

FEBRUARY 17, 2009

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, February 17, 2009.

ATTENDANCE

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

Absent: Commissioner Karen Bentley

-INFORMAL SESSION-

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

(1A) STAFF BRIEFINGS – SOUND RECORDINGS FOR CLOSED SESSION

Motion was made by Commissioner James, seconded by Commissioner Cooksey, to adopt a policy on making sound recordings of closed sessions by amending the Board’s policy with respect to the Disclosure of Minutes of Closed Sessions. The amendment being to record only those Closed Sessions where the minutes may be released, and that the recording be kept for seven years.

Substitute motion was made by Commissioner Clarke, seconded by Commissioner Leake and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to adopt a policy on making sound recordings of closed sessions by amending the Board’s policy with respect to the Disclosure of Minutes of Closed Sessions. The amendment being to record only those Closed Sessions where the minutes may be released, and that the recording be kept for two years, unless the Board determines it needs to be kept longer. The amendment reads as follows with an effective date of March 3, 2009:

**Sound Recording of Closed Sessions and Disclosure of Sound Recordings
and Minutes of Closed Sessions**

Sound Recording of Closed Sessions

The Clerk to the Board of Commissioners shall make a sound recording of all closed sessions of the Board of Commissioners except for closed sessions to “prevent the disclosure of information that is privileged or confidential pursuant to the law of this State or of the United States or is not

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considered a public record within the meaning of Chapter 132 of the General Statutes” (N.C.G.S. 143-318.11 (a)(1), or closed sessions about personnel matters (N.C.G.S. 143-318.11 (a)(6)). The sound recordings for each purpose of a closed session shall be kept separately to facilitate public disclosure of the sound recording of those portions of a closed session which may be disclosed. The sound recording of closed sessions shall be held in a confidential file by the Clerk to the Board until either the County Attorney or the Board of Commissioners has determined that public inspection would not frustrate the purpose of the closed session which was recorded.

The sound recording of a closed session shall be reclassified as no longer needing to be held in confidence when the minutes of the closed session have been reclassified as provided below. The sound recording will be made available for public inspection by the Clerk to the Board for two years. At the end of the two years the sound recording can be discarded; unless the Board determines it needs to be kept longer.

Note: The Clerk to the Board will prepare an agenda item for submission to the Board to affirm the discarding of Closed Session Recordings at the end of the two-year period. The two-year period will not begin until the minutes of that particular Closed Session have been released for public inspection.

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

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

(2A) CLOSED SESSION – A) CONSULT WITH ATTORNEY

Prior to going into Closed Session, Attorney Bethune announced the following Consult with Attorney matters to be discussed in Closed Session: The US National Whitewater Center and Sharon Pittman vs. Mecklenburg County.

Motion was made by Commissioner James, seconded by Commissioner Dunlap and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to go into Closed Session to Consult with Attorney.

The Board went into Closed Session at 5:35 p.m. and came back into Open Session at 6:43 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 11 and 16.

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

-FORMAL SESSION-

Invocation was given by Commissioner Dunlap, 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) GREAT AMERICAN CLEAN UP

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Motion was made by Commissioner Cooksey, seconded by Commissioner Leake and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to adopt a proclamation designating March 1st through May 31st as the Mecklenburg County ‘Great American Clean Up.’

The proclamation was read by Commissioner Cooksey and received by Jake Wilson, Director of Keep Mecklenburg Beautiful in LUESA-Solid Waste Division.

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

(1B) HUMAN RELATIONS MONTH

Motion was made by Commissioner Dunlap, seconded by Commissioner James and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to adopt a joint proclamation designating February 2009 as Human Relations Month in Charlotte and Mecklenburg County.

The proclamation was read by Commissioner Dunlap and received by Angeles Ortega-Moore and Willie Ratchford on behalf of the Community Relations Committee.

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

(1C) RECOGNITION OF HARRY P. HARDING HIGH SCHOOL BAND

Motion was made by Commissioner Leake, seconded by Commissioner James and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to officially recognize Harry P. Harding High School Band in recognition of their participation in the Inauguration Events for the 44th President of the United States of America, President Barack Hussein Obama on January 20, 2009.

Note: Harding was the only band from N. C. invited to participate in the Presidential Inauguration Parade.

Band Director Anthony Jones, members of the band, their parents and the Principal of Harding, Alicisa Johnson were present to receive the Certificate of Appreciation.

PUBLIC APPEARANCE

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

Beth Marlin addressed sewer blow back problems and potential health concerns. Mrs. Marlin said she was bringing this matter to the Board’s attention, since it sits as the Board of Health. The sewer line addressed by Mrs. Marlin is on Beatties Ford Road in the 500 block.

Chairman Roberts said she would have the appropriate staff to look into this.

Mary Klentz, Maria Halin, Dorothy Waddy, Whitney Mungim, and Madlyn Pratt addressed mixed income housing. They represent the Mixed Income Housing Coalition, a “grassroots coalition to gain support for policies which create and sustain mixed-income communities throughout the County. They said “without change, the quality of life for people in Charlotte and Mecklenburg County will suffer from increased economic and social isolation, higher crime rates, long commutes, increasing separation between home and work, an unacceptable education achievement gap, lack of access to daily needs and a persisting lack of community trust.” They asked the Board to “work for inclusionary housing policies and practices that support mixed

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income neighborhoods so that citizens of Mecklenburg county, regardless of income, have choices to live in all areas of our county.”

A copy of a handout from the Mixed Income Housing Coalition is on file with the Clerk to the Board.

Vincent Frisino, Jr. addressed subsidized housing. Mr. Frisino was representing the Beatties Ford Road Cluster One, Eastside Neighborhood Council, Hidden Valley Community Association and Plaza Eastway Partners/NCO Inc., Windsor Park Neighbors, and Verndale Farms Neighborhood Association. Mr. Frisino said there’s an “overload” of subsidized housing in our NSAs in the East and West of Charlotte. Mr. Frisino said his group would like a definitive answer with respect to the actual number of housing units in Mecklenburg County.

Chairman Roberts said she would have someone in the tax office to answer Mr. Frisino’s question with respect to the number of housing units.

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

(3A) NOMINATIONS/APPOINTMENTS

ADULT CARE HOME COMMUNITY ADVISORY COMMITTEE

Motion was made by Commissioner Cooksey, seconded by Commissioner Leake and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to appoint Letha Smalls-Gordon to the Adult Care Home Community Advisory Committee for a one-year term expiring February 28, 2010.

She is replacing Brenda Allison.

CHARLOTTE MECKLENBURG COMMUNITY RELATIONS COMMITTEE

Commissioner James nominated all of the applicants for appointment consideration to the Charlotte Mecklenburg Community Relations Committee:

- Lori Fletcher
- Earl Foxworth, Jr.
- Stephen Grey
- Azania Herron
- Sharon Ingram
- Catherine Kennedy
- Barry Kirby
- Hope McKinney
- Holly Neil
- Patrick Rivenbark
- Amad Shakur
- Tami Snipe
- Rebecca Vincent

Note: An appointment will occur on March 3, 2009.

NURSING HOME COMMUNITY ADVISORY COMMITTEE

Motion was made by Commissioner James, seconded by Commissioner Cogdell and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake,

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Murrey and Roberts voting yes, to appoint Kay Roderick to the Nursing Home Community Advisory Committee for a one-year term expiring February 28, 2010.

She is replacing Dora Daniels.

PARK AND RECREATION COMMISSION

The following persons were nominated for appointment consideration to the Park and Recreation Commission for the At-Large position:

Helen Alexander	by Commissioner Dunlap
Ericka Ellis-Stewart	by Commissioner Cogdell
Hubert Helms	by Commissioner Cogdell
Charles McRee	by Commissioner Cogdell
Norman Mitchell, Sr.	by Commissioner James
Rodney Moore	by Commissioner Cogdell
Paul Richardson	by Commissioner Cogdell
Sheryl Smith	by Commissioner Cogdell

Note: An appointment will occur on March 3, 2009.

Motion was made by Commissioner James, seconded by Commissioner Leake and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to appoint David Morgan to the Park and Recreation Commission as the Northern Town Representative to fill an unexpired term expiring June 30, 2009.

He is replacing Michael Noble.

PUBLIC HEARINGS

(4A) AMENDMENTS TO THE MECKLENBURG COUNTY FLOODPLAIN REGULATIONS

Motion was made by Commissioner Dunlap, seconded by Commissioner James and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to hold a public hearing to receive comments on the proposed revisions to the Mecklenburg County Floodplain Regulations.

No one appeared to speak.

Motion was made by Commissioner James, seconded by Commissioner Cogdell and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to close the public hearing on the proposed revisions to the Mecklenburg County Floodplain Regulations and adopt the proposed revisions to the Mecklenburg County Floodplain Regulations.

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

(4B) STREET LIGHTING – FINAL ASSESSMENT

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identified by the state before the Board approves its budget. Further, it's unlikely that the County will be able to budget away this gap using federal stimulus monies.

- County departments and agencies, the Public Library of Charlotte/Mecklenburg County, Medic, and Carolinas HealthCare System have been asked to identify reductions in next year's budget that total 20% of current year funding; however, this doesn't necessarily mean their budgets will be cut 20%.
- Charlotte-Mecklenburg Schools (CMS), Central Piedmont Community College, and WTVI have been contacted and asked to share in this reduction process with a reduction request of 10% in their request for County funding.
- If County departments had to assume the full "burden" of eliminating the \$70 million gap, it would result in the elimination of 1000 jobs and approximately 500 employees.
- The intent is to retain jobs and employees, where possible, however, if the County's key business partners, especially CMS, don't share in this responsibility, many County employees will be out of work.
- The impact of this gap on LUESA was also addressed.

Comments

Commissioner Dunlap asked about the impact of these reductions on departments, when as a result of the economy, there's more demand for their services, which was addressed.

Commissioner Cogdell asked for clarification with respect to why were community partners being asked to reduce at different levels, which was addressed.

Commissioner Cooksey said it was incumbent upon the Board to prioritize those capital projects that are on the stimulus package list.

Commissioner Leake expressed concern for equity, with respect to County departments and community partners.

Commissioner James said at some point he would like to have a definition of "shovel ready" projects.

Commissioner James suggested the Board consider using restricted contingency with respect to CMS funding. Commissioner James said if it's done this way, the Board can pull back funding anytime it wants to.

Capital/Debt issues

Finance Director Diorio briefly addressed the County's capital/debt issues.

The following was noted:

- The Board was reminded that it had delayed action on the \$253 million bond sale.
 - Staff was asked to reassess the need of all currently authorized projects totaling \$1.3 billion.
 - Staff was asked to give an update on authorized projects that are unfunded.
 - Staff was asked to prioritize the list of projects.
 - Staff was asked to project the County's debt capacity for the next five years.
 - Two options were shared with respect to accomplishing the things the Board has asked staff to do:
 - Option 1** - That staff report back to the Board on March 11, 2009 with respect to debt capacity for the ensuing five years based on assumptions with respect to what the County's operating budget would be.
- Projects would be presented in three categories: 1) Those under construction 2) Those that are in design or design completed 3) All others
Staff would provide a prioritized list of projects as recommended by departments

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Option 2

Staff would report back on April 28, 2009 and address the same issues mentioned in Option 1 but the projects would be prioritized based on a pre-determined criteria, which staff is still working on.

The Citizens Capital Budget Advisory Committee would be asked to get involved to assist in the prioritization of projects and providing public input.

- The advantages and disadvantages of each option were reviewed.

Comments

Commissioner James spoke in support of Option 1. Commissioner James said it allows you to tackle this issue faster and everything is “upfront.” Commissioner James said you could still however, do some of the aspects of Option 2 after you’ve done Option 1. Commissioner James said he feels Option 1 allows you to disclose information to the public sooner.

Commissioners Clarke and Murrey spoke in support of moving forward with Option 1.

It was the consensus of the Board to move forward with Option 1.

CONSENT ITEMS

Motion was made by Commissioner Dunlap, seconded by Commissioner James and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to approve the following item(s) with the exception of Items 11 and 16 to be voted upon separately:

(7) APPROVAL OF MINUTES

Approve minutes of Regular Meeting held February 3, 2009 and Closed Session minutes of February 3, 2009, and January 6, 2009.

(8) DESTRUCTION OF DOCUMENTS – LUESA

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

Note: These records are comprised of 305 commercial plans permitted January 2007

(9) TAX REFUNDS

Approve tax refunds in the amount of \$146,117.73 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.

(10) STATE BOARD OF ELECTIONS GRANT FUNDS

Recognize, receive and appropriate grant funds in the amount of \$260,755 from the State Board of Elections to pay for additional one-stop voting locations.

(12) FEDERAL CRISIS INTERVENTION PROGRAM (CIP) - DSS

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Amend the Fiscal Year 2009 Adopted Budget to recognize, receive and appropriate \$1,050,148 of additional Federal revenue for the Crisis Intervention Program (CIP).

Note: The U.S. Department of Energy allocated \$902,784 additional federal funding for the Crisis Intervention Program (CIP), and \$147,364 for the administration of the CIP program. The additional funding will assist Mecklenburg County citizens with heating and cooling needs through the end of FY2009.

(13) NORTH CAROLINA DEPARTMENT OF TRANSPORTATION COMMUNITY TRANSPORTATION GRANT APPLICATION – SET PUBLIC HEARING

1) Schedule a public hearing on March 17, 2009 to receive comments on the Mecklenburg County Department of Social Services' application for the North Carolina Department of Transportation's Community Transportation Grant for Fiscal Year 2009-2010.

2) Authorize the Clerk to the Board to publish Notice of Intent to hold public hearing.

(14) FUNDING ADJUSTMENTS – AREA MENTAL HEALTH

A) Approve, recognize, receive and appropriate Medicaid funds in the amount of \$400,000 for the purchase of durable and consumable goods for consumers enrolled in the Community Alternatives Program for Mental Retardation/Developmental Disabilities (CAP-MR/DD), a Federal Medicaid waiver program.

B) Approve, recognize, receive and appropriate Medicaid funds in the amount of \$925,410 for the purchase of Targeted Case Management services for developmentally disabled Medicaid consumers.

C) Approve, recognize, receive and appropriate Medicaid funds in the amount of \$66,419 to directly provide Community Support services to adult consumers who are in Department of Social Services (DSS) custody and have mental health diagnoses.

D) Approve, recognize, receive and appropriate funds received from Correct Care Solutions in the amount of \$53,248 to fund a position to provide discharge planning for mental health care services to jail inmates under the control of the Mecklenburg County Jail.

E) Approve establishing two full time positions to perform the functions identified in items C and D above.

(15) CSX TEMPORARY CONSTRUCTION EASEMENT

Authorize the County Manager to finalize negotiations for and execute a Temporary Construction Easement with CSX Transportation, Inc. to allow CXS to access County property in order to repair an embankment supporting a CSX rail line.

(17) GREENWAY DONATION

Accept donation of Tax Parcel 051-211-88 (+/- 7.252 acres) on Back Creek from FC Caldwell, LLC.

Note: This parcel will add to greenway assemblage along Back Creek, and is located in the Northeast Park District.

THIS CONCLUDED ITEMS APPROVED BY CONSENT

(11) FREEDOM FAMILY RESTAURANT LEASE

Motion was made by Commissioner Leake, seconded by Commissioner James and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to adopt a resolution titled, "Mecklenburg County Board of Commissioners Resolution Declaring Intent To Lease Property to MSF, Inc., owner of Freedom Family Restaurant."

Note: MSF, Inc., owner of Freedom Family Restaurant, a family-style restaurant, has submitted a proposal to lease a County owned building at 1501 Ashley Road, located on an out-parcel of the Valerie C. Woodard Building property (former Freedom Mall site). The former Freedom Mall building has undergone extensive renovations to portions of the facility and now house County employees.

Commissioner Leake removed this item from Consent in order to clarify the exact location of the facility, which was addressed.

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

(16) DUKE ENERGY LEASE AGREEMENTS FOR RAMSEY CREEK PARK AND COPPERHEAD ISLAND

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and unanimously carried with Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to authorize the County Manager to execute agreements for Mecklenburg County to lease property from Duke Energy to develop and maintain Copperhead Island and Ramsey Creek Parks.

Commissioner Leake removed this item from Consent for more public awareness.

STAFF REPORTS AND REQUESTS

(18) WHITEWATER ANNUAL FINANCIAL REPORT

Motion was made by Commissioner Murrey, seconded by Commissioner Dunlap and unanimously carried Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to receive as information the US National Whitewater Center Annual Financial Report.

Note: On May 5, 2004, Mecklenburg County entered into two agreements with the Charlotte Whitewater Park, Inc. (CWP). The first agreement was a lease and development agreement which permitted CWP to build the US National Whitewater Center on county-owned land and lease the property for a period of 40 years.

The second agreement was for the provision of park services by CWP. As part of that agreement, Mecklenburg County agreed to pay a maximum annual service fee of \$1 million for seven years. In the event that CWP has excess funds after paying operating expenses and debt service, a credit on the annual service fee would be applied. For the fiscal year ending October 31, 2008 the reported revenues did not exceed operating expenses plus debt service so Mecklenburg County is liable for the entire \$1 million service fee, which is already approved in this fiscal year's operating budget.

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This is the second full year that CWP has been in operation. CWP has not been able to generate sufficient income to make the required principal payments on its outstanding debt of \$38 million.

CWP is pursuing a second forbearance agreement with its lenders that will allow principal payments to be deferred until after October 31, 2009.

Prior to the above vote, General Manager Bobbie Shields, Jeff Wise, Executive Director of the US National Whitewater Center and Allan Dixon, Board Chairman addressed this matter.

Comments prior to the above vote:

Commissioner Cooksey asked what were the plans for improving the financial performance of the Center, which was addressed.

Commissioner Cooksey asked about fundraising, which was addressed.

It was noted by Mr. Wise that their goal is to get more people to visit the Center and to get them to spend more money at the Center, and to make sure the Center's expenses are well managed.

Commissioner Murrey asked for clarification with respect to the shortfall and how it was calculated, which was addressed.

Commissioner Murrey asked about the Center's business plan, which was addressed.

Commissioner Leake expressed concern for having to make this payment to the Center, especially in light of the current economy.

Commissioner James asked about the spending of the \$1.7 million, which was addressed.

Commissioner James asked how much of the subordinated and senior debt that was owed by the directors, which was addressed.

Commissioner James said at some point he would like a list of the endowments, as it relates to the Center.

Commissioner James said he does not think the Center is financially viable with \$38 million in debt; and to make it financially viable, a plan is needed that's not a \$49 dollar fee for an access pass.

It was noted by Whitewater representatives that they are aware of the need for a better business plan and is in the process of working with the banks to develop such a plan.

Commissioner Cogdell clarified for the public, the County's obligation to the Center, per the agreement entered into by the County, several years ago.

Commissioner Cogdell suggested the need for more information about how the Center can be a greater public benefit, but he understands their limited marketing ability at the present time.

Commissioner Cogdell asked what secured interests do the lenders hold in the leasehold. *The response was there's a leasehold deed of trust.*

Commissioner Dunlap noted that often it takes more than two years for a new business to make a profit. Commissioner Dunlap suggested the Center do more marketing to let people know they exist.

Chairman Roberts said the County wants to help the Center get through these tough times, because the Center is a great asset to the community.

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

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COUNTY COMMISSIONERS REPORTS AND REQUESTS - NONE

COMMISSION COMMENTS – No 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 Cogdell, seconded by Commissioner James and unanimously carried Commissioners Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 9:52 p.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman