

MINUTES OF MECKLENBURG COUNTY BOARD OF COMMISSIONERS

OCTOBER 2, 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, October 2, 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-

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

Prior to going into Closed Session, Attorney Bethune announced that the Consult with Attorney had to do with Cleveland Construction v. Mecklenburg County.

It was also noted that the Land Acquisition matter had been removed from the agenda.

Motion was made by Commissioner Ramirez, seconded by Commissioner Mitchell 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) Consult with Attorney and B) Business Location and Expansion.

The Board went into Closed Session at 5:25 p.m. and came back into Open Session at 6:10 p.m.

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

(3) REMOVAL OF ITEMS FROM CONSENT

The Board identified item(s) they wanted removed from consent and voted upon separately. The items identified were Items 7 and 18.

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

-FORMAL SESSION-

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

CITIZEN PARTICIPATION

PROCLAMATIONS AND AWARDS

(1A) SUBSTANCE ABUSE AWARENESS MONTH

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 joint proclamation designating October 2007 as Substance Abuse Awareness Month.

The Proclamation was read by Commissioner Helms and received by Karen Simon, Executive Director of Substance Abuse Prevention Services, James Brown, Choanne Cole and Lori Santon. Ms. Cole and Ms. Santon expressed their thanks and gratitude for the services they received from Substance Abuse Prevention Services.

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

(1B) HISPANIC HERITAGE MONTH

Motion was made by Commissioner Ramirez, seconded by Commissioner Clarke and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to adopt a proclamation designating September 15 – October 15, 2007 as Hispanic American Heritage Month.

The Proclamation was read and accepted by Commissioner Ramirez on behalf of the Hispanic community.

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

(1C) NATIONAL 4-H WEEK

Motion was made by Commissioner Clarke, seconded by Commissioner Woodard and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to recognize October 7-13 as National 4-H Week.

The Proclamation was read by Commissioner Clarke and received by Robert Furr, 4-H Director and Madison Williams and two other student representatives.

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

(1D) WELCOME TO DELEGATION FROM LIMOGES, FRANCE

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 adopt a proclamation welcoming a delegation from Limoges, France to Mecklenburg County.

Note: October 3 – 9, 2007 a delegation from Limoges, France will be visiting Charlotte/Mecklenburg County as a part of the Waging Peace Program. The Waging Peace Program, funded by a two-year matching grant from the U.S. State Department, will allow the Franco-American partnerships of Charlotte, NC – Limoges, St. Louis, MO –Lyon, and Los Angeles, CA – Bordeaux to communicate concerns and techniques that will eventually be developed into action plans aimed at addressing each city's integration issues. The program is administered nationally by Sister Cities International and locally in each American city by their Sister Cities organizations.

The Proclamation was read by Commissioner Ramirez and received by Alina MacNichol, Executive Director of Charlotte Sister Cities, and Terri DeBoo, Chairman.

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:

Ted Gattino with Blue Wing Environmental Solutions & Technologies addressed Water Quality and a new technology called BioHaven Wild Floating Island. Mr. Gattino said a BioHaven Wild Floating Island will reduce the concentration of nutrients in pond water, which reduces algae growth, leaving the water cleaner and better oxygenated. Mr. Gattino said he has discussed this concept with Rusty Rozzelle, the County's Water Quality Manager. Mr. Gattino asked the Board to speak with Mr. Rozzelle regarding possible uses of Floating Islands by the County.

A copy of a handout from Mr. Gattino is on file with the Clerk to the Board.

Claire Tate with Partners in Out of School Time (P.O.S.T.), Robert Folk, Principal at Coulwood Middle School, Kendrick Goldstein, Site Coordinator, Tanya Hope, parent and Jaton Hope, a student spoke in support of After-School Programs and the Lights On Afterschool celebrations that will be taking place on October 18, 2007, at Albemarle Road Middle School, Coulwood Middle, and Quail Hollow Middle.

A copy of a handout from P.O.S.T. is on file with the Clerk the Board.

Rev. Willie Simpson addressed the need to enforce the Indecent Exposure law. Rev. Simpson said the wearing of one's pants below the hips is a violation of the Indecent Exposure law. Rev. Simpson noted his appearance on this subject matter at the September 18, 2007 meeting but said he has not heard anything back from the Board regarding his concerns.

Chairman Roberts informed Rev. Simpson that Public Appearance was not the forum for engaging in dialogue, but rather it's the time during which the Board listens to citizen's concerns. Chairman Roberts suggested to Rev. Simpson that he follow-up by contacting Commissioners individually.

Martin Davis addressed Commissioner Bishop's motion on September 18 regarding placing another ½ cent sales tax referendum on a future ballot, if the current ½ cent sales tax for transit is repealed this November. Mr. Davis spoke in support of that motion, which failed 4-4.

James Bensman addressed redistricting. He asked the Board to consider looking into whether or not it was time for redistricting to occur because of the increase in population, particularly in the northern part of the County. Mr. Bensman is a Commissioner in the Town of Cornelius.

The following persons live in the University area and spoke in support of Transit: Bryan Holladay, Tom Lochen, John Kindbom, Ryan McGhee and George Varghese.

(3A) APPOINTMENTS

NOMINATIONS/REAPPOINTMENTS

INDUSTRIAL FACILITIES & POLLUTION CONTROL FINANCING AUTHORITY

Motion was made by Commissioner James, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to appoint Rick Sanderson to the Industrial Facilities and Pollution Control Financing Authority for a six-year term expiring October 31, 2013.

He is replacing Cassandra Sloan.

NURSING HOME COMMUNITY ADVISORY COMMITTEE

The vote was taken on the following nominees for appointment to the Nursing Home Community Advisory Committee:

Jeffrey Giddens	Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts and Woodard
Delia Holder	Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts and Woodard

Voting Ceased

Jenita Hooks
Charles Jackson
Joann Yandle

Chairman Roberts announced that Jeffrey Giddens and Delia Holder were appointed to the Nursing Home Community Advisory Committee for a one-year term expiring October 30, 2008.

PARK AND RECREATION COMMISSION

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

David Morgan	None
Thomas O'Brien	None
Kirkwood Otey	Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts and Woodard

Voting Ceased

Owen Sutkowski

Chairman Roberts announced that Kirkwood Otey was appointed to the Park and Recreation Commission as the Central Park District 3 representative to fill an unexpired term expiring June 30, 2009.

He is replacing Robert Patterson.

(4) PUBLIC HEARINGS - NONE

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

(6) **MANAGER'S REPORT - LEGISLATIVE UPDATE**

The Board received a summary of the 2007 Regular Session of the N.C. General Assembly as it relates to the Board's 2007 Legislative Priorities and other items of interest in the budget and other legislation.

Deborah Goldberg, Assistant to the County Manager presented the summary.

Note: The 2007 Regular Session of the North Carolina General Assembly adjourned on August 2, a few days after the passage of the biennial budget (H1473). The General Assembly will reconvene for the 2008 "Short Session" on May 13, 2008.

Highlights: Legislation was passed that addresses 8 of the 11 legislative priorities. Those matters dealt with the following:

- Other Post Employment Benefits (OPEB)
- Real Estate Private Sale
- Criminal Justice Funding
- Public Smoking
- Library Board of Trustees
- Carpooling
- Green Building Incentives
- School Nurses
- Other issues of interest:
 - Medicaid Relief to Counties
 - Lottery
 - Public Schools Funding
 - Community Colleges
 - Aid to Local Health Departments
 - Child Care Subsidies
 - Juvenile Crime Prevention Councils (JCPC)
 - Drug Treatment Court positions
 - Judicial and Prosecutorial Staff
 - Stormwater
 - Solid Waste
 - Property Tax Homestead Exclusion and Circuit Breaker
 - County Transportation Financing
 - MWSBE Certification

Comments

Commissioner James suggested, with respect to Property Tax Homestead Exclusion and Circuit Breaker, that the County request in the next session of the General Assembly that they find a process to index or increase both pieces of this, so that more income is excluded, as well as, the dollar amounts of the homestead.

Commissioner Clarke ask for clarification regarding the Homestead Exemption and whether this is something that only the General Assembly can change and whether it has to be statewide. *The response was that the Homestead Exemption can only be set by the General Assembly and that it has to be statewide, unless you have special consideration for urban areas, which is something that can be looked into.*

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

(21) REQUEST TO THE CHARLOTTE CITY COUNCIL TO REFUND EXCESS POLICE TAXES PAID BY CERTAIN RESIDENTS OF THE SHANNAMARA SUBDIVISION

Commissioner James addressed a concern that had been communicated to him by one of his constituents that lives in the Shannamara Subdivision concerning law enforcement service district taxes paid by residents in this area, who were annexed by the Town of Stallings. The homeowners are seeking a refund of those taxes, since they paid for the fiscal year ending June 30, 2007 but are no longer residents of Mecklenburg County, as of January 1, 2007. There are a total of 104 homeowners in this situation. They paid for twelve months of police service and only received six months worth of service.

Commissioner James asked the Board to consider asking that the City of Charlotte issue a 'grant' to the homeowners on record as of January 1, 2007, per the list of properties in Mecklenburg County, annexed by the Town of Stallings, in an amount equal to ½ of the police tax paid on each of these homes for the fiscal year ended June 30, 2007.

It was noted that the law enforcement service district taxes were collected by the County and turned over to the City of Charlotte. Therefore, it would take action by Charlotte City Council to make this grant to the affected homeowners. Also, that the amount in question is about \$20,000.

Mayor Linda Paxton of Stallings and Town Manager Brian Matthews addressed this matter.

They

asked the Board to support Commissioner James' recommendation to ask that the City of Charlotte consider reimbursing or making a grant to those that paid the law enforcement service district taxes for a 12 month period, although they only received services for six months. Mayor Paxton said their estimate show that amount being a total of \$22,426.71.

Chairman Roberts asked had the Town of Stallings contacted the City of Charlotte regarding this request. *The response was no that they thought it was best to start with the County and then go to Charlotte City Council, if that's the next step in the process.*

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 ask Charlotte City Council to consider issuing a refund to the affected homeowners of the Shannamara Subdivision for excess law enforcement service district taxes paid totaling \$22,426.71.

Commissioner Clarke asked was the Town of Stallings aware of this matter prior to the annexation. *The response was that the Town of Stallings mistakenly assumed that this would be treated similar to the Fire District, which allows taxes to be pro-rated or refunded back, but they have since learned that this is not the case with respect to the law enforcement service district taxes.*

Commissioner Bishop suggested placing in the letter to the City of Charlotte that the Board is submitting this request on behalf of these homeowners who were formally Mecklenburg County residents living in an unincorporated area of the County, who had no representative on Charlotte City Council, thus the County is making this request on their behalf as their representatives.

Commissioner Clarke asked had these homeowners also paid taxes to the Town of Stallings during this six month period. *The response was yes, that they've been billed for that amount and that it's an 18-month tax bill, so they are paying for that.*

CONSENT ITEMS

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 approve the following item (s) with the exception

of Items 7 and 18 to be voted on separately.

(8) TAX REFUNDS

Approve refunds in the amount of \$6,530 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) ADDITIONAL WORK SPACE NEEDS – LUESA

Appropriate \$165,000 of Fund Balance designated for Land Use and Environmental Services Code Administration for additional work space needs - LUESA.

(10) ARCHITECT SELECTION – COURT AND SUPPORT FACILITIES RENOVATIONS

Authorize the County Manager to negotiate a fee and execute a contract with Fryday & Doyme, Inc. for Architectural/Engineering services for 700 East 4th Street Renovations and Other Court Support Facilities. In the event that negotiations with this firm are unsuccessful, authorize the County Manager to negotiate a fee and execute a contract with MHA Works, PA.

(11) GRANT APPLICATION TO THE FOUNDATION FOR THE CAROLINAS - IMPACT FUND FOR EMERGING PHILANTHROPIST

1) Approve submission of application for the Foundation for the Carolinas – Impact Fund for Emerging Philanthropist. If grant is awarded, recognize, receive and appropriate funds; and authorize and carry forward any unspent funds.

Note: Mecklenburg County Park and Recreation Department is requesting approval to apply for and receive, if awarded, a Foundation for the Carolinas – Impact Fund for Emerging Philanthropist Grant for a maximum of \$50,000. The Therapeutic Recreation Division will utilize the grant to fund the hiring of 15 temporary positions (teens ages 14-17) for FY08/09. This will enable the Therapeutic Recreation Division to provide a community based program for teens that are considered to be at risk (as defined by specific target indicators). This program will focus on 1) the development of a youth recreation work force with specific goals to impact youth community investment; 2) exposure of teens to the diversity of the community (ethnic, disability, and culture), 3) the development of new recreation and cultural experiences and 4) the development of 21st century skills.

(12) STEELE CREEK GREENWAY EASEMENTS DONATION

Accept the following donated greenway easements:

- 1) 2.72 acres from Walkers Creek Homeowners Association (over a portion of Tax Parcel 219-151-98 and all of 219-151-99).
- 2) .902 acre from Steele Creek Athletic Association (over a portion of Tax Parcel 219-061-07).

Note: The above greenway easements are part of an assemblage of floodplain along Steele Creek and Walkers Branch in southwestern Mecklenburg County between Brown-Grier Road and the South Carolina line.

(13) RIGHT-OF-WAY PAYMENTS TO COUNTY

Accept funds received for Community House Road right of way from North Carolina Department of Transportation (NCDOT) and appropriate funds for real estate expenses capital reserve.

Note: Payments are received from time to time from utility or communications companies as well as from the North Carolina Department of Transportation (NCDOT) for easements and right of ways impacting County-owned properties. This request is to credit funds to the Capital Reserves for Real Estate expenses for land acquisition/disposition costs such as appraisals, surveys, environmental assessments, etc. related to the management of County properties.

(14) LAND EXCHANGE WITH YMCA AT BALLANTYNE PARK

Adopt a resolution authorizing the exchange a 1.8972-acre portion of County Tax Parcel 229-041-07 for a 1.8972-acre portion of Young Men’s Christian Association of Greater Charlotte Tax Parcel 229-041-30, both located off North Community House Road and Bryant Farms Road in south Charlotte at the Ballantyne Park site.

Resolution recorded in full in Minute Book 44-A, Document # _____.

(15) DESTRUCTION OF DOCUMENTS – LUESA

Approve the disposal of the following LUESA (Code Enforcement Department) records and plans in accordance with North Carolina records retention policies: these records are comprised of 575 commercial plans permitted August 2005.

(16) DSS REVENUE ADJUSTMENT

Amend the Department of Social Services’ FY08 budget to recognize additional Federal and State revenues of \$128,474 via the North Carolina Division of Aging and Adult Services, and appropriate expenses in the same amount.

(17) SPECIAL CONSUMPTION PERMIT FOR LATIN AMERICAN FESTIVAL, INC.

Approve a special consumption permit that would allow the Latin American Festival, Inc. to consume malt beverages and unfortified wine on County park property (Eastover Park) during the Latin American Festival to be held on October 7, 2007.

THIS CONCLUDED ITEMS APPROVED BY CONSENT

(7) APPROVAL OF MINUTES

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

1) Approve minutes of Regular Meeting held September 18, 2007 as presented, but amend it to reflect the comments made by Attorney Bethune in response to the question asked by Commissioner Mitchell as to whether or not the Board of County Commissioners has the authority to place another ½ cent sales tax referendum on a future ballot if the current ½ cent sales tax for transit is repealed or would the Board have to seek legislative authority to do so.
Note: This discussion took place during Item 17 – North Corridor Commuter Rail Project

Financing Strategy.

2) Approve minutes of Budget/Public Policy Meeting held September 11, 2007 and Closed Session meeting held September 18, 2007.

Prior to the above vote, the following discussion took place, which Commissioner James requested be included in the minutes of this meeting.

Commissioner Bishop addressed the minutes of the September 18, 2007 meeting, specifically agenda Item 17 - North Corridor Commuter Rail Project Financing Strategy.

Commissioner Bishop said the minutes correctly stated his motion that “this Board of County Commissioners resolves that if the voters repeal the ½ cent sales tax that the Board of County Commissioners would place on the next ballot a referendum to institute a ½ cent sales tax for transit that would be specifically restricted to uses of the bus system and other mass transit purposes, including operation of the south corridor light rail line, however, restricted so that it could not be used for construction of additional light rail.”

Commissioner Bishop said the minutes are also correct that his motion failed because of a tie vote 4-4.

Commissioner Bishop said what he would like included in the September 18, 2007 minutes, separate and apart from the motion, is the portion of the discussion when Commissioner Mitchell asked Attorney Bethune if the Board had the legal authority to do what Commissioner Bishop’s motion inferred or would it take additional legislative authority.

Commissioner Bishop said he thought it would be of value to have Attorney Bethune’s response in the minutes, which was that the Board would have the authority to place on the next ballot a referendum to institute a ½ cent sales tax for transit, if the current ½ cent sales tax for transit is repealed. Also, Attorney Bethune’s comments regarding the County’s withdrawal from the current Interlocal agreement with the City of Charlotte regarding the ½ cent sales tax for transit and entering into a new agreement with the restrictions as outlined in Commissioner Bishop’s motion.

Commissioner Bishop said there is some confusion on the part of some as to whether the County would have this authority, but that according to Attorney Bethune, the Board has the authority to do exactly what his motion said.

Commissioner Bishop said also that there are impressions that “abound” that if there is a repeal of the ½ cent sales tax for transit that it would result in a large property tax hike and that the bus system would be “starved” for revenue, because there would be no dedicated funding stream. Commissioner Bishop said this does not “reckon” with the fact that the Board could do what his motion stated, immediately.

Commissioner Mitchell said he felt Commissioner Bishop was bringing this matter up in order to generate another discussion of a repeal of the ½ cent sales tax for transit.

Chairman Roberts noted a recent conversation with a member of the Mecklenburg Legislative Delegation, a senator, who indicated to her that there’s an additional requirement based on a percentage of the state’s sales tax that has to be met in order for Mecklenburg County to place this matter on a referendum.

Chairman Roberts said according to the Senator this will not happen until 2009.

Chairman Roberts asked Attorney Bethune to comment on this.

Attorney Bethune said he was not aware of what the Senator had spoken of.

Attorney Bethune said he discussed this matter with Mack McCarley and Bob Hagemann and they did not see any impediment, but that he would be glad to look at any new information that is

available and provided to him to see if it would change his opinion.

Chairman Roberts said she's not sure the Board should pass Commissioner Bishop's motion since it's the belief of one of the County's state legislative representatives that Commissioner Bishop's motion of September 18, 2007 would not be possible until 2009, because there is a part of the enabling legislation that supports his view that it would not be possible for the Board to do, prior to 2009.

Chairman Roberts said she thinks the Board should wait to get this verified.

Commissioner Helms said he doesn't remember Attorney Bethune's opinion in the same way as expressed by Commissioner Bishop, but that he does remember reading in the minutes that he pointed out that the ½ cent sales tax for transit does not have to be repealed to achieve what Commissioner Bishop's motion proposed. Commissioner Helms said all that would need to be done is to make sure that Charlotte City Council and the Metropolitan Transit Commission use those funds for something other than development of a new corridor.

Commissioner Helms said he has spoken with several members of the County's legislative delegation and was informed that the likelihood of the County receiving any additional authorization or any change in enabling legislation is "very remote."

Commissioner James said what this was really about is what should be included in the minutes and not a debate about transit.

Commissioner James said he understands that it may be, based on comments made by Chairman Roberts that what Attorney Bethune said on September 18, 2007 may be incorrect upon further review or clarification, but the fact remains that he did say it was possible for the Board to do what Commissioner Bishop's motion indicated.

Commissioner James said he thinks not placing it in the minutes, plays politics with the minutes because the debate did happen and Attorney Bethune has said he's willing to revisit it.

Commissioner James said commissioners can request that detail discussion be included in the Minutes. He likewise asked that this discussion be included in the minutes of October 2, 2007.

Commissioner James said he understood Chairman Roberts' point but voting on the motion to amend the minutes actually stops the issue because then Attorney Bethune can do his research and prepare a memo to the Board that's more definitive than the "off hand" comment that he made on September 18, 2007 that was based on some research but it was not exhaustive.

Commissioner James said maybe what the answer to this thing is that "you all may be right in the long term but what Commissioner Bishop is asking for is correct in the short term." "In the short term that's what the County Attorney said."

Commissioner Ramirez said he concurred with Commissioner James. Commissioner Ramirez said this was not a debate as to whether the ½ cent sales tax is going to be repealed but rather it is about what the minutes reflect.

Commissioner Ramirez said he recalls asking several times during the discussion on September 18, 2007 if this (Commissioner Bishop's motion) was a vote to have a fall back position if the ½ cent sales tax is repealed and the answer was yes.

Commissioner Ramirez said Commissioner Bishop's motion is a fall back position if the ½ cent sales tax is repealed, which is why he voted for it. He noted that he still supports that motion.

Commissioner Ramirez said he assumes "we would have to go to a Plan B, if Plan A fails. He said right now the debate is about the minutes and what they reflect. He said the County Attorney

will report back to the Board with respect to this matter of the Board's authority.

Chairman Roberts asked Attorney Bethune to comment.

Attorney Bethune said he had no objection to anything he has said during a public meeting being placed in the minutes of that meeting.

Commissioner Bishop said you really can't change history by "wiping out" of the books what was said. Commissioner Bishop said it's sort of a curious coincidence with what otherwise seems to be happening with this point that's getting lost. Commissioner Bishop asked is there some reason "we don't want people to know about this."

Chairman Roberts in response to Commissioner Bishop's comments about "wiping out of the books" and not wanting people to know about this, was no that's not correct.

Commissioner Bishop said if there's no reason to conceal this then why doesn't the Board just amend the minutes. He noted that there's already available a streaming video of the meeting, thus people can see and hear Attorney Bethune's comments.

Commissioner Bishop said he feels it's good to have those comments in the minutes as well, that way if the media is interested in people knowing about that, they can publish it from the minutes and people who might be interested can look at it and find out about it because we would "want them to know."

Chairman Roberts and Commissioner Mitchell both concurred that they have no objection to the public being aware of the comments made by Attorney Bethune.

Commissioner Helms asked for clarification regarding the debate and stated the following: "What we have is some comments by our Attorney, which we believe were in error and we want to put them in the minutes, so that we can use those to tell people what he really said even though it was in error."

Commissioner James said it's not known for certain that Attorney Bethune's response was in error.

Commissioner Clarke said he thinks the minutes should reflect that the County Attorney was asked for advice and he gave advice and what the advice was.

Commissioner Clarke said any time a lawyer is asked to give advice on a "tricky" issue like that you normally say, "I need to go back and study this and confer with some colleagues" before you give an "opinion."

Commissioner Clarke said Attorney Bethune is in the uncomfortable position of when the Board gets to these types of things and the Board asks for his advice, he has to give it on the "fly."

Commissioner Clarke said he thinks the request to amend the minutes is fine, it just should reflect that he gave his best view at that point and time without having the opportunity to consult with anyone else.

STAFF REPORTS AND REQUESTS

(19) COMMUNITY MENTAL HEALTH AND JUSTICE PROGRAMMING

Grayce Crockett, Director of Area Mental Health presented information regarding a Community Mental Health & Justice Program. Director Crockett was accompanied at the podium by Daniel 'Chip' Bailey, Chief Deputy Sheriff, Peter Gilchrist, District Attorney, Robert Ward with the Public Defender's Office, and Margaret Peacock with the National Alliance for the Mentally Ill,

each of whom commented on the merit of this type of program and their support of the program.

Chief Deputy Sheriff Bailey noted that having a program that will divert some of those with mental health and substance problems and placing them into treatment is something that the Sheriff's Office would prefer to do, but he cautioned that the numbers that they're talking about will not have much impact as they see them today on the jail bed space that's "sorely" needed.

Note: Area Mental Health, in conjunction with numerous community and county partners, is developing a comprehensive, coordinated system which will identify, divert from incarceration and treat the mentally ill/substance abuser who is placed, or about to be placed within the criminal justice system. This model will divert the consumer from incarceration, when appropriate, to effective services that will treat the illness in the least restrictive and most clinically appropriate setting while also addressing the legal issues and criminal behavior. While the core component of the system is a Crisis Stabilization Unit which requires capital funding, these dollars will begin the service delivery system. This allocation will allow for the development and implementation of Residential Stabilization Services and Housing Services on a limited basis.

The presentation covered the following:

- The Timeline
- Collaboration Efforts
- Why Community Mental Health & Justice
- The Community Health & Justice Model
- Features of the Model
- National Statistics
- National Program Statistics
- N. C. Statistics
- Area Mental Health Jail Data Report
- Mecklenburg County Jail Study
- The Vision & Goal
- Pre & Post Booking Services
- Residential Stabilization
- Housing
- The Budget using the \$500,000
- The Community Mental Health & Justice Continuum
- Next Steps

Comments

Commissioner Woodard said she has heard that CharlotteTown Terrace was currently underutilized and that this may be a potential site, and if so, would the elderly be mixed in with the chronically mental ill. *The response was no, these two populations would not be mixed in together, that they would be in separate parts of that facility. It was noted that the use of CharlotteTown Terrace has not been finalized.*

Commissioner Woodard asked would the program begin dealing with the chronically mental ill first. *The response was that it's designed to start with the chronic offenders first, those that go through the jail 10 or more times a year.*

Commissioner Woodard asked about staffing. *The response was that there would be 4.5 Residential Specialist who would be there around the clock. There would be one (1) Program Manager, a Community Support Team, contracted nursing staff, licensed mental health clinician, and mental health and substance abuse counselors.*

Commissioner James said he would like answers to the following questions: 1) Will people be allowed to continue to go through the program over and over again? 2) Is there any process for limiting the number of times someone can go through the program? *The response was no, there*

is not a process for limiting the number of times someone can go through the program. It was noted that mental illness and substance abuse is a recurring illness.

Director Crockett stated that to say you're going to stop treatment of someone with this problem is like saying to someone with diabetes, that because you haven't been following your diet, we're going to stop treating you.

Commissioner James said he understood Director Crockett's analogy, but that "what we're talking about" in this instance are people that are "breaking the law," and not someone who's "suffering in silence with alcohol or drug abuse somewhere."

Commissioner James said the problem he has with the "solely mental health" approach that Director Crockett addressed is that if someone gets "tagged" and they go through the system, that they can repeatedly go through the system over and over again and end up in a group home sitting in suburban neighborhoods.

Commissioner James said placing these types of homes in suburban neighborhoods will present some problems, especially if someone gets out and does something wrong.

Commissioner James said "it's one thing to give somebody a helping hand to try to help them help themselves but government cannot be in the position of providing a blank check, to constantly allow people to go in and out the system, over and over again."

Commissioner James said he does not have a problem with allocating the money that's being requested by staff, nor does he has a problem with this concept being tried, but he will not vote for building a facility or to provide any additional operating money until he has assurances that the people that are going to be in the program are secure. "Secure, meaning, that nobody is doing the do gooder talk to them, that they are actually improving and that they only get one or two "bites at the apple" although he doesn't know how many "bites" would be appropriate; for him personally it would be once.

Commissioner James said people cannot be allowed to "manipulate" the system, even if they're mentally ill.

Director Crockett said there will always be those that will not be responsive to treatment but that treatment works and has truly transformed lives and that's what they are anticipating on doing through this program. Staff wants to see the recidivism cycle cut.

Chairman Roberts said she wanted to let Director Crockett and others know that "as the professionals in the Mental Health community who have studied recidivism and treatment and who understand cycles of depression and recovery and etc." that the Board "trusts" you as professionals with doctorates to make the assessments that are needed and to be compassionate.

Chairman Roberts said this is an area that's not understood very well by a lot of people, substance abuse and mental health.

Commissioner Ramirez asked about the length of stay in jail for those with mental illness, which was addressed.

Commissioner Helms suggested that thought be given to coming up with a different route for those chronic offenders with mental health and substance abuse problems to take, rather than bringing them in, placing them in jail, or running them through the system, and releasing them, thus having that back and forth occurrence. Commissioner Helms said he thinks you can "cure" a lot of that if there's an intermediate step. He said he hopes that with all of the partners working together that they can define what that "intermediate" step is and bring it back to the Board for consideration.

Commissioner Bentley asked about local recidivism for this population. *The response was that*

the overall recidivism is about 70-75% and that's all inmates. It was noted that the chronic offenders report addresses 81 people, who were arrested as many as nine times, in one year. The exact recidivism percentage for this population could not be recalled. Staff's hope is that the rate could be cut in half through this program.

Motion was made by Commissioner Mitchell, seconded by Commissioner Helms and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to release \$500,000 from restricted contingency funding for the Community Mental Health and Justice Programming approved by the BOCC during the budget process.

Note: The above is not inclusive every comment made regarding his issue but is a summary.

COUNTY COMMISSIONERS REPORTS AND REQUESTS

(22) CAROLINAS MOBILE EMERGENCY DEPARTMENT (MED-1)

The Board received information on the design, development, and deployment of the Carolinas Mobile Emergency Department (MED-1) Project.

Note: The purpose of the Carolinas Mobile Emergency Department (MED-1) Project is to develop and ultimately provide a unique treatment facility capable of augmenting existing healthcare resources in a community, so as to provide patient care services for a finite period of time should those existing resources be incapacitated.

Dr. Tom Blackwell made the presentation, which highlighted the work of the medical team in response to Hurricane Katrina.

Chairman Roberts thanked Dr. Blackwell for his presentation.

Commissioner James addressed Item 18 Charlotte-Mecklenburg Board Of Education FY 2007-2008 Adopted Budget and Item 20 CMS Operating Refund simultaneously.

(18) CHARLOTTE-MECKLENBURG BOARD OF EDUCATION FY 2007-2008 ADOPTED BUDGET

Action requested: Approve CMS Budget Amendments.

Note: The Board of Education is requesting approval of changes in the allocation of the County appropriation by purpose and/or function of the amount included in the Board of County Commission (BOCC) budget resolution in June of 2007. As part of the approved FY 2008 budget, the Board of County Commissioners approved a total operating funding level of \$341,366,785 for CMS. The previous allocations were established by County staff as placeholders in the budget resolution, subject to revision by CMS. The BOCC is required to approve any reallocation of funds submitted by the Board of Education that exceeds ten percent within the purpose and/or function categories of the approved county appropriation. The attached changes are the result of CMS adjustments and reductions required to adjust CMS' expenditure level to the County appropriation of \$341,366,785. These changes are only adjustments in the allocation of funds. No additional funds are being requested. These adjustments have been approved by the Board of Education.

(20) CMS OPERATING REFUND

Action Requested: To gather detailed information on the significant student population estimate error at CMS and to develop a plan to quantify the financial impact of CMS' error and to request that CMS either hold the money in reserve for the subsequent year or to return the money pro-rata. Any action taken by the County Commission involving a reduction of funds would require CMS' concurrence. This action is to start the process of quantifying the extent of the error and to

instruct the County Manager to make the refund request to Dr. Gorman for the School Board's consideration, reporting back to the Commission at its next regular meeting.

Commissioner James said the County gave CMS funds using a funding formula that focused on a per pupil allocation based upon 5,200 new students, however, only 2,900 approximately showed up.

Commissioner James said the funding formula does not include any reduction for a decrease in the student population over the 12 month period.

Commissioner James said when you look at the reduction from 5,200 new students down to 2,900 new students and using a pro rata basis, (the \$25 million) it translates into that the County gave CMS "roughly" \$11 million too much.

Commissioner James said what concerns him is that "you don't have an error of 44% unless there is something seriously flawed with the process."

Commissioner James he said this is a matter that needs to be resolved before the November election, which is why he placed this matter on the agenda now.

Commissioner James said he doesn't see how the Board can approve Item 18 regarding CMS Budget Adjustments when it's known that it's not correct because it does not reflect the reduction in student population.

Commissioner James said what bothers him about this is the fact that calculation of growth estimates, (how many students CMS gets per year) is based upon "according to Dr. Gorman," a fairly scientific model with a "zillions" inputs all of which projects population growth. Further, that the same student population number that it projected 5,200 students when only 2,900 showed

up is the same model that is used to project student population growth of \$50,000 new students over the next 10 years, which he said is the basis for the bond referendum.

Commissioner James said the Board needs to see if CMS will provide some accountability and some options regarding the \$11 million or whatever the amount is.

Commissioner James, with respect to Item 18, said "how could the dollars for the September 11, 2007 budget of \$341,366,785 be exactly the same and not account for the significant reduction in student population.

Commissioner James said he doesn't feel it was accounted for because "CMS believes they can spend the money anyway they please."

Motion was made by Commissioner James, seconded by Commissioner Ramirez, to defer approval of Item 18 Charlotte-Mecklenburg Board Of Education FY 2007-2008 Adopted Budget until the Board's October 16, 2007 meeting, in order to give the County Manager an opportunity to discuss and obtain information from Superintendent Peter Gorman regarding the \$11 million error in the student population and that CMS provide the Board with options for the use of the \$11 million or for the Board to at least discuss.

Commissioner James said he's not saying that the BOCC needs to come up with options or determine how the money should be spent. Commissioner James said from his perspective if CMS wants to keep the money they can keep it and put it into a reserve account for next year. He said another option is that CMS can take the cash and do like the County with respect to excess cash and that is called "pay-go" and they can build Mountain Island Lake Elementary which is the next highest priority on the list. He said it may be that Dr. Gorman may have some other options.

Commissioner James said it's possible that when Dr. Gorman wrote his September 11, 2007 request that he did not have the information regarding the error in the new student population projections.

Commissioner Helms said although the new students' projections were off, the public school system still has over 132,000 students. Further that the appropriation that CMS received from the County was still \$5 million less than what they requested.

Commissioner Helms said he's not sure if there is a "scientific" way to measure the anticipated growth of students.

Commissioner Helms said the school system is "bursting at the seams, they have teachers who are underpaid, a teacher turnover rate of 20%," tremendous challenges.

Commissioner Helms said the system will continue to grow.

Substitute motion was made by Commissioner Helms, seconded by Commissioner Woodard, to approve Item 18 Charlotte-Mecklenburg Board of Education FY2007-2008 Adopted Budget, which is the approval of budget amendments as outlined in the agenda item.

Discussion continued with several Commissioners (Mitchell, Clarke, Ramirez, & Helms) expressing an interest in receiving information from CMS regarding the error in projections.

Commissioner Ramirez said what's really needed is a new system for funding CMS, which would be to provide them with a certain percentage of revenue, as he has mentioned in the past.

Commissioner James noted that the Board doesn't have the authority to take the \$11 million back from CMS because the Board has already funded CMS.

Commissioner James said he just wants additional information.

Commissioner Helms amended his motion by adding to it that the Board asks CMS to provide the BOCC with a report regarding the error in the new students' population projection and to report back at the October 16, 2007 meeting.

The vote was then taken on the substitute motion as amended 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 approve Item 18 Charlotte-Mecklenburg Board of Education 2007-2008 Adopted Budget, which is the approval of budget amendments as outlined in the agenda item and that the Board ask CMS to provide the BOCC with a report regarding the error in the new students population projection and what they plan to do with the overage in funds; and that it be reported back through the County Manager at the Board's October 16, 2007 meeting.

Chairman Roberts asked Board members to submit any additional questions of CMS to County Manager Jones.

Note: In light of the above action, no action is required with respect to Item 20.

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 Ramirez, seconded by Commissioner Bishop 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 10:30 p.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman