

MARCH 16, 2010

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, March 16, 2010.

ATTENDANCE

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

**Absent:** Commissioner Daniel Murrey

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

**-INFORMAL SESSION-**

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

**(1) STAFF BRIEFINGS – NONE**

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

Motion was made by Commissioner James, seconded by Commissioner Bentley and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, James, Leake, 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 5:50 p.m.*

*Commissioner Dunlap was present when the Board came back in Open Session. He entered the meeting during Closed Session.*

**(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 8, 13, 16, 20, 21, and 24.

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

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**-FORMAL SESSION-**

*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**

**PROCLAMATIONS AND AWARDS - NONE**

**(2) PUBLIC APPEARANCE**

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

Dr. Wesley Carter addressed the Working Charlotte Business Prosperity Conference 2010 to be held April 10, 2010, 8:00 a.m. – 5:00 p.m. at UNC-Charlotte, College of Health and Human Services Building. It will be a one-day experience for small and medium sized business owners seeking to “boldly unlock the know-how and the how-to” of doing business in Charlotte/Mecklenburg County. Information will be shared on, but not limited to, controlling costs, increasing efficiencies, and driving revenue for small and medium sized businesses.

Rev. Roderick Ewell addressed Commissioner James regarding comments Commissioner James recently made regarding African American women. Rev. Ewell said he was appalled at Commissioner James’ statement insinuating that African American women were “promiscuous.” Rev. Ewell told Commissioner James that it was wrong for him to “take a wide brush and paint an entire group of people as we’re immoral or that our women are promiscuous.” Rev. Ewell said “it is a shame that we live in time where we have elected officials using words of division. We are a human people, not separate.” He told Commissioner James that he was “elected to serve the people and to do the people’s business and not to use it as a bully pulpit to put people down.”

Patrick Christian with the American Fundamentalist Movement made general comments regarding the state of communities. Mr. Christian said “we have to start showing more sincerity in our commitments when it comes to tackling the battles of diversities and inadequacies that we face in our communities.” He said vital solutions are needed to address the various issues facing our communities.

The following persons addressed the BMWNC, Inc. Medical Waste Incinerator located at 3250 Campus Ridge Road in Matthews, NC. and renewal of its Title V permit.

Cheryl Drake Bowers, a resident of Stallings and native of Matthews, asked the Board to postpone the permit renewal request. Ms. Bowers said there were a lot of extenuating issues around this permit and not just the compliance issue. Ms. Bowers said it was impossible for the Board to make an informed decision without further investigation. Ms. Bowers asked that this matter be placed on the Board’s next Regular meeting agenda for discussion. Ms. Bowers said the company has a long list of violations.

*A copy of Ms. Bowers' remarks is on file with the Clerk to the Board.*

Judy Drake a resident of Matthews, who lives on Campus Ridge Road, addressed problems she has experienced in dealing with ash from the incinerator. Ms. Drake said the ash has stuck to clothing, vehicles, and one’s skin. Ms. Drake said it’s probably also in her lungs and others in the area. Ms. Drake said well water in the area has been tested and determined not to be suitable for drinking or cooking. Further, that they were advised by the Cancer Society not to eat vegetables grown in the area. Ms. Drake said the company does burn at night and on cloudy days. Ms. Drake

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also addressed odor issues.

*A copy of Ms. Drake's remarks is on file with the Clerk to the Board.*

Kim and John Frizebraell, residents of Matthews, who live two miles from the incinerator, said they moved into the area not realizing the incinerator was there. Ms. Frizebraell said they lost their 14 year old daughter to childhood cancer. Ms. Frizebraell said other families in the surrounding area, that the BMWNC, Inc. incinerator reaches out to, have also lost children to cancer. Ms. Frizebraell said she has done research to see if there was a common denominator and has found that the issue of environmental linked cancers is understudied. Ms. Frizebraell said "while we can't point to this incinerator and say that this is a source, it is a starting point." They urged the Board and others to do whatever they could get the Environmental Protection Agency (EPA) to require BMWNC, Inc. to come into EPA standards as soon as they can because 2014 was not soon enough.

Mayor Linda Paxton, Town of Stallings, noted that the EPA established new emission standards in 2009 and gave companies until 2014 to come into compliance. Mayor Paxton said BMWNC, Inc.'s current emissions far exceed what's now deemed as unsafe. Mayor Paxton said the primary issue at the moment was the air quality permit renewal but that there were other environmental issues at this site. Mayor Paxton said the Town of Stallings and the Town of Matthews sent letters of comment to the County's Air Quality Division. Mayor Paxton said they were seeking the following conditions to be added to the permit. 1) Seek permission from the Environmental Management Commission for a shorter period of time to come into compliance. 2) Require the facility to use alternative methods. 3) Require BMWNC, Inc to limit or not accept dental waste because it's very high in mercury, which is one of the pollutants where they exceed regulations. Mayor Paxton urged the Board to encourage coordination between all of the environmental agencies that are looking at this site, so that there is actual mediation of all of these things. Further, that County staff be encouraged to put these requirements on the permit.

*A copy of Mayor Paxton's letter to the County's Air Quality Division is on file with the Clerk to the Board.*

Adam Brooks, a resident of Matthews, said this type of facility should not be located in a residential area and near schools. Mr. Brooks said BMWNC, Inc was not a good neighbor. He said BMWNC, Inc was trying to make the most money they can "off of the backs of the health of the residents." Mr. Brooks encouraged the Board to obtain more oversight.

Allan Burns, a resident of Charlotte, who has worked in the vicinity of the facility, spoke in opposition to the permit renewal.

Dick Silverman, a resident of Matthews, appeared to express his concerns but because of time, was unable to do so. He was advised to leave any comments with the Clerk to the Board.

*A copy of Mr. Silverman's remarks is on file with the Clerk to the Board.*

Commissioner Cogdell suggested this issue be referred to the Board's Health & Community Support Committee to see if there was more the Board could do, including possible inclusion of specific requests in the Board's legislative package to the state.

### **(3A) APPOINTMENTS**

#### **ALCOHOLIC BEVERAGE CONTROL BOARD**

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts, voting yes, to appoint Cleveland Edwards to the Alcoholic Beverage Control

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Board to fill the unexpired term of H. Parks Helms expiring June 30, 2012 and David Conway to fill the unexpired term of Elton Shoemaker expiring June 30, 2010.

Motion was made by Commissioner James, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts, voting yes, to appoint Cleveland Edwards as chairman of the Alcoholic Beverage Control Board for the duration of his term.

#### **BICYCLE ADVISORY COMMITTEE**

The following persons were nominated for appointment consideration to the Bicycle Advisory Committee:

John Arciero	by Commissioner James
Kurt Robinson	by Commissioner Cooksey
Jane Wasilewski	by Commissioner James
Gerald Williams	by Commissioner Leake

*Note: An appointment will occur on April 6, 2010.*

#### **BOARD OF EQUALIZATION AND REVIEW**

Motion was made by Commissioner James, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to reappoint JoAnne Allen, Russell Allen, Zanthia Hastings, William Hawkins, Unithia McGruder, Jack Morgan, John Newitt and James Barnett to the Board of Equalization and Review for a one-year term expiring April 7, 2011.

Motion was made by Commissioner Clarke, seconded by Commissioner Cooksey and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to appoint James Barnett as chairman of the Board of Equalization and Review for the duration of his term.

The following persons were nominated for appointment consideration to the Board of Equalization and Review by Commissioner Clarke: Damon Bidencepe and Kenneth Hammond.

*Note: An appointment will occur on April 6, 2010.*

#### **CHARLOTTE-MECKLENBURG COMMUNITY RELATIONS COMMITTEE**

Motion was made by Commissioner Dunlap, seconded by Commissioner Cooksey and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to appoint the following persons to the Charlotte-Mecklenburg Community Relations Committee: Azania Herron, Jibril Hough, Kaz Muhammad to fill unexpired terms expiring September 30, 2011 and Patrick Rivenbark, Amad Shakur, Rebecca Vincent to fill unexpired terms expiring July 2, 2011.

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

Motion was made by Commissioner James, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to reappoint Kay Roderick to the Nursing Home Community Advisory Committee for a three-year term expiring February 28, 2013 and Shawanga Burrell for a three-year term expiring March 30, 2013.

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Motion was made by Commissioner James, seconded by Commissioner Cooksey and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to nominate and appoint Linda Strong to the Nursing Home Community Advisory Committee for a one-year term expiring March 31, 2011.

*She is replacing Pearl Brewington.*

## **PERSONNEL COMMISSION**

Motion was made by Commissioner Cogdell, seconded by Commissioner Leake and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to nominate and appoint Charles Loring to the Personnel Commission to fill an unexpired term expiring June 30, 2011.

*He is replacig Jack Holbein.*

## **WASTE MANAGEMENT ADVISORY BOARD**

Motion was made by Commissioner Leake, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Roberts voting yes, to reappoint Laila Macs and Rita Plyler to the Waste Management Advisory Board for three-year terms expiring March 14, 2013.

The following persons were nominated for appointment consideration to the Waste Management Advisory Board by Commissioner Bentley: Rita Brannon, Christopher Brown, Chad Faubel, Daryl Goodman, Jacqueline Levister, and Philip O'Brien

*Note: An appointment will occur on April 6, 2010.*

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

## **PUBLIC HEARINGS**

### **(4A) STREET LIGHTING ASSESSMENT FOR OPERATIONAL COST**

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

- 1) Acknowledge receipt of certification that a notice of the public hearing was mailed by first class mail to all property owners in the Brantley Oaks, Capps Hollow, Cardinal Woods, Coffey Creek/Ayrshire Glen, Hearthstone, Highland Park, McGinnis Village, Mountain Point, Mountain Point Estates, Ridgewood, Royal Oaks, Spicewood, and Stewarts Crossing Subdivisions.
- 2) To open a public hearing on the Street Lighting Preliminary Assessment Roll and Resolution for Mecklenburg County's participation in the Street Lighting Assessment project for the Brantley Oaks, Capps Hollow, Cardinal Woods, Coffey Creek/Ayrshire Glen, Hearthstone, Highland Park, McGinnis Village, Mountain Point, Mountain Point Estates, Ridgewood, Royal Oaks, Spicewood, and Stewarts Crossing Subdivisions.

*Commissioner Cooksey returned to the dais.*

The following persons appeared to speak:

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Robert Hussey, a resident of Cardinal Woods Subdivision, asked for clarification regarding why residents were being billed since the lights were located on the public right-of-way, thus property of the state. He also asked whether all residents were being billed. Mr. Hussey said the concern was that there's a backlog of debt that would go on as unpaid taxes and would this create an issue for residents at some point.

Sherry Chambliss, a resident of Ridgewood Subdivision, questioned the assessment, in light of annexation into the City of Charlotte.

Desmond Cole with Land Use and Environmental Services explained how the assessment process and the billing process worked. Mr. Cole said he would be happy to discuss this in more detail with Mr. Hussey and Ms. Chambliss, one on one.

Motion was made by Commissioner James, seconded by Commissioner Cogdell and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Roberts voting yes, to **1**) close the public hearing on the Street Lighting Preliminary Assessment Roll and Resolution for Mecklenburg County's participation in the Street Lighting Assessment project for the Brantley Oaks, Capps Hollow, Cardinal Woods, Coffey Creek/Ayrshire Glen, Hearthstone, Highland Park, McGinnis Village, Mountain Point, Mountain Point Estates, Ridgewood, Royal Oaks, Spicewood, and Stewarts Crossing Subdivisions, **and 2**) adopt the Final Assessment Roll and Resolution for Brantley Oaks, Capps Hollow, Cardinal Woods, Coffey Creek/Ayrshire Glen, Hearthstone, Highland Park, McGinnis Village, Mountain Point, Mountain Point Estates, Ridgewood, Royal Oaks, Spicewood, and Stewarts Crossing Subdivisions.

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

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

**MANAGER'S REPORT**

**(6A) MEDICAID WAIVER APPLICATION - AREA MENTAL HEALTH**

Area Mental Health Director Grayce Crockett addressed Area Mental Health's Medicaid Waiver application, but prior to doing so, she called on Chief District Court Judge Lisa Bell to comment.

*Note: On February 18, 2010, the Division of Medical Assistance issued a Request for Applications for Local Management Entities to become 1915 (b) (c) waiver expansion sites. One LME will be chosen by July 2010 to expand the current pilot waiver, which provides Medicaid services on a capitation basis in a five-county area. The application is due on April 14, 2010 and requires a letter of support from the BOCC for assuming financial responsibility in submitting the application. It is projected that the start date for the new contract would be July 2011. Also, the Department of Health and Human Services will be restructuring the delivery system for Medicaid funded mental health, substance abuse and developmental disabilities services. This new delivery system will operate on a capitation basis and will be phased in statewide.*

Judge Lisa Bell spoke in support of Area Mental Health's request to respond to a Request for Application (RFA) from North Carolina Department of Health and Human Services, Division of Medical Assistance to manage Medicaid funded services through a capitated Pre-aid Inpatient Health Plan (PIHP) for Mecklenburg County residents in need of services for mental illness, substance abuse and developmental disabilities.

Director Crockett covered the following in her presentation:

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- Background information
- Problem with current process
- Potential solution
- Pros and cons for Mecklenburg County
- Next Steps

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

#### Comments

Commissioner Clarke asked about Medicaid dollars spent locally and the reasoning behind the rapid increase since 2007. *Director Crockett said part of it was because of the large number of providers that came into the community. It was noted that in 2006 the state Medicaid plan changed and allowed any willing and able provider to come in and provide service, not all of whom, Director Crockett said were fully trained to provide the services. Director Crockett said prior to 2006, the Local Management Entity (LME) was able to control the number of providers providing these services because they were using the County's Medicaid number.*

Commissioner Clarke asked who was responsible for controlling the services provision. *The response was Value Options. Further, that the state never tasked Value Options with controlling the costs. Director Crockett said Value Options was currently paid on a "piece meal" basis, meaning the more authorizations they issue, the more money they are paid, which doesn't serve as an incentive to save cost.*

Commissioner Clarke asked about community endorsements, which was addressed.

Commissioner James asked about in and out of network providers, which was addressed.

Commissioner James said he's concerned that there will be a limitation in terms of services because there would be a limited amount of funding. *Director Crockett said although there would be a limited pool of funds, the pool of providers would be significant. It was noted that currently in Mecklenburg County there were over 900 providers, who bill for services.*

County Manager Jones asked Director Crockett to comment on the County's likelihood to receive a waiver. *Director Crockett said she felt the County had a 70% chance. She said there was risk, that the County would not be chosen.*

Commissioner Cooksey asked about the per capita evaluation funding formula, which was addressed.

Director Crockett said if the County was not able to negotiate a rate at the high end of what the actuaries come up with, then staff would "walk away" on behalf of the County because staff would not want to put the County at risk. It was noted that the per member, per month rate was negotiated annually.

Commissioner Cooksey asked about the services provided, per member, per month, which was addressed.

Commissioner Cooksey asked about start up cost on the part of the County, which was addressed.

Commissioner Dunlap asked if the County decided to stay with Value Options, what were the downsides to doing that or was there value in continuing with Value Options. *Director Crockett said if we stay with Value Options nothing would change. Director Crockett said her feedback from providers was that they have a difficult time getting authorizations from Value Options, getting through on the phone, and other customer service issues, which were reasons why it would not be advisable to stay with Value Options. Director Crockett said the big advantage would be that this waiver would give the County the authority to be able to close the provider*

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*network. Further, that if things remain as they are, it limits the County's ability to continue to improve the quality of providers here in the county.*

Commissioner Dunlap said one of the concerns expressed by some of the providers was that they would probably go out of business. Commissioner Dunlap noted, however, that if providers weren't providing the services that they should be providing, then they should not be in business.

Commissioner Dunlap said some have questioned the number of providers that staff has said currently exist. Commissioner Dunlap asked if the County received the waiver, how many providers were anticipated. *Director Crockett said the question really was how many providers would actually remain after the state starts the Critical Access Behavioral Agency process. She said staff was still evaluating that, but does feel, however, it would be less than there currently was.*

Commissioner Dunlap asked was it correct that providers would still have the opportunity to improve, meet the criteria and start with at least the two point star rating and if they do that, they meet the criteria to continue to operate. *Director Crockett said yes, but the bar would be gradually raised. She said the County would work with the Provider Council to set those standards.*

Commissioner Dunlap said at some point he'd like to know how the executive committee of the Provider Council was elected.

Commissioner Dunlap addressed the issue of there being a fair process and fair evaluation tool.

Commissioner Dunlap asked about the administrative fee and how it was determined, which was addressed.

Commissioner Bentley asked how often was or would the standards for the star rating system be reviewed, along with the provider review. *Director Crockett said providers were reviewed annually, but if something changed in the agency significantly during that period, another review would take place. With respect to the standards for the star rating system, Director Crockett said that has not been determined yet.*

#### Public Comments

Ms. Ellis Fields with the Mental Health Association spoke in support of Area Mental Health's Medicaid Waiver application.

Motion was made by Commissioner Clarke, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, James, Leake, and Roberts voting yes, to excuse Commissioner Cogdell from voting on this matter to avoid a conflict of interest.

*Note: Commissioner Cogdell has clients that could potentially be impacted by this decision.*

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

Public comment continued with the following persons also speaking in support of Area Mental Health's Medicaid Waiver application.

Ed Payton with Mecklenburg Open Door

Brett Loftis with the Council for Children's Rights

Ron Reeve with the Consumer and Family Advisory Committee

Dammeon L. Chisholm with Footprints Carolinas and president of the Executive Board of the Provider Council

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*Note: Those that spoke cited the following reasons for their support: It would improve the quality of services; access to services; there would be local control; more provider accountability; improved provider communication; and there would be quality standards. Also, that it would allow dollars to be invested in the community.*

The following person spoke in opposition.

Jocelyn Singletary with the Black Mental Health Providers Association, asked the Board to defer making a decision at this time or deny the request of Area Mental Health. Ms. Singletary said there were still numerous unanswered questions regarding this matter. Ms. Singletary said they do not feel that current providers, consumers and their families would be best served by the implementation of a Medicaid waiver program by the LME. Ms. Singletary said Director Crockett has not offered clinical structure for the delivery of services and the selection of providers. Further, that there was no evidence to support how the figures presented in the presentation relate to actual improvement to services, only the level of control that it would result in. Ms. Singletary said questioned whether there would be increased access and equal access to all communities.

Comments

Commissioner Leake said her concern was for providers and their security in this process.

Commissioner Leake asked about the makeup of the Executive Committee of the Provider Council, which was addressed.

Commissioner Leake asked about the hiring of additional employees, which was addressed.

Commissioner Leake asked how would this impact those individuals who were incarcerated but should not be because of mental illness. *Director Crockett said she could not say that this would have a huge impact on that segment of the jail population but that this would hopefully allow staff to increase access. Thus, the more individuals that can be gotten on Medicaid, and the County provide mental health services to, the more they can be kept out of jail. Director Crockett said it would be her intent to get in front of the problem and to get to individuals that have the potential to end up in jail or homeless into services, so that they're not having that end result.*

Commissioner Dunlap asked Director Crockett if she would be willing to meet with those that still have some concerns. *The response was yes.*

Commissioner Clarke asked would every provider beginning January 1, 2011 have to be a Critical Access Behavioral Agency. *The response was no, but if they provide certain services, it'll be required, case management services, for example.*

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

Motion was made by Commissioner James, seconded by Commissioner Bentley and carried 6-1 with Commissioners Bentley, Clarke, Dunlap, James, Leake, and Roberts voting yes and Commissioner Cooksey voting no, to approve the request for Area Mental Health to respond to a Request for Application (RFA) from North Carolina Department of Health and Human Services, Division of Medical Assistance to manage Medicaid funded services through a capitated Pre-aid Inpatient Health Plan (PIHP) for Mecklenburg County residents in need of services for mental illness, substance abuse and developmental disabilities.

***Commissioner Cogdell returned to the dais.***

## **(6B) BUDGET UPDATE**

The Board received a budget update with respect to the condition of and outlook for the

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community as a part of the planning and preparation process for the FY2011 budget. There was also an update with respect to the FY2010 budget.

County Manager Jones noted the following:

- The FY2011 targets given to departments include cuts that will eliminate services, close facilities, and lay off employees.
- The targets that will be addressed by Budget/Manager Hyong Yi were not the County Manager's recommended budget, only targets.
- The targets were based on the priorities established by the Board at its recent Planning Conference, as well as the Board's expressed preference to maintain the current tax rate.
- The total amount of reductions that would be covered in the presentation that would result from the target budgets was more than the projected funding gap.
- This provides the County Manager with some flexibility and some choices to develop the County Manager's funding recommendations, which was about two months away.
- It also helps mitigate any additional costs shifting by the state or other revenue or costs factors that are unknown at this time.

Budget/Management Director Hyong Yi gave the update.

The following was covered:

FY2010 Budget

- Budget Gap
- Actions to Balance

FY2011 Budget Development

- Budget Gap
- Actions to Develop a Balanced Budget
- Next Steps

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

Comments (FY2010 Budget)

Commissioner Clarke asked for clarification regarding the reductions summary and the differences between the various departments, specifically, Land Use and Environmental Services Agency (LUESA). *Director Yi explained that what's being shown was the reduction to LUESA's County funded budget. He said the Code Enforcement division was separate because Code Enforcement was fee funded.*

Commissioner Clarke asked, in light of the fact that there's only one quarter of the fiscal year left beginning April 1, were the reductions going to be possible. He said in most cases these savings were going to have to come out of reduced hours or further layoffs. *Director Yi said although this was being presented today, staff has been giving directions and working with departments for about two months to get to these numbers.*

Commissioner Leake asked about cuts to outside agencies, which she said seemed low.

Commissioner Leake said she's concerned with respect to the possibility of not being able to maintain County staff and cutting departmental budgets, including the library, yet, continuing to fund outside agencies. *Director Yi said he couldn't comment on the impact of the County's cut to outside agencies because he not aware of what those impacts would be.*

Commissioner Leake said the outside agencies should be cut more.

County Manager Jones explained that as a percentage of their total budgets, it's greater for outside agencies than it is for County departments because it's a smaller budget. County Manager

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Jones said staff was trying to be consistent in what outside agencies were being asked to reduce.

Director Yi noted with respect to the number of reductions tied to the \$13.2 million, no employees were losing their jobs. Further, that he believed two vacancies may be eliminated, as a part of the \$13.2 million. Director Yi noted also that the layoff of 45 code enforcement positions was not tied to \$13.2 million.

Director Yi said even if more was taken from outside agencies, it wouldn't necessarily save any jobs because no jobs were being eliminated as part of the \$13.2 million.

Commissioner Cogdell asked how does he respond when the perception was that there's a lot of "fat" in County government, especially when you're making reductions totaling \$13.2 million and no jobs were being lost. *Director Yi noted that last year about \$76 million was eliminated or reduced from the County's budget to balance the 2010 budget and now an additional reduction was being taken. Director Yi said if there was "fat" he'd say it was gone. Further, that the \$13.2 million reduction does impact services and service delivery or service quality. Director Yi said departments have gone to extraordinary efforts to minimize the impact on employees as a part of the balancing plan.*

Commissioner Cogdell said he'd like to see some examples of the cuts included in the \$13.2 million.

Commissioner Cogdell asked for clarification with respect to the FY2010 Planned Fund Balance Use, which was addressed.

Commissioner Dunlap asked for clarification with respect to fund balance and asked how much was currently in fund balance. *The response was \$329 million.*

Commissioner Dunlap asked how was the \$329 million divided up. *Finance Director Dena Diorio said the components were as follows:*

- *About \$80 million is reserved by state statute, the receivables that the County has at year end and dollars that can't be spent.*
- *About \$20 million was for prior year encumbrances that can't be spent.*
- *There's the eight percent which is what the Local Government Commission recommends the County maintain in its fund balance, which is about \$106 million.*
- *There are miscellaneous designations totaling about \$20 million.*
- *What was left at the end of the year was the \$45.7 million which was appropriated by the Board for debt service and pay-go.*
- *There's the eight percent excess that was not designated, which was allocated for next year, which was about \$78 million.*

Director Diorio said even though there's \$329 million, the vast majority of it isn't available to be spent.

Commissioner Dunlap asked about the status of property tax revenue, which was addressed. *It was noted that property tax revenue was strong.*

Commissioner Dunlap said with respect to the County Manager's \$10 million projection that's over and above what the anticipated need was, that what he would like to see is that within that \$10 million, is consideration for reducing that surplus of \$10 million by the amount that it takes to continually employ critical County staff.

County Manager Jones said with respect to the targets he's taken a risk, which is the sharing of this information with the Board at this time. County Manager Jones reminded the Board that what has been presented was for planning purposes only.

Commissioner James said although the focus has been on FY2010 targeted reductions, the bigger

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issue to be concerned about was the FY2011 targeted reductions.

Chairman Roberts asked would any Park and Recreation facilities be closed and/or would there be a reduction in hours between now and June. *The response was no.*

Comments (FY2011 Budget)

Commissioner James asked about the targeted reduction schedule, specifically the joint city/county numbers shown in the presentation, which was addressed. *It was noted that this was for the interlocal agreements the County has with the City of Charlotte.*

Commissioner Dunlap questioned funding to Carolinas HealthCare System. Commissioner Dunlap said “if you’re going to be fair and cut across the board, then everybody should be impacted.”

Commissioner Bentley with respect to compensation and benefits asked what percent employee health benefits do the employees pay. *Director of Human Resources Chris Peek said he would provide that information.*

Commissioner Bentley asked if an employee’s spouse has coverage through their employer, can they opt to choose the County’s instead of their employer’s insurance. *The response was yes, an employee can cover their spouse who is eligible for coverage through their own employer.*

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

Commissioner Clarke asked about the possible lost of the County’s Triple A bond rating and why staff feels this could happen. *Director Diorio said part of it has to do with the debt service being above 20% of operating expenditures and also the continued use of fund balance.*

Commissioner Clarke asked the County Manager to consider what steps he would recommend the Board take to protect the County’s Triple A credit rating. Commissioner Clarke said the County’s Triple A bond rating was an attractive tool for getting businesses to relocate to the community.

Director Yi said his answer with respect to what could be done to protect the County’s Triple A bond rating, County services, County employees and even education services, would be to raise the property tax rate.

This concluded the discussion.

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

Motion was made by Commissioner James, seconded by Commissioner Cogdell and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, and Roberts voting yes, that in accordance with N.C. G.S. 159-13b(9a), we request that the County Manager inform Charlotte-Mecklenburg Schools that the Mecklenburg Board of County Commissioners will hold a public meeting regarding a general reduction in County expenditures to Charlotte-Mecklenburg Schools required because of prevailing economic conditions.

## **CONSENT ITEMS**

**Motion was made by Commissioner Leake, seconded by Commissioner James and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, and Roberts voting yes, to approve the following item(s) with the exception of Items 8, 13, 16, 20, 21, and 24 to be voted upon separately:**

**(7) APPROVAL OF MINUTES**

Approve minutes of Regular meeting held March 2, 2010.

**(9) TAX REFUNDS**

Approve refunds in the amount of \$621,003.57 to be made by the Finance Department as requested by the Tax Assessor resulting from clerical errors, audits and other amendments.

*A list of the refund recipients is on file with the Clerk to the Board.*

**(10) CONSTRUCTION CONTRACT – MECKLENBURG COUNTY HISTORIC COURTHOUSE**

Award a construction contract in the amount of \$1,360,879 to Bell Contracting Co., Inc. for window replacement at the Mecklenburg County Historic Courthouse.

**(11) AUCTION FOR DISPOSAL OF SURPLUS EQUIPMENT**

Adopt a resolution authorizing sale of surplus personal property by public auction on April 17, 2010.

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

**(12) PURCHASE OF DOCUMENT IMAGING SOFTWARE**

Approve the request to purchase Adobe Life Cycle Forms Server to allow development and processing of electronic forms in PDF format.

**(14) RECORDS RETENTION AND DISPOSITION SCHEDULE – REGISTER OF DEEDS**

Approve Records Retention and Disposition Schedule dated August 15, 2003 and Amendment dated April 4, 2004 concerning records retention and disposition for the Register of Deeds Office.

**(15) NEIGHBORHOOD PARK ACQUISITION**

Approve purchase of Tax Parcels 057-071-15, 057-072-38 and 057-072-99 (+/- 14.635 acres) on Brooktree Drive for \$571,000 from Keith E. Pugh, Venturi Properties, LLC and Brooktree Properties, LLC.

*Note: The subject property, located on Brooktree Drive, is proposed as the site of a future neighborhood park in the West Park District.*

**(17) BUDGET AMENDMENT – AREA MENTAL HEALTH (REVENUE INCREASE)**

Recognize, receive and appropriate Medicaid funds in the amount of \$450,000 received by the Area Mental Health.

*Note: This Board Action is necessary to pay community providers for Medicaid claims for*

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*therapeutic foster care services. Providers are not able to bill these services directly due to restrictions in Medicaid rules. Area Mental Health is required to pay providers for Medicaid Therapeutic Foster Care services. These funds are a Medicaid pass through to service providers delivering these services.*

**(18) CONSOLIDATE AQUATIC CAPITAL RESERVE FUNDS**

Approve a consolidated capital reserve ordinance for the Mecklenburg County Aquatic Center, Marion Diehl Pool, Neighborhood Pools and Ray's Splash Planet aquatic facilities.

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

**(19) DONATION - GARDEN OF LOVE & FORGIVENESS AND PARK BENCH AT FREEDOM PARK**

Recognize, receive and appropriate \$3,500 in donations for the purchase and installation of a metal bench and a landscaped garden at Freedom Park.

*Note: Public TV Station WTVI and the Fetzer Institute have offered to donate \$3,500 to pay for the purchase and installation of a standard Park & Recreation Department (P&R) metal park bench (red) and landscaped garden at Freedom Park to create a "Garden of Love and Forgiveness." WTVI is the local sponsor of this national campaign. The garden will provide a place of reflection and meditation for park visitors to alleviate anger and grief as well as other physical, emotional and spiritual benefits that come with forgiveness.*

**(22) LAND USE & ENVIRONMENTAL SERVICES FEE ORDINANCE REVISIONS – SECOND READING**

Amend the LUESA Fee Ordinance to reflect changes in the Re-inspection Fee Program methodology and realign it with Code Enforcement's current service delivery model.

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

**(23) BUILDING-DEVELOPMENT ORDINANCE REVISIONS – SECOND READING**

Amend the Building Development Ordinance to allow creation of a Technical Advisory Board.

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

**THIS CONCLUDED ITEMS APPROVED BY CONSENT**

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

**(8) INSURANCE REIMBURSEMENTS**

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and carried 6-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, and Roberts voting yes, to recognize, receive and appropriate funds in the amount of \$38,192 for Park and Recreation, \$2,000 for Real Estate Services, \$593 for Sheriff and \$4,765 for Land Use and Environmental Services.

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*Note: The County received insurance money based on claims for stolen and damaged items in the departments identified. This Board action provides the necessary budgetary authority to use the insurance funds to cover the cost of replacing the items.*

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

**(13) REGISTER OF DEEDS OFFICE HOURS**

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and carried 6-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, and Roberts voting yes, to adopt Resolution altering the Register of Deeds office hours by cutting the extended marriage hours and clarifying service times.

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

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

**(16) GRANT APPLICATION – AREA MENTAL HEALTH**

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and carried 6-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, and Roberts voting yes, to

A) Approve submission of a grant application to the Hazelden Foundation BookAid program for substance abuse treatment program written materials estimated to be worth \$7,000.

B) Approve, recognize, and receive goods if selected by the grantor.

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

**(20) MECKLENBURG SENTENCING SERVICES**

Motion was made by Commissioner Leake, seconded by Commissioner Clarke and carried 6-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, and Roberts voting yes, to approve resolution authorizing the County Manager's Office to assume responsibility for operating Mecklenburg Sentencing Services as part of State Justice Services (Court Planning Unit).

*Note: Mecklenburg Sentencing Services (MSS) is responsible for conducting background investigations and social assessments on defendants to assist the courts in making sentencing decisions. The program is primarily funded by the State of North Carolina through the Office of Indigent Defense Services, with Mecklenburg County contributing funds and in-kind services. Since 2006, MSS has operated through the Center for Community Transitions (CCT), a non-profit agency dedicated to helping convicted offenders become productive citizens. It is the position of the County Manager's Office that transferring the program under the Court Planning Unit of State Justice Services (SJS) will improve planning and coordination of court resources. In particular, the County's operation of the program will enhance the integration of assessment services among court agencies and promote information sharing. Transfer of the program will occur on May 1, 2010.*

*Commissioner Leake removed this item from Consent for more public awareness and for clarity. General Manager Michelle Lancaster addressed this issue.*

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

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**(21) SYSTEM SAFETY PROGRAM PLAN – MECKLENBURG TRANSPORTATION SYSTEM (MTS) – DSS**

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and carried 6-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, and Roberts voting yes, to

- 1) Approve resolution and Mecklenburg Transportation System (MTS) operational policy that addresses the required six core elements of the safety plan.
- 2) Allow DSS/MTS with support from the Mecklenburg County Transportation Advisory Board to make revisions to the plan as needed.

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

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

**(24) BUDGET AMENDMENT – HEALTH DEPARTMENT (REVENUE INCREASE)**

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and carried 6-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, and Roberts voting yes, to

1. Recognize, receive and appropriate additional revenue of \$4,172,117 received by the Health Department to reflect Year-Four grant funds from the U.S. Department of Health and Human Services, Health Resources and Services Administration (HRSA) under the Ryan White Treatment Modernization Act of 2006.
2. Approve the allocation process involving regional participation in accordance with HRSA of the US Department of Health and Human Services guidelines.

*Commissioner Leake removed this item from Consent for more public awareness. Commissioner Leake also recommended that an advisory board be established to address issues related to the Health Department's receipt of Ryan White funding and other funding received for HIV/AIDS education and medication. Commissioner Leake said the members of the committee would be nominated and appointed by the Board.*

*Commissioner Leake acknowledged that it was the desire of former and late County Commissioner Valerie Woodard to have such a committee and that this was something she'd worked on achieving.*

*Chairman Roberts said she recalled a committee being formed years ago, at the request of Commissioner Woodard, but it was not appointed by the Board.*

*County Manager Jones asked Commissioner Leake if she would be amenable to staff gathering information on what took place in the past and to report back on the findings.*

*Commissioner Leake accepted County Manager Jones' request.*

**STAFF REPORTS AND REQUESTS**

**(25) REORGANIZATION OF BRYTON TOWN CENTER & BRYTON CORPORATE CENTER**

Motion was made by Commissioner Dunlap, seconded by Commissioner Bentley and carried 6-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, and Roberts voting yes, to authorize the County Manager to sign the Consent Agreement and the amendments to the "AAC Retail" and "AAC Office" Agreements.

Finance Director Dena Diorio addressed this issue.

*Note: In 2007 the County partnered with two private developers to provide financing for infrastructure improvements for a proposed large mixed use development in Huntersville. The 425 acre development is planned as a mixed use project consisting of retail, residential, office and industrial space designed around a town center concept. At final build-out, Bryton was projected to have a market value of \$1 billion. The County issued \$34.4 million of COPs to relocate the rail line and provide for other road and intersection improvements in order to provide the necessary infrastructure to enable the Bryton development to be developed as planned and as rezoned by Huntersville.*

*The County and the Town of Huntersville jointly negotiated debt service guarantee agreements with the developers which state that if in any year the incremental tax revenues generated by the project are not sufficient to pay the debt service on the COPs, the developers will make payments to fund the shortfall. The agreements will terminate when the project has first generated sufficient incremental property tax revenues necessary to pay that year's debt service payment. These debt service guarantee agreements allow the County to foreclose on the development properties if the developers do not make the required debt service payments to the County. The lenders to the developers agreed to these agreements and subordinated their loans to the debt service guarantee agreements.*

*The current agreements with AAC (the developer for the retail and commercial portion of the proposed development) have the property split between two entities, Bryton Town Center Limited Partnership ("AAC Retail") and Bryton Corporate Center Limited Partnership ("AAC Office"). AAC Office holds 20% of the development area and AAC Retail holds 30% of the proposed development area. The remaining 50% of the development area is held by another entity for residential development and is not subject to this action. Each of the two AAC entities is responsible for its portion of the debt service obligation to the County under the current agreements.*

*AAC Office and AAC Retail have the same lender, but each has a separate loan. The lender to AAC Retail and AAC Office has now demanded that the two entities put all the land that currently secures the loans up as security for one loan in order to extend the two maturing loans which will expire on March 31, 2010. In order to satisfy the bank, the AAC developer is proposing to form a new entity, Bryton Town Project LLC which will be conveyed the land from AAC Retail and AAC Office. This new entity will be owned by AAC Retail and AAC Office. Following the transfer, Bryton Town Project will transfer all of the land currently owned by AAC Retail and AAC Office, consisting of 47.5% of the development area to Bryton Town Center 1 and 2.5% of the development area to Bryton Town Center 2. Bryton Town Center 1 will assume responsibility for 47.5% of the debt service obligation to the County and Bryton Town Center 2 will assume 2.5% of the debt service obligation to the County. The 2.5% has been carved out as the bank has already released that portion of the land from its loan so it will not be included as collateral for the new loan. The lender has requested that the County consent to restructuring of the Bryton development ownership interests. The County's obligations to proceed with the proposed amendments to the County's agreements with AAC Retail and AAC Office will be subject to obtaining the lender's consent to the amendments.*

*The current agreements require that the County give its consent before the transfer of assets can take place.*

***Agreements recorded in full in Minute Book 44-a, Document # \_\_\_\_\_.***

**(26) LAKE NORMAN REGIONAL BICYCLE PLAN (LNRBP)**

Motion was made by Commissioner Clarke, seconded by Commissioner Bentley and carried 5-0 with Commissioners Bentley, Clarke, Cogdell, Leake, and Roberts voting yes, to approve a resolution endorsing the Lake Norman Regional Bicycle Plan.

Blair Israel with the Centralina Council of Government presented the plan. He was introduced by Julie Clark with Park and Recreation.

***Commissioner Dunlap left the dais during the presentation and was absent for the remainder of the meeting.***

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

**COUNTY COMMISSIONERS REPORTS AND REQUESTS - NONE**

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**COMMISSION COMMENTS – NONE**

**ADJOURNMENT**

Motion was made by Commissioner Bentley, seconded by Commissioner Clarke and carried 5-0 with Commissioners Bentley, Clarke, Cogdell, Leake, and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 10:58 p.m.

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Janice S. Paige, Clerk

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Jennifer Roberts, Chairman