment by General Manager Shields.

General Manager Shields said no one knows this yet because of the process that’s going on, and that it’s not wise to reach conclusions before going through the process.

General Manager Shields noted that signing these interlocal agreements and doing the land exchanges in of itself is not contingent upon a baseball stadium, however the expectation is that Mecklenburg County have good faith effort to achieve baseball. He said some the agreements will be coming back to the Board for further action.

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and carried 6-3 with Commissioners, Clarke, Helms, Mitchell, Ramirez, Roberts, and Woodard voting yes and Commissioners Bentley, Bishop, and James voting no, to adopt a Resolution authorizing the Chairman to execute Land Swap Interlocal Agreements with the Charlotte-Mecklenburg Board of Education and the City of Charlotte.

**MECKLENBURG COUNTY
BOARD OF COUNTY COMMISSIONERS**

RESOLUTION

**AUTHORIZING THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS TO
EXECUTE LAND SWAP INTERLOCAL AGREEMENTS WITH CHARLOTTE-
MECKLENBURG BOARD OF EDUCATION AND CITY OF CHARLOTTE**

WHEREAS, under G.S. 160A-461, units of local government may enter into interlocal cooperation undertakings with each other for the contractual exercise by one unit of local government for the other unit of local government of any power, function, public enterprise, right, privilege, or immunity of local government; and

WHEREAS, pursuant to G.S. 160A-274, any governmental unit may, upon such terms and conditions as it deems wise, with or without consideration, exchange with, lease to, lease from, sell to, or purchase from any other governmental unit any interest in real or personal property; and

WHEREAS, in 2002, the Charlotte-Mecklenburg Board of Education, Mecklenburg County Board of Commissioners and the Charlotte City Council adopted the Second Ward Neighborhood Master Plan; and

WHEREAS, the County has executed a Memorandum of Understanding with Spectrum Investment Services and Cornerstone Real Estate Advisors for the development of Brooklyn Village in the Second Ward of Center City Charlotte; and

WHEREAS, pursuant to G.S. 115C-518, the Board of Education desires to convey tax parcel # 12507120 to the County in exchange for more suitable replacement office space which (i) has a fair market value equal to or greater than the fair market value the BOE Office Building Site which has been determined by appraisal to be \$14,900,000 and (ii) provides equivalent or better utility to Charlotte-Mecklenburg Schools staff; and

WHEREAS, the County has executed a Memorandum of Understanding with Knights Baseball, LLC for the development of a minor league baseball stadium in the Third Ward of Center City Charlotte; and

WHEREAS, the City desires to convey certain real property to the County at no cost to the County to assist in both the development of Brooklyn Village, a Third Ward park and development of a minor league baseball stadium in Center City Charlotte; and

WHEREAS, the County desires to assign its future ownership interest in the Wachovia Cultural Facilities to the City at no cost to the City;

WHEREAS, N.C. Gen. Stat. 160A-461 requires that such Interlocal Agreements “be ratified by resolution of the governing board of each unit spread upon its minutes”, now, therefore

***BE IT RESOLVED** by the Mecklenburg Board of County Commissioners, in regular session duly assembled, that the Land Swap Interlocal Agreement between Mecklenburg County and the Charlotte-Mecklenburg Board of Education and the Land Swap Interlocal Agreement between Mecklenburg County and the City of Charlotte are hereby approved and the Chairman of the Board of County Commissioners is hereby authorized to execute such Agreements in substantially the form presented to the Board of Commissioners with technical corrections and minor modifications as she may deem necessary consistent with the spirit and intent of the transactions, and that this resolution shall be spread upon the minutes.*

Resolution recorded in full in Minute Book 43-A, Document # _____.

(28) BASEBALL FUNDING OPTIONS

General Manager Bobbie Shields addressed baseball funding options to support a 2009 baseball schedule.

Note: Mecklenburg County is currently considering making public land available for an AAA baseball stadium on land owned by the County in Center City Charlotte. The proposed site consists of two parcels separated by Third Street - a primary public transportation artery which must be relocated before closing the on-site portion of the street. One of the critical needs of the Knights AAA baseball club (“Knights”) is to have the stadium ready for baseball in the spring of 2009; approximately twenty months from today and approximately eighteen months from July 2007 when the site is expected to be available for site preparation and stadium construction. Without a 2009 completion date, the Knights have indicated that they will incur millions of dollars in additional stadium construction costs, as well as extended operating losses in Fort Mill.

Two primary obstacles have emerged which would make it difficult to complete the project within those timing parameters. First, as detailed in the Memorandum of Understanding between Mecklenburg County and the Knights, Mecklenburg County is responsible for the performance of and costs associated with the site infrastructure work. Initial estimates indicate that such costs shall

total approximately \$8 million. Unfortunately, the source of funding identified initially by Mecklenburg County to cover such costs is no longer viable, creating a project shortfall for which no other public funding source has been identified at present. Moreover, the public bid/award process must be used for the site infrastructure work for which Mecklenburg County is responsible. The site infrastructure work will take the public sector between three and nine months longer than it would the private sector to complete depending on the outcome of the public bid/award process and potential coordination issues between the site infrastructure contractor and a possibly different stadium construction team. That will leave between nine and fifteen months to complete the baseball stadium after the on-site portion of Third Street is closed and most likely will not support a spring 2009 stadium opening.

Within the past week, the Knights have indicated that they would be willing to assist Mecklenburg County in overcoming the abovementioned obstacles in order to keep the project on track. First, the Knights will agree to take on the responsibility for performance of the site infrastructure work. Moreover, the Knights will cover the present funding shortfall by borrowing an amount sufficient to cover the costs associated with the site infrastructure work. In exchange, the Knights would seek for Mecklenburg County to reimburse the Knights over a 20-year period for the up-front borrowed site infrastructure funds, including the Knights' costs of borrowing.

Public funding options to support this proposal include appropriating existing revenues or using debt instruments. Another option is that Mecklenburg County could provide an economic development grant to the project based on the amount of incremental revenue generated by the project or if necessary, other revenues whose use is not otherwise restricted by law. The on-going operations of the proposed baseball stadium are expected to generate more than \$700,000 per year in direct and spin-off local taxes. An economic development grant based on the expected incremental tax revenues could support approximately \$8 million in debt assuming a 20-year term and reasonable costs of borrowing. If the stadium developer agrees to be responsible for the entire construction project, including the infrastructure work, Mecklenburg County could commit to provide a future economic development grant to reimburse the Knights over 20 years for their borrowings and reasonable costs thereof to cover the site infrastructure funding gap. This project financing model is similar to the one used for the Metropolitan Project and requires a vote and authorization by the Board of County Commissioners. Three to nine additional months would be available for stadium construction; likely enough to support a spring 2009 stadium opening (taking into account normal construction contingencies for a project such as this, including weather, etc.).

On March 20, 2007, the Board directed the County Manager to modify the land swap implementation schedule to support a 2010 or later opening of a new baseball stadium in order to allow time to explore other baseball infrastructure financing strategies. Subsequently, the Knights have indicated that without a 2009 completion date, they will incur millions of dollars in additional stadium construction costs, as well as extended operating losses in Fort Mill.

Chairman Roberts asked if the “over” \$1 million in property tax that will be received, includes sales tax. *The response was that it's property tax and sales tax.*

General Manager Shields said staff would report back to the Board on the detail numbers and what the cash flow would be.

Commissioner Clarke asked what is the major component of the infrastructure costs. *The response was the relocation of Third Street.*

Commissioner James spoke in opposition to any financing options for using public funds for a baseball stadium in Center City Charlotte.

Commissioner Helms spoke in support of the option of an economic development grant.

Commissioner Helms said this project will generate from \$12 - \$14 million annually in new revenue that “will not happen” unless the County can close the gap on this transaction with an economic development grant.

Commissioner Bishop spoke in opposition to providing an economic development grant to the

Knights. Commissioner Bishop said a baseball stadium was not the only type of development that could generate \$12 - \$14 million annually in new revenue or even more.

Commissioner Mitchell spoke in support of an economic development grant to the Knights.

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and carried 6-3 with Commissioners Clarke, Helms, Mitchell, Ramirez, Roberts, and Woodard voting yes and Commissioners Bentley, Bishop, and James voting no, to receive a report regarding baseball funding options and direct the County Manager to negotiate with the Knights the option of an Economic Development Grant to the project on the terms and conditions that are acceptable

to the County and based on the amount of incremental revenue generated by the project or if necessary, other revenues whose use is not otherwise restricted by law.

(25) POST-CONSTRUCTION STORM WATER ORDINANCE

Rusty Rozzelle with Land Use & Environmental Services addressed the Mecklenburg County Post-Construction Ordinance.

Note: Adoption of a post-construction storm water ordinance is a requirement of the Phase II Storm Water Permit issued by the State to Mecklenburg County and the Towns effective July 1, 2005. The purpose of this ordinance is to protect water quality by controlling the discharge of storm water pollutants from new development and redevelopment activities. The Phase II Permit requires that the ordinance go into effect on June 30, 2007. On December 19, 2006, the Board received a presentation from staff regarding the adoption of a draft ordinance for the approximately two (2) square mile area near the Town of Pineville that remains under County zoning jurisdiction. On January 17, 2006 the Board held a public hearing to receive comments regarding the draft ordinance. Following the public hearing the Board adopted a resolution indicating their intent to adopt the ordinance following approval of the ordinance by the State for compliance with Phase II Permit requirements. The ordinance and resolution were subsequently sent to the State and approval has been received with the following minor changes being made to the ordinance:

- 1. Page 12, Section 203: The submittal and approval of a Concept Plan was made a requirement.*
- 2. Pages 19 through 33, Section 303(A)(2) and (B)(4): Delineation of stream buffers was changed to the use of GIS instead of on-site delineation as specified in the previous version of the ordinance.*

The Design and Administrative Manuals developed by staff to support the ordinance have been drafted and are currently under review by the Storm Water Advisory Committee.

On May 15, 2007, staff requests that the Board hold a hearing to receive public comments regarding the adoption of this ordinance with the latest revisions. Following this public hearing, staff requests that the Board adopt the ordinance to be effective June 30, 2007. The draft ordinance and several case studies demonstrating the application of ordinance requirements are available for review at the following website: <http://stormwater.charmeck.org>. Public comments can also be submitted in writing to Rusty Rozzelle at 700 N. Tryon Street, Charlotte, N.C. 28202 or email at rusty.rozzelle@mecklenburgcountync.gov.

Motion was made by Commissioner James, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to receive the status report on the Mecklenburg County Post-Construction Ordinance and set a public hearing to receive comments on the Mecklenburg County Post-Construction Ordinance on May 15, 2007 at 6:30 p.m.

COUNTY COMMISSIONERS REPORTS AND REQUESTS

(29) NATIONAL ORGANIZATION OF BLACK COUNTY OFFICIALS (NOBCO) ANNUAL CONFERENCE

Motion was made by Commissioner James, seconded by Commissioner Clarke and carried 8-1 with Commissioners Bentley, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes and Commissioner Bishop voting no, to approve an allocation of \$25,000 from unrestricted contingency for the National Organization of Black County Officials Annual Conference to be held in Mecklenburg May 17-20, 2007.

Commissioner Mitchell addressed this request, prior to the vote.

Commissioner Woodard left the meeting and was absent for the remainder of the meeting.

STAFF REPORTS AND REQUESTS

(26) US NATIONAL WHITEWATER CENTER

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and carried 6-2 with Commissioners Bentley, Clarke, Helms, Mitchell, Ramirez, and Roberts voting yes and Commissioners Bishop and James voting no, to approve a request from Charlotte Whitewater Park, Inc. to amend the Services Agreement to increase the cap on the development financing for the US National Whitewater Center from \$32 million to \$38 million.

Jim Garges, Director of Park and Recreation and Jeff Wise with the Whitewater Center addressed this request, prior to the vote.

COMMISSION COMMENTS – General comments were made at this time by various Commissioners regarding upcoming events and/or events they attended, as well as, other matters which they deemed note worthy.

ADJOURNMENT

Motion was made by Commissioner Mitchell, seconded by Commissioner Ramirez, and carried 8-0, with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 10:05 p.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman