

DECEMBER 15, 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, December 15, 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.

-INFORMAL SESSION-

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

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

(1) STAFF BRIEFINGS - NONE

(2A, B) CLOSED SESSION - BUSINESS LOCATION AND EXPANSION AND CONSULT WITH ATTORNEY

Prior to going into Closed Session, Attorney Bethune announced the following Consult with Attorney matters to be discussed in Closed Session: Kim Harmon v. Mecklenburg County and Cleveland Construction, Inc. v. Mecklenburg County, F.N. Thompson Turner, WSD, BE&K Building Group, Inc, and The Walter B. Davis Company (07-CVS-15408).

Motion was made by Commissioner Dunlap, seconded by Commissioner James and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to go into Closed Session for the following purposes: A) Business Location and Expansion and B) Consult with Attorney.

The Board went into Closed Session at 5:20 p.m. and came back into Open Session at 6:10 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 10, 14, 15, 16, 17, 20, 21, 22, and 23.

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

-FORMAL SESSION-

Commissioner Murrey was absent when this portion of the meeting was called to order and until noted in the minutes.

The meeting was called to order by Chairman Roberts.

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

CITIZEN PARTICIPATION

Commissioner Murrey entered the meeting.

PROCLAMATIONS AND AWARDS

(1A) 2010 CENSUS

Motion was made by Commissioner Dunlap, seconded by Commissioner Cogdell and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to adopt a proclamation recognizing December 15, 2009 as “2010 Census Awareness Day” in Mecklenburg County.

The proclamation was read by Commissioner Dunlap and received by Angeles Ortega-Moore, N.C. 2010 Census Team Leader.

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

(2) PUBLIC APPEARANCE

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

Dwayne Collins referenced the Board’s November 17, 2009 discussion concerning Medic. He noted a concern raised by Commissioners Dunlap and Leake, which he is also concerned about, the issue of persons who utilize Medic services but do not have medical coverage of any kind, are unable to pay for services received and whose credit could be damaged unnecessarily. Mr. Collins said it’s his understanding that this issue is being discussed by the Board’s Effective and Efficient Government Committee and he hopes the Board will support a forthcoming recommendation for a change in policy so that persons who don’t have medical coverage of any kind would not have their credit damaged as a result of utilizing Medic services.

Martin Davis addressed the economy on the local, state, and national level. Mr. Davis addressed the unemployment rate, Medicare liability, social security, state post-retirement healthcare liability, and local taxes. Mr. Davis said his recommendation for improving the economy would be to cut taxes, reduce the size of government, and reform the public school system. Also,

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government does not need to go into the banking business. He encouraged the Board to pursue “free market measures” to try and pull us out of this economic downturn.

Dr. Wesley Carter addressed Working Charlotte, a magazine and web presence created to introduce Charlotte’s displaced professionals to potential employers. It was created specifically to facilitate job opportunities for displaced employees that are active volunteers in the community. Dr. Carter is the Editor-in-Chief, Founder, and President of Working Charlotte. It was noted that free profiles are available in “Working Charlotte” for displaced workers.

(3A) APPOINTMENTS

ADULT CARE HOME COMMUNITY ADVISORY COMMITTEE

Motion was made by Commissioner Leake, seconded by Commissioner James and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to reappoint Barbara Edwards to Adult Care Home Community Advisory Committee for a three-year term expiring December 31, 2013.

FIRE COMMISSION

Motion was made by Commissioner Bentley, seconded by Commissioner Leake and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to reappoint Don Monteith to the Fire Commission for a three-year term expiring December 31, 2012.

(4) PUBLIC HEARINGS – NONE

(5) ADVISORY COMMITTEE REPORTS – NONE

MANAGER’S REPORT

(6A) MECKLENBURG COUNTY CHILD SUPPORT ENFORCEMENT TRANSITION PLAN

The Board received information and a recommendation on the Mecklenburg County Child Support Enforcement Transition Plan.

Assistant to the County Manager Janet Payne gave the report.

The following was noted:

- Through its 2009 Appropriations Act, the North Carolina General Assembly directed each Child Support Enforcement (CSE) office currently being administered by the North Carolina Department of Health and Human Services, Division of Social Services to be administered by the local county government, effective July 1, 2010.
- The State will eliminate funding for 16 state-operated CSE offices which provide services to 28 counties, including Mecklenburg County.
- With this change, Mecklenburg County has the responsibility to select an entity that will assume the role of administering the Child Support Enforcement Program.
- By January 1, 2010, the 28 counties must each submit to the North Carolina Division of Social Services a Transition Plan for administering CSE within the county.
- The State will provide approval within 30 days of receipt of the Transition Plan.

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- CSE works to ensure that both parents are responsible for the financial support of their children to the best of their ability.
- CSE administration options include having 1) CSE services provided by the County's Department of Social Services or some other County department; 2) managed by the County with private consultant input; 3) outsourcing services to a private provider under contract to the County; or 4) partnering with other counties to administer the services regionally.
- Staff Recommendation: Privatize Child Support Enforcement Service Delivery. The County Manager's Office recommends that the County contract with a private vendor to operate a full service Child Support Enforcement Program. The reasons are as follows:
 - Private vendors have highly experienced staff.
 - Privately operated CSE programs in North Carolina rank among the top programs in performance.
 - Better performance will offset costs by maximizing revenues.
 - Private vendor will be able to leverage synergies of existing relationships between County department and community agencies.
 - County Manager's Office will manage the lease for office space.
 - County Manager's Office will manage the contract with the private vendor.

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

Comments

Commissioner James asked for clarification with respect to current staffing levels, which was addressed. He also asked would CSE staff be employees of the County or the private vendor. *The response: All current employees would be eligible candidates and interviewed by the private vendor in accordance with the contract. Thus, they would be employed by the private vendor.*

Commissioner James asked about salaries. *The response: Included in the Request for Proposal (RFP) is the stipulation that existing salary rates be maintained or increased. Thus, at a minimum, CSE employees existing salary rates, should they be hired, would continue at the same level.*

Commissioner James asked was it correct that all of the existing 75 employees would not necessarily remain on staff. *The response was yes that was correct.*

Commissioner James asked was it correct that the existing employees would no longer receive State benefits. *The response was yes that's correct.*

Commissioner James asked was the State going to buy-out early retirement or consider doing this for the existing employees. *The response: Staff thinks this issue has been discussed by the State but will find out and report back.*

Commissioner James said he doesn't think it's a County responsibility, but he's curious to know what the implication of this change will be on existing employees and what, if any, fiscal impact this will have on the County.

Commissioner Leake said she was concerned about existing employees of CSE maintaining their jobs and benefits.

Commissioner Leake asked if staff already knew who the vendor would be or who has submitted a RFP. *The response: Three entities have responded, Policy Studies, Inc. (PSI), Young Williams, P.C., and Maximus, Inc.*

Commissioner Leake asked had the respondents been interviewed. *The response: No, the County Manager's Office would complete those interviews and analysis over the next several weeks.*

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Commissioner Leake said she doesn't feel the Board has sufficient enough information to move forward with approving staff's recommendation.

County Manager Jones said this was an "unfunded mandate" from the State. Further, in whatever form the program is administered, the County is going to be responsible for carrying out this program effective July 1, 2010.

County Manager Jones said the County could elect to assume the responsibility for the operation of this program and do so as a County department or from within another County department. He noted, however with respect to performance, the existing CSE office ranks 82nd out of 88 programs.

County Manager Jones said having reviewed the performance of those programs that have been privatized, staff felt the better approach for Mecklenburg County at this time would be to look at privatization.

County Manager Jones said one critical element of this operation will be the County's evaluation of performance. County Manager Jones said the County will always be responsible for this program and if a determination is made at any point in the future that the privatized entity is not meeting the performance standards the County can always resort to another approach, such as doing it in-house.

Commissioner Dunlap asked if staff knew what the case load would be under the privatization model versus under the State's current administration. *The response: It could be stipulated in the contract minimum or maximum case loads. Further, included in the RFP was a stipulation that at a minimum the current case load be maintained. Staff will report back with respect to the individual responder's response to case loads.*

Commissioner Dunlap asked would employees maintain their current benefits or something comparable. *The response: Benefits would be received, but they would no longer be a part of the State retirement system. Staff will report back with specific benefit information.*

Commissioner Dunlap asked how did Mecklenburg County get selected by the State. *The response: Mecklenburg County was one of the only 28 remaining counties that the State was providing CSE services to.*

Commissioner Cogdell commented on the City of Charlotte's Privatization/Competition Committee. He asked whether consideration should be given to establishing such a committee for the County and letting that committee review this issue.

Commissioner Cogdell asked how urgent was it for the Board to make a decision tonight.

County Manager Jones said staff may be able to get an extension from the State with respect to the deadline for submittal of a Transition Plan, which is currently January 1, 2010.

County Manager Jones said he does feel, however, that the State has every hope that this matter will be resolved and that the County would be fully implementing this new service by July 1, 2010.

Commissioner Leake expressed concern with respect to program evaluation and asked was there an instrument already in place.

Commissioner Leake said she also wants to know what kind of control would the Board have to protect the process and the hiring and firing if it's not a part of the process.

County Manager Jones said staff was recommending privatizing this service because this was an area the County has no experience in providing. He said the private sector vendors who have

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applied have experience in providing the service. County Manager Jones said if the County privatizes, it would give staff the opportunity to learn how the program works and if it's decided at some point in the future that it might make more sense to do it in-house that can be done.

County Manager Jones said the "ramp up" time to make this happen and given the other issues staff was dealing with, he thought privatization was the better approach at this time.

Commissioner Clarke asked what would it cost the County to operate the program versus privatizing it. Commissioner Clarke said he was a little reluctant to approve this at this time because the costs associated with each of the models was unknown.

General Manager Michelle Lancaster said cost was not the driving factor for staff when making its decision.

General Manager Lancaster reiterated the County Manager's comment regarding staff's lack of experience in providing this service. Thus, staff doesn't feel confident overtaking this endeavor at this time, which is why privatization was being recommended.

General Manager Lancaster said the cost was comparable and that staff would provide that information to the Board. Further, that it would be a little cheaper by the County's model after a few years of experience.

Commissioner Clarke asked since all of the current employees were here in Mecklenburg County, wouldn't it be simpler to just take it over July 1, 2010 and let it operate as a County department, utilizing the people (management and employees) that were there now.

General Manager Lancaster said that's an approach the County could take but informed the Board that currently CSE ranks 82nd out of 88 offices in the State. General Manager Lancaster asked was this the model that Mecklenburg County wants to use in doing business. General Manager Lancaster said that would not be her recommendation.

General Manager Lancaster noted also that if the County were to operate this program as a County department, it would receive no guidance from the State, which was why staff is recommending using private vendors who are experienced in providing this service in North Carolina and have been successful.

General Manager Lancaster said staff would like to have the opportunity to see how this goes. She said staff would spend a lot of time managing this contract and would make a different decision when it had more experience.

Commissioner Clarke asked why the County wouldn't require the private vendor to keep the current staff as part of the RFP. *General Manager Lancaster said staff could do that if that's the desire of the Board.*

Commissioner Clarke said it seems to him that these employees, many of whom have worked in this office for years, doing a very difficult job, that the County should be a little more sensitive to how this transition occurs. *General Manager Lancaster said staff would be happy to include in the RFP that existing employees be maintained.*

Commissioner Clarke said at the very least he thinks the private vendor should be required to take on the existing staff and offer them all employment, not just merely interview them.

Commissioner Clarke said the other counties that staff has compared the County to were smaller

entities with a less mobile population. Commissioner Clarke said he's sure there's room for improvement and that he's "a little suspicious" when it comes to performance numbers sometimes.

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Commissioner Clarke said he was not comfortable with sort of “cutting” these employees lose.

Commissioner Clarke said he would like to see the cost comparison if the County were to operate this program.

General Manager Lancaster said staff would go back and provide the Board with more information and report back at the first meeting in January at which time the Board could make its decision.

County Manager Jones echoed General Manager Lancaster’s comment regarding deferring this matter until the Board’s first meeting in January, at which time staff would provide additional information; and at the Board’s second meeting in January, the 20th a decision could be made.

County Manager Jones said he doesn’t believe the State would object to this timeframe for making a decision and the submittal of the transition plan.

Motion was made by Commissioner Clarke, seconded by Commissioner Leake, to direct staff to ask the State for a 30 day extension of time for submittal of the County’s Transition Plan for the Child Support Enforcement (CSE) Program. Secondly, that in the interim staff provide the Board with a comparison of cost with respect to what it would cost the County to run CSE as a County department.

Commissioner Cogdell asked Commissioner Clarke would he accept a friendly amendment to consider the feasibility of establishing a County privatization/competition committee or reaching an agreement with the City of Charlotte to jointly utilize their existing privatization/competition committee to evaluate projects or circumstances such as this.

Commissioner Clarke and Commissioner Leake, makers of the motion accepted the friendly amendment offered by Commissioner Cogdell.

Commissioner Cogdell said he doesn’t expect the concept of having a privatization/competition committee to be fully evaluated by the time this matter comes back to the Board in January. He would like to see information, however, on how as a Board, the County could either look at creating its own committee or partnering with the City of Charlotte.

Commissioner Dunlap noted the following with respect to the City of Charlotte’s Privatization/Competition committee, that unlike the City instances where they’ve utilized this committee, for example, as they have in the sanitation area, and were able to look at the competition versus their own staff for providing that service, the County doesn’t have a CSE department, thus it can’t make a comparison.

Commissioner Dunlap noted also that the word privatization has taken on such a negative connotation, that the word outsourcing is what’s being used now. He suggested staff consider using this terminology instead of the word privatization.

Commissioner Dunlap encouraged fellow Board members to keep in mind staff has said they have no experience in this area, which is why they’re recommending outsourcing this function.

Commissioner Dunlap said this should not be forced upon staff to do. He said the Board needs to consider litigation costs and other costs associated with not having done something before. He said mistakes will be made and will be costly.

Commissioner Dunlap said he’s concerned about the employees and want to make sure they receive a comparable salary for what they do and receive benefits.

Commissioner Dunlap said you “don’t want to force a company to take on employees that aren’t

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doing the job.” He referenced the fact that the current office ranks 82nd out of 88 offices in the State.

Commissioner Dunlap said under the current administration and current structure, based on its ranking, CSE was “not doing the job.” He said if someone else is going to take over this operation, they have to have the ability to “weed out” the people who aren’t doing the job.

Commissioner James said he was not opposed to privatization or waiting to make a decision on this matter in 30 days.

Commissioner James said he doesn’t think a privatization committee would work based on his experience having served on the City’s privatization committee years ago. He noted also that the County at one time had a privatization committee.

Commissioner James said these were state employees and not County. He said the County can’t hire these employees if it doesn’t know if they’re qualified to do the job. He said if they’re 82nd out of 88, it sounds like “they’re not,” unless the ranking is a “bum wrap.”

Commissioner Murrey said when this matter comes back to the Board, he would like to see some consideration for mitigating propositions, perhaps something along the lines of what Commissioner Clarke mentioned with respect to retaining existing employees or salary levels as mentioned by Commissioner Dunlap; or to have some period of time where there’s no transition of employees at a certain rank. He said it’s understandable if there’s a need for leadership change, as a result of the new company taking over this operation.

Commissioner Murrey said there may be a way to mitigate the effects of privatization and still get a result that’s better than what has occurred as a State ran operation and if it were operated by the County starting from scratch in a short timeframe.

The following persons spoke in opposition to privatizing CSE and in favor of it being operated by the County.

Eileen Simpson (Has been a State employee for 17 years, was unaware of what the transition plan was until tonight’s meeting. Ms. Simpson said ranking 82 doesn’t sound good but their case loads are extremely high. She said their case loads double and triple the State recommended case load. She asked the Board not to get “stuck” on the 82 ranking.)

Tom Chumley (Felt the presentation was “one sided.” Per Mr. Chumley, the CSE office has been kept almost “totally” in the dark with respect to this matter. He said upper management hardly knew anything about this. Mr. Chumley addressed the case load differences in Mecklenburg County compared to others in the state. Mr. Chumley said CSE has the same number of employees as it did in 1998. He said there are 175,000 more people in Mecklenburg County now than in 1998. He said CSE is probably stretched harder than any other agency for the State. Mr. Chumley said privatization has been tried but the majority of the offices were operated by the county or the state. Mr. Chumley said CSE is a government service and that it operates well as a government service. Mr. Chumley asked the Board to support Commissioner Clarke’s motion to defer taking action. He said this would give the Board an opportunity to hear CSE’s side.)

Ronald Stalcup (Addressed CSE’s working relationships with other agencies, including the Department of Social Services. He said if the County were to operate CSE then employees could continue in the State retirement system. He said there are over 36,000 cases in Mecklenburg County and that the average case load size is 850 – 900. He said the federal mandated average

case load size is 300. Mr. Stalcup said this is why the ranking was 82. Mr. Stalcup said CSE has 51 agents and has never been allowed to be fully staffed. He said CSE collects over \$3 million monthly. He said CSE’s collection rate is 60% and could be much better if given the manpower to achieve those results.)

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Betty Stephenson (Has been with CSE 16 years. The information received tonight is the most CSE employees have received regarding this issue. She feels a transition from the State to the County would be most logical resolution.)

Chairman Roberts noted for the record that the County has been communicating with the State liaison with respect to this matter. She said the State liaison and the State as the employer has responsibility for communicating information to CSE. Further, that the County regrets that this has not occurred. The County was not trying to keep anyone "in the dark."

Commissioner Clarke asked for clarification with respect to the modeling that has been done that it would cost the County less money if the County operated the program itself. *General Manager Lancaster said under the model of having CSE services provided by the County's Department of Social Services it would cost slightly less.*

Commissioner James said with respect to CSE employees that the State has a huge liability associated with their pensions (the State retirement system). Commissioner James said he would like to know if the County assumes that role, does the County assume that liability.

Commissioner James said he thinks part of the calculation with respect to how much money the County may slightly save versus costs depending on where the County goes, needs to take into account the unfunded pension liability that goes along with this because the State has not fully funded their pension obligation. He said when the County acquires people with 10 – 16 years of experience that's a liability that the taxpayers will have to pick up unless the State writes a check.

Commissioner James said he doesn't know if the State is going to transfer that liability or not.

Chairman Roberts encouraged Board members to send any additional questions they may have to staff.

County Manager Jones said in light of the additional information that's been requested, that it may be necessary to discuss this issue at all three of the Board's meetings in January and not just the first and third Tuesday meetings.

County Manager Jones noted again that the County would be ultimately responsible for CSE in whatever form it comes.

County Manager Jones said he would not want anybody who is currently employed with the State to feel that County staff would not welcome them as an employee of Mecklenburg County, however, there is a protocol that staff has to follow and have been following. He said that protocol involves dealing with the State liaison.

County Manager Jones said he would make some phone calls to encourage the State to keep CSE employees informed of what's taking place.

The Board then voted on the motion as amended, which reads as follows:

Motion was made by Commissioner Clarke, seconded by Commissioner Leake and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey, and Roberts voting yes, to: 1) direct staff to ask the State for a 30 day extension of time for submittal of the County's Transition Plan for the Child Support Enforcement (CSE) Program, 2)

that in the interim staff provide the Board with a comparison of cost with respect to what it would cost the County to run CSE as a County department, 3) that the Board consider the feasibility of establishing a County privatization/competition committee or reaching an agreement with the City of Charlotte to jointly utilize their existing privatization/competition committee to evaluate projects or circumstances such as this.

The above is not inclusive of every comment but is a summary.

(6B) CRISIS ASSISTANCE MINISTRY

Motion was made by Commissioner James seconded by Commissioner Bentley and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey, and Roberts voting yes, to appropriate \$100,000 from unrestricted contingency to Crisis Assistance Ministry for emergency assistance to prevent homelessness and utility disconnection.

Note: The community continues to see increased demand for utility and rental assistance at Crisis Assistance Ministry. The appropriation of \$100,000 will provide assistance for approximately 288 families through payments made directly to landlords and utility companies.

Carol Hardison with Crisis Assistance Ministries addressed this issue, prior to the above vote.

Also, prior to the above vote, Commissioner Leake asked how much funding has Crisis Assistance Ministries received from the County this year. Ms. Hardison said there are two areas that receive funds from the County, General Assistance in the amount of \$300,000 and Emergency Assistance in the amount of \$1.8 million.

(6C) FINANCIAL UPDATE

Finance Director Dena Diorio and Budget/Management Director Hyong Yi gave a financial update. The following was covered:

- Property Tax Collections
- Sales Tax Collections
- Investment Income
- Current Year Expenditures
- FY 2011 Cost Increases

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

County Manager Jones addressed the pension fund contribution. It was noted that employees who participate in the state retirement system pay 6% towards their retirement. The County contributes 4.8% on behalf of the employees. The new annual required contribution that's being recommended by the State Pension Fund Advisory Board for the employer contribution is going to be 6.35% instead of the 4.8% to offset losses that have resulted from investment losses. Also, there will be a higher contribution for law enforcement personnel.

County Manager Jones said the estimated cost to the County will be about a \$4 million increase to the County next fiscal year.

Comments

Commissioner Dunlap asked whether the County would be responsible for paying any of the increased retirement cost for law enforcement personnel, since the County currently pays for the provision of law enforcement services in the unincorporated portions of the County.

County Manager Jones said the County won't pay it directly but indirectly if the City indicates an increase in the cost to provide services. County Manager Jones said the County's payment was based upon a percentage of the total police department budget. Thus, if the police department budget goes up, it could be concluded that the County's cost for providing services in the unincorporated area could also go up.

Commissioner Cogdell asked with respect to costs increase projections for FY 2011, was it

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correct that 93% of the \$10 million costs increase that's being projected comes from the shifting of costs from the state to local government. *Director Yi said two of the items are because of cost shifting and that the pension contribution is just a function state law.*

Commissioner Cogdell asked was the change from 4.8% to 6.35% with respect to the employer's contribution towards the employee pension fund, was how staff came up with the \$4 million increase. *Director Diorio said yes, it's an increase on total payroll.*

CONSENT ITEMS

Motion was made by Commissioner Murrey, seconded by Commissioner James and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to approve the following item(s):

(7) APPROVAL OF MINUTES

Approve minutes of Regular Meeting held December 1, 2009, Budget/Public Policy Meeting held November 10, 2009, Special Meetings held November 10, 2009, September 22, 2009, and January 29, 2009 and Closed Session held December 1, 2009.

(8) TAX REFUNDS

Approve refunds in the amount of \$78,649.19 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) APPOINTMENT OF REVIEW OFFICERS

Amend "Resolution Designating Review Officers to Review Each Map and Plat Recorded in the Register of Deeds Office Pursuant to N.C.G.S. 47-30.2."

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

(11) GREENWAY DEDICATION – MCDOWELL CREEK

Accept the donation of +/- 18.37 acres (a portion of Tax Parcel 015-051-08) on McDowell Creek from Carrington Ridge, LLC.

Note: The subject property, located within the Carrington Ridge subdivision at the intersection of Beatties Ford Road and Bud Henderson Road is being dedicated to the County as a required condition of subdivision approval. The property will become part of the land assemblage for the McDowell Creek Greenway in the North Park District.

(12) GREENWAY DEDICATION – LONG CREEK

Accept the donation of Tax Parcel 025-113-23 (+/- 6.916 acres) on Long Creek from Charter Properties, Inc.

Note: The subject parcel is located off Reames Road and is being dedicated to the County as a required condition of rezoning approval for the Long Creek Club Apartments development. The

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property will become part of the land assemblage for the Long Creek Greenway in the North Park District.

(13) CONSTRUCTION AND MAINTENANCE EASEMENT AGREEMENT

Authorize the County Manager to negotiate and execute a Construction and Maintenance Easement Agreement with Long Creek Club Apartments, LLC for the Long Creek Greenway.

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

(18) AREA MENTAL HEALTH MONTHLY FINANCIAL REPORT FOR OCTOBER 2009

Recognize and receive Area Mental Health Monthly Financial Report.

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

(19) NATURE PRESERVE DESIGNATION

Designate as Nature Preserve +/-7.27 acre parcel of parkland (parcel 013-042-25) purchased in August, 2008 for the purpose of watershed protection.

(24) SETTLEMENT AGREEMENT – CLEVELAND CONSTRUCTION, INC.

Receive as information that the case of Cleveland Construction, Inc. v. Mecklenburg County, F.N. Thompson Turner, WSD, BE&K Building Group, Inc, and The Walter B. Davis Company (07-CVS-15408) was settled by payment of \$1,515,494.31 as authorized by the Mecklenburg County Board of Commissioners in closed session on October 6, 2009. Instruct the Clerk to record the action taken by the Board of Commissioners in the official minutes.

THIS CONCLUDED ITEMS APPROVED BY CONSENT

Commissioner Cooksey entered the meeting.

(25) DONATION OF MOWING EQUIPMENT – PARK AND RECREATION

Motion was made by Commissioner James, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to:

1) Recognize and accept equipment donations from Jacobsen and E-Z-Go for a range picker cart, an all electric tee box mower, a greens mower and a fairway mower. The value of the donated equipment is \$56,000.

2) Recognize Dan Wilkinson (President, Jacobsen) and Kevin Holleran, (President, E-Z-Go.) and Del Ratcliffe (President, Ratcliffe Golf Services).

James Alsop with Park and Recreation addressed this item.

(26) DOMESTIC PARTNER BENEFITS

The Board received a report on Domestic Partner Benefits.

Human Resources Director Chris Peek gave the report. The following was covered:

- Results of Research and Analysis
- Legal Considerations
- Key Board Considerations

Note: During the January 6, 2009 Strategic Planning Conference, the Board of County Commissioners asked staff to review the feasibility of offering domestic partner benefits to County employees.

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

Comments

Motion was made by Commissioner Clarke, seconded by Commissioner Murrey, to direct the County Manager to begin the process to offer County employees, same sex, Domestic Partner benefits, that would begin at the time of the next open enrollment period. Domestic Partners will be defined as follows: “Two individuals who have reached the age of majority and live together in a long term relationship of indefinite duration, with an exclusive mutual commitment in which the partners share the necessities of life and are financially interdependent. Also, domestic partners are not married to anyone else, do not have another domestic partner, are legally prohibited from marrying each other in the state of N.C., and are not related by blood more closely than would bar their marriage in this state.” Furthermore, we should require an Affidavit of Domestic Partnership modeled on others used by other jurisdictions in this state requiring the following: joint financial documents, a joint mortgage or lease, a relationship that has been in existence at least one year, and any other similar requirements. Employees will have to sign these Affidavits of Domestic Partnership to obtain the benefits. Finally, the benefits offered should include health and leave benefits that are the same as those offered to the families of other County employees who are married.

Commissioner Clarke asked if current employees pay the full costs for their dependents, spouses and children. Also, would anything change if a domestic partner is added. *Director Peek said employees pay the difference between the premium and the County’s contribution. It was noted that the County’s contribution is the same whether an employee covers dependents or not. Thus, the County’s contribution does not increase when a dependent is added. It was noted also that since the risk is shared over the aggregate group, to say that the additional portion will balance out the cost may or may not be the case.*

Commissioner Clarke asked would this be true as well anytime you have a new employee and they decide to insure their spouse and you don’t know whether the spouse has chronic health issues or not. He said the County doesn’t have control over that. *Director Peek said that was correct.*

Commissioner Dunlap asked was it concluded that a domestic partner had to be of the same sex or was that just the motion. *Chairman Roberts said that was the motion and that’s still to be discussed as a policy.*

Commissioner Cooksey asked Director Peek to address the business reasons for providing domestic partner benefits. *Director Peek noted those things that were cited per staff’s research. He said, however, the number one reason cited was for recruitment and retention. The second reason had to do with the perception of fairness that you’re providing a benefit to married partners as oppose to a benefit to those that aren’t married.*

Commissioner Cooksey asked had any documentation been found indicating there’s an advantage

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in terms of retention and recruitment of employees. *Director Peek said staff was unable to find any empirical data specifically related to that.*

Commissioner Cooksey asked Director Peek what would be the business reasons in his view to not provide domestic partner benefits. *Director Peek said that's a policy decision for the Board, but with regard to a business case he would suggest that there are a number of considerations that have to be made in the whole decision of what the County offers as a benefit package and whether or not this makes the County more competitive.*

Commissioner Cooksey asked Director Peek if cost factors into that. *Director Peek said he's certain under the current economic conditions, he would assume that cost would be a factor, which was noted in the report and that the Board should consider as one of the factors in making a decision.*

Commissioner Cooksey asked how much does the County currently pay in benefit costs for all employees. *Director Peek said the claims costs last year were close to \$40 million dollars.*

Commissioner Cooksey asked Director Peek to clarify claims costs. *Director Peek said since the County is self-insured, the County and/or the employees must contribute to an insurance reserve account, whereby the health care claims are paid. Thus, the actuaries are looked at every year and projections are made annually based on the County's health care trends. Staff budgets accordingly and that costs is shared between employees and the County. Also, that this is the case for health and dental benefits.*

Commissioner Cooksey asked about other benefits such as vision, life insurance, cancer insurance, etc. *Director Peek said the vision, cancer, and accident and with the exception of basic life, are all 100% paid by the employee. The County only contributes to medical and dental and a basic life policy that applies to all employees. Further, that if an employee adds a dependent on life, the County doesn't contribute to that.*

Commissioner Cooksey asked about family medical leave. *Director Peek said the County would pay for family medical leave with regard to the granting of leave, so there would be a productivity cost.*

Commissioner Cooksey asked Director Peek if he knew what the County's family medical leave costs was. *Director Peek said he didn't have that information.*

Commissioner Cooksey referenced the cost impact noted in the report and asked was that 1% - 3% of the \$40 million. *Director Peek said that's the total claims costs.*

Commissioner Cooksey asked had there been a demand from County employees for this benefit. *Director Peek said based on staff's measurement, the two things looked at were the last three years of exit interviews by employees and in those three years there were no responses citing that as a particular desire or reason for their departure. Also, that in the last employee survey only one request was received.*

Commissioner Cooksey asked Director Peek if he had any sense of the utilization of this benefit. *Director Peek said if he had to guess he would suggest somewhere in the 1% range, which would be about 60 people.*

Commissioner Cooksey asked would there be additional staff costs to implement this. *Director Peek said yes and the estimate is between \$8,000 - \$10,000. He said this would be an initial costs, which would be minimized once the system is set up and it would be absorbed in the open enrollment process.*

Commissioner Cooksey cited other things that would need to occur to implement this change and asked Director Peek wouldn't the cost be more than \$10,000. *Director Peek said it's possible.*

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Director Peek said his estimate doesn't include any legal considerations that may have to occur.

Commissioner Cooksey asked how many counties in North Carolina have implemented domestic partner benefits. *Director Peek said six jurisdictions, not all are counties. The two counties are Durham County and Orange County.*

Commissioner Cooksey asked what was the participation rate in these jurisdictions. *Director Peek said between 5 and 24 employees or .1% to .9% of their total insured employees.*

Commissioner Cooksey asked about the participation rate across the country. *Director Peek said he didn't have that data.*

The following persons spoke in opposition to providing domestic partner benefits:

Pastor Jason Coley (Pastor Coley said this action would be wrong. He said it's against the law in North Carolina to "co-habit." Pastor Coley said it seems to him that "minorities always get their way and a minority class, whatever it may be." Further, that he thought "we were governed by the majority rules, but it doesn't seem that way.")

Dr. C. Hendricks (Dr. Hendricks said "to give benefits to domestic partners will serve no purpose than to stroke a certain group of people and cause a riff between people of our county and even may even cause a legal issue." Dr. Hendricks cited increased costs as a factor that should be taken into consideration. She said providing benefits to persons who are married was okay but for "someone who is just living together whether they are heterosexual or homosexual would not be to the benefit of Charlotte." Dr. Hendricks said doing this "would be unfair to Charlotte, unfair to the taxpayer, and even unfair to the domestic partners." Further, that what if the domestic partners decided to part, how would the County go about taking away the health benefits and other benefits given to them, as to a married couple were they to divorce.)

Pastor Charlie Scott (Pastor Scott said this should not be offered to unmarried persons. He said co-habitation is against the law in North Carolina. He said "it's placing this conduct as acceptable and equal, equal legally with marriage." He said marriage is defined in the State of North Carolina as "one man and one woman in legal marriage." He said costs would increase for the County at a time when the County is struggling to keep the services it currently provides. Pastor Scott said he believes this is "tearing down the moral fibers in our community and our country.")

Dr. Mark Harris, Pastor of First Baptist Church of Charlotte (Dr. Harris said there are three things the Board needs to stop and think about. 1) It's a matter of common sense and based on the report from staff there's not an "outcry or need" Pastor Harris said "the fact that the motion was made so quickly after the report was given, certainly leads someone to believe that there's something else driving this than common sense." 2) The issue of consistency. He said the State of North Carolina does not have same sex marriage under the current laws. 3) He realizes there are all sorts of convictions of right and wrong that people hold, but he would ask that the Board "not make the citizens of Mecklenburg County ask did you check your common sense at the door when you came into this meeting.")

Martin Davis (Mr. Davis said he doesn't believe that domestic partner benefits are needed in order to attract and retain employees. He said there's not a shortage of people wanting to work

for government in this country.)

The following persons spoke in support of providing domestic partner benefits:

Owen Sutkowski (Mr. Sutkowski said the "common sense" is to provide equitable access to benefits for all County employees. He said they are all taxpaying citizens and deserve to be treated equitably and equally. He said there are a lot of large employers in Mecklenburg County that offer domestic partner benefits. With respect to employees not requesting this benefit and/or

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indicating this as a reason for leaving the County's employ, Mr. Sutkowski said people are still "scared to be out." Mr. Sutkowski said the Board should not just focus on the numbers but the people and the context behind them.)

Ken Wittenauer (Mr. Wittenauer said he took a job with a company two years ago because they offered domestic partner benefits. He said in order to encourage employment, Charlotte/Mecklenburg County needs to be viewed as a "progressive county that encourages diversity and inclusiveness." He said having domestic partner benefits as a part of that employee package would help facilitate that. Mr. Wittenauer said perhaps the reason there aren't any County employees present to speak in support of this is because they are fearful.)

LaWana Mayfield (Ms. Mayfield said the issue of domestic partner benefits is one of "fairness and equality, not religion.")

Synde Reames (Ms. Reames said the issue is one of equality, attracting good and qualified employees, and fairness. Ms. Reames said employees don't ask for this type of benefit because they "risk getting fired, getting thrown out of their families, and risk getting ostracized.")

Commissioner Murrey with respect to the estimated participation rate, asked was it correct that if the County's participation rate was like that of the other jurisdictions in North Carolina then the cost would be less than \$400,000. *Director Peek said that was correct because the \$400,000 is based on a participation rate of 1%.*

Commissioner Murrey said the report indicates that no evidence was found where domestic partner benefits has an impact on recruitment. He asked how many studies did staff find that showed it did not help recruitment. *Director Peek said the same number, which was none.*

Commissioner Murrey asked how many times did staff find this issue had been studied. *Director Peek said staff referred to the major two consulting firms and don't have a specific number.*

Commissioner Murrey said was it correct that staff was unable to find a study that said domestic partner benefits did not help recruitment, yet staff did find a number of surveys that subjectively thought that it did help with recruitment, about 71% of the respondents. *Director Peek said that was correct.*

Commissioner Murrey asked with respect to employee exit interviews whether it was specifically asked if one of the reasons for leaving the County's employ was because of the lack of domestic partner benefits. *Director Peek said it was not one of the questions asked.*

Commissioner Murrey asked as a follow-up to exit interviews, since the question is not asked, this means that staff would rely on the employee to bring the issue up. *Director Peek said yes.*

Commissioner Murrey asked Director Peek if he could imagine any reason why an employee would not want to bring this issue up in an exit interview. *Director Peek said there would be some reasons to assume that as indicated by some of the speakers. He said hopefully with the County's policy of no discrimination even based on sexual orientation, it's hoped that the County*

would provide a "safe environment" for that, but he can certainly see where an individual would be concerned.

Commissioner Murrey said particularly if this person had been discriminated against before that they may not trust, while the County is very good at this, that they may not hit a 100% of the time, that they may suffer some ill affects of discrimination. *Director Peek said that was quite possible.*

Commissioner Murrey said how many people with disabilities receive benefits from the County.

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Director Peek said he didn't have that data.

Commissioner Murrey asked how many Native Americans receive benefits. *Director Peek said it's less than 1%, which would be less than 60.*

Commissioner Murrey asked how many people are expected to take advantage of this benefit. *Director Peek said the projection would be 1% or less.*

Commissioner Murrey asked was there any correlation to the number of people seeking benefits from a particular demographic class and whether or not they receive benefits. *Director Peek said no.*

Commissioner Murrey said the number of people seeking benefits is really not relevant from the issue of fairness in terms of who receives the benefit. *Director Peek said that would be fair to say.*

Commissioner Bentley referenced a section of the report, Appendix F, which was a report from the Corporate Resource Council regarding the hidden costs of domestic partner benefits, specifically Section III, B, The Unique Case of Same-Sex Relationships. She asked Director Peek if he agreed with the statements noted therein. *Director Peek said he does not have any evidence to agree or disagree with regard to a medical research, therefore it would be difficult for him to respond without being completely subjective.*

Commissioner Bentley asked Director Peek in general, does he concur that the findings in this report are substantial enough to build a case that the Board would consider the implications from a costs perspective against providing these benefits. *Director Peek said it certainly provides data to make that a part of the consideration.*

Commissioner Bentley noted the report's findings with respect to recruitment and retention of employees and said that argument that it's done for recruitment and retention purposes really "doesn't hold water."

Commissioner Bentley with respect to the number of local employers who provide domestic benefits, said Mecklenburg County would be taking a lead role rather than following a market trend. Commissioner Bentley said this indicates that Mecklenburg County is not at a recruitment disadvantage because it doesn't currently offer domestic partner benefits.

Commissioner Bentley said she doesn't think the County is "behind the curve" on this. She doesn't feel that there's an "outcry" for this benefit, internally or externally from the market place.

Commissioner Dunlap said for him it makes sense to make sure that people can support one another. He said for him this was not about religion and the church. He said a lot of people would want to make this issue about "sin." Commissioner Dunlap said the word says "all have sinned and fall short, even those that spoke against sin, sin." Commissioner Dunlap said for him the issue was about what's fair. Commissioner Dunlap said "whether you support people who are gay or not, he still believes they have a right to feed their family, that they are God's creation,

that they are human, and that we are our brother's keeper; and it's our responsibility to look out for them regardless of what their sexual orientation may be." Commissioner Dunlap concluded by saying "because you believe that your Christianity leads you to believe and think one way is not to suggest that somebody else can't be a Christian because they think differently."

Commissioner Murrey said he wanted to clarify that HIV/AIDS is not a "homosexual" disease. He said the numbers for Mecklenburg County show that a lot more "heterosexuals" have HIV/AIDS than "homosexuals."

Commissioner Murrey said he knows this is a very challenging issue and has the potential to be

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very divisive in the community. Commissioner Murrey said some will “frame” this as a human rights issue and others in moral or theological terms.

Commissioner Murrey said his reading of scripture directs him to support this issue on theological grounds, as well as social and business grounds that have been highlighted in the report. Commissioner Murrey said “given the opportunity to improve fairness, show tolerance, and support committed relationships” he would do so. He said and given the chance to enhance the County’s ability to recruit top talent and to show companies considering relocating their businesses here that Mecklenburg County is tolerant and supportive of a degree of social diversity that matches our religious diversity, he would do so.

Commissioner Murrey concluded by saying he believes in the value of long-term committed relationships and the family units they create. He said those who can express their commitment through marriage have access to these benefits in County government. Further, that those who are legally prohibited from expressing their commitment to one another through marriage should have access to these benefits as well.

Commissioner Cooksey referenced the oath taken by Commissioners upon taking office. He also referenced the definition of marriage according to North Carolina law.

Commissioner Cooksey said the statute he referenced regarding marriage, confirms that North Carolina does not recognize marriages between individuals of the same sex and because this is expressed so emphatically in North Carolina law, he can’t help but conclude that the effort on the table is an attempt to evade or undermine North Carolina law; “further eroding the culture of marriage.”

Commissioner Cooksey said he can’t support this issue for the following reasons: 1) It would be in conflict with the oath he took as a County Commissioner, 2) the alleged benefits of this policy have not been identified and/or quantified, 3) there’s little or no demand from existing employees for this benefit, 4) the costs are ill-defined, 4) the timing is off because Congress is currently debating changes in how employers provide insurance coverage to their employees.

Commissioner Cooksey said County Human Resources should be spending its time analyzing the impact of the coming healthcare reform and determining how the County can cut healthcare costs.

Commissioner Cooksey said he fears that in taking this action the Board is catering to a small but vocal constituency at the expense of a much larger constituency, the taxpayers.

Commissioner James asked about insurance rates paid by employees. He asked were the categories self-sustaining, meaning do the premiums for employee + spouse cover the costs of the employee + spouse. *Director Peek said they aren’t factored that way. He said the risk is shared across the aggregate of all of the insured.*

Commissioner James asked if that included employee only. *Director Peek said yes.*

Commissioner James referenced a section of the report, Appendix F, which was a report from the Corporate Resource Council regarding the hidden costs of domestic partner benefits. He asked where did staff locate this report. *Director Peek said Commissioner Bentley referred this group to staff.*

Commissioner James also addressed a section of the Corporate Resource Council report that addressed possible fraud.

Commissioner James concluded by making the following statement. “Elections have consequences and you’re there and you don’t like this, well these guys took a ton of money, from his perspective, most of them, from the Gay Pac here in town and that helped them get

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elected.”

Commissioner James said he believes “they are sincere in their beliefs that they think that this behavior is perfectly okay; and he thinks like most people that believe they are right, they have rationalized away the law and morality, and even sin” because in their mind it’s all about “being fair.”

Commissioner Cogdell said he felt this issue was about fairness, equity, and human rights.

Commissioner Cogdell said with respect to the timing of this issue, “to do the right thing there is never a bad time.”

Commissioner Leake said she “grieves” when she sees and hears persons of the “cloth” speak non-acceptance of the “sheep.”

Commissioner Leake noted that her son died of AIDS and to “hear the remarks and the discredit and the claimants that those who are had to be homosexuals.” Commissioner Leake said she met with a group of young people recently who are living with HIV/AIDS contracted as a result of their bloodline and not because they are promiscuous.

Commissioner Leake said “no one selects his or her lifestyle as it relates to one’s sexuality.” She said many “Christians” say people make themselves that way, but that’s not true. Commissioner Leake said persons must “study science.”

Commissioner Leake said for her this is a human rights issue and that she wants all people to be respected and valued.

Chairman Roberts said this was not a decision made in secret that this matter was discussed at the Board’s Strategic Planning Conference held earlier this year.

Chairman Roberts said she was disappointed that staff would include the Corporate Resource Council report as part of its report because it’s not an objective report.

Chairman Roberts said she agreed with the comment that there is no season for fairness.

Chairman Roberts said the big picture needs to be looked at with respect to this issue. She said there are many employers who recognize that fairness is appropriate at all times and that employees are valued for who they are and for what they bring to the table in terms of creativity and energy and care and compassion.

Chairman Roberts said employees come in all kinds of sizes, shapes, and sexual orientation and domestic situations and that it’s always the right time to value employees in a down economy or a good economy.

Chairman Roberts said the Supreme Court in Lawrence vs. the State of Texas, determined that

you cannot prosecute people, consenting adults, for acts in the privacy of their own home. Further, that law, which is a federal law, trumps state law. Thus, the Board is acting within the law, which is also indicated in staff’s report and has been supported also by a professor of law at the University of North Carolina.

Chairman Roberts concluded by saying what the Board was doing was lawful, fair, values employees, and helps employees if one partner loses their job. Chairman Roberts said it’s known that people are healthier when they have health care and it’s less expensive when people are covered because they’re able to have preventive care. She said the health care issue is being discussed on the national level. Further, that there’s no legal reason why the Board can’t approve this.

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The vote was then taken on the motion as follows:

Motion was made by Commissioner Clarke, seconded by Commissioner Murrey and carried 6-3 with Commissioners Clarke, Cogdell, Dunlap, Leake, Murrey, and Roberts and voting yes and Commissioners Bentley, Cooksey, and James voting no, to direct the County Manager to begin the process to offer County employees, same sex, Domestic Partner benefits, that would begin at the time of the next open enrollment period. Domestic Partners will be defined as follows: "Two individuals who have reached the age of majority and live together in a long term relationship of indefinite duration, with an exclusive mutual commitment in which the partners share the necessities of life and are financially interdependent. Also, domestic partners are not married to anyone else, do not have another domestic partner, are legally prohibited from marrying each other in the state of N.C., and are not related by blood more closely than would bar their marriage in this state." Furthermore, we should require an Affidavit of Domestic Partnership modeled on others used by other jurisdictions in this state requiring the following: joint financial documents, a joint mortgage or lease, a relationship that has been in existence at least one year, and any other similar requirements. Employees will have to sign these Affidavits of Domestic Partnership to obtain the benefits. Finally, the benefits offered should include health and leave benefits that are the same as those offered to the families of other County employees who are married.

The above is not inclusive of every comment but is a summary.

COUNTY COMMISSIONERS REPORTS AND REQUESTS

(27) CPCC STUDENT CASE STUDY ON COUNTY SEAL (CHAIRMAN ROBERTS)

The Board received a report from CPCC students regarding a case study developed this semester on the Mecklenburg County Seal.

Note: Students from Central Piedmont Community College undertook a case study this semester on the Mecklenburg County Seal. The students used the project to learn more about branding and graphic layout. The case study includes essays, opinions from members of the Board of County Commissioners, and thoughts from students regarding the seal and possible redesign.

Becky Kobsik and Mike Calitri gave the report. They asked the Board to review the report and to feel free to provide feedback at a later date.

The students were thanked for their work.

Commissioner Clarke suggested to the students that they may want to consider getting their work copyrighted.

No action was taken or required.

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

(28) SCHEDULE A CLOSED SESSION MEETING OF THE MECKLENBURG BOARD OF COUNTY COMMISSIONERS OPERATING AS THE 'BOARD OF SOCIAL SERVICES' TO DISCUSS VARIOUS MATTERS RELATED TO DSS FOR NOON ON DECEMBER 17, 2009 (COMMISSIONERS KAREN BENTLEY, NEIL COOKSEY AND BILL JAMES)

Motion was made by Commissioner Bentley, seconded by Commissioner James to at the conclusion of the rest of the agenda for this meeting, recess the meeting until noon on December 17, 2009 to investigate matters involving personnel of the Department of Social Services and, in connection therewith:

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- A.** Instruct County Manager (as the human services director of the County's Consolidated Human Services Agency, which agency includes the Department of Social Services) to instruct the Social Services Director, Mary Wilson, to appear at this meeting in closed session to provide answers to certain questions and to provide documents as requested by the members of the Board of County Commissioners in advance of that meeting.
- B.** Instruct the County Manager to instruct the Director of Social Services to make her supervisors and employees (especially those in DSS Finance) available to the Board of County Commissioners for questioning in closed session without management present.
- C.** Instruct the Chairman of the Board to invite former acting DSS head Janice Allen Jackson to appear in closed session and to offer private commentary about DSS personnel matters.
- D.** Offer an invitation to current or former DSS 'Giving Tree' and DSS Finance employees to appear in closed session and to offer private commentary about DSS' Giving Tree program personnel matters. Interested individuals may sign up by contacting the Clerk.
- E.** Instruct the County Manager to make available to the Commissioners copies of any and all internal memos produced by internal Audit and senior management involving DSS Giving Tree matters from the last 12 months, with appropriate actions to insure statutory confidentiality as to personnel matters, for the Board to review.
- F.** Instruct the County Manager to provide to the Board in open session a detailed list of gifts purchased for others with Giving Tree funds from February 2008 through December 2008 and his opinion as to whether these purchases actually benefited (were received by) the individuals to whom they were intended.
- G.** Receive a presentation from Dena Diorio in open session about our current expense 'advance' policy and whether it complies with the time requirements of IRS circular/publication 15.
- H.** Provide a list to the Board in open session of all remaining items left in inventory in the County's possession related to the Giving Tree program (and their purchase prices).

This matter was presented and addressed by Commissioners Bentley, James, and Cooksey.

It was noted that a substitute motion was forthcoming, which they could support. Commissioner Cooksey with respect to the substitute motion that was forthcoming, said he would like to see Items E, F, G, and H as noted above included as a part of the substitute motion.

Commissioner Clarke addressed why he felt there was not a need to hold a special Closed Session with respect to this matter. He also addressed the hiring of Director of Social Services Mary Wilson.

He said he felt staff has been transparent and acknowledged when errors occurred.

Substitute Motion was made by Commissioner Cogdell, seconded by Commissioner Clarke and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey, and Roberts voting yes, to 1) approve the following:

Statement Of Critical Findings And Continued Confidence
In
County Management

WHEREAS, on February 19, 2009, Mecklenburg County Department of Social Services Director Mary Wilson brought to the attention of the County Manager's Office concerns about deficient internal controls involving the DSS Giving Tree Program and the DSS Voucher Program; and

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WHEREAS, the Mecklenburg County Internal Audit Department was simultaneously notified of Ms. Wilson concerns; and

WHEREAS, at that time Ms. Wilson asked the County Finance Department to oversee a thorough audit of the fiscal management processes of DSS; and

WHEREAS, on March 17, 2009, the Mecklenburg County Board of Commissioners was briefed on Director Mary Wilson's audit request; and

WHEREAS, in March 2009, the Mecklenburg County Finance Department secured the services of an outside audit firm, Cherry, Bekaert & Holland, L.L.P. to conduct an audit designed to complete the testing of transactions and disbursement report; and

WHEREAS, on March 31, 2009, Mecklenburg County Public Service and Information provided the public and media with a news release announcing Ms. Wilson's request that the County's Finance Department oversee an independent review of DSS's fiscal management processes, the County Manager's reorganization of the DSS finance division and the hiring of a new Financial Management Director; and

WHEREAS, on June 16, 2009, the Board of County Commissioners received a report on audits conducted in the Department of Social Services (DSS) at the request of DSS Director Mary Wilson and the BOCC referred this matter to its Audit Review Committee (ARC) for further review; and

WHEREAS, on June 24, 2009, the ARC concluded, among other things, that the audits of DSS indicate insufficient internal controls, which is unacceptable and inconsistent with expectations for appropriate fiscal management of public funds; and

WHEREAS, on June 24, 2009, the ARC also concluded that it believes management's responses to the audit findings are appropriate and sufficient to strengthen internal controls and address inconsistent and insufficient supervision; and

WHEREAS, on June 30, 2009, Cherry, Bekaert & Holland, L.L.P. notified the BOCC that it had reviewed county management's responses to issues identified in its audit report completed May 31, 2009 and the responses appeared appropriate to resolve the identified issues; and

WHEREAS, on June 30, 2009, Cherry, Bekaert & Holland, L.L.P. also advised that the risk management and methodology process currently being followed by the Mecklenburg County Internal Audit Department appears to be an acceptable process that is being used throughout the industry; and

WHEREAS, during the same time frame that county management and staff have spent hundreds of hours developing and implementing measures designed to address these insufficient internal fiscal controls, Mecklenburg County has also in the past year:

- Maintained an AAA bond rating in part by creating a "debt diet" policy toward capital projects and refinancing various obligations to reduce taxpayer interest payments by \$18M over the next decade,
- Submitted a budget 6% lower than last year, thereby, avoiding a tax hike while minimizing layoffs,
- Expanded social services hours and access points to meet sharp increases in demand for services.
- Increased job satisfaction ratings of County employees in spite of no raises being given,
- Achieved and maintained targets for customer satisfaction and public awareness.

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- Achieved an “A” rating for transparency from the John Locke Foundation, one of only two counties in North Carolina to do so,
- Earned a best in the state rating for Mental Health services by a NC DHHS independent consultant,
- Earned recognition as the best EMS service provider in the country according to the national publication EMS Magazine,
- Earned national accreditation from the Commission for Accreditation of Park and Recreation Agencies, one of only 88 counties nationally to be accredited,
- Earned multiple awards from the National Association of Flood & Stormwater Management Agencies, the Association of State Floodplain Managers, and the US Geological Survey.

NOW, THEREFORE BE IT RESOLVED, that the Mecklenburg County Board of Commissioners do find and determine that:

1) internal controls in the Giving Tree and Voucher programs were woefully insufficient to ensure adequate accountability of funds entrusted to public entities; and consequently, the county will likely never be able to determine to anyone’s entire satisfaction if every dollar contributed to the Giving Tree Program was used solely for the purposes intended by the donors; and

2) county management, upon becoming aware of the unacceptable fiscal management practices in the Giving Tree, Voucher and other programs as DSS admitted error, accepted responsibility and responded appropriately and in a timely manner to call for external and internal audits and to strengthen internal controls and address inconsistent and insufficient supervision;

3) county management has shown the highest respect for the public’s right to know, that is, been entirely transparent throughout this process, by posting all DSS audit-related documents on the County’s website for ease of access by the citizens of Mecklenburg County;

4) county management at the highest levels has been held accountable by being subjected publicly to over six months of intense scrutiny and harsh criticism by members of the general public, county commissioners from both political parties and the media;

5) After taking into account all of the foregoing, the Board of County Commissioners nonetheless wishes to affirm that the Board remains highly confident in the integrity, management skills and leadership ability of Harry Jones, our County Manager, the County Manager’s office, the Director of the Department of Social Services and the entire Mecklenburg County leadership team.

Commissioner Murrey offered a friendly amendment to the substitute motion, which was accepted by

Commissioners Cogdell and Clarke makers of the substitute motion, to direct the County Manager to report back to the Board with respect to Items E, F G, and H as stated in the original motion.

The vote was then taken on the substitute motion as amended and reads as follows:

Substitute Motion was made by Commissioner Cogdell, seconded by Commissioner Clarke and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey, and Roberts voting yes, to 1) approve the following:

Statement Of Critical Findings And Continued Confidence
In
County Management

WHEREAS, on February 19, 2009, Mecklenburg County Department of Social Services Director Mary Wilson brought to the attention of the County Manager’s Office concerns about

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deficient internal controls involving the DSS Giving Tree Program and the DSS Voucher Program; and

WHEREAS, the Mecklenburg County Internal Audit Department was simultaneously notified of Ms. Wilson concerns; and

WHEREAS, at the time Ms. Wilson asked the County Finance Department to oversee a thorough audit of the fiscal management process of DSS; and

WHEREAS, on March 17, 2009, the Mecklenburg County Board of Commissioners was briefed on Director Mary Wilson's audit request; and

WHEREAS, in March 2009, the Mecklenburg County Finance Department secured the services of an outside audit firm, Cherry, Bekaert & Holland, L.L.P. to conduct an audit designed to complete the testing of transactions and disbursement report; and

WHEREAS, on March 31, 2009, Mecklenburg County Public Service and Information provided the public and media with a news release announcing Ms. Wilson's request that the County's Finance Department oversee an independent review of DSS's fiscal management processes, the county manager's reorganization of the DSS finance division and the hiring of a new Financial Management Director; and

WHEREAS, on June 16, 2009, the Board of County Commissioners received a report on audits conducted in the Department of Social Services (DSS) at the request of DSS Director Mary Wilson and the BOCC referred this matter to its Audit Review Committee (ARC) for further review; and

WHEREAS, on June 24, 2009, the ARC concluded, among other things, that the audits of DSS indicate insufficient internal controls, which is unacceptable and inconsistent with expectations for appropriate fiscal management of public funds; and

WHEREAS, on June 24, 2009, the ARC also concluded that it believes management's responses to the audit findings are appropriate and sufficient to strengthen internal controls and address inconsistent and insufficient supervision; and

WHEREAS, on June 30, 2009, Cherry, Bekaert & Holland, L.L.P. notified the BOCC that it had reviewed county management's responses to issues identified in its audit report completed May 31, 2009 and the responses appeared appropriate to resolve the identified issues; and

WHEREAS, on June 30, 2009, Cherry, Bekaert & Holland, L.L.P. also advised that the risk management and methodology process currently being followed by the Mecklenburg County

Internal Audit Department appears to be an acceptable process that is being used throughout the industry; and

WHEREAS, during the same time frame that county management and staff have spent hundreds of hours developing and implementing measures designed to address these insufficient internal fiscal controls, Mecklenburg County has also in the past year:

- Maintained an AAA bond rating in part by creating a "debt diet" policy toward capital projects and refinancing various obligations to reduce taxpayer interest payments by \$18M over the next decade,
- Submitted a budget 6% lower than last year, thereby, avoiding a tax hike while minimizing layoffs,
- Expanded social services hours and access points to meet sharp increases in demand for services.

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- Increased job satisfaction ratings of County employee in spite of no raises being given,
- Achieved and maintained targets for customer satisfaction and public awareness.
- Achieved an “A” rating for transparency from the John Locke Foundation, one of only two counties in North Carolina to do so,
- Earned a best in the state rating for Mental Health services by a NC DHHS independent consultant,
- Earned recognition as the best EMS service provider in the country according to the national publication EMS Magazine,
- Earned national accreditation from the Commission for Accreditation of Park and Recreation Agencies, one of only 88 counties nationally to be accredited,
- Earned multiple awards from the National Association of Flood & Stormwater Management Agencies, the Association of State Floodplain Managers, and the US Geological Survey.

NOW, THEREFORE BE IT RESOLVED, that the Mecklenburg County Board of Commissioners do find and determine that:

1) internal controls in the Giving Tree and Voucher programs were woefully insufficient to ensure adequate accountability of funds entrusted to public entities; and consequently, the county will likely never be able to determine to anyone’s entire satisfaction if every dollar contributed to the Giving Tree Program was used solely for the purposes intended by the donors; and

2) county management, upon becoming aware of the unacceptable fiscal management practices in the Giving Tree, Voucher and other programs as DSS admitted error, accepted responsibility and responded appropriately and in a timely manner to call for external and internal audits and to strengthen internal controls and address inconsistent and insufficient supervision;

3) county management has shown the highest respect for the public’s right to know, that is, been entirely transparent throughout this process, by posting all DSS audit-related documents on the County’s website for ease of access by the citizens of Mecklenburg County;

4) county management at the highest levels has been held accountable by being subjected publicly to over six months of intense scrutiny and harsh criticism by members of the general public, county commissioners from both political parties and the media;

5) After taking into account all of the foregoing, the Board of County Commissioners nonetheless wishes to affirm that the Board remains highly confident in the integrity, management skills and leadership ability of Harry Jones, our County Manager, the County Manager’s office, the Director of the Department of Social Services and the entire Mecklenburg

County leadership team.

2) To direct staff to report back on the following matters:

E. Instruct the County Manager to make available to the Commissioners copies of any and all internal memos produced by internal Audit and senior management involving DSS Giving Tree matters from the last 12 months, with appropriate actions to insure statutory confidentiality as to personnel matters, for the Board to review.

F. Instruct the County Manager to provide to the Board in open session a detailed list of gifts purchased for others with Giving Tree funds from February 2008 through December 2008 and his opinion as to whether these purchases actually benefited (were received by) the individuals to whom they were intended.

G. Receive a presentation from Dena Diorio in open session about our current expense

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'advance' policy and whether it complies with the time requirements of IRS circular/publication 15.

H. Provide a list to the Board in open session of all remaining items left in inventory in the County's possession related to the Giving Tree program (and their purchase prices).

Note: Prior to the above vote, Commissioner Cooksey said he still feels the County needs an Ethics Officer as he's noted at a previous meeting.

Statement of Critical Findings And Continued Confidence In County Management recorded in full in Minute Book 44-A, Document # _____.

Commissioners James left the meeting and was absent for the remainder of the meeting.

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

(10) GOVERNOR'S CRIME COMMISSION GRANT AWARD – IST

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, and Roberts voting yes, to recognize, receive and appropriate the Governor's Crime Commission grant award of \$662,550 for the Mecklenburg County Criminal Justice Data Warehouse.

Commissioners Bentley and Leake removed this item from Consent for more public awareness. General Manager Michelle Lancaster explained what this matter was about.

Commissioner Murrey returned to the dais.

(14) SPIRIT SQUARE LEASE

Motion was made by Commissioner Dunlap, seconded by Commissioner Leake and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, Murrey, and Roberts voting yes, to adopt the resolution entitled "Mecklenburg County Board of Commissioners Resolution Authorizing Lease of Property to North Carolina Performing Arts Center at Charlotte Foundation."

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

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

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

(15) REZONING APPLICATION FOR SPIRIT SQUARE

Motion was made by Commissioner Leake, seconded by Commissioner Murrey and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Leake, Murrey, and Roberts voting yes, to approve submission of a rezoning application to the City of Charlotte requesting rezoning of Mecklenburg County owned Tax Parcels 080-023-03, 080-023-04, 080-23-11, 080-023-12, and 080-023-13, site of the Spirit Square complex.

Commissioner Leake removed this item from Consent for more public awareness. General Manager Bobbie Shields explained what this matter was about.

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(16) AREA MENTAL HEALTH – GRANT RENEWAL APPLICATIONS

Motion was made by Commissioner Leake, seconded by Commissioner Cogdell and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Leake, Murrey, and Roberts voting yes, to:

A) Approve submission of the following single-year renewal grant applications for HUD Mental Health ACCESS program:

- 1) Grant for \$316,764 for fiscal year 9/1/2010 -8/31/2011,
- 2) Grant for \$44,363 for fiscal year 9/1/2010-8/31/2011.

B) Approve submission of Shelter Plus Care single-year renewal grant applications as follows:

- 1) Samaritan Bonus Grant for \$242,340 for the period 8/1/10-7/31/2011,
- 2) Grant for \$1,301,436 for the period 3/6/2010-3/5/2011,
- 3) Grant for \$785,040 for the period 3/7/2010-3/6/2011.

C) Recognize, receive and appropriate the amounts of the awards when received.

Note: These grants are renewal of current grants from the U.S. Department of Housing and Urban Development. The goals of the programs are to provide rental subsidies and supportive services, such as mental health treatment and case management, for consumers who are homeless and disabled.

Commissioner Leake removed this item from Consent for more public awareness. County Manager Jones explained what this matter was about.

Commissioner Dunlap returned to the dais.

(17) AREA MENTAL HEALTH REVENUE ADJUSTMENT (DECREASE)

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, Murrey and Roberts voting yes, to reduce Medicaid revenue and related expenditures in the amount of \$384,857 due to changes in Medicaid service delivery guidelines.

Commissioner Leake removed this item from Consent for more public awareness. County Manager Jones explained what this matter was about.

(20) MCALPINE CREEK STREAM RESTORATION CONSTRUCTION

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

- 1) Authorize the County Manager to execute a construction contract with Blythe Development in the amount of \$1,966,450.66.
- 2) Adopt a Resolution to authorize the County Manager to negotiate and execute an Interlocal Agreement (funding agreement) with the City of Charlotte.
- 3) Recognize, receive, and appropriate \$1,350,000 from the City of Charlotte.

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

Commissioner Leake removed this item from Consent for more public awareness. General Manager Bobbie Shields explained what this matter was about.

Commissioner Leake said she would like to know if the MWSBE goals are met.

(21) WEST BRANCH ROCKY RIVER GREENWAY – CONSTRUCTION CONTRACT

Motion was made by Commissioner Leake, seconded by Commissioner Clarke and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, Murrey and Roberts

voting yes, to adopt a Resolution to award a construction contract to Blythe Development Co. for a total amount of \$424,145.

Note: This contract is for the construction of the West Branch Rocky River Greenway. The project site is located inside the River Run Development in Davidson, NC. Construction funding will be reimbursed by an American Recovery and Reinvestment Act (ARRA) agreement with NCDOT. The contract includes the construction of the main greenway trail, boardwalks, a plaza, retaining walls, site furnishings, landscaping and other trail amenities.

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

Commissioner Leake removed this item from Consent for more public awareness. General Manager Bobbie Shields explained what this matter was about.

Commissioner Leake said she would like to know if the MWSBE goals are met.

(22) TOBY CREEK GREENWAY – CONSTRUCTION CONTRACT

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, Murrey and Roberts voting yes, to adopt a resolution to award a construction contract to Eagle Wood, Inc. for a total amount of \$1,064,690.50.

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

Commissioner Leake removed this item from Consent for more public awareness. Commissioner Leake said she would like to know if the MWSBE goals are met.

(23) DOG PARK IMPROVEMENTS – CAPITAL RESERVE REQUEST

Motion was made by Commissioner Leake, seconded by Commissioner Clarke and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, Murrey and Roberts voting yes, to approve a capital reserve expenditure of \$107,000 from funds accrued in Mecklenburg County's Dog Parks Capital Reserve Account to construct a new dog park facility in Shuffletown Park.

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

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.

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ADJOURNMENT

Motion was made by Commissioner Murrey, seconded by Commissioner Bentley and carried 8-0 Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, Murrey and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 11:59 p.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman