

**JUNE 2, 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, June 2, 2009.

**ATTENDANCE**

**Present:** Chairman Jennifer Roberts and Commissioners  
Karen Bentley, 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:** None

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**-INFORMAL SESSION-**

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

**(1) STAFF BRIEFINGS - NONE**

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

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

*The Board went into Closed Session at 5:35 p.m. and came back into Open Session at 5:55 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 12, 14, 15, 19, 22, and 25.

*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 (The Pledge was lead by members of Boy Scout Troop 232, St. Thomas Aquinas Catholic Church.) and introductions; after which, the matters below were addressed.*

**CITIZEN PARTICIPATION**

**PROCLAMATIONS AND AWARDS**

**(1A) STORM WATER SERVICES VOLUNTEER RECOGNITION**

The Board recognized Volunteers of the Adopt-A-Stream and Storm Drain Marking Programs.

Rusty Rozzelle, Water Quality Program Manager, addressed the two programs and introduced Volunteers present. Mr. Rozzelle was joined at the podium by Erin Oliverio, Program Coordinator. Volunteers present were: Albemarle Road Middle School, Auto Bell, Boy Scout Troop 9, CDM, Central United Methodist Church, Continental Boarding, Inc., Haden Stanziale, the Magas Family, Mount Claire HOA, Olympic High School, Piedmont Natural Gas, RS&H, the Stroud Family, and Hubert Technologies. It was noted that there are 72 volunteer groups.

*Note: Volunteers who participate in the Adopt-A-Stream Program are assigned a section of stream that they walk a minimum of twice a year to remove trash and debris. The volunteers also document and refer pollution problems to County staff for elimination. Since 2000, volunteers have completed 718 stream cleanups and removed more than 76 tons of trash from the County's waterways. Volunteers participating in the Storm Drain Marking Program place markers on storm drains that read "Do Not Dump, Drains To Creek" in both English and Spanish. This serves as a valuable educational tool for preventing illegal dumping of waste oil, paint and other pollutants down these drains, which discharge directly to our creeks and lakes, negatively impacting surface water quality. Since the storm drain markers were initiated in 2003, volunteers have marked 9,787 storm drains in Charlotte-Mecklenburg.*

**(2) PUBLIC APPEARANCE**

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

Steve Jackson addressed the installation of lighting at Flat Branch Park and the future infrastructure build out by South Charlotte Soccer Association at Flat Branch Park. Mr. Jackson said the lighting and future infrastructure build out at Flat Branch Park is not consistent with what residents were told. Mr. Jackson said residents in the area thought Flat Branch Park was going to be a neighborhood park. Mr. Jackson asked the Board to remove the presently installed four light towers and to prevent Flat Branch Park from being built out as a sports complex.

*A copy of Mr. Jackson's remarks is on file.*

Deborah Scott addressed the McCrorey YMCA Senior Drummers and Dancers Group, who recently received Gold Medals in the Senior Games. Members are 55 and up. It was noted the oldest member of the Group is 86. It was noted also that the Group will be going to Raleigh in September for the State Senior Games competition.

Rodney Lee, a resident of Winget Pond, addressed what he referred to as zoning violations on the part of Ryan Homes. According to Mr. Lee, Ryan Homes was allowed to build homes six feet a part, R-3 homes, which allowed for three feet side-yard space. Mr. Lee said Ryan Homes could not conform to the zoning requirements issued for Winget Pond. Mr. Lee said the HVAC units that are attached to homes within the side-yards are considered a part of the home, thus, the three feet of space that each home was to have, should have started at the end of the property line to

the beginning of the HVAC unit. Mr. Lee said this is not the case. Mr. Lee said he has discovered several zoning violations within his community. He's met with staff of the Planning Commission, the zoning administrator, and permitting staff and all agree that these homes should not have been sold and deeded to homeowners at closing. Mr. Lee said this issue started with county personnel. Mr. Lee said each home is to be inspected by inspectors of the County and that the inspectors failed to do their job. Mr. Lee said he's found out there are very few penalties for builders to do what has occurred in his neighborhood. As such, he plans to go to Raleigh and ask the state to look into this matter. Mr. Lee said he'd be happy to discuss this matter in more detail with each Commissioner. Mr. Lee closed by saying "government must promote growth, while protecting the interest of properties of existing businesses and residents."

**(3A) APPOINTMENTS**

**CRIMINAL JUSTICE CITIZEN'S ADVISORY COMMITTEE**

The vote was taken on the following nominees for appointment to the Criminal Justice Citizen's Advisory Committee:

Joseph Pearlman	Commissioners Cooksey and James
Anthony Scheer	Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, Murrey, and Roberts

Chairman Roberts announced the appointment of Anthony Scheer to the Criminal Justice Citizen's Advisory Committee as the Mecklenburg County Bar Representative for a two-year term expiring May 31, 2011.

**PLANNING COMMISSION**

The vote was taken on the following nominees for appointment to the Planning Commission:

Claire Fallon	Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey, and Roberts
Andrew Zoutewelle	Commissioners Clarke, Cogdell, Cooksey, Dunlap, Murrey, and Roberts
Lloyd Scher	Commissioners James and Leake

*Voting Ceased*

Doug Baumgartner  
Benjamin Bivens  
Andrew Bonjean  
Deborah Edwards  
Kevin Garrison  
Gregory Godley  
Bryan Holladay  
Thomas Lawing  
Chris Minnix  
Clark Neilson  
Christopher Olds  
Francoise Prosper  
Leigh Rounds  
Micahel Ruhe  
Michael Schank  
Kevin Silva  
James Smith  
DeShea Spurgeon  
Katrice Thompkins

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Ryan Tomberlin  
Qian Wang  
Mark Wasserman  
Andrea White  
Nancy Wiggins  
Diane Yarborough

Chairman Roberts announced the appointment of Claire Fallon and Andrew Zoutewelle to the Planning Commission for a three-year term expiring June 30, 2012.

*They are replacing George Shield and David Howard.*

## **WASTE MANAGEMENT ADVISORY BOARD**

The vote was taken on the following nominees for appointment to the Waste Management Advisory Board:

Chad Faubel	None
Connie Harris	Commissioners Cogdell, Leake and Roberts
Rita Plyler	None
Daniel Schenstrom	Commissioners Bentley, Clarke, Cooksey, Dunlap, James, and Murrey

Chairman Roberts announced the appointment of Daniel Schenstrom to the Waste Management Advisory Board to fill an unexpired term expiring March 14, 2010.

*He is replacing Douglas Wilson.*

## **PUBLIC HEARINGS**

### **(4A) STORM WATER FEE – COUNTY’S MINOR AND MAJOR SYSTEM RATES**

Motion was made by Commissioner Cooksey, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to continue the public hearing to hear comments related to a proposed increase in the Major and Minor System components of Mecklenburg County’s Storm Water fee.

Dave Canaan, Director of Storm Water Services addressed this matter.

It was noted that based on the comments and questions received at the May 19<sup>th</sup> Public Hearing and the current economy, County Manager Jones is recommending implementing the four Tier rate structure for residential storm water accounts and setting the rates so the budgeted revenues for FY10 are the same as FY09 (i.e. revenue neutral). The consequences of adopting a revenue neutral fee schedule are as follows:

- The Rainy Day fund would have \$500,000 available in FY10 and would take five years to replenish to the preferred minimum amount of \$2,500,000. If there is another flood like 2003 or August 2008 or grant opportunities improve, the County will have limited financial flexibility to respond to a flood or to leverage local funds pursuing State and federal grants without impacting Storm Water Capital Projects.
- Initiating a reserve account for BMP maintenance (Best Management Practices, a.k.a. water quality features like wetlands and rain gardens) in new residential areas would not occur. With a smaller amount or no reserves in the future, the fee increase in future years may need to be greater to generate the necessary revenue.

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On May 21, the Charlotte-Mecklenburg Storm Water Advisory Committee (SWAC) voted on the four tier proposal for single-family residential customers and a revised fee schedule that generates revenue to address the above consequences.

*A copy of the Storm Water Advisory Committee recommendation is on file with the Clerk to the Board.*

No one from the public appeared to speak.

Comments

Commissioner James asked about a revenue neutral fee, which he supports having.

Commissioner James said it appears it's revenue neutral overall, but it's not revenue neutral for residential because it's going up and commercial is going down.

Director Canaan said Commissioner James was right, in the sense that the total revenue coming in is neutral. However, if you look at the major system rate, Tiers 1 and 2, which represents 60% of the residential accounts, 60% will see a decrease, including commercial accounts, but in Tiers 3 and 4, the other 40% will see an increase.

Commissioner James said his idea of revenue neutral is residential revenue neutral.

Commissioner James said he would like to know what residential neutral would be, if the commercial weren't getting a decrease.

*It was noted that everyone is paying the same rate per square foot, commercial and residential.*

Commissioner Dunlap asked how many properties were in the floodplain. *The response was approximately 4,000 structures, with approximately 1,000 at flood risk.*

Commissioner Dunlap asked what responsibility does the County have to persons that live in the floodplain. *The response was to run the County's Storm Water Management Program to respond and provide services, such as removal blockages, illicit help from volunteer groups to assist with clean-up, and when the County is financially able, after a flood, to possibly go out and buy property using 100% County funds. It was noted the County has no federal obligation to acquire properties in the floodplain.*

Commissioner Dunlap asked what was the reason and rationale for wanting to raise the revenue at a faster pace. *The response was that staff is concerned about funds being available to respond to a flood. It was noted that in 2003 and 2008, the "rainy day" fund had to be used, and as a result, the County has turned a tremendous amount of residential property into open space for greenway expansion and water quality features, which results in areas that emergency response teams will no longer have to go to rescue anyone. It was noted that the purpose of the "rainy day" fund is to be able to immediately respond after a flood.*

Commissioner Dunlap asked was it correct the County does not have to buy these properties. *The response was yes, that's correct. It's at the Board's discretion.*

Commissioner Clarke said he feels the Board should follow the recommendation of the Storm Water Advisory Board, which was to replenish the "rainy day" fund, but not as fast, in light of the current economy.

Chairman Roberts asked staff to prepare two options for the Board's consideration on June 16th, one based on the County Manager's recommendation and one based on the Storm Water Advisory Committee's recommendation.

Commissioner Murrey said he would like to know how often the reserve fund has been used,

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because he's concerned the County may get in an emergency situation and not have funds available. Commissioner Murrey said he's reluctant, however, to take money out of the hands of residents and store it away for a "rainy day" in light of the current economy. Commissioner Murrey stated further, however, "if history has told us there's a high likelihood that we're going to need that money within the next three years, then that would make a more compelling case."

Commissioner Murrey said it would be helpful to know how often the County has had to use the "rainy day" fund, which would give the Board some idea of what the likelihood would be to go for five years without having a meaningful event and give it time to replenish on it's own as oppose to having to speed it up with a "hybrid" plan.

Commissioner Cooksey said if the Board is going to compare the Storm Water Advisory Committee's recommendation to that of the County Manager and staff, he'd like to know the aggregate percentage increase in revenues from these fees.

Commissioner Cogdell asked what happens if it floods and funds aren't available. *The response was that if it doesn't flood then the fund continues to grow. If it does flood, but not before July 1 2009, there would be essentially \$500,000 in the "rainy day" fund because it would essentially be the equivalent of appropriated funds that the Board could respond to the flood with. Thus, the fund would be depleted again. It was explained that what happened before the "rainy day" fund was that persons would ask the County to buy their property and they would be informed that funds weren't available. History has shown that those persons rebuild and eventually the County would receive a federal grant to buy them out in two – three years after they've reoccupied in the floodplain. When the County goes back to buy them out, the County is now paying more because of the increased market value versus if it had been purchased when it was in a damaged state. It's because of these experiences, the "rainy day" fund was started and the "quick buy" program.*

Commissioner Cogdell asked for clarification on the calculation of the rates for residential and commercial which was explained. *It was noted that it's the amount of impervious area that makes the difference. Also, there is no tiering in commercial accounts.*

Commissioner Bentley asked for clarification on the formula used for the new tiers, which was explained. *It was noted the formula being used now is more quantifiable, defensible, and it's all based on impervious area and it sets a per square foot rate that is consistent between single-family and commercial or non-single family.*

*This concluded the discussion. The above is not inclusive of every comment but is a summary.*

Motion was made by Commissioner Cooksey, seconded by Commissioner Leake and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to close the public hearing on a proposed increase in the Major and Minor System components of Mecklenburg County's Storm Water fee.

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

**MANAGER'S REPORT**

**(6A) MANAGER'S REPORT – BUDGET WORKSHOP STRAW VOTE PREVIEW**

County Manager Jones and Budget/Management Director Hyong Yi outlined the budget workshop straw voting process. It was noted straw voting budget workshops would start on Wednesday, June 3, 2009.

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

Commissioner Dunlap asked that additional support for the 10-Year Plan for addressing Homelessness be added to the list of possible changes.

There was no action to be taken on this matter. It was presented for information purposes only.

**CONSENT ITEMS**

**Motion was made by Commissioner Cooksey, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to approve the following item(s), with the exception of Items 12, 14, 15, 19, 22, and 25 to be voted upon separately:**

**(7) APPROVAL OF MINUTES**

Approve minutes of Regular Meeting held May 19, 2009, Budget/Public Policy Meeting held April 14, 2009 and Closed Session held May 19, 2009.

**(8) TAX REFUNDS**

Approve refunds in the amount of \$2,869.41 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) CARRY FORWARD GREEN PERMIT REBATE PROGRAM FUNDS**

Approve the carry forward to FY2010 unspent Green Permit Rebate funds at June 30, 2009.

*Note: The amount is expected to be approximately \$1.1 million.*

**(10) CARRY FORWARD 2011 REVALUATION FUNDS**

Approve the carry forward to FY2010 revaluation funds remaining at June 30, 2009.

**(11) CARRY FORWARD/ADJUSTMENT OF – AREA MENTAL HEALTH FUNDS**

(A) Authorize carry forward to FY 2010 unspent State Local Management Entity (LME) system program funds estimated to be \$211,000 at June 30, 2009.

(B) Authorize carry forward to FY 2010 unspent State Crisis Service program funds estimated to be \$1,466,899 at June 30, 2009.

(C) Authorize carry forward to FY 2010 unspent State Mental Health Trust Funds estimated to be \$900,216 at June 30, 2009.

**(13) LAND USE & ENVIRONMENTAL SERVICES FEE ORDINANCE REVISIONS (CODE ENFORCEMENT)**

Amend LUESA Fee Ordinance to reflect increased fees for renovation and small projects; work started without a permit; an increase to the minimum permit fee; increased rates for temporary utilities, limited conditional utilities, and temporary certificates of occupancy; and revise fee for appliance/ equipment change out permits not issued through the Trades Internet Permit (TIP)

automated process.

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

**(16) NC CLEAN WATER STATE REVOLVING FUND LOAN**

1. Adopt a resolution approving a loan application to the NC Clean Water State Revolving Fund.
2. Upon award of loan, recognize, receive, and appropriate \$2,576,000 from the NC Clean Water State Revolving Fund.
3. Authorize the County Manager to execute a contract with the NC Clean Water State Revolving Fund.

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

**(17) FEDERAL FOOD AND NUTRITION ASSISTANCE PARTICIPATION GRANT APPLICATION**

Approve submitting a grant application by Department of Social Services for the Supplemental Nutrition Assistance Program Participation Grant, and if grant awarded, recognize, receive, and appropriate grant funds.

**(18) METROLINA RECYCLING CENTER LEASE AGREEMENT**

Adopt a resolution titled, "Mecklenburg County Board of Commissioners Resolution Declaring Intent to Lease Property to U.S. Greenfiber, LLC."

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

**(20) AMENDMENT TO THE BOARD'S HR POLICY**

Amend the County's Human Resources Policy, Benefits/Health Insurance, to enable the County Manager and/or designee to change and implement revised benefits rates and coverage options in response to increased service costs, liabilities protection, business needs, or changes consistent with applicable federal or state laws.

**(21) 2009 AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) FUNDING FOR THE ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT**

Approve submission of application by Mecklenburg County Real Estate Services to the United States Department of Energy for \$649,500 in grant funds; recognize, receive and appropriate any amounts awarded.

**(23) INTERLOCAL AGREEMENT WITH CITY OF RALEIGH FOR BUILDING PERMIT SOFTWARE**

Adopt a Resolution Approving the Amended and Restated Interlocal Cooperation Agreement to Develop Permitting Software with the City of Raleigh to share the development of building

permit software to enable homeowners to obtain building permits on line.



Note: Funding is included in the FY09 and FY10 budgets.

**RESOLUTION APPROVING AMENDED AND RESTATED  
INTERLOCAL COOPERATION AGREEMENT  
TO DEVELOP PERMITTING SOFTWARE  
WITH CITY OF RALEIGH, NORTH CAROLINA**

*WHEREAS, N. C. General Statute 160A-460, et seq., authorizes units of local government to jointly exercise any function which they have been granted the power to exercise alone, or to contract with the other for the exercise of any governmental function which they have been granted the power to exercise alone, and to enter into contracts and agreements to specify the details of these joint undertakings; and*

*WHEREAS, Mecklenburg County would like to formalize this arrangement through its LUESA Code Enforcement Department to jointly develop regulatory permitting software modules with the City of Raleigh; and*

*WHEREAS, Sages Networks, through a contract with the City of Raleigh, will perform the project programming work and the County designates and authorizes the City of Raleigh to make payments to the contractor for professional services when the County has forwarded funds for the same; now, therefore*

*BE IT RESOLVED by the Mecklenburg County Board of Commissioners that the County Manager is hereby authorized and directed to execute the Amended and Restated Interlocal Agreement to Develop Permitting Software with the City of Raleigh, and that this Resolution shall be made a part of the minutes of the Board of Commissioners.*

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

**(24) AFFIRM RESOLUTION FOR BEREWICK LAND EXCHANGE**

Affirm October 21, 2008 and November 5, 2008 approvals 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 based on change in development plans by Dixie River Land Company.

*Note: The above County parcels are part of the 195-acre park site acquired in 2001 for a regional park in the Southwest Park District. Park facilities have not been developed here as yet, but an elementary school is under construction on an 18-acre portion of the site fronting on Dixie River Road and will open in August of this year. The subject land exchange was requested by Dixie River Land Company (DRLC)/Pappas Properties and by the Charlotte-Mecklenburg Housing Partnership (CMHP). This current request is to reaffirm the approvals for the exchange based on a change in the purpose for which the land to be conveyed to Dixie River Land Company is to be developed. (A land exchange requires two presentations to the Board which were done on October 21, 2008 and November 5, 2008.)*

**THIS CONCLUDED ITEMS APPROVED BY CONSENT**

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**COUNTY COMMISSIONERS REPORTS AND REQUESTS**

**(30) HOSPITAL AUTHORITY BOARD APPOINTMENTS/MECKLENBURG  
COUNTY-FORMER HOUSE BILL 1025 (COMMISSIONER LEAKE)**

Commissioner Leake addressed Former House Bill 1025 - Hospital Authority Board Appointments/Mecklenburg County.

*Note: Appointments to the Hospital Authority are made by the Mayor and Chairman of the county board of commissioners, per NC General Statute 131E-18. The chairman's appointments*

*does not require board of commissioners' approval or input.*

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*Former House Bill 1025 was an Act to require that those appointments be made by the full Board of County Commissioners. The bill was referred to the Committee on Local Government I, but missed crossover.*

Commissioner Leake said her purpose for placing this matter on the agenda, even though House Bill 1025 did not make the crossover, was to provide an opportunity for the public to become aware of the Charlotte Hospital Authority's appointment process and the County's relationship with Carolinas HealthCare System.

***A handout with respect to the Hospital Authority is on file with the Clerk to the Board.***

The following representatives from Carolinas HealthCare System were present and addressed questions: Joe Piemont, President and Chief Operating Officer, Greg Gombar, Chief Finance Officer (Mr. Gombar reviewed the history of the Authority's relationship with the County and indigent care funding.), and Keith Smith, CHS General Counsel (addressed questions with respect to the Authority's make up). They were accompanied by Martha Ann McConnell, VP, Government Relations, Laura Thomas, VP, Behavioral Health; Polly Baker, AVP, Public Health Kristin Wade, AVP, Ambulatory Services, and Debra Plousha-Moore, Sr VP, HR.

Comments

Commissioner Leake asked about the number of members on the Authority, their gender, race, and the length of terms, which was addressed.

The following was noted:

- The Authority has 23 members.
- The term length is three years.
- Members can serve successive terms up to the age of 68 (per the Authority's by-laws).
- Nominations come from the Authority and are submitted to the Chairman of the County Commission for approval.

Commissioner Leake asked which of the current members of the Authority have served the longest. *The response was that it's believed to be Bishop George Battle and/or James Hynes. Mr. Smith said he would confirm this and report back.*

Commissioner Murrey asked how many physicians were on the Authority. *The response was none.*

Commissioner Murrey asked when was the last time a physician has served. *Mr. Smith said to his knowledge, a physician has never served.*

Commissioner Murrey asked was it typical for an entity the size of Carolinas HealthCare System to not have a physician on the Authority. *The response was that a lot of the larger systems do have a mix, but locally, this is not the case. The rationale has been to avoid a conflict of interest, which is why staff members do not serve.*

Commissioner Murrey asked what if the physician was not on Carolinas HealthCare System's staff. *The response was that he or she in that case probably would not have conflict of interest.*

Mr. Gombar noted that physicians do serve on committees, but they're not voting members.

Commissioner Murrey said it's good to have that input on committees but it's not the same as being a voting member.

Commissioner Murrey suggested consideration be given to placing a physician(s) on the

Authority when the next vacancy occurs. Commissioner Murrey said he feels it's important to have someone with that type of medical perspective on the Authority; someone who has dealt with taking care of patients directly.

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Commissioner Clarke asked who introduced House Bill 1025 to change the appointment authority from the chairman to the full board, without it being initiated by the Mecklenburg County Board of Commissioners. Commissioner Clarke said he was not aware of the proposed bill.

Chairman Roberts said the bill was introduced by State Representative Nick Mackey.

Commissioner Cogdell noted, for the record, that State Representatives Kelly Alexander and Beverly Earle, who initially co-sponsored the bill, asked that it be conveyed to the Board that they removed their names as co-sponsors of House Bill 1025.

Commissioner Cogdell said Representatives Alexander and Earle informed him that they removed their names because they felt to some extent everything was not brought to their attention before they agreed to sign on as co-sponsors.

Commissioner Cogdell said there was the issue of whether or not this was something that had been requested by the Board or a particular Board member.

Commissioner Cogdell said Representatives Earle and Alexander said they would not support the bill, if the Mecklenburg Board had not taken official action to make such a request.

Commissioner Cogdell echoed Commissioner Murrey's sentiments with respect to having a physician represented on the Hospital Authority.

Commissioner Cogdell asked about indigent care funding and services provided, which was addressed.

Commissioner Leake said anyone can write a statement and send it to Raleigh with the hope of it becoming a bill and that permission is not needed from the County Commission to do so. Also, that legislators do not have to get the permission of the County Commission if they want to submit a bill.

Chairman Roberts asked Hospital representatives, to their knowledge, was the Hospital Authority please with the appointment process as it current stands. *The response was yes.*

No action was taken or required of the Board.

## **STAFF REPORTS AND REQUESTS**

### **(26) BUSINESS INVESTMENT PROGRAM GRANT: TOSHIBA AMERICA NUCLEAR ENERGY CORPORATION (TANE)**

Motion was made by Commissioner Cogdell, seconded by Commissioner Clarke and carried 5-4 with Commissioners Clarke, Cogdell, Dunlap, Murrey and Roberts voting yes and Commissioners Bentley, Cooksey, James, and Leake voting no, to approve a Business Investment Program Grant to TANE for a total estimated amount of \$46,968 and authorize the County Manager to negotiate and execute contract.

John Allen, Economic Development Director, addressed this matter prior to the above vote.

*Note: TANE will establish a Project Management and Engineering Center ("PMEC") in Charlotte. The PMEC will house the bulk of TANE's personnel, including virtually all engineering and technical personnel, and serve as the center of most TANE activities. It will also serve as*

*TANE's nationwide operations headquarters. PMEC personnel will manage all engineering, construction, and procurement activities for the South Texas Project and future projects. TANE's President and Chief Executive Officer, Senior Vice President of US ABWR Projects & Technologies,*

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*Vice President of Business Operations, and most other senior executives will maintain offices at the P MEC and spend either all or a substantial portion of their time there. TANE is projecting that 194 jobs will be created over a five-year period, with an average annual salary of \$122,000. Sixty-three of the 194 jobs will be filled by transferees. The total capital investment is estimated to be \$2.8 million.*

**(27) BUSINESS INVESTMENT PROGRAM GRANT: SIEMENS ENERGY, INC.**

Motion was made by Commissioner Cogdell, seconded by Commissioner Clarke and carried 7-2 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Murrey and Roberts voting yes and Commissioners James and Leake voting no, to approve the County's share of a Business Investment Program Grant to Siemens Energy, Inc. for a total estimated amount of \$1,484,562. (Total City/County grant is estimated at \$2,296,319) and authorize the County Manager to negotiate and execute contract.

John Allen, Economic Development Director, addressed this matter prior to the above vote.

*Note: Siemens Energy, Inc. develops and builds power plants and power generating components, including alternative energy devices such as wind turbines. It employs 740 workers at an existing Charlotte facility on Westinghouse Boulevard. After considering locations in Orlando, FL and Charlotte, Siemens has decided to centralize its engineering functions here. It will construct a \$12 million, LEED certified building, install approximately \$40 million of machinery and equipment and create approximately 226 new jobs at an average wage of approximately \$65,000 per year.*

**(28) RETIREE HEALTH BENEFITS FOR FORMER COUNTY COMMISSIONERS**

Commissioner James and Attorney Bethune addressed the opinion from Attorney General about the authority for a county to provide health insurance to former county commissioners requested by the Board on September 3, 2008.

*Note: By letter dated April 28, 2009 Lori Fuller, Special Deputy Attorney General, answered by letter in which she stated as follows: "Based on our reading of the relevant statutes, we agree that the county commissions do not have statutory authority to offer health benefits to retired elected officials." Her letter did not, however, address the legality of other local governments to offer such benefits, or address any other kind of retiree benefits.*

*Durham County had requested that one of its State Senators introduce legislation to amend the statutes to allow counties to offer health insurance to former county commissioners. Senate Bill 468 was introduced as state-wide legislation and was in the process of being converted by the Pensions & Retirement & Aging Committee into a bill only for those 22 counties whose State Senators had asked that their counties be included, but when adopted by the Senate on May 14, 2009, was approved as a public bill applicable to all counties. The bill has now crossed over to the House and referred to the Committee on Pensions and Retirement.*

Commissioner James noted that this question was initiated by him, because he wanted to know if a Commissioner retired, could that Commissioner like other County employees, pay the group rate and get retiree medical.

Commissioner James said although it's been determined that this is not permissible, there are local governments in the state that do offer this benefit. He noted also the bill that's being considered and if it passes, then this matter may come back to Board at some point.

No action was taken or required by the Board. Commissioner James said he placed the matter on the agenda for informational purposes.

**(29) REFUNDING BONDS**

Finance Director Dena Diorio addressed Variable Rate Restructuring. She was assisted by Kent Lawrence with Citigroup, the underwriter for this transaction and Ed Lucas with Robinson, Bradshaw & Hinson, P.A. the County's bond counsel. The following was covered:

- Purpose of Restructuring
- Variable Rate Debt Overview
- Debt Mix Pre-Restructuring
- Restructuring Candidates
- Restructuring Strategy
- Debt Mix Post-Restructuring
- Benefits to Restructuring

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

Comments

Commissioner Dunlap asked if taking this action increases the County's debt capacity. *The response was it does not have an impact on the County's ability to continue with its capital program as it has been laid out.*

Commissioner Bentley asked was there a cost savings because a liquidity facility isn't needed. *The response was the County would save for that portion, because there's a savings in the fees that the County would have paid had the County continued in the variable rate mode.*

Commissioner Clarke asked about Limited Obligation Bonds. *The response was that it's a Certificate of Participation (COP) with a different name, but it's perceived a little differently in the market.*

Commissioner Clarke asked what happens with respect to the Window Variable Rate Demand Bonds if you're in another market crisis and you can't refinance the ones that have been put back to the County. *The response was that the County would serve as the "back stop" for those bonds.*

Commissioner Clarke asked was the County's risk being increased or decreased. *The response was that the County is not taking any additional risk.*

Commissioner Clarke asked why not refinance all of the County's variable rate at a fixed rate. *The response was that staff feels there is still value in having variable rate debt and because of the interest rate swaps that exist. Finally, it was noted a lot of what the County is fixing is on the shorter end of the yield curve, so the County is taking all of the maturities that would mature in the next five to seven years because that's where the best rates are. As you continue to go out the rates get higher, so you wouldn't be able to fix everything under three percent. Further, if the County took everything it had and fixed it, the things that were at the higher end or further out would cost the County more to do.*

Commissioner Cooksey asked why COPs carry a higher interest rate than General Obligation Bonds. *The response was that General Obligation Bonds are backed by the full faith and credit of the government; so the County is obligated to make those payments. COPs are subject to annual appropriations. Thus, the Board could decide in any year that it was not going to appropriate the money to make the payments on those COPs and because of this there's a little more risk associated with COPs and that's what makes the credit rating a little lower and the interest rate a little higher.*

Commissioner Cooksey asked what happens if the County doesn't appropriate the money. *The response was that the County would default and would never be able to borrow money again.*

*There would also be a foreclosure on the collateral.*

Director Diorio said she would never recommend the Board not appropriate funds for this purpose.

Commissioner Cooksey asked for clarification with respect to the aggregate debt service schedule, which was addressed.

Commissioner Cogdell asked was it correct that by doing this the County could potentially be saving \$30+ million. *The response was yes.*

\* \* \*

**RESOLUTION RELATING TO REFUNDING BONDS**

**Commissioner Bill James** introduced the following resolution, which was read by its above title:

**WHEREAS**, the Board of Commissioners (the “Board”) for the County of Mecklenburg, North Carolina (the “County”), is considering authorizing the issuance of refunding bonds of the County in an aggregate principal amount not exceeding \$295,000,000 for the purpose of providing funds, with other available funds, for refunding all or a portion of certain outstanding general obligation bonds, including paying expenses related thereto, and it is necessary to take certain related action at this time;

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Board as follows:

Section 1. The Board hereby finds and determines in connection with authorizing the issuance of such bonds that (i) the issuance of such bonds is necessary or expedient, (ii) the principal amount of such bonds is adequate and not excessive for the proposed purpose of such bonds, (iii) the County’s debt management procedures and policies are good and are managed in strict compliance with law, (iv) no increase in taxes is expected as a result of issuance of such bonds and (v) such bonds can be marketed at reasonable rates of interest.

Section 2. The County Manager, the Director of Finance and the County Attorney of the County are each hereby authorized to take such actions as may be advisable in connection with authorizing the issuance of such bonds; and all actions heretofore taken by any of such officers or any other officer of the County relating to such matter on behalf of the County are hereby approved, ratified and confirmed.

Section 3. The Local Government Commission is hereby requested to sell the bonds at private sale without advertisement to any purchaser or purchasers thereof, at such prices as the Local Government Commission determines to be in the best interest of the County, subject to the approval of the County.

Section 4. The Board recommends the selection of the following professionals to be on the financing team for the bonds and that their services be utilized to the extent required and where appropriate:

Bond Counsel	Robinson, Bradshaw & Hinson, P.A.
Underwriters	Citigroup Global Markets Inc. Merrill Lynch, Pierce, Fenner & Smith Incorporated

The Board hereby requests the Local Government Commission to approve such professionals as members of such financing team. The Board will at a later date make recommendations for the

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selection of other persons required in connection with the issuance of the bonds.

Section 5. This resolution shall take effect immediately upon its passage.

Upon motion of Commissioner Bill James, seconded by Commissioner Neil Cooksey, the foregoing resolution was passed by the following vote:

Ayes: Commissioners Bentley, Cogdell, Cooksey, Clarke, Dunlap, James, Leake, Murrey, and Roberts

Nays: None.

\* \* \*

### **RESOLUTION TO INTRODUCE BOND ORDER**

Commissioner Bill James moved adoption of a resolution to introduce the bond order, that motion was seconded by Commissioner George Dunlap, and the resolution was read by the above title.

#### **BOND ORDER AUTHORIZING THE ISSUANCE OF \$295,000,000 REFUNDING BONDS OF THE COUNTY OF MECKLENBURG**

**WHEREAS**, the County of Mecklenburg (the "County") has issued Variable Rate General Obligation Bonds, Series 1996C, dated March 1, 1996 (the "1996C Bonds"), a certain portion of which remain outstanding (the "Outstanding 1996C Bonds"); and

**WHEREAS**, the County has issued Variable Rate General Obligation Bonds, Series 1998C, dated January 29, 1998 (the "1998C Bonds"), a certain portion of which remain outstanding (the "Outstanding 1998C Bonds"); and

**WHEREAS**, the County has issued Variable Rate General Obligation Bonds, Series 2000E, dated November 1, 2000 (the "2000E Bonds"), a certain portion of which remain outstanding (the "Outstanding 2000E Bonds");

**WHEREAS**, the County of Mecklenburg (the "County") has issued Variable Rate General Obligation Bonds, Series 2002C, dated August 7, 2002 (the "2002C Bonds"), a certain portion of which remain outstanding (the "Outstanding 2002C Bonds"); and

**WHEREAS**, the County has issued Variable Rate General Obligation Bonds, Series 2005B, dated February 9, 2005 (the "2005B Bonds"), a certain portion of which remain outstanding (the "Outstanding 2005B Bonds"); and

**WHEREAS**, the Board of Commissioners of the County deems it advisable to refund all or a portion of the Outstanding 1996C Bonds, Outstanding 1998C Bonds, Series 2001D, Outstanding 2000E Bonds, Outstanding 2002C Bonds, and Outstanding 2005B Bonds (collectively referred to herein as the "Bonds to be Refunded") pursuant to and in accordance with The Local Government Finance Act; and;

**NOW, THEREFORE, BE IT ORDERED** by the Board as follows:

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**Section 1.** The County Board of Commissioners has ascertained and hereby determines that it is advisable to refund the Bonds to be Refunded.

**Section 2.** To raise all or a portion of the money required to refund the Bonds to be Refunded as set forth above and to pay expenses in connection therewith, bonds of the County are hereby authorized and shall be issued pursuant to The Local Government Finance Act of North Carolina. The maximum aggregate principal amount of bonds authorized by this bond order shall be \$295,000,000.

**Section 3.** Taxes sufficient to pay the principal of and interest on those bonds when due shall be annually levied and collected.

**Section 4.** A sworn statement of the County's debt has been filed with the Clerk to the Board of Commissioners and is open to public inspection.

**Section 5.** The bond order shall take effect upon its adoption.

The motion to introduce the above bond order was adopted by the following vote:

Ayes: Commissioners Bentley, Cogdell, Cooksey, Clarke, Dunlap, James, Leake, Murrey, and Roberts

Nays: None.

\* \* \*

**RESOLUTION AUTHORIZING PUBLIC HEARING ON BOND ORDER**

Commissioner Bill James moved the adoption of the following resolution, the motion was seconded by Commissioner George Dunlap, and the resolution was read by title:

**WHEREAS**, the bond order entitled "BOND ORDER AUTHORIZING THE ISSUANCE OF \$295,000,000 REFUNDING BONDS OF THE COUNTY OF MECKLENBURG" has been introduced at the meeting of the Board of Commissioners of the County of Mecklenburg held on June 2, 2009, and the Board desires to provide for a public hearing thereon and the submission of a statement of debt in connection therewith as required by The Local Government Finance Act;

**NOW, THEREFORE, BE IT RESOLVED** by the Board as follows:

The public hearing upon that bond order shall be held at the Charlotte-Mecklenburg Government Center, 600 East Fourth Street, Charlotte, North Carolina, at a meeting that begins at 6:00 P.M. June 16, 2009.

The Clerk to the Board is hereby directed to cause a copy of the bond order to be published with a notice of the hearing in the form prescribed by law in a qualified newspaper no fewer than six days prior to the public hearing.

The County's Director of Finance is hereby directed to file with the Clerk to the Board prior to publication of the bond order with the notice of such public hearing, a statement setting forth the



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debt incurred or to be incurred, the appraised value of property subject to taxation by the County and the net debt of the County.

The motion was adopted by the following vote:

Ayes: Commissioners Bentley, Cogdell, Cooksey, Clarke, Dunlap, James, Leake, Murrey, and Roberts

Nays: None.

\* \* \*

*Extract and Resolutions recorded in full in Minute Book 44-A, Documents # \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_.*

*Commissioner Murrey left the meeting and was absent for the remainder of the meeting.*

**(12) AREA MENTAL HEALTH MONTHLY FINANCIAL REPORT**

Motion was made by Commissioner Leake, seconded by Commissioner James and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to recognize and receive Area Mental Health Monthly Financial Report for the period ending April 30, 2009.

**AREA MENTAL HEALTH AUTHORITY  
Statement of Revenues and Expenses  
FY 2009, For the period ending April 30, 2009**

	<u>Budget</u>	<u>Actual</u>	<u>% Received</u>
<b>Revenue Source</b>			
Medicaid & CAP	15,178,693	9,912,897	65.31%
State and Federal	33,869,491	24,137,066	71.26%
Third Party/Other	150,541	64,762	43.02%
Grants	3,871,205	2,466,063	63.70%
County	45,167,108	32,041,547	70.94%
<b>Total Revenues</b>	<b>\$98,237,038</b>	<b>\$68,622,335</b>	<b>69.85%</b>

	<u>Budget</u>	<u>Actual</u>	<u>% Spent</u>
<b>Service Continuum</b>			
Children's Developmental Services	6,909,463	5,271,753	76.30%
Child & Adolescent Services	13,808,640	8,053,930	58.33%
Adult Mental Health	13,946,237	4,858,072	34.83%
Adult Substance Abuse	13,829,453	13,508,756	97.68%
Local Management Entity	11,268,435	7,427,337	65.91%
BHC Randolph	20,075,073	16,434,104	81.86%
Developmental Disabilities	18,399,737	13,068,383	71.02%
<b>Total Expenditures</b>	<b>\$98,237,038</b>	<b>\$68,622,335</b>	<b>69.85%</b>

Note: All revenue received from outside sources plus County revenue covers total expenditures incurred

*Note: In accordance with the Performance Agreement with the North Carolina Department of*

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*Health and Human Service, the program director of the county program shall present to each member of the board of county commissioners a budgetary statement and balance sheet. This information shall be read into the minutes of the meeting at which it is presented. The program director of the county program shall provide to the board of county commissioners ad hoc reports as requested by the board of county commissioners.*

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

**(15) JAIL CENTRAL TILE KITCHEN FLOOR REPLACEMENT PROJECT**

Motion was made by Commissioner Leake, seconded by Commissioner Cogdell and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to approve the award to EVE, Inc. based on a proposal in the amount of \$310,400

that

best meets the project criteria for the tile kitchen floor replacement project for Jail Central.

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

**(19) LAND ACQUISITION FOR SOUTHWEST LIBRARY SITE**

Motion was made by Commissioner Leake, seconded by Commissioner James and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to approve the purchase of Tax Parcel 201-072-26 (+/- 5.0 acres) by the Public Library of Charlotte & Mecklenburg County at the intersection of Steele Creek and Shopton Roads for \$1,625,000.

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

**(22) TUCKASEEGEE PARK SIDEWALK**

Motion was made by Commissioner Leake, seconded by Commissioner James and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to grant to City of Charlotte fee simple rights to 16,989 square feet of land within the existing functional right of way of Tuckaseegee Road and 5,934 square feet of park property frontage along the road plus 510 square feet of temporary construction easement for a sidewalk along the entire frontage of the park property.

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

**(25) ESTABLISH STATE FUNDED POSITIONS FOR AREA MENTAL HEALTH**

Motion was made by Commissioner Leake, seconded by Commissioner James and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to approve establishing three positions within Area Mental Health: two Counselors; and one Case Coordinator.

*Note: Positions will provide services for the Structured Day program. These are state funded positions.*

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

**(14) LAND USE & ENVIRONMENTAL SERVICES FEE ORDINANCE REVISIONS**

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**(LAND DEVELOPMENT & ZONING SERVICES)**

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to defer consideration to:

- 1) Amend the LUESA Fee Ordinance to reflect a new fee for Land Development.
- 2) Amend the LUESA Fee Ordinance to reflect changes to zoning fees until the June 16, 2009 meeting.

**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 Cooksey, seconded by Commissioner Cogdell and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 10:55 p.m.

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Janice S. Paige, Clerk

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Jennifer Roberts, Chairman