

OCTOBER 21, 2008

MINUTES OF MECKLENBURG COUNTY BOARD OF COMMISSIONERS

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 21, 2008.

ATTENDANCE

**Present:** Chairman Jennifer Roberts and Commissioners  
Karen Bentley, J. Daniel Bishop, Dumont Clarke  
H. Parks Helms, Bill James, 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:** None

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-INFORMAL SESSION-

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

**(1A) STAFF BRIEFINGS - MECKLENBURG COUNTY DEMOCRATIC PARTY  
EXECUTIVE COMMITTEE RECOMMENDATION FOR DISTRICT 3**

Chairman Roberts acknowledged receipt of a letter from the Mecklenburg County Democratic Party dated October 21, 2008 from Joel Ford, Chairman, regarding the County Commission District 3 Replacement, as a result of the passing of Commissioner Valerie C. Woodard.

The letter, which was read by Chairman Roberts, stated that George Dunlap was elected to fill the County Commission District 3 vacancy by the eligible voters of the Executive Committee of the Mecklenburg County Democratic Party at a meeting held on October 20, 2008.

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

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and failed 4-4 with Commissioners Clarke, Helms, Mitchell, and Roberts voting yes and Commissioners Bentley, Bishop, James, and Ramirez voting no, to name George Dunlap as the District 3 representative to fill the vacancy resulting from the passing of Commissioner Valerie C. Woodard.

Comments

Commissioner James said he felt the Board should have more time to evaluate the decision of the Mecklenburg County Democratic Party, rather than voting on this matter tonight.

**OCTOBER 21, 2008**

Commissioner James said for the Mecklenburg County Democratic Party to have just voted on October 20<sup>th</sup> and then have the County Commission vote on October 21<sup>st</sup> was not enough time for deliberation.

Commissioner James said in addition to that, he personally has issues regarding Mr. Dunlap that he needs to resolve, prior to voting on this matter. The issues noted were:

1. The vote taken by the Mecklenburg County Democratic Party Executive Committee with respect to filling the remainder of the existing District 3 term and the appointment for the District 3 full term of 2008 -10. Should and/or were two votes taken; and should the vote have been cast by the full Executive Committee or the District 3 members only of the Executive Committee.
2. He has questions regarding some issues involving Mr. Dunlap in the 90's.
3. He has questions regarding harassment complaints against Mr. Dunlap by Board of Education members.

Commissioner James said he would be willing to discuss these matters with Mr. Dunlap, even if by phone.

Chairman Roberts asked Mecklenburg County Democratic Party Chairman Joel Ford to clarify if the recommendation was for both the remaining District 3 term and the District 3 full term of 2008-10. *The response was yes.*

Attorney Bethune noted that although Commissioner James used the term, "full Executive Committee" the term used in the statute, which he discussed with Commissioner James, was "County Executive Committee."

Commissioner Helms expressed support of Mr. Dunlap and moving forward with appointing Mr. Dunlap to fill the District 3 vacancy in accordance with the law.

Commissioner Helms read the applicable statute regarding the responsibility of the Mecklenburg County Democratic Party with respect to filling the District 3 vacancy. He noted that the statute says the County Executive Committee of the appropriate political party filling the vacancy "shall" make this recommendation. Further, that the Board of County Commissioners "shall" appoint the person recommended by the County Executive Committee of the political party of which the Commissioner being replaced was a member, if the party makes the recommendation within 30 days.

Commissioner Clarke asked Attorney Bethune what was the Board's recourse when you have members that refuse to do what the law requires or that of Mr. Dunlap.

Attorney Bethune said at this point he's not sure if the other members of the Board would have any type of recourse. Further, that since he's the Board's Attorney, he's not in a position to offer advice to Mr. Dunlap.

Commissioner Clarke suggested Mr. Dunlap go to a judge and present the statute and the recommendation regarding his appointment to the District 3 seat and inform the judge that the Board of Commissioners have refused to do what they're required to do and probably for political reasons.

Attorney Bethune, in response to a question asked by Commissioner Helms, said the matter could be reconsidered at tonight's meeting with a motion by someone who voted no. Also, that it can be placed on a subsequent meeting, as a new item by anyone.

Chairman Roberts noted the fact that effective December 2, 2008, Mr. Dunlap becomes a

OCTOBER 21, 2008

member of the Board anyway.

Commissioner Helms suggested to Mr. Dunlap that he secure a writ of mandamus from a judge, which would order the Board to appoint him.

Commissioner Ramirez said it's disturbing to him that a judge or anyone could force him to vote on a matter. Commissioner Ramirez said his vote is a "free" vote and that no one should interfere with his vote. Further, he doesn't interpret "shall" to necessarily mean "must."

Commissioner Ramirez said he doesn't have any animosity against Mr. Dunlap. He just feels the matter should be voted upon at a later date.

Commissioner Ramirez said "if a judge is going to command me to do or to cast my vote one way, I'd rather resign than be forced into voting."

Mr. Dunlap, who was present, informed Chairman Roberts that he would excuse himself. Prior to leaving, Mr. Dunlap said he held no animosity towards any of his "future colleagues." Further, it's his hope that for the good of the community that the Board would "govern this board and this community in a manner that brings respect and dignity to Mecklenburg County." Mr. Dunlap said he would be consulting his lawyer.

*Mr. Dunlap left the meeting and was absent for the remainder of the meeting.*

**(2A, 2B) CLOSED SESSION – A) CONSULT WITH ATTORNEY AND B) LAND ACQUISITION**

Prior to going into Closed Session, the Board announced the following A) Consult with Attorney and B) Land Acquisition matters to be discussed in Closed Session:

- Jerry Alan Reese vs. Mecklenburg County, Brooklyn Village, LLC
- Land in Third Ward belonging to 300 South Church Street, R.B.C Corporation
- Tax Parcels 141-171-11, 141-171-25 and 141-171-23 for +/- 12 acres from Tax Parcels 141-171-22, 141-171-20, 141-171-01 and 141-291-06 owned by Dixie River Land Company

Motion was made by Commissioner Mitchell, seconded by Commissioner Clarke and unanimously carried 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) Land Acquisition.

*The Board went into Closed Session at 5:35 p.m. and came back into Open Session at 6:05 p.m.*

**(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 14 and 15.

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

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**-FORMAL SESSION-**

*Chairman Roberts called this portion of the meeting to order.*

**OCTOBER 21, 2008**

*Commissioner Bishop was absent when the meeting was called to order and until noted in the minutes.*

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

*Prior to beginning, Chairman Roberts again acknowledged the passing of Commissioner Valerie C. Woodard and noted a memorial was held in her honor at the October 7, 2008 meeting.*

*Commissioner Woodard passed on October 3, 2008.*

*Chairman Roberts said it was anticipated that a replacement for Commissioner Woodard would be seated tonight, after having received a recommendation from the Mecklenburg County Democratic Party Executive Committee for the appointment of George Dunlap. The recommendation was received by the Board at the 5:00 p.m. session for the appointment of George Dunlap to fill the District 3 vacancy, however the motion to do so failed in a tie vote of 4-4 with Commissioners Clarke, Helms, Mitchell and Roberts voting yes and Commissioners Bentley, Bishop, James and Ramirez voting no.*

*Chairman Roberts said this matter would be brought back before the Board at a subsequent meeting.*

## **CITIZEN PARTICIPATION**

### **PROCLAMATIONS AND AWARDS**

*Commissioner Bishop entered the meeting at this time.*

#### **(1A) RECREATIONAL EQUIPMENT, INC. DONATION**

The Board recognized Recreational Equipment, Inc. (REI) for their \$10,000 donation to Partners for Parks for the development of a Natural Play Area.

Michael Kirschman with Park and Recreation, Priscilla Walters with Partners for Parks and Bill Ryerson, Outreach Specialist with REI addressed the donation.

#### **(2) PUBLIC APPEARANCE**

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

Rev. Willie Simpson suggested something be done to memorialize the passing of County Commissioner Valerie C. Woodard in recognition of her service to the community. He suggested a day be proclaimed and/or that her chair at the dais be "retired." Rev. Simpson also spoke in support of George Dunlap, who was recommended by the Mecklenburg County Democratic Party to replace Commissioner Woodard.

Martin Davis spoke in opposition to the re-election of Chairman Roberts.

#### **(3A) NOMINATIONS/APPOINTMENTS**

##### **ADULT CARE HOME ADVISORY COMMITTEE**

Motion was made by Commissioner Clarke, seconded by Commissioner Bishop and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez and Roberts voting yes, to nominate and appoint at tonight's meeting Lauren Groves to

**OCTOBER 21, 2008**

the Adult Care Home Advisory Committee for a one-year term expiring October 30, 2009.

*Note: She is replacing Dorene Murphy.*

#### **JUVENILE CRIME PREVENTION COUNCIL**

Commissioner James nominated all eligible applicants for appointment consideration to the Juvenile Crime Prevention Council. They were Aaron Cabbs and Tayler Manchester for the youth slots and Lopa Thakkar for the Substance Abuse Agency slot.

*Note: The vote will be taken on November 5, 2008.*

#### **LIBRARY BOARD OF TRUSTEES**

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez and Roberts voting yes, to nominate and appoint at tonight's meeting Renee E. Casali and William Warren to the Library Board of Trustees for a four-year term expiring December 31, 2012.

*Note: They are filling the last two of four new membership slots granted to the Library Board of Trustees by the General Assembly.*

#### **NURSING HOME COMMUNITY ADVISORY COMMITTEE**

Motion was made by Commissioner James, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez and Roberts voting yes, to reappoint Carole Gaither and Jeffrey Giddens to the Nursing Home Community Advisory Committee for a three-year term expiring October 31, 2011.

#### **SHELTER FOR BATTERED WOMEN ADVISORY COMMITTEE**

Motion was made by Commissioner Clarke, seconded by Commissioner Bishop and unanimously carried with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez and Roberts voting yes, to reappoint Melissa Major to the Shelter for Battered Women Advisory Committee for a three-year term expiring October 31, 2011.

#### **(4) PUBLIC HEARINGS – NONE**

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

#### **(6) MANAGER'S REPORT**

County Manager Jones addressed "Managing Expenditures" during these "uncertain economic times." He referenced a Memorandum, date October 21, 2008 that was sent to Department Directors and a Board Bulletin dated October 9, 2008. It was noted that the information shared with Department Directors could also serve as a response to Commissioner James' agenda Item 23 - Mecklenburg County Hiring and Expense Freeze.

Highlights

- The economic situation does not look good and it could have a substantial impact on County revenues.
- Mecklenburg County has a history of sound budgeting and effectively managing resources, including the current (FY09) budget.
- Mecklenburg County historically underspend its budgets by 3-4 percent. Therefore departments can offset some reduction in revenue by maintaining normal cost management efforts.
- Departments still need to be proactive in considering further cost containment steps rather than waiting for a crisis to occur.
- Departments need to consider what steps may be needed to prepare for potentially significant revenue shortfalls in next year's budget.
- The County's revenues and expenditures will be monitored very closely on a monthly basis.
- At this point, the County is not implementing across-the-board reductions or implementing a county-wide hiring freeze. However, department directors should enhance their scrutiny of departmental spending to identify additional opportunities to reduce or avoid expenditures, while maintaining quality customer service.
- The finance director has met with department and agency leaders to reprioritize cash flow needs for capital projects, in case the County needs to scale back the amount of bonds and COPs sold in January.

County Manager Jones said he would be back to the Board with an update, probably in about a month.

County Manager Jones informed the Board that he would be reporting back to the Board at the November 5, 2008 regarding Commissioner Ramirez's previous request concerning alternative work schedules for employees. Also, the Board will receive the report of the Criminal Justice and Public Safety Task Force.

Chairman Roberts thanked the County Manager for the update.

As a result of this presentation, no action was taken on Commissioner James' Item 23 as noted later in the minutes.

*A copy of the Memorandum and the Board Bulletin is on file with the Clerk to the Board.*

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

**CONSENT ITEMS**

**Motion was made by Commissioner Helms, seconded by Commissioner James and carried 7-0, with Commissioners Bentley, Clarke, Helms, James, Mitchell, Ramirez and Roberts voting yes, to approve the following item(s) with the exception of Items 14 and 15, to be voted on separately:**

**(7) APPROVAL OF MINUTES**

Approve minutes of Regular Meeting held October 7, 2008 and Closed Session held October 7, 2008.

**(8) GIS REIMBURSEMENT FOR 2007 AERIAL IMAGERY**

Recognize, receive and appropriate \$27,192 from the State of North Carolina for Mapping

services.

**(9) ECONOMIC DEVELOPMENT ADMINISTRATION GRANT MATCH**

Appropriate \$20,000 from restricted contingency to help fund a study of the automotive and motor sports industry in the Charlotte region.

**(10) TOBY CREEK GREENWAY ACQUISITION**

Approve purchase of Tax Parcel 049-261-04 (+/- 5.0 acres) on Knollwood Court West for \$65,500 from Nancy W. Page.

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

**(11) MCDOWELL CREEK GREENWAY ACCESS EASEMENT**

Accept the donation of a +/- 0.1077-acre easement on a portion of Tax Parcel 005-371-05 from DDRTC Birkdale Village, LLC.

*Note: The subject easement area is located adjacent to the Birkdale Village parking lot at Townley Road in Huntersville. The easement will provide pedestrian connectivity to the McDowell Creek Greenway from the Birkdale Village mixed-use development.*

**(12) JAIL CENTRAL – ARREST PROCESSING RENOVATION – SECURITY EQUIPMENT – SOLE SOURCE**

Authorize the County to purchase security equipment and services from Norment Security Group as a sole source purchase to complete the renovation and interface with the current Norment equipment at Jail Central as authorized by G.S. 143-129 (e)(6)(iii).

**(13) REVOLUTION PARK PUBLIC GOLF COURSE AND THE CITY OF CHARLOTTE**

Recognize, receive and appropriate in the Capital Reserve Fund \$25,000 from the City of Charlotte for an easement across a portion of the Revolution Park Public Golf Course.

**(16) APPOINTMENT OF REVIEW OFFICERS**

Amend “Resolution Designating Review Officers to Review Each Map and Plat Recorded in the Register of Deeds Office Pursuant to N.C.G.S. 47-30.2” to designate Gregory P. Kolat, Jeffrey Boenisch, Alexander Rodriguez, Michael S. Helms, Eric Sanburg, Lowell A. Logerwell, and Nicholas S. Bush as Review Officers.

*Resolution recorded in full in Minute Book 44-A, Document # \_\_\_\_\_.*

**(17) HEALTH DEPARTMENT REVENUE ADJUSTMENTS**

Recognize, receive and appropriate additional Health Department revenue of \$910,130 to reflect actual state and federal allocations.

**(18) REGISTER OF DEEDS SPECIAL REVENUE FUND**

**OCTOBER 21, 2008**

Recognize, receive and appropriate \$200,000 of fee revenue in the Register of Deeds Automation Enhancement and Preservation Special Revenue Fund for automation and preservation enhancements.

**(19) NEW JAIL EXPANSION 2008 – SELECTION OF CONSULTANT FOR ARCHITECTURAL PROGRAMMING SERVICES**

Authorize the County Manager to negotiate a fee and execute a contract with Carter Goble Lee for Architectural Programming Services for the Mecklenburg County Jail Expansion 2008, and in the event negotiations with this firm are unsuccessful, approve negotiations with the other short-listed firm of Kimme Associates.

**THIS CONCLUDED ITEMS APPROVED BY CONSENT**

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**(14) WORK FIRST BIENNIAL COUNTY PLAN - DSS**

Motion was made by Commissioner James, seconded by Commissioner Ramirez and carried 7-0 with Commissioners Bentley, Clarke, Helms, James, Mitchell, Ramirez, and Roberts voting yes, to defer taking action on Item 14 – Work First Biennial County Plan-DSS until the November 5, 2008 meeting.

*Note: Chairman Roberts removed this item from Consent to request that it be formally presented at the next Regular meeting, so that the Director of Social Services can highlight some of the statistics in the report. Chairman Roberts said she would like for the community to be aware of some of the distress members of the community are experiencing.*

**(15) JANITORIAL SERVICES FOR FIVE (5) COUNTY FACILITIES**

Motion was made by Commissioner Helms, seconded by Commissioner James and carried 7-0 with Commissioners Bentley, Clarke, Helms, James, Mitchell, Ramirez, and Roberts voting yes, to award a three year contract to United Building Maintenance in the amount of \$951,105 for janitorial services at the Wallace Kuralt Centre, Carlton Watkins Center, Tom Ray Center, Samuel Billings Center and Freedom Center.

*Note: Chairman Roberts removed this item from Consent to bring attention to the MWSBE participation.*

**(2B2) CLOSED SESSION-LAND ACQUISITION**

Commissioner Helms asked to be excused from participating in the discussion of Item 2B2- Berewick Park Site Land Exchange to avoid a conflict of interest.

Motion was made by Commissioner James seconded by Commissioner Ramirez and carried 6-0 with Commissioners Bentley, Clarke, James, Mitchell, Ramirez, and Roberts voting yes, to excuse Commissioner Helms from participating in the discussion of Item 2B2 - Berewick Park Site Land Exchange.

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

Motion was made by Commissioner James seconded by Commissioner Ramirez and carried 6-0



**OCTOBER 21, 2008**

with Commissioners Bentley, Clarke, James, Mitchell, Ramirez, and Roberts voting yes, to adopt a resolution of intent to exchange +/- 6 acres from County Tax Parcels 141-171-11, 141-171-25 and 141-171-23 for +/- 12 acres from Tax Parcels 141-171-22, 141-171-20, 141-171-01 and 141-291-06 owned by Dixie River Land Company, located off Dixie River Road in southwestern Mecklenburg County.

*Resolution recorded in full in Minute Book 44-A, Document # \_\_\_\_\_.*

*Commissioner Helms returned to the dais.*

*Commissioner Bishop returned to the dais.*

**(2B1) CLOSED SESSION- LAND ACQUISITION**

Motion was made by Commissioner Mitchell, seconded by Commissioner Helms and carried 5-3 with Commissioners Clarke, Helms, Mitchell, Ramirez, and Roberts voting yes and Commissioners Bentley, Bishop, and James voting no, to approve the First Amendment to Agreement for Sale of Assemblage for the Third Ward Park, which would enable the acquisition of property in Third Ward for the proposed Romare Bearden Park.

Prior to the above vote, Commissioner Ramirez expressed his support of a baseball stadium, which he said originally started out as a land swap transaction, however, with time, the matter became complex. Commissioner Ramirez said this motion will foster economic development efforts and provide a park in Third Ward.

Also, prior to the above vote, Commissioner James expressed opposition to the motion. He referenced two letters from Cornerstone Real Estate Advisers LLC dated October 15, 2008 addressed to him from William F. Towill, Vice President/Portfolio Manager and October 17, 2008 to Attorney Bethune from Mr. Towill both concerning Sale of 300/316 South Church Street and the Purchase of Brooklyn Village. He also referenced e-mails from him to Attorney Bethune and from Attorney Bethune to Commissioner James dated October 17, 2008, also concerning Brooklyn Village/South Church Street. Commissioner James asked that these correspondences be included in the minutes.

Chairman Roberts noted that this matter was not about baseball, but rather a park in Third Ward.

**Requested correspondences to be placed in the minutes:**

OCTOBER 21, 2008

**CORNERSTONE**  
*Real Estate Advisers LLC*



October 15, 2008

Commissioner William F. James, Jr.  
Mecklenburg County Board of Commissioners  
600 East Fourth Street, 11<sup>th</sup> Floor  
Charlotte-Mecklenburg Government Center  
Charlotte, North Carolina 28202

Re: Sale of 300/316 South Church Street, Charlotte, NC ("300 South Church Street")  
Purchase of Brooklyn Village, Charlotte, NC ("Brooklyn Village")

Dear Commissioner James:

Cornerstone Real Estate Advisers LLC is the authorized representative of Massachusetts Mutual Life Insurance Company. This letter is in response to your emails to William B. Ellis dated October 13 and October 14, 2008, regarding the sale of 300 South Church Street to Mecklenburg County, and the purchase of Brooklyn Village from Mecklenburg County.

300 South Church Street, LLC, as seller, and Mecklenburg County, as buyer, entered into an Agreement of Sale for Assemblage, having an effective date of January 17, 2008 for the sale of 300 South Church.

Mecklenburg County, as seller, and Brooklyn Village LLC, as buyer, entered into an Agreement of Sale for County Property, having an effective date of January 17, 2008 for the purchase of Brooklyn Village.

Each agreement sets forth the seller's and buyer's rights and obligations with respect to the sale of 300 Church Street and the purchase of Brooklyn Village, respectively. Both agreements were approved by Marvin Bethune, County Attorney. Any questions or concerns you may have regarding the agreements or the transaction should be directed to Mr. Bethune.

Very truly yours,

A handwritten signature in cursive script that reads "William F. Towill".

William F. Towill  
Vice President/Portfolio Manager

One Financial Plaza    Hartford, Connecticut 06103-2604    (860) 509-2200    FAX (860) 509-2222

OCTOBER 21, 2008

**CORNERSTONE**  
Real Estate Advisers LLC



October 17, 2008

Mr. Marvin Bethune, Esq.  
Ruff, Bond, Cobb, Wade & Bethune, L.L.P.  
831 East Morehead Street  
The Addison Building  
Suite 860  
Charlotte, NC 28202

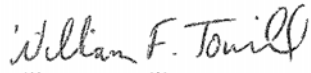
RE: Brooklyn Village

Dear Mr. Bethune:

This is in response to the October 16 email from William F. James, Jr. to you and me. As you know, the Agreement of Sale for County Property provides an inspection period (following the later of the sale of the Church Street property to the County and the final dismissal of all Jerry Reese litigation) for Brooklyn Village LLC to determine whether the intended development is feasible. At such time as the lawsuits and appeals are concluded, Brooklyn Village LLC intends to act in accordance with the terms of the Agreement.

Mr. James' inquiry now, questioning Brooklyn Village LLC's commitment to close the purchase and complete the development within a certain timeframe, is premature and not contemplated by the Agreement of Sale. As to delayed/eliminated infrastructure funding by the County, the impact on Brooklyn Village will be evaluated during the inspection period at the appropriate time.

Sincerely,

  
William F. Towill  
Vice President / Portfolio Manager  
Cornerstone Real Estate Advisers, LLC

OCTOBER 21, 2008

William F. James, Jr.

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**From:** Marvin A. Bethune [mbethune@rbcwb.com]  
**Sent:** Friday, October 17, 2008 3:31 PM  
**To:** 'William F. James, Jr.'  
**Cc:** 'Bobbie Shields'; 'Diorio, Dena R.'; countycommissioners@mecklenburgcountync.gov  
**Subject:** RE: Brooklyn Village/South Church Street  
**Attachments:** BrooklynVillage.pdf

Bill,

I can't answer as to what Brooklyn Village intends to do, but I can answer one of your questions. (I do understand from the Mass Mutual's local attorney that they do intend to at least send me some type of e-mail response to your question to them, which I will forward to you and the other members of the Board once received.)

**If the Board were to purchase the Third Ward land, that would NOT guarantee that Brooklyn Village LLC would purchase the Second Ward land.**

You probably don't remember the details of that agreement as it appeared on the Board's agenda, but it does contain a large number of conditions to the Closing, including, but not limited to the following: the County's purchase of the Third Ward land; the end of any and all litigation involving the sale to Brooklyn Village, LLC (this includes the new lawsuit filed by Jerry Reese last week); and a determination by Buyer that the land is suitable for its intended purposes. It is similar to the contract that the County had to purchase the Third Ward land which also gave the County a large number of outs.

In any event, even if/once all contingencies were/are satisfied, if the Buyer-Brooklyn Village LLC failed to pay the purchase price, the only damages the County would get in the event of a breach would be the \$10,000 escrow money, plus it gets the development plans the Buyer has already paid for.

**So, once again, let me state: there is no guarantee of purchase in that agreement.**

Attached is the body of that contract for your reference, but without all the exhibits (such as property descriptions and the contracts with 300 South Church and RBC) which are so many that I doubt that I could even e-mail it all at once.

So, similar to what I stated back several weeks ago, if the Board chooses to vote to purchase the Third Ward Land from 300 South Church and RBC, the County could end up owning (1) the 300 S. Church/RBC land, (2) the land already owned by the County in Third Ward (either with or **without** a baseball stadium on it depending upon what the Knights chose to do), and (3) the Marshall Park/Ed Center parcels the County owns in Second Ward.

If the Board is not comfortable with that possibility, the Board should not vote to purchase the Third Ward 300 S.Church/RBC land, i.e. should not vote for the proposed First Amendment to Agreement for Sale of Assemblage that the Board discussed at the last meeting.

Let me know if you have additional questions.

**Marvin A. Bethune**  
Mecklenburg County Attorney  
(O) (704) 377-1634

OCTOBER 21, 2008

(FAX) (704) 342-3308  
[mbethune@rbcwb.com](mailto:mbethune@rbcwb.com)

-----Original Message-----

**From:** William F. James, Jr. [mailto:wjames@carolina.rr.com]  
**Sent:** Friday, October 17, 2008 2:09 PM  
**To:** 'Marvin A. Bethune'; 'Towill, William'  
**CC:** 'Bobbie Shields'; 'Diorio, Dena R.'  
**Subject:** RE: Brooklyn Village/South Church Street

OK but the primary question is whether they (MassMutual and Cornerstone) still intend on constructing Brooklyn, spending the several hundred million given the current economy.

For some reason, they do not want to answer that question (at least to me for legal reasons they said). It clearly was a concern as it has been discussed in closed session for the past 6 months. They say they will answer it for you. I am asking you to inquire.

If we agree to the vote on Tuesday regarding the site swap (even advancing the \$19 million) does this guarantee that MassMutual and related entities are required to complete Brooklyn?

Is there a risk that we could buy the \$19 million site and then have MassMutual back out of construction for economic reasons and not purchase their 'piece' or complete the construction (or both)?

Those were the central questions I asked of MassMutual. Given the loss of Wachovia and the Wall Street disaster I find it highly unlikely that a \$200 million plus project in the center city would occur any time soon.

That is a simple question that all parties should be able to answer.

Regards,

**Commissioner Bill James (R, District 6)**  
Mecklenburg County Board of Commissioners  
600 East Fourth Street, 11th Floor  
Charlotte Mecklenburg Government Center  
Charlotte, North Carolina 28202  
[HTTP://billjames.org](http://billjames.org)



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**STAFF REPORTS AND REQUESTS**

**(20) REVOLUTION PARK PUBLIC GOLF COURSE AND THE FIRST TEE OF CHARLOTTE AGREEMENT**

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

- 1) Adopt a resolution approving a long-term lease, development, operating and license agreement with The First Tee of Charlotte (TFTC) to operate a junior golf program.
- 2) Recognize, receive and appropriate in Capital Reserve Fund for Park and Recreation \$500,000 from The First Tee of Charlotte to fund improvements to the golf course that include realignment of holes #1, #2, #3, #7, #8.
- 3) Authorize submission of a request to the Charlotte City Council to approve a lease, development, operating and license agreement with The First Tee of Charlotte.

*Note: Prior to the above action, this matter was addressed by James Alsop with Park and Recreation, Mac Everette, Chairman of the Board of TFTC, Ike Grainger, Vice-President of Shelco and TFTC board member, and Vincent King, Executive Director of TFTC.*

**Resolution and Agreement recorded in full in Minute Book 44-A, Document # \_\_\_\_\_.**

**(21) UNIFORM SCHEDULES OF VALUES, STANDARDS AND RULES FOR THE 2009 REAPPRAISAL**

Motion was made by Commissioner Clarke, seconded by Commissioner Helms, to defer until the November 5, 2008 meeting consideration to:

- 1) Receive the Uniform Schedules of Values, Standards and Rules for 2009 Reappraisal;
- 2) Schedule a public hearing on the Uniform Schedules of Values, Standards and Rules for 2009 Reappraisal for November 5, 2008 and direct the Clerk to publish the notice of public hearing.

Substitute motion was made by Commissioner James, seconded by Commissioner Bishop, to reject holding a public hearing on November 5, 2008 on the Uniform Schedules of Values, Standards and Rules for 2009 Reappraisal and to defer the 2009 Reappraisal matter for 12 months.

Commissioner Bentley read a resolution from the Town of Cornelius supporting the delay of a 2009 Reappraisal.

Town of Cornelius Commissioner Jim Bensman echoed Commissioner Bentley's remarks regarding the resolution approved by the Town of Cornelius and spoke in opposition to a reappraisal in 2009.

The vote was taken on the substitute motion and failed 4-4 with Commissioners Bentley, Bishop,

**OCTOBER 21, 2008**

James, and Ramirez voting yes and Commissioners Clarke, Helms, Mitchell, and Roberts voting no.

The vote was taken on the original motion and failed 4-4 with Commissioners Clarke, Helms, Mitchell, and Roberts voting yes and Commissioners Bentley, Bishop, James, and Ramirez voting no.

*Note: This matter was addressed by Tax Administrator Garrett Alexander.*

## **COUNTY COMMISSIONERS REPORTS AND REQUESTS**

### **(22) BASEBALL STADIUM PROJECT (COMMISSIONER RAMIREZ)**

Commissioner Ramirez placed Item 22 – Baseball Stadium Project on the agenda for the Board to review and decide the County’s course of action with the construction of the Baseball Stadium and its associated business transactions. This matter, however, was dealt with during the discussion of Closed Session Item 2B1 when discussed in Open Session and as noted above in the minutes as indicated.

### **(23) MECKLENBURG COUNTY HIRING AND EXPENSE FREEZE (COMMISSIONER JAMES)**

Commissioner James placed Item 23 – Mecklenburg County Hiring and Expense Freeze on the agenda for the Board to consider the actions 1-6 noted below, however, this matter was discussed and covered by the County Manager under 6a -Manager’s Report as noted above in the minutes as indicated.

- 1) Adopt a hiring and expense freeze for all Mecklenburg County departments, agencies and contractors similar to that enacted by the City of Charlotte.
- 2) Instruct staff to begin re-prioritizing existing available operating and capital resources based on priority rankings approved by the Board and staff recommendations.
- 3) Place savings into a restricted account to carry forward to next year (City is also following this process).
- 4) Freeze all un-necessary travel (including trips, conferences and training) except those needed or required by law.
- 5) Review and cancel existing contracts deemed to be low priority in the current economic climate and provide notice to those agencies and institutions that staff has determined will not be renewed in this climate.
- 6) Insure that revaluation of property values now underway include a write-down of those revaluations for the anticipated planned glut of residential home sales due before the end of the year. Since revaluation is a process that occurs throughout the year by area of neighborhood it is critical that neighborhoods evaluated prior to the full impact of the downturn be reduced to reflect the downturn since their initial revaluation date.

### **(24) PARKS BOND SALES (COMMISSIONER BENTLEY)**

Motion was made by Commissioner Bentley, seconded by Commissioner James, to adopt a Board policy that limits the amount of Park bond sales in any one calendar year to **NO MORE THAN \$50 million** to reflect the new economic reality, the Wall Street economic collapse and the failure of Wachovia.

**OCTOBER 21, 2008**

Commissioner Bishop offered an amendment, which was accepted by Commissioners Bentley and James, makers of the original motion, to change the amount to \$35.7 million rather than \$50 million.

The vote was then taken on the original motion as amended and failed 4-4 with Commissioners

Bentley, Bishop, James, and Ramirez voting yes and Commissioners Clarke, Helms, Mitchell, and Roberts voting no.

**(25) TOWN OF HUNTERSVILLE PAYMENT TO MECKLENBURG COUNTY (COMMISSIONER JAMES) FOR EXPENSES INCURRED RELATING TO THE ADELPHIA CABLE MATTER ITEM WAS REMOVED FROM THE AGENDA**

Note: The Town of Huntersville agreed to pay the County, which is why the matter was removed from the agenda.

**ADD AN ITEM TO THE AGENDA**

Commissioner Clarke addressed adding an item to the agenda regarding filling the District 3 County Commission vacancy. He noted the recommendation received from the Mecklenburg County Democratic Party Executive Committee to place George Dunlap in this seat.

Motion was made by Commissioner Clarke, seconded by Commissioner Helms and failed 4-4 with Commissioners Bentley, Bishop, James, and Ramirez voting no and Commissioners Clarke, Helms, Mitchell, and Roberts voting yes, to add an item to the agenda to consider authorizing the County to reimburse George Dunlap for his legal fees and expenses on an as incurred basis, for seeking a writ of mandamus from the courts ordering the members the Mecklenburg Board of County Commissioners to do what the law requires it to do and seat Mr. Dunlap as a member of the Board to fill the vacancy created by the untimely death of the Board's colleague Valerie C. Woodard.

**COMMISSION COMMENTS – NONE**

**ADJOURNMENT**

Motion was made by Commissioner Helms, seconded by Commissioner James, and unanimously carried, with Commissioners Bentley, Bishop, Clarke, Helms, James, Mitchell, Ramirez and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 9:00 p.m.

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Janice S. Paige, Clerk

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Jennifer Roberts, Chairman



**OCTOBER 21, 2008**