

JANUARY 8, 2009

MINUTES OF MECKLENBURG COUNTY BOARD OF COMMISSIONERS

NORTH CAROLINA
MECKLENBURG COUNTY

The Board of Commissioners of Mecklenburg County, North Carolina, met in Special Session in Conference Center Room 267 of the Charlotte-Mecklenburg Government Center located at 600 East Fourth Street at 7:30 a.m. on Thursday, January 8, 2009.

ATTENDANCE

Present: Chairman Jennifer Roberts and Commissioners
Dumont Clarke, Harold Cogdell, Jr., Neil Cooksey
George Dunlap, Vilma Leake and Daniel Murrey
County Manager Harry L. Jones, Sr.
County Attorney Marvin A. Bethune
Clerk to the Board Janice S. Paige

Absent: Commissioners Karen Bentley and Bill James

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

The meeting was called to order by Chairman Roberts. The purpose of the meeting was to meet with the Mecklenburg Legislative Delegation to discuss the County's 2009 Legislative Agenda, as well as, that of the Mecklenburg County Courts.

The following members of the Delegation were present: Senators W. Edward (Eddie) Goodall, Jr., Daniel G. Clodfelter, Charlie Dannelly, Robert (Bob) Rucho, Representatives Nick Mackey, Tricia Cotham, Ruth Samuelson, Ric Killian, Martha Alexander, and Kelly Alexander.

Following introductions, County Manager Jones started off the County's presentation by thanking the Legislative Delegation for its work and support of Mecklenburg County.

County Manager Jones gave a brief overview of the formation and work of the Justice and Public Safety Task Force created by the Board. He noted, also, that the County will continue to be faced with economic challenges as it prepares to address the budget for next year. County Manager Jones said the County recognizes that the legislature will also be faced with the same constraints. He said to the extent the County and the Delegation can work together, the County would be more than happy to reach out to the Delegation and do what it can to work together to create a better environment for the citizens of this community.

County Manager Jones also commented on how Mecklenburg County benefited from the changes in Medicaid as a result of Article 42 & 44. County Manager Jones said for fiscal year 2008, the net benefit to Mecklenburg County was about \$2.2 million and for fiscal year 09 it's estimated that it'll be about \$2.3 - \$2.4 million.

County Manager Jones concluded his remarks by noting the County is spending about \$6.5 million of local taxpayers' dollars to support the criminal justice system. County Manager Jones said that's almost three quarters of a penny and that a penny on the County's tax rate is almost \$10 million. He said that's a pretty significant amount. Thus, the County would be appreciative and thankful for whatever the Delegation can do to help create an effective urban criminal justice system.

Commissioner Dunlap entered the meeting.

County Manager Jones then called on Assistant to the County Manager Nyki Hardy to go over the County's 2009 Legislative Agenda.

Assistant Hardy outlined the format of the presentation and began by reviewing the County's 2008 legislative agenda accomplishments. She thanked the Delegation for their work during the 2008 Legislative Session. She then called upon the appropriate department representative to present their respective legislative request.

**2009 N.C. General Assembly
Recommended Mecklenburg County Legislative Agenda**

Mecklenburg County Priorities

- Adopt legislation to establish and support the development of a Domestic Violence Fatality Prevention and Protection Review Team in Mecklenburg County, including immunity for service providers, to prevent the occurrence of domestic violence related deaths and promote collaboration among community service providers. Stacey Lowery and Marie White with Community Support Services presented the request.
- Revise NC Public Records Law to allow NC Professional Seals to have a higher level of security with respect to electronic records requests. Jim Bartl, Director of Code Enforcement presented the request.
- Increase the threshold at which Mecklenburg County and municipalities within the county may use force account qualified labor. Jim Garges, Director of Park and Recreation presented the request.
- Support the N.C. Association of County Directors of Social Services (NCACDSS) request to make a continued commitment to the funding that has been allocated to NC FAST (Families Accessing Services through Technology) and support increased funding to allow NC FAST to become a reality for Mecklenburg County in North Carolina. Samara Foxx, Director of Business Affairs for the Dept. of Social Services and Clayton Voignier presented the request.

Commissioner Murrey entered the meeting.

- Appropriate additional state funding for the justice and public safety systems in Mecklenburg County. Local funds should be in addition to state funding and not used to reduce or supplant funding for our district. Assistant Hardy presented the request.
- Eliminate the requirement of an elected official recommendation for notary public applicants in counties with more than fourteen thousand notaries public. Assistant Hardy presented the request.
- Adopt local legislation so that the Board of County Commissioners will not have to hold hearings to approve excise tax refunds. Assistant Hardy presented the request.
- Adopt legislation to allow Boards of Health (or Boards of County Commissioners in counties where the duties of the Board of Health have been assumed by the Board of County Commissioners) in counties with populations in excess of 695,000 at the 2000 census to adopt ordinances regulating smoking in public places. Assistant Hardy presented the request.

Note:

Mecklenburg County supports the following requests of our partner organizations:

- Sales Tax Exemption – Support legislation to exempt counties, cities, public schools and community colleges from payment of state and local sales taxes on purchases within North Carolina. At minimum, support legislation to restore public schools' access to sales tax refunds.
- Seek legislation to increase the daily reimbursement rate for housing state inmates in county jails.
- Support legislation to provide greater discretion at the county level to establish fees for the inspection of food and lodging facilities.
- Support appropriation of state funds and allocation of those resources in a manner to add school health personnel in all counties, including urban counties, so that each school system reaches a nurse/student ratio of 1:750.

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- Seek legislation to require a facility to assist with a communicable disease investigation by providing copies of records that could identify individuals potentially at risk of exposure and to provide immunity for the person responding to a request for records from any civil or criminal liability that otherwise might be incurred as a result of complying with the request.
- State Aid to Public Libraries – Seek legislation to make recent one-time appropriations to the State Aid to Public Libraries grant fund recurring to be used for improving and expanding collections of books and materials.
- Court Facility Fees -- Support legislation to allow counties to collect additional facilities fees to help fund capital, operational and other needs associated with ever-increasing judicial activities.

A copy of the presentation/legislative agenda is on file with the Clerk to the Board.

Comments

Commissioner Cogdell addressed the appropriation of additional state funding for the justice and public safety systems in Mecklenburg County. He urged the Delegation to support this request. He also asked the Delegation to let the Board know what it can do to be of assistance to the Delegation.

Commissioner Leake addressed the request of the Department of Social Services to support the N.C. Association of County Directors of Social Services (NCACDSS) request to make a continued commitment to the funding that has been allocated to NC FAST (Families Accessing Services through Technology) and support increased funding to allow NC FAST to become a reality for Mecklenburg County in North Carolina. She urged the Delegation to support this request. She encouraged the Delegation to visit DSS to see firsthand the work that the Department does and the number of people in need of services.

Senator Dan Clodfelter asked staff to provide more details with respect to how the request to establish and support the development of a Domestic Violence Fatality Prevention and Protection Review Team in Mecklenburg County, including immunity for service providers, to prevent the occurrence of domestic violence related deaths and promote collaboration among community service providers, would work. For example, who the members would be, what would be the scope of their authority, the kind of immunity wanted, etc., so that the legislation would reflect what's wanted.

Senator Clodfelter asked Director Bartl if contact had been made with the Press Association regarding the request to revise NC Public Records Law to allow NC Professional Seals to have a higher level of security with respect to electronic records requests. *The response was that staff is aware of the Press Association concerns and is in the process of lining up the support of the American Institute of Architects (AIA) and the Professional Engineers of North Carolina (PENC) and then collectively approach the Press Association.*

Senator Clodfelter strongly encouraged staff to touch basis with the Press Association because of their interest in the Public Records Law. He asked that the Delegation be informed of the feedback received from the Press Association.

Senator Clodfelter noted, with respect to the request to eliminate the requirement of an elected official recommendation for notary public applicants in counties with more than fourteen thousand notaries public, that when the original bill was passed it was done for Mecklenburg County and Wake County. He asked whether the number of notaries in the County had gone down. *The response was yes. Currently there are 14,000 and the current legislation exempts counties with 15,000 or more notaries.*

Representative Ruth Samuelson asked, with respect to the request to adopt local legislation so that the Board of County Commissioners will not have to hold hearings to approve excise tax refunds, why was it burdensome. *The response was that it's a matter that requires being placed on the Board's agenda and that no one generally appears; the amounts being requested are not that large; the hearings seem unnecessary and slow down the process. It's felt this is an administrative matter that could be handled by the County Manager.*

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Representative Martha Alexander asked how many excise tax refund requests the County receives. *The response was maybe 10 a year, if that many.*

Senator Clodfelter addressed the request to adopt legislation to allow Boards of Health (or Boards of County Commissioners in counties where the duties of the Board of Health have been assumed by the Board of County Commissioners) in counties with populations in excess of 695,000 at the 2000 census to adopt ordinances regulating smoking in public places. He suggested the County get this on the agenda of the N. C. Association of County Commissioners, so that it can be presented as a statewide bill, rather than population specific. Thus, it would give all counties the option if they desire to do so.

Representative Alexander echoed Senator Clodfelter's remarks with respect to regulating smoking in public places. Representative Alexander said it's a difficult battle to get this legislation passed, but that she would continue to support it.

Commissioner Murrey commented on studies regarding the impact of secondhand smoke and implementation of this type legislation, which he said studies show a decrease in the incidences of heart attacks.

Representative Edward Goodall with respect to Domestic Violence, said several bills were passed last session and he hopes they will have an impact on this issue as well.

Mecklenburg County Courts

The following Court officials were present: Clerk of Superior Court Martha Curran, District Attorney Peter Gilchrist, Chief District Court Judge Lisa C. Bell, Senior Resident Superior Court Judge Robert P. Johnston, Trial Court Administrator Todd Nuccio, and Public Defender Kevin Tully.

Todd Nuccio, Trial Court Administrator, presented the Mecklenburg County Courts' 2009 legislative and budgetary requests.

Mr. Nuccio covered the following in his presentation:

Allocation of State Funding FY07-08

N.C. Quick Facts (N.C. in comparison with national averages)

Mecklenburg Quick Facts

Previous Allocation of Funds and Remaining Shortfalls with respect to

District Judges

Magistrates

Deputy Clerks

Assistant District Attorneys

The Impact of Allocation of Funds with respect to

District Judges

Assistant District Attorneys

Deputy Clerks

Innovations to Improve Justice System

Statutory Requests

► Jury Service

- Revise G.S. 9-4 to allow an electronic copy, rather than a hard copy, of the Master Jury List to be filed with the Register of Deeds in order to ameliorate storage space issues
- Amend G.S. 9-3 to eliminate the word "hear" for juror qualifications since Federal ADA provisions require we provide hearing-impaired interpreters for those who choose to serve.
- Permit exhibits in jury deliberations in criminal cases
- Address failure to implement G.S. 7A-312 dealing with the waiver and designation of juror fees for court-related programs and services

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- ▶ Interpreting
 - Authorize expansion of State-reimbursed interpreting services to encompass all court-hearings and business-related interactions to conform with Title VI requirements
- ▶ Drug Treatment Courts
 - Include clarifying language under G.S. 7A-791 to recognize DWI Treatment Courts as type of Drug Treatment Court covered by the provisions of Article 62
- ▶ Fine Collections
 - Authorize the use of civil liens/judgments, the reporting of delinquency to credit agencies, referrals to credit counseling agencies and debt restructuring with the Court as the lead or primary debtor.
 - Allow County (directed specifically to Fine Collection Program) to retain the collection fee assessed for amounts that are unpaid for 30 days after the time period allotted by the Court
- ▶ Salaries
 - Authorize supplementing salaries of non-elected Judicial Branch employees by local governments in order to attract and retain the best qualified employees within judicial districts and to further the administration of justice.
- ▶ Miscellaneous
 - Provide Magistrates with the authority to appoint counsel
 - Expand list of enforcement agencies that can serve “Notice of Hearing on Violation of Unsupervised Probation” by mail as opposed to personal service. Provision only currently applies to Community Service.
 - Budgetary Independence of the Judicial Branch (FY2008-09, SB 2103)
 - Judicial Appointments and Retention (FY2007-2008, SB 957)

Budgetary Requests

- ▶ Positions
 - Protect one Judicial Assistant position that became effective in July of 2008 and two other

Judicial Assistant positions that became effective in January of 2009 from elimination. The positions have not been filled due to a hiring freeze imposed by the AOC
- ▶ Funding & Salaries
 - Fund staffing increase recommendations outlined in National Center for State Courts Workload Study for Family Court districts: Mecklenburg is to receive three positions
 - Fund staffing increase for the FIRST Program (FDTC) in accordance with state DTC guidelines
 - Adopt Judicial Branch Salary Plan – (FY2007-08, SB956 & HB803)
- ▶ Pilot Programs & Services
 - Establish pilot group of Self-Serve Centers across the State following national best practices and standards.
 - Establish pilot group of state-funded supervised child visitation and exchange centers following national best practices and standards.
 - Appropriate pilot funding and provide formal recognition for Mental Health Courts.

Chairman Roberts noted the action taken by the Board at its January 6, 2009 meeting with respect to funding assistance to the judicial system.

Mr. Nuccio thanked the Delegation for all of its work.

A copy of the presentation/legislative agenda is on file with the Clerk to the Board.

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Senator Clodfelter commended Court officials for their continued communication and working relationship with the Delegation, which he said was “just great.” Senator Clodfelter asked Court officials to encourage their counterparts in other N.C. counties to do as they do and meet with their respective legislative delegations. Senator Clodfelter said when these types of relationships exist that faster progress can be made. He noted that in Buncombe County progress has been made in this area, that in Wake County, it’s been on again, off again, and in other counties, it’s still “a tug of war.”

Senator Clodfelter commented on how great it is to see the impact of previous allocations. He asked Mr. Nuccio to provide the Delegation with a copy of the presentation, which outlines those impacts.

Chairman Roberts asked that it be sent to Board members as well.

Representative Samuelson asked County staff to provide the Delegation with a copy of the appropriations information approved by the Board on January 6, 2009 with respect to the allocation of \$3 million for Justice/Public Safety Task Force recommendations; and as this matter is tracked using the balanced scorecard, to keep the Delegation aware of the results; what’s working and what’s not.

Representative Samuelson asked can the County fund public defender positions.

Commissioner Clarke, chairman of the Board’s Criminal Justice Committee, said the County can, has, and does, but there’s a process for doing so, which was explained briefly.

Commissioner Clarke said the concern has been whether or not the state would pick up the County funded positions.

Senator Clodfelter said the state usually will pick up the positions if funds are available.

Chief District Court Judge Lisa C. Bell said the issue isn’t hiring Assistant District Attorneys, but retaining them. Judge Bell said the focus needs to be on retention.

Representative Samuelson asked whether the retention problem was salary related and the response was yes.

Senator Clodfelter encouraged officials to put local dollars towards support staff and pay supplements and to let the Delegation continue to work on getting funding for basic slots, such as judges, assistant district attorneys, and clerks.

Senator Clodfelter said there is a problem with the salaries. He said unfortunately the 2005 salary study “gave us a bad fact,” which was that we’re not that far out of line in terms of pay for assistant district attorneys with other states, but we are in Mecklenburg County; but measured as a state, assistant district attorneys (ADA) on the average is not that out of line with pay for an ADA in Tennessee, Virginia, Georgia, and Florida, for example. He stated further that if funds are available for local pay supplements, that could be important, because the salary study says where we really need to increase pay in North Carolina is for district court judges and appellate court judges; that our Superior Court judges and district attorneys are generally in line with other states in terms of pay but our district court judges and appellate court judges is out of line. Senator Clodfelter said this makes it hard for the Delegation to get a statewide pay increase for the district attorney, which would suggest that if local funds are available, that’s where it should be put, in pay supplements.

County Manager Jones noted, with respect to the action taken by the Board on January 6 (the allocation of \$3 million for Justice/Public Safety Task Force recommendations), that one aspect of that is accountability. He said one of the responsibilities General Manager Michelle Lancaster will have in working with the criminal justice agencies, is to create a matrix for evaluation.

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County Manager Jones said the County will work on the premise that if something doesn't work, it'll be sunset and the County will try something different to be effective in the process. He also addressed the work of the Criminal Justice Advisory Group (CJAG).

Public Defender Kevin Tully addressed the needs of the Public Defender's Office, which he said is also important in the efficiency of the criminal justice system. He also asked the Delegation that when Indigent Defender Services (IDS) comes before them with their budget, understanding that they are the funding agency on the state level for the indigent defense side, that they will give it consideration.

Senator Clodfelter encouraged local officials to go outside the community to see what is and what's not occurring in other communities of the state. Senator Clodfelter said when you do, you'll appreciate what's going on locally.

Senator Clodfelter said there aren't many communities that have a public defender's office, but that it's far more efficient for the county to deliver the defense services that we're required to do by the constitution, to do so through a public defender's office, rather than a system of private defense counsel. As such, it's often a battle budget time when it comes to funding public defenders. He said having a public defender's office system, however, saves money.

District Attorney Peter Gilchrist addressed the benefit of having a Public Defender's Office.

Commissioner Cogdell commented on the Administrative Office of the Courts lack of technological capabilities.

Senator Clodfelter acknowledged that technology is an issue. He said it will be a "hot" topic in the long session.

Commissioner Cooksey asked about the Governor's role in all of this and what "can we do, with the change in administration, to get the Governor educated about some of these issues and how to push some of these issues."

Senator Clodfelter said he feels the Governor is going to be supportive of what "we do." He said it's really more of an issue for the judicial branch and the legislative branch. He said that's where the activity will be. He noted further that the outgoing Governor in terms of budget submissions and requests was "pretty good." He said they got pretty good requests and it gave them a basis to work from. Further, that generally the budgets that got enacted the last three to four years went beyond what the Governor was asking for, but the requests they were getting were not bad. Also, that generally the Governor's office looks to the Administrative Office of the Courts and the Chief Justice when they put together the budget submission requests.

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

Representative Killian commented that some of the information shared by the courts "tells a pretty good story." He said what it tells is the spending priorities of the previous administrations and legislatures. Thus, he's of the opinion that public safety, specifically courts, "don't receive the priority or haven't received the priority in previous administrations and legislatures that it needs." Representative Killian said spending priorities in the past don't represent the "needs of the people in the state and certainly not the needs of the people in the County." He said "our needs are public safety and transportation." He encouraged the Chairman to take this message to the new Governor and to the legislature.

Chairman Roberts said she plans to be in Raleigh more.

This concluded the discussion.

No action was taken or required.

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Note: The above is not inclusive of every comment but a summary of key comments.

ADJOURNMENT

There being no further business to come before the Board the meeting was declared adjourned at 9:23 a.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman