

**MINUTES OF MECKLENBURG COUNTY BOARD OF COMMISSIONERS**

**JUNE 5, 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, June 5, 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.

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**-INFORMAL SESSION-**

*Commissioner Woodard was 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) TO PREVENT DISCLOSURE OF INFORMATION THAT IS CONFIDENTIAL PURSUANT TO G.S. 105-259. (G.S. 143-318.11(A) (1), B) LAND ACQUISITION, C) CONSULT WITH ATTORNEY, D) PERSONNEL MATTER and E) BUSINESS LOCATION AND EXPANSION**

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 Parcel # 141-171-23 and Tax Parcel 141-171-04 and a portion of Tax Parcel 141-171-17, both located on Dixie River Road.

Also, prior to going into Closed Session, Attorney Bethune announced that it was not necessary for the Board to go into Closed Session to discuss Personnel Matter and that the Consult with Attorney matter had to do with the lawsuit of Jerry Alan Reese vs. Mecklenburg County and Charlotte-Mecklenburg Schools and Jerry Alan Reese vs. Mecklenburg County and the City of Charlotte.

Motion was made by Commissioner Ramirez, seconded by Commissioner Helms and carried 8-0 with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, and Roberts voting yes, to go into Closed Session for the following purposes: A) To Prevent Disclosure of

Information that is Confidential Pursuant to G.S. 105-259. (G.S. 143-318.11(a) (1), B) Land Acquisition, C) Consult with Attorney, and E) Business Location and Expansion.

*The Board went into Closed Session at 5:25 p.m. and came back into Open Session at 6:25 p.m.*

*Commissioner Woodard was present when the Board came back into Open Session. She entered during Closed Session.*

**(3) REMOVAL OF ITEMS FROM CONSENT**

The Board did not identify any items they wanted removed from consent and voted upon separately.

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

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**-FORMAL SESSION-**

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

*Commissioner Helms was absent when this portion of the meeting was called to order. He entered the meeting during introductions.*

**(1) PROCLAMATIONS AND AWARDS – NONE**

**(2) PUBLIC APPEARANCE**

No one appeared to speak during Public Appearance.

**(3) APPOINTMENTS**

**PARK AND RECREATION COMMISSION**

The vote was taken on the following nominees for appointment to the Park and Recreation Commission:

Brian Fincher	None
Beverly Lawston	Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard

Chairman Roberts announced that Beverly Lawston was appointed to the Park and Recreation Commission for a three-year term expiring June 30, 2010 as the Central Park District 1 representative.

*Note: She is replacing William Chandler.*

**PLANNING COMMISSION**

The vote was taken on the following nominees for appointment to the Planning Commission:

Emma Allen	Commissioners Clarke, Helms, Mitchell, and Roberts
Stephanie Carter	None
Steven Firestone	None

John Flynn	None
Ben Griffith	None
Lucia Z. Griffith	Commissioners Bentley, Bishop, James, Ramirez, and Woodard <i>Voting Ceased</i>
Anthony Jinwright	
Mike Kemmet	
Rodney Moore	
Brian Trippodo	

Chairman Roberts announced that Lucia Z. Griffith was appointed to the Planning Commission for a three-year term expiring June 30, 2010.

*Note: She is replacing Del Ratcliffe.*

**PUBLIC BROADCASTING AUTHORITY**

The vote was taken on the following nominees for appointment to the Public Broadcasting Authority:

Ronnie Bryant	Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts and Woodard
Hilda Gurdian	Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, and Roberts
Kimberly Henderson	Commissioners Bentley, Bishop, Clarke, Helms, James, Ramirez, Roberts and Woodard <i>Voting Ceased</i>
Lal C. Vishin	

Chairman Roberts announced that Ronnie Bryant, Hilda Gurdian, and Kimberly Henderson were appointed to the Public Broadcasting Authority for three-year terms expiring June 30, 2010.

*Note: They are replacing Andrew Lax, Ada Nicolay, and Angeles Ortega.*

**REGION F AGING ADVISORY COMMITTEE**

The vote was taken on the following nominees for appointment to the Region F Aging Advisory Committee:

Judy Clemons	Commissioners Ramirez and Roberts
Kimberly Gossage	Commissioners Bentley, Bishop, Clarke, Helms, Mitchell, and Woodard

Chairman Roberts announced that Kimberly Gossage was appointed to the Region F Aging Advisory Committee for a one-year term expiring June 30, 2008 as the alternate member.

*Note: She is replacing Albert Lyles.*

**PUBLIC HEARINGS**

**(4A) POST-CONSTRUCTION STORM WATER ORDINANCE**

Motion was made by Commissioner Ramirez, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to open a public hearing on the Mecklenburg County Post-Construction Ordinance.

No one appeared to speak.

Motion was made by Commissioner Ramirez, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to close the public hearing on the Mecklenburg County Post-Construction Ordinance.

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 adopt the Mecklenburg County Post-Construction Ordinance to be effective June 30, 2007.

*Ordinance recorded in full in Minute Book 43-A, Document # \_\_\_\_\_.*

**(4B) REAL ESTATE EXCISE TAX REFUND REQUESTS**

Motion was made by Commissioner Helms, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to hold a hearing on requests by Palmetto Law Associates for reimbursement of North Carolina excise tax in the amount of \$68 and McMillan & Terry, P.A. in the amount of \$403.

No one appeared to speak.

Motion was made by Commissioner Ramirez, seconded by Commissioner Woodard and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to close the hearing on requests by Palmetto Law Associates for reimbursement of North Carolina excise tax in the amount of \$68 and McMillan & Terry, P.A. in the amount of \$403.

Motion was made by Commissioner Helms, seconded by Commissioner Bishop and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to approve the reimbursement requests by Palmetto Law Associates for reimbursement of North Carolina excise tax in the amount of \$68 and McMillan & Terry, P.A. in the amount of \$403.

**(5) ADVISORY COMMITTEE REPORTS – NONE**

**(6) MANAGER’S REPORT - SALARY INCREASES FOR THE BOARD OF COUNTY COMMISSIONERS**

County Manager Jones acknowledged and informed the public that by statute, the Board of County Commissioners must approve any change in salary for its members. Also, based on the policy approved by the Board September 8, 2004, the salary increase for Board members is based upon the average merit increase received by County employees in the current fiscal year. The salary for the Board Chairman will increase from \$25,878.11 to \$26,783.84 and the salary for the other Board members will increase from \$20,702.40 to \$21,426.98.

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and carried 7-2 with Commissioners Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes and Commissioners Bentley and Bishop voting no, to approve a 3.5% salary increase for the Board of County Commissioners effective June 22, 2007.

**(37) OPERATING BUDGET AND WORK PROGRAM FOR FY 2007-2008**

County Manager Jones presented the proposed Operating Budget and Work Program for FY 2007-2008, per actions taken by the Board during its budget workshops.

*Note: The total proposed budget is \$1,450,191,887 with a tax rate of 83.86 cents. Included in the budget also is a Law Enforcement Service District tax rate of 17.62 cents.*

Motion was made by Commissioner Helms, seconded by Commissioner Bentley, to amend the Budget Ordinance for FY 2007-2008 by adding \$90,000 to the Senior Centers line item and that the Budget Ordinance for Fiscal Year 2007-2008 be approved with that amendment.

Commissioner Helms said this additional \$90,000 would be for staffing a senior center in North Mecklenburg.

Commissioner Bentley spoke in support of the need for senior center staffing in North Mecklenburg.

Attorney Bethune noted that staff would provide the Board with an amended budget ordinance based on Commissioner Helms' motion.

The following persons appeared to speak regarding funding for Afterschool/Out of School programs: Dr. Ricky Woods, Colin Pinkey, Clara Jones, and Mattie Marshall. They asked that all programs be considered fairly and equally with respect to funding. It was suggested that a pool of funds be set aside for this purpose and that all interested Afterschool/Out of School programs be required to apply for funding.

Chairman Roberts thanked the Board and staff for their work during the budget workshop process and the public for their input.

Staff at this time provided the amended budget ordinance and Commissioner Helms restated his original motion and moved the following:

Motion was made by Commissioner Helms, seconded by Commissioner Bentley, to adopt the Mecklenburg County Budget Ordinance for FY 2007-2008 that reflects a total appropriation of \$1,450,281,887 (which includes the additional \$90,000 for Senior Centers) and a tax rate of 83.87 cents.

*Note: Included in the budget also is a Law Enforcement Service District tax rate of 17.62 cents.*

Per discussion of Commissioner Helms' restated motion, it was pointed out that some members of the Board were supportive of the additional \$90,000 for Senior Centers, but not supportive of the overall budget ordinance.

Commissioner James asked could the two matters be voted on separately.

Commissioner Helms then withdrew his motion.

Motion was made by Commissioner Helms, seconded by Commissioner Woodard, and carried 8-1 with Commissioners Bentley, Clarke, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes and Commissioner Bishop voting no, to amend the budget for FY 2007-2008 by adding \$90,000 to the Senior Centers line item and that the \$90,000 be incorporated into the FY 2007-2008 Budget Ordinance.

Motion was made by Commissioner Helms, seconded by Commissioner Woodard, to adopt the Mecklenburg County North Carolina Budget Ordinance for FY 2007-2008 that reflects a total appropriation of \$1,450,281,887 (which includes the additional \$90,000 for Senior Centers) and an ad valorem tax rate of 83.87 cents per one hundred dollars (\$100) of assessed value.

*Note: Included in the budget also is a Law Enforcement Service District tax rate of 17.62 cents.*

Motion was made by Commissioner Ramirez, seconded by Commissioner Clarke, but was withdrawn first by Commissioner Clarke, who withdrew his second and since no else seconded the motion, Commissioner Ramirez withdrew his motion to amend the budget for FY

2007-2008 by adding \$30,000 to the Operating Budget and Work Program for Mi Casa Su Casa for its Youth in Action Program.

Commissioner Helms and Chairman Roberts noted that this request could be funded out of unrestricted contingency at a later date.

Commissioners then expressed their view of the proposed budget.

The vote was then taken on the motion by Commissioner Helms and seconded by Commissioner Woodard, to adopt the Mecklenburg County North Carolina Budget Ordinance for FY 2007-2008 that reflects a total appropriation of \$1,450,281,887 (which includes the additional \$90,000 for Senior Centers) and an ad valorem tax rate of 83.87 cents per one hundred dollars (\$100) of assessed value.

*Note: Included in the budget also is a Law Enforcement Service District tax rate of 17.62 cents.*

***Ordinance recorded in full in Minute Book 43-A, Document # \_\_\_\_\_.***

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

### CONSENT ITEMS

**Motion was made by Commissioner Ramirez, seconded by Commissioner Clarke and carried 8-0 , with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, and Roberts voting yes, to approve the following item(s) except for Item 19 to be voted upon separately:**

#### **(7) APPROVAL OF MINUTES**

Approve minutes of Regular Meeting held May 15, 2007, including Closed Session held May 15, 2007 and Closed Session held May 1, 2007 Items 2d2, 2d3 & 2d4.

#### **(8) TAX REFUNDS**

Approve refunds in the amount of \$67,623.62 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) FORENSIC SCIENCE IMPROVEMENT GRANT APPLICATION**

Approve submission of a \$95,000 grant application for partial funding of a digital radiograph system from the Department of Justice (Paul Coverdell Forensic Science Improvement Grants Program); and recognize, receive and appropriate the grant amount, if awarded.

#### **(10) SOUTHWEST CENTRAL DISTRICT I PARK SITE EXPANSION**

Approve the purchase of Tax Parcels 115-046-02, 115-046-10 and 115-046-11 including +/- 17.314 acres from David C. Carriker, Sharon Blair and Dream Home Realtors for \$789,500.

***Note: This property will expand the Southwest Central District I park site off Morris Field Drive near Billy Graham Parkway from fifty-eight (58) acres to approximately seventy-five (75) acres.***

**(11) LAND USE & ENVIRONMENTAL SERVICES FEE ORDINANCE REVISIONS – SECOND READING**

Amend the LUESA Fee Ordinance to reflect new or modified fees for Floodplain Development, Charlotte-Mecklenburg Certified Site Inspector (CMCSI) certification and Land Development. (Second Reading)

*Ordinance recorded in full in Minute Book 43-A, Document #\_\_\_\_\_.*

**(12) MECKLENBURG COUNTY SOLID WASTE FEE ORDINANCE AMENDMENT – SECOND READING**

Approve an amendment to the Mecklenburg County Solid Waste Fee Ordinance. (Second Reading)

*Note: The first change is to the Speedway Landfill Fee Schedule, which contains the rates paid by our municipal partners for residential waste disposal. A 4% increase in the Tipping Fee, from the current \$25.00 per ton to \$26.00 per ton. Effectively this is a 2% per year increase as this fee was last adjusted two years ago. Solid Waste’s costs under the Speedway Landfill contract have escalated at the CPI during that same period, or about 6.5% since the last Tipping Fee adjustment. Corresponding adjustments will occur to the volume based rates in this section.*

*The second change is to the Yard Waste Fee Schedule, increasing the weight based rate from \$16.00 per ton to \$16.50 per ton for yard waste delivered to our facilities. This 3% increase is the first adjustment in six years resulting, in an average increase of less than one-half percent per year. This increase is to capture additional fuel and equipment costs which now result in an average cost of operation of about \$17 per ton. Again corresponding changes will occur to the volume based rates in this section.*

*The third change is to the Convenience Center Construction and Demolition Waste (C&D) Fee Schedule. A 22% increase in the flat fee charged for pick-up trucks or trailers from the current \$18.00 per load to \$22.00 per load. Effectively this is a 3% per year increase as this fee was last adjusted seven years ago. This increase captures increased cost of operations, which in the current fiscal year averages \$26.50 per load, including transportation and disposal.*

*Finally, a number of changes to the schedule of Fees for Sale of Yard Waste Products. These changes reflect the current marketplace for our compost and mulch products and the costs to transport them.*

*Ordinance recorded in full in Minute Book 43-A, Document #\_\_\_\_\_.*

**(13) PROFESSIONAL SERVICES AGREEMENT FOR FLOODPLAIN MAPPING SERVICES**

- 1) Authorize the County Manager to negotiate and execute a contract with Dewberry & Davis, Inc. to provide professional engineering services for floodplain mapping services.
- 2) Recognize and appropriate \$300,000 in additional Storm Water revenue.

**(14) CONTRACT FOR HOUSEHOLD HAZARDOUS WASTE COLLECTION AND DISPOSAL SERVICES**

Authorize the County Manager to negotiate and execute a contract with Ecoflo, Inc. for Household Hazardous Waste collection and disposal services.

**(15) HOME AND COMMUNITY CARE BLOCK GRANT – DSS**

Approve the Home and Community Care Block Grant funding plan for Fiscal Year 2008.

*Note: Annually, the Services for Adults Division of the Department of Social Services submit for Board approval the Home and Community Care Block Grant funding plan (also referred to as the County Aging Plan). Board approval is required prior to submission to Centralina Council of Governments, the local grant authority. The funding plan involves allocating \$2,920,717 for aging services, which includes a County match of \$292,072. Funding for the match is included in the Fiscal Year 2008 Services for Adults budget request. The following services are provided with this grant: In-Home Aide Services, Transportation Services, Congregate Meals, Home Delivered Meals, and Adult Day Care/Day Health.*

**(16) EASTWAY SPECIALTY PARK – BRIARWOOD PARK CONSTRUCTION CONTRACT**

Award a construction contract to T. K. Browne Construction Company, Inc. for a total amount of \$2,292,894.

*Note: This is for the Eastway Specialty Park-Briarwood Park.*

**(17) JAIL NORTH ANNEX RENOVATION - ARCHITECT SELECTION**

Authorize the County Manager to negotiate a fee and execute a contract with Ware Bonsall Architects for architectural/engineering design services for the Jail North Annex Renovation. Secondly, in the event negotiations with this firm are unsuccessful, the County Manager is authorized to negotiate a fee and execute a contract with MBAJ Architecture.

**(18) INSURANCE REIMBURSEMENTS**

Approve, recognize and appropriate insurance reimbursement funds in the amount of \$8,567 for General Services.

*Note: All reimbursements are for stolen and damaged items.*

**(20) MECKLENBURG COUNTY AQUATIC CENTER CAPITAL RESERVE REQUEST**

Recognize and appropriate \$27,647 in revenue accrued in the Mecklenburg County Aquatic Center Capital Reserve Fund.

*Note: These funds will be used to cover the existing floor in the warm pool area and expand the outside patio. The new floor coating will improve appearance of the aging deck and improve cleaning maintenance. The patio will be expanded to provide additional storage of pool deck equipment during large swim meets. Work is projected to be completed in August 2007.*

**(21) HISTORIC LANDMARKS COMMISSION – REVOLVING FUND**

Recognize and appropriate \$182,000 in proceeds from previous property sales for use on Historic Landmarks Commission projects.

**(22) EMERGENCY POWER GENERATOR EQUIPMENT - CMC-RANDOLPH, BEHAVIORAL HEALTH CENTER**



Award a contract in the amount of \$455,799 to Carolina Tractor & Equipment Company, Charlotte NC for the purchase and upgrade of Emergency Power Generator Equipment for CMC-Randolph, Behavioral Health Center.

**(23) DESTRUCTION OF DOCUMENTS – LUESA**

Approve the disposal of LUESA (Code Enforcement Department) records and plans in accordance with North Carolina records retention policies.

These records are comprised of:

- Nine (9) boxes of permitting and inspections records. These records have been imaged, stored and migrated to an online system for secure retrieval over the Internet.
- 377 commercial plans permitted April 2005
- Daily Revenue Reports - 12/01-7/05 = 1,923
- Daily Work - 11/99-8/05 = 9,811
- Daily Deposits - 12/93-9/96 = 393
- Yr to Date Trans - 4/92-6/01 = 522
- Bond Cancellations - 9/05 = 72
- Journeyman Renewals - 1999-2000 = 1,194
- Credits & Refunds 07/05-1/07 = 1,298
- Contractor Notifications 07/05-01/07 = 1,291

**(24) COUNCIL ON AGING GOVERNING BOARD**

Authorize appointment of a DSS employee as an Ex-Officio member of the new Council on Aging Governing Board.

*Note: The Governance Transition Team, formed by the Status of Seniors Initiative (SOSI) and the new Council on Aging (COA), has asked that DSS appoint an Ex-Officio member of the Governing Board of the new Council on Aging. Currently, the County's policy (adopted 12/03/79) prohibits County employees from serving on Boards, Committees, and Councils to which funding is provided by Mecklenburg County. However, the policy does allow for a County employee to serve in an ex-officio capacity when approved by the Board of County Commissioners. Because the DSS Services For Adults (SFA) Division has been so instrumental in supporting the SOSI and the new COA, and because the new COA will be critical to future planning for older adult services across this community, it is important that SFA have a voice on the COA Governing Board.*

**(25) CONCORD WATER LINE EASEMENTS**

Adopt resolution authorizing the City of Concord to obtain water line easements in Mecklenburg County to provide water to properties impacted by the Ram Leather Superfund site.

*Resolution recorded in full in Minute Book 43-A, Document # \_\_\_\_\_.*

**(26) FUNDING ADJUSTMENTS – AREA MENTAL HEALTH AUTHORITY**

Approve funding adjustments and grant application as follows:

- 1) Approve submission of the following separate multi-year applications for Federal HUD Mental Health ACCESS program grants: a. Grant in the amount of \$316,764 for fiscal years 2007 thru 2008. b. Grant in the amount of \$44,363 for fiscal years 2007 thru 2008.
- 2) Recognize, receive and appropriate funds in item 1 for the amount awarded.

- 3) Approve, recognize, receive and appropriate cash donations in the amount of \$500 to the SAMSHA Grant Program.
- 4) Approve, recognize, receive and appropriate State funds in the amount of \$1,489 for the purpose of Mental Health Community Capacity.
- 5) Reduction of \$2,448,197 in Medicaid funds for Child & Adolescent at Risk Case Management and at Risk Contracted Services funding.
- 6) Authorize carry over of unspent State Peer Bridger Program funds estimated to be \$72,941 at June 30, 2007.
- 7) Authorize carry over of unspent State Mental Health Community Capacity funds estimated to be \$111,332 at June 30, 2007.

**(27) DEPARTMENT OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION  
JCPC FUNDING**

- 1) Gang of One Grant-Reduce FY07 funding by \$36,349. The original amount was approved December, 19, 2006, agenda item 10.
- 2) Gang of One Grant-Recognize, receive and appropriate \$86,349 for FY08.
- 3) Increase the JCPC FY07 Administrative Grant by \$6,867, originally approved on May 16, 2006 (Item 9).

**(28) HUMAN RESOURCES CARRY FORWARD FUNDING**

Approve request to carry forward \$60,000 in FY07 funding for the County's Diversity Management Plan.

**(29) GREENWAY DONATION – BRIAR CREEK**

Accept the donation of +/- 0.347 (all of Tax Parcel 129-041-53) at Briar Creek from Charing Cross Partners, LLC, Heritage Investment of NC, LLC and Gregory Kunkleman, Trustee.

*Note: The subject property is located along Briar Creek off Ivey Drive. This donation is part of the land assemblage for the section of Briar Creek Greenway between Central Avenue and Independence Blvd.*

**(30) PARK LAND DONATION – REEDY CREEK NATURE PRESERVE**

Accept the donation of +/- 1.71 acres (all of Tax Parcel 105-064-97) adjacent to Reedy Creek Park and Nature Preserve from Centex Homes.

*Note: The donated land is located along the eastern boundary of Reedy Creek Park and Nature Preserve adjacent to the Buckleigh Subdivision. This land serves as a buffer to a tributary of Reedy Creek and will be designated as part of the Reedy Creek Nature Preserve.*

**(31) TALBOTT PROPERTY ACQUISITION AT TOBY CREEK**

Approve purchase of +/- 0.75 acres of Tax Parcel 049-252-19 at 632 Carolyn Lane for \$9,500 per acre from Bennett and Helen Talbott.

*Note: The subject property is part of a land assemblage for the future extension of the Toby Creek Greenway between University City Blvd. and Rocky River Road.*

**(32) MCDOWELL PARKING DECK – ELECTRICAL REPAIRS**

- 1) Adopt *Pay-As-You-Go 2008 Capital Project Ordinance*.
- 2) Exempt Mecklenburg County from the “qualification-based” process for selecting project designers (North Carolina General Statute 143-64.31 to -64.34) for the design of the electrical repairs to the McDowell Parking Deck for the following reason:

*Note: The qualification-based selection process for a project designer takes approximately two months to complete. This project is a health & safety issue that needs to be addressed immediately.*

***Ordinance recorded in full in Minute Book 43-A, Document # \_\_\_\_\_.***

**(33) RYAN WHITE TREATMENT MODERNIZATION ACT OF 2006, PART A**

- 1) Recognize, receive and appropriate supplemental funding of \$974,327 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 one new fiscal analyst position.

**(34) STEELE CREEK GREENWAY EASEMENT**

Approve the purchase of a 12.365-acre greenway easement along portions of Steele Creek, Walkers Branch and Polk Ditch from SIM USA, Inc. for \$118,704.

*Note: The above greenway easement is part of the assemblage for Steele Creek and Walkers Branch Greenways in southwestern Mecklenburg County.*

**THIS CONCLUDED ITEMS APPROVED BY CONSENT**

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***Commissioner Woodard returned to the dais.***

**(19) STORM WATER SERVICES – COUNTY’S MAJOR SYSTEM FEE**

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and carried 7-2 with Commissioners Bentley, Clarke, Helms, Mitchell, Ramirez, Roberts, and Woodard voting yes and Commissioners Bishop and James voting no, to adopt the Resolution Authorizing Increasing The Major System Cost Component Of The Storm Water Service Charges To Be Levied Within Mecklenburg County.

*Note: Commissioner James removed this item from Consent in order to express his opposition.*

***Resolution recorded in full in Minute Book 43-A, Document # \_\_\_\_\_.***

**(2B) CLOSED SESSION – LAND ACQUISITION**

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and

unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to adopt a resolution of intent to exchange a +/- 1.21-acre portion of County Tax Parcel 141-171-23 for +/- 1.24-acre tract of Pappas Properties, LLC property including all of Tax Parcel 141-171-04 and a portion of Tax Parcel 141-171-17, both located on Dixie River Road at the undeveloped Berewick park site in southwestern Mecklenburg County.

*Resolution recorded in full in Minute Book 43-A, Document # \_\_\_\_\_.*

## STAFF REPORTS AND REQUESTS

### (35) HAYMARKET & FLAT BRANCH NATURE PRESERVE DESIGNATION

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to designate the 100-acre Haymarket Property and a 44-acre parcel of Flat Branch property (East of Tom Short Road and West of Ardrey Kell Road) to be classified as Nature Preserves.

*Note: Prior to the above vote, Jim Garges, Director of Park and Recreation and Michael Kirschman of Park and Recreation addressed this matter.*

### (36) ADELPHIA CABLE FRANCHISE

Attorney Bethune gave the Board an update on MI Connection and Mecklenburg County's involvement in this proposed cable system. The update included a presentation that addressed the Mission, History, Timeline, Business Plan (Interlocal Agreements and Financing Plans), System Benefits, Immediate plans for change, and Introduction of new system.

Attorney Bethune also gave some history with respect to the Adelphia Cable Franchise in Mecklenburg County. The following was noted:

Mecklenburg-Iredell Consortium  
Fact Sheet

#### Cable Franchise History

1981 Franchise granted to Lakeside Cable TV  
1992 Franchise transferred to Prestige Cable  
1998 Mecklenburg-Iredell Consortium formed to oversee the franchise renewal and transfer process  
Members: Cornelius, Davidson, Huntersville, Mooresville, Troutman and Mecklenburg County.

Costs are shared based on the percentage of subscribers served within each jurisdiction

2000 Franchise renewed and transferred to Adelphia

#### Adelphia Franchise

4/2000 Franchise transferred to Adelphia  
6/2002 Adelphia declared bankruptcy  
4/2005 Adelphia entered into agreement to sell the local cable systems to Time Warner  
6/2005 Towns and County received applications to transfer cable systems from Adelphia to Time Warner and decided to reconstitute the Consortium to jointly study and consider the transfer requests  
10/2005 Towns and County each denied the transfer application without prejudice  
12/2005 Adelphia sought approval from the Bankruptcy Court to transfer franchise to Time Warner  
01/2006 Consortium filed objection in Bankruptcy Court  
04/2006 Adelphia deposed various Consortium members  
05-06/2006 The parties filed additional legal argument and evidence to the Bankruptcy Court and the Court heard legal arguments from all parties

06/06/06 Bankruptcy Court appointed a Mediator to facilitate settlement negotiations  
07/28/06 Settlement reached (terms summarized below)  
02/02/07 Huntersville opts out of Consortium  
04/01/07 Four towns move forward with Cable purchase plan  
05/16/07 Adelpia Bankruptcy Judge renders price decision of \$3,810 per subscriber  
05/22/07 Public Meeting at Davidson Town Hall  
05/23/07 Public Meeting at Mooresville Town Hall  
05/24/07 Public Meeting at Troutman Town Hall

#### Settlement Terms

Consortium is given opportunity to fully investigate the potential purchase of the Adelpia system serving their communities.

Time Warner will manage the system from 08/01/2006 until the Consortium makes a decision on whether to buy the system

Press Release issued to inform customers that Time Warner would be the interim operator

Adelpia to pay \$475,000 for Consortium bankruptcy costs and legal fees

A separation plan must be agreed upon to separate the Consortium cable system from the Statesville/Iredell system.

Bankruptcy Judge must appoint Trustee to oversee Time Warner interim operations and the separation plan (trustee appointed 08/11/06).

Asset purchase agreement with schedules must be completed

Bankruptcy Judge must set the price for the Consortium system  
Time Warner and the Consortium filed legal arguments and evidence on the appropriate price in August 2006.

The Bankruptcy Judge rendered his price decision on 5/16/07.

Consortium must decide whether to purchase or not within 30 days after the price is set by the Bankruptcy Judge.

If the decision is to BUY:  
The Consortium takes over ownership and operation of the system 120 days after the purchase decision.

Time Warner must release former Adelpia employees who elect to work for the Consortium

The Consortium, Time Warner and Adelpia split costs of construction needed to implement the system separation plan.

Adelpia's contribution is capped at \$1 million

If the decision is to NOT BUY:  
The Consortium must approve the franchise transfer to Time Warner NY Cable, LLC (a Time Warner Cable subsidiary)

Time Warner NY Cable, LLC has committed to comply with the franchises and to upgrade the system to 750 MHz

Time Warner Cable Inc. has committed to provide a performance guarantee of its subsidiary.

*Note: The Towns of Troutman, Mooresville, Davidson and Cornelius are still evaluating purchasing their portions of the Adelpia Cable System.*

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

Attorney Bethune said it's important that the County make a decision because as part of the settlement with Time Warner Cable and Adelpia, Adelpia agreed to pay \$475,000 to the Consortium participants to offset their expenses in connection with the evaluation that was being

made in the bankruptcy expenses.

Attorney Bethune said if any of the local governments do not make a decision to either acquire  
or  
not acquire the system, then they do not get any of the \$475,000 that Adelphia said they would pay.

Attorney Bethune said by June 11, 2007 the other governments will vote as to whether they want to exercise their rights to acquire and create a cable system. Current indications are that they will create a cable system called MI Connection Communication System. Noted also was that early on the contemplation was for the County to issue the debt necessary to acquire the system, however, this is no longer the plan.

The proposed plan now is for Mooresville to enter into some type of financial arrangement to acquire portions of the Adelphia system within Mooresville, Troutman, Davidson, Cornelius and a portion of the unincorporated area of Mecklenburg County.

Also, the proposal now is for the County to exercise its Right of First Refusal, that the County becomes a member of MI Connect, but that the County have no obligation to repay any of the financing cost to acquire those subscribers and no obligation to pay any of the operating expenses.

Attorney Bethune said as a result of this proposal all of the County's expenses to date, out of pocket expenses, in connection with the Adelphia bankruptcy would be paid by MI Connect. The County would also receive a portion of the \$475,000 mentioned earlier, however, it was noted that the expenses to date are considerably in excess of \$475,000; so this would make the County "whole." This would also give the Towns of Davidson and Cornelius the ability to provide cable service to those residents that would ultimately be annexed into those communities.

Commissioner Bishop asked about the status of County subscribers and who would be providing them cable service, which was addressed.

Commissioner James asked about the number of subscribers in the unincorporated area. The response was that it's believed to be about 1000 in the Davidson/Cornelius area.

It was the consensus of the Board to hold a Special Meeting Tuesday, June 12, 2007 at a time to be determined by staff, but that it be an afternoon meeting with respect to this matter, since a decision needs to be made by June 15, 2007.

## **COUNTY COMMISSIONERS REPORTS AND REQUESTS**

### **(38) SELECTION OF NACO VOTING DELEGATE**

Motion was made by Commissioner James, seconded by Commissioner Helms and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to select Commissioner Mitchell as the voting delegate for the 2007 National Association of Counties (NACo) Annual Conference to be held July 13-17, 2007 in Richmond, Virginia.

### **(39) CMS COUNTY APPROPRIATION**

Motion was made by Commissioner Ramirez, seconded by Commissioner James and failed 5-4 with Commissioners Clarke, Helms, Mitchell, Roberts, and Woodard voting no and Commissioners Bentley, Bishop, James, and Ramirez voting yes, to direct County staff to come up with a recommendation for establishing some type of rate or percentage of growth funding for Charlotte-Mecklenburg Schools (CMS), so that the Schools can be funded proportionately to the increase of County revenues. Thus, Charlotte-Mecklenburg Schools will have a "finite" number

that they can “shoot” for in their budget.

*Prior to the above vote, Commissioner Ramirez noted the following: Currently, the Board utilizes a complicated funding model involving enrollment and demographic changes, inflation, State salary increases, and the State’s allocation for CMS in determining what is the appropriate level of funding for CMS. This model takes a great deal of staff and Board time to develop, understand, and evaluate.*

*A simpler alternative to this model would be to fund CMS as a constant proportion of the County’s budget. As the County’s budget increases, CMS’ “share” of the budget would also increase. In a situation where the County budget decreases, CMS’ share would, likewise, decrease. This alternative would still have the same usefulness in that it sets out an amount available to CMS for their operational expenses. Any deviation from this amount would be open for greater scrutiny by the Board members.*

*Comments prior to the above vote:*

*Several Commissioners expressed concern that Commissioner Ramirez’s concept would possibly increase CMS funding at a higher rate.*

*Commissioner Mitchell noted that he has always been concerned about the increase in CMS spending and the decrease in spending for County services.*

*Commissioner Bentley said in concept she agrees with Commissioner Ramirez and understands where he’s going with this, but that her preference would be for CMS to go through the County’s Program Review process.*

*Commissioner James raised the point about debt service and that this would have to be figured in as well. Commissioner James said the benefit of doing what Commissioner Ramirez is suggesting is that it gives you predictability and that it also forces CMS to prioritize their operating and their capital budgets together.*

*Commissioner Woodard noted that there are other categories of the County budget where a significant amount of funds are allocated as well, so to single out CMS is a concern.*

*Chairman Roberts noted in follow up to Commissioner Bentley’s remarks about Program Review, that if you put in a specific percentage, the question becomes are you really “managing for results,” which has been the County’s budget philosophy.*

*Commissioner Bishop pointed out the increase in funding to CMS over the years and asked the question has CMS gotten better in its performance. He noted that the County CMS spending has not been based on “managing for results.” He said Commissioner Ramirez’s concept does have merit, although he doesn’t know what the right percentage would be. He said it would be his preference, like that of Commissioner Bentley, to see CMS go through the Program Review process.*

*Commissioner Helms noted his opposition by saying “you cannot measure the value of public education” by a percentage of the County’s budget. Commissioner Helms said it’s based upon the number of students that come into the school system and the number needing “special help,” and other factors.*

**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.

*Note: Commissioner Woodard presented the Board with a picture that she accepted on behalf of the Board from the National Association of Black County Officials who held its 23<sup>rd</sup> Annual Economic Development Conference in Charlotte/Mecklenburg County May 17-20, 2007.*

**ADJOURNMENT**

Motion was made by Commissioner Ramirez, seconded by Commissioner Bentley, and unanimously carried, with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, that there being no further business to come before the Board that the meeting be adjourned at 9:39 p.m.

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Janice S. Paige, Clerk

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Jennifer Roberts, Chairman