

MINUTES OF MECKLENBURG COUNTY BOARD OF COMMISSIONERS

SEPTEMBER 25, 2007

5:00 P.M.

**NORTH CAROLINA
MECKLENBURG COUNTY**

The Board of Commissioners of Mecklenburg County, North Carolina, met in Recessed Session from its September 18, 2007 meeting in the McGuire Woods Boardroom at ImaginOn located at 300 East Seventh Street at 5:00 p.m. on Tuesday, September 25, 2007.

ATTENDANCE

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

Absent: Commissioners Dumont Clarke, Bill James, and Valerie C. Woodard

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

The meeting was called to order by Chairman Roberts. Chairman Roberts acknowledged that a quorum was not present but that additional Commissioners were scheduled to arrive; and in light of time, she asked staff to proceed.

It was noted that this was a continuation of the Board's meeting held on September 18, 2007 for the purpose of continuing discussion on the Westmoreland Athletic Complex. This was Item 6 on the September 18, 2007 agenda.

(6) MANAGER'S REPORT - WESTMORELAND ATHLETIC COMPLEX

County Manager Jones addressed the Westmoreland Athletic Complex. County Manager Jones said he was still not comfortable with the Town of Cornelius' latest request. County Manager Jones said he believes the scope of the project has changed since the matter was initially brought to the Board. He stated further that he has not seen any "encouraging" evidence that the Town of Cornelius (The Town) has put "financial skin in the game."

County Manager Jones said the deadline that the Town was facing as it relates to PARTF grant has sort of been imposed upon the County to make a decision expeditiously. County Manager Jones said before he could make a recommendation to the Board, he thought it would be beneficial to have a presentation from Town officials. He noted that Town Manager Anthony Roberts and Town Park and Recreation Director Paul Herbert were present.

Commissioner Ramirez entered the meeting.

County Manager Jones said he was not prepared to make a recommendation with respect to the Town of Cornelius latest request, which is a change in the development plan. County Manager Jones said he wants the Town to provide some type of financial commitment to the project.

Nancy Brunner with Real Estate Services and Attorney Bethune gave background information on the Westmoreland Athletic Complex project.

Background:

- *The Town of Cornelius requested the County acquire and subsequently lease to the Town, properties for the development and management of an athletic complex. The parcels are adjacent to the proposed reconfigured boundaries of Robbins Park.*
- *In December of 2006 the Board approved the purchase of Tax Parcels 005-071-18 (+/- 14.37 acres) and 005-071-66 (+/- 4.831 acres) for \$1,567,500 from Westmoreland Athletic Complex, LLC, which has been done. The County Manager was also authorized to negotiate and execute a 40-year lease with the Town of Cornelius for development and management of the site as an athletic complex.*
- *It was stated by Cornelius that the construction of the complex was estimated to cost \$3.5 million and that Westmoreland Athletic Complex, LLC (WAC) pledged up to \$1.5 million provided the Town of Cornelius contributed the additional funding needed to construct the facility within twelve months.*
- *The Town of Cornelius submitted a grant application to the N.C. Park and Recreation Trust Fund to assist with the funding and subsequently received a grant in the amount of \$500,000.*
- *The Town recently informed the County that they needed the lease agreement signed by the end of September or they would lose the grant.*
- *County staff informed the Town of Cornelius that in order to move forward with the lease, a copy of the agreement between the Town of Cornelius and the entity that would be operating the facility was needed. Staff was informed that agreement was still being negotiated. Staff was also informed of revised development plan, which was not going to occur within a year, but would be phased in.*
- *Staff felt that since this phased in approach was not what was originally presented to the Board, that the Board needed to be aware of these changes before the County Manager moves forward with a lease agreement. Staff wants to be sure that the Board is still comfortable with executing the 40-year lease and with the fact that construction will be phased in basically over six years, rather than within one year.*
- *It was also noted that County Park and Recreation staff were disappointed about the delay but are supportive of the request in light of the fact that construction costs are higher than anticipated by the Town of Cornelius; also Westmoreland Athletic Complex, LLC is not able to come up with the additional \$720,000, and the Town of Cornelius is not sure where they're going to come up with their \$1.5 million.*
- *Originally the project was to have been developed in one phase with a private entity (WAC) to manage and maintain the park for the Town of Cornelius and they were to put in \$1.5 million. Now, in Phase 1 the Town is going to manage it and WAC is only putting in half of the money and when WAC comes up with the other half of its money and the Town comes up with an additional \$1.5, WAC will then operate and maintain the facility. It was noted also that the original plan may have addressed a batting cage but it's not shown in the new proposal.*

County Manager Jones said staff was not clear on the Town's commitment for their \$1.5 million.

Commissioner Helms said the new proposal does not reflect what the Board was originally told and or what the Board based its approval on.

Commissioner Ramirez asked about the Cashion property and noted that it was not a part of the original or new proposal. *The response was that the Cashion property was not needed for what's being proposed.*

Town Manager Roberts distributed and addressed a handout regarding the original plan.

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

Commissioner Bishop entered the meeting.

Town Manager Roberts acknowledged that the cost of the project has gone up.

Town Manager Roberts noted the following

- The reason for the phasing has to do with escalated cost and availability of funding on the part of the Town.
- The Town would like to complete the project quicker but 3-4 years is now the goal.
- Town Commissioners approved the proposed lease with the County, including the phasing schedule with its financial commitment in Phase Two on September 17, 2007.
- The Town could not commit to the \$2 million that's needed right away
- Funding is in the Town's Capital Improvement Program (CIP) for 2009-2010 in the amount of \$1.5 million for the project.
- The Town feels that four fields are needed.
- The Town gave land that would have been used for fields to Charlotte-Mecklenburg Schools for Bailey Road Middle School.
- The Town is trying to stick to the original agreement as much as possible.
- With respect to the batting cage and the Cashion property, the Town is trying to work with the Cashion's to move that facility.
- The Town is looking at a joint maintenance facility with the County.
- The Town received a Park and Recreation Trust Fund (PARTF) grant in the amount of \$500,000.
- The Town plans to apply again but part of the project has to be completed.
- This project was the #1 PARTF grant project in the State.
- The Town feels that phasing the project will also "que" the Town up for receiving another PARTF grant, although there's no guarantee that another grant would be received.
- WAC, LLC donation of proceeds would be phased for making a \$720,000 match for Phase One and remaining proceeds in Phase Two.
- \$3.5 million is the new cost.
- The Town originally thought their cost was going to be zero.

Comments

Attorney Bethune asked if the \$2.3 million in Phase Two, current dollars with or without escalation. *The response was without.*

Attorney Bethune said this means it'll cost more than \$2.3 million. *The response was that the Town is aware of this and will be looking at means of addressing this.*

County Manager Jones asked with respect to the Town's CIP, was it committed funding and if they knew during their budget process that they wanted to phase in this project, what was staff's discussion with the Town Board regarding including funding in the 08 budget. *The response was that the Town could not commit to it for FY08 because of other projects, but it was placed in the CIP for 2009-2010.*

Commissioner Helms asked had the Town issued any debt yet. *The response was no.*

Commissioner Helms asked whether the current Town Board would still be in office when Phase Two is started. *The response was that it's possible.*

Commissioner Bentley said what was missing from the information provided was the potential of a second PARTF grant. *The response was there's no guarantee for a PARTF grant for Phase Two, which is why it's not listed in the information shared with the Board.*

Commissioner Bentley asked about the State's reaction to the proposal. *The response was the State liked the partnership concept, the idea of leveraging private funds, and the overall scope of the project.*

County Manager Jones asked what if the County needs more time. How would that impact the Town? *The response was that the Town can't get reimbursed from PARTF unless they have "site control" meaning a lease in place. PARTF has not given a specific date as to when this needs to occur but would like it done as soon as possible. It was stated further that the Town does not want to have to go back and relinquish the grant because that would ruin any chance of getting future PARTF grants.*

Commissioner Helms asked could conditions be placed on the lease in case of default, which could include failure to put in the necessary funds, meet certain deadlines, and whatever else the County felt was important.

Attorney Bethune said the current agreement addresses the issue of default and that if the Board wants to make it stronger, then that's something staff can work on.

Commissioner Helms suggested deferring this matter until the County can prepare a lease that sets out specific deadlines and amounts, so it'll be binding on the current Town Board and future boards.

Chairman Roberts expressed concern about the investors being able to "sit back" on their funds. Chairman Roberts said she thought this was an urgent need.

Town Manager Roberts said changes had occurred in the WAC, LLC and the list of investors is now down to three.

Commissioner Helms said he was concerned about the investors having their part (funding) when it's needed. Commissioner Helms said it should be the responsibility of the Town to pursue the WAC, LLC to ensure they have the funds they've committed to and that if they don't, the Town would be responsible for those funds. Commissioner Helms said he thinks this needs to be in the lease as well.

Commissioner Bishop asked what was the Town's "skin in the game."

Town Manager Roberts said the Town's "skin in the game" comes in at Phase Two.

Commissioner Bishop asked were there any restrictions on the Westmoreland Athletic Complex, LLC (WAC) money and is it in escrow. *The response by County staff was that this was a "straight" land deal.*

Commissioner Ramirez noted that the current Town Board can't commit future boards.

Commissioner Ramirez asked why wasn't there a contract with WAC, LLC to make the project happen quicker. *The response was that the investors wouldn't commit at that time because they didn't know if the land was going to be purchased and a lease obtained.*

Town Manager Roberts encouraged the Board to support the Town's request. He said it's a "win, win" for everyone.

County Manager Jones suggested the Town get an extension from PARTF, in order to give the County an opportunity to try over the next 30 days to fully understand the new proposal and to work through the details.

County Manager Jones acknowledged that it's possible, even after taking another look at this, that he'll come back to the Board and say he's still not comfortable with this project and that the Board may agree or disagree with him.

Commissioner Helms said he wants a "binding" commitment from the Town of Cornelius.

Chairman Roberts said she, too, would like to see an acceptable and "binding" agreement on the part of the Town.

Commissioner Bishop requested a list of the owners in the WAC, LLC if it can be released.

Motion was made by Commissioner Helms, seconded by Commissioner Ramirez and unanimously carried with Commissioners Bentley, Bishop, Helms, Mitchell, Ramirez, and Roberts voting yes, to defer consideration of the Westmoreland Athletic Complex issue until the first meeting in November 2007.

The above is not inclusive of every comment but is a summary.

ADJOURNMENT

Motion was made by Commissioner Helms, seconded by Commissioner Ramirez and unanimously carried with Commissioners Bentley, Bishop, Helms, Mitchell, Ramirez, and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 6:05 p.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman