

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, April 20, 2010.

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-

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

(1A) STAFF BRIEFINGS - PERMIT FEE REBATES

The Board received information about the process Land Use and Environmental Services Agency (LUESA) intends to use to recover re-inspection fee overpayments.

Note: As a result of a computer programming error, certain contractors received overpayment for re-inspection fee credits. The programming error has been fixed and LUESA has established a process to recover the overpayments.

General Manager Bobbie Shields addressed this issue.

The following was noted:

- In April 2000 LUESA started a Re-inspection Program.
- The purpose of the program was to award “good” builders, meaning builders who did their work right and didn’t have many failures. Thus, they would receive a rebate from their permit fee.
- Builders with a poor record and lots of failures would be charged more for their fee.
- In February of this year, 2010, it was discovered that because of a computer programming error, some builders received more back in a rebate than they should have.
- There were two ways to calculate the rebate.
- There was a cap on how much a builder could receive per inspection.
- The cap was not programmed.

APRIL 20, 2010

- A large project came through and because the rebate was so large, it raised a red flag.
- Per a review, it was discovered that there were 182 accounts and around \$570, 000 of overpayments.
- Each builder has an account and some builders have credits.
- Of the \$570,000, approximately \$243,000 is available as credits in the accounts that can immediately be tapped into to recover that.
- Per conversations with legal staff, the County has an obligation to recover the funds.
- Effective April 21, 2010, LUESA intends to send letters to builders informing them that the County intends to recover those funds back from them through credits.
- LUESA will give builders time to work with the department, 30 days and payment options would be available.

Comments

Commissioner Cooksey asked how far back was LUESA looking at with respect to the rebates. *The response was three years.*

Commissioner Cooksey asked how big of an impact would this have on individual businesses. *The response was that 15 companies were overpaid \$415,000.*

Commissioner Murrey asked whether any of the companies affected, no longer in business. *The response was maybe a few, but staff can't say for sure at this time.*

Commissioner Murrey asked was there a statute of limitations on how far back the County could go with respect to this matter. *Attorney Bethune said probably not because counties can't forgive debts. Further, that staff was only going back three years because data beyond that point is merged together with other data and it would be time-consuming and expensive to get that data.*

Commissioner James asked was most of the businesses large builders. *The response was that most were on the commercial side.*

Commissioner James asked would funds received be considered surplus. *The response was the funds would have to remain in Code Enforcement. They would not be available for general use.*

It was noted that the Wachovia project was what brought this matter to staff's attention.

Commissioner Cogdell asked what was the difference in that rebate amount and what the cap was. *Code Enforcement Director Jim Bartl said he didn't recall the exact calculation, but the amount of the rebate was \$100,000, which was the single most highest rebate ever given out. Thus, when he saw it, he realized something was wrong.*

Director Bartl said when the program was designed in 2000 there was a lot of testing but what staff never thought to do was to test a huge project, like the Wachovia project, for a failure rate that was down to 1-2 percentiles.

Commissioner James asked would the County receive \$100,000 back from Wachovia. *Director Bartl said it would not be that much and that it would be from the contractor and not Wachovia.*

Director Bartl explained how the cap was calculated.

Commissioners Cogdell and Murrey asked what was the cap on the Wachovia project. *Director Bartl said he didn't recall specifically, but that it was significantly less than \$100,000. Director Bartl said he would check and report back to the Board with the exact amount.*

Commissioner Leake asked if anyone lost their job for not discovering this error. *The response was no. It was noted that this was a computer programming error and that it was programmed*

in-house about ten years ago.

Director Bartl addressed the strategy staff plans to use to recover the funds.

This concluded the discussion.

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

No action was taken or required.

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

Prior to going into Closed Session Attorney Bethune said the Consult with Attorney matter was regarding Melanie S. Sizemore, Clifton G. Settlemeyer, Dawn Ballenger and Peter E. Tart on behalf of themselves and all other taxpayers and citizens of Mecklenburg County, Eli Baxter Springs, IV, individually and on behalf of all other Heirs, and the Historic Elizabeth Neighborhood Foundation vs. Mecklenburg County, the City of Charlotte, and the Trustees of Central Piedmont Community College.

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

The Board went into Closed Session at 5:35 p.m. and came back into Open Session at 6:35 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 9, 11, 14, and 16.

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

-FORMAL SESSION-

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

CITIZEN PARTICIPATION

PROCLAMATIONS AND AWARDS

(1A) MINORITY HEALTH MONTH

Motion was made by Commissioner Leake, seconded by Commissioner Cogdell and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to adopt a proclamation designating April 2010 as “Minority Health Month” in Mecklenburg County.

The proclamation was read by Commissioner Leake and received by Bishop Wade H. Ferguson, III.

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:

LaWana Mayfield, Pamela Foxx, Hector Vaca, and Jeff Frisco addressed the 287G Program and spoke in opposition to 287G. Ms. Mayfield referenced the results of a UNC-Chapel Hill report regarding the costs and consequences of local immigration enforcement in North Carolina communities. She also referenced an e-mail from ICE Detention and Removal Operations Director James Shapiro. Ms. Mayfield said what she and others would like is a total breakdown of expenditures for 287G in Mecklenburg County from February 2006 to date. Ms. Mayfield also referenced a resolution adopted by the Chatham County Board of Commissioners opposing any local governmental agency contracting with U.S. Immigration and Customs Enforcement for the purpose of enforcing federal immigration law.

Martin Davis commented on Chairman Roberts' recent State of the County address. Mr. Davis expressed his philosophical differences with Chairman Roberts.

(3A) APPOINTMENTS

ADULT CARE HOME ADVISORY COMMITTEE

Motion was made by Commissioner Clarke, seconded by Commissioner Cogdell and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to appoint Monica Thompson to the Adult Care Home Advisory Committee for a one-year term expiring April 30, 2011.

She is replacing Carol Barry.

LIBRARY BOARD OF TRUSTEES

Motion was made by Commissioner Clarke, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to appoint Tami Simmons to the Library Board of Trustees to fill an unexpired term expiring December 31, 2012.

She is replacing William Warren.

Note: Chris Minnix was the other nominee.

PERSONNEL COMMISSION

Motion was made by Commissioner Clarke, seconded by Commissioner Cogdell and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to appoint RC Birmingham to the Personnel Commission to fill an unexpired term expiring December 31, 2011.

He is replacing Simona Mitchell.

(3B) TOWN OF HUNTERSVILLE PLANNING BOARD AND BOARD OF ADJUSTMENT

Motion was made by Commissioner Clarke, seconded by Commissioner Bentley and unanimously

APRIL 20, 2010

carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to

1) Reappoint JoAnne Miller to the Town of Huntersville Planning Board as an Extraterritorial Jurisdiction (ETJ) representative as recommended by the Town of Huntersville Board of Commissioners for a term expiring June 30, 2012.

2) Appoint JoAnne Miller to the Town of Huntersville Board of Adjustment to fill the Alternate 3 Seat for either Town or Extraterritorial Jurisdiction (ETJ) as recommended by the Town of Huntersville Board of Commissioners for a term expiring June 30, 2012.

PUBLIC HEARINGS

(4A) STREET ASSESSMENT PROJECT - FARMWOOD NORTH /STONE MOUNTAIN SUBDIVISIONS

Motion was made by Commissioner Clarke, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to acknowledge receipt of certification that a notice of the public hearing on the preliminary assessment roll for funds spent on improvements to roadways was mailed by first class mail to property owners in the Farmwood North/Stone Mountain Subdivisions. Secondly, to open a public hearing on the assessment of property owners in the Farmwood North/Stone Mountain Subdivisions for funds spent on the improvement to roadways, so as to bring them to acceptable standards for maintenance by the North Carolina Department of Transportation (NCDOT).

The following person appeared to speak in opposition to the assessment: Kyle Clark.

Mr. Clark said he'd appeared before the Board in the past regarding this issue. Mr. Clark noted the following as background:

- The Homeowners Association originally contacted the County regarding getting the roads fixed because the builder never turned them over to the County.
- When the vote was taken that homeowners would be assessed, he objected because the homeowners who would have to pay, never sat down and said yes.
- Until the letter was received, homeowners were never told how much it would cost.

Mr. Clark said per his knowledge of asphalt, the roads were never built to specs from the beginning. Mr. Clark said the County's inspector for those roads did not do their job. Mr. Clark said the repairs that have been made would not hold up. He said in two years repairs would be needed.

Mr. Clark said he didn't think it was right for homeowners to have to pay.

Mr. Clark said in July of 2009 this area was annexed into the City of Charlotte.

Mr. Clark asked were the repairs done, knowing the area would be annexed.

Mr. Clark said in his opinion the City of Charlotte should take care of the repairs.

Comments

Chairman Roberts noted the following background information.

This project was approved by the Board of County Commissioners on December 3, 2002. The design and construction of the improvements to the Roadways were completed in 2005 and paid for by Mecklenburg County with the construction performed by Oliver Paving Inc. The repaired roadways have been taken over by the NCDOT for maintenance as of October

APRIL 20, 2010

2, 2008. The Board Action requests approval of the final rolls and to assess property owners for the improvements. Each property will be assessed a total of \$1,155.38 over a five-year period at eight percent interest.

Commissioner Cogdell asked was the five-year period at eight percent interest required by state statute. *Attorney Bethune said the five-year period at eight percent interest has been the County's policy in the past, but the Board has some flexibility. Attorney Bethune said the eight percent was not mandatory, but he believed it was advertised as such in the preliminary assessment roll.*

Commissioner Cogdell asked could it be with no interest. *County Attorney Bethune said he would have to check the statute.*

Commissioner Dunlap said he would like to know what the County paid in interest.

Commissioner Dunlap said the County should not charge more than what it paid to have the improvements done.

County Attorney Bethune said this was not borrowed money on the County's part. Attorney Bethune said the funds used were from the general fund and placed in a special fund to be used for these types of projects.

Commissioner Dunlap said if the County didn't pay any interest, why should the County charge the homeowners interest.

Commissioner Clarke noted that the County made this expenditure several years ago and that the homeowners have benefited from that expenditure. Commissioner Clarke said the homeowners were being given five years to pay the County back. Commissioner Clarke said he thinks it's appropriate to charge interest.

Commissioner Dunlap asked with respect to the quality of the road work, based on Mr. Clark's comments, was any of these allegations looked into.

Desmond Cole with Land Use and Environmental Services said the County never received any allegations regarding substandard repair work. Mr. Cole said the roads would never have been taken over by the state if they were substandard. Mr. Cole said the roads were inspected by the state and found acceptable to state standards.

Commissioner Dunlap said the only remaining concern he had was whether they should pay interest. *Attorney Bethune said if homeowners pay this year, they won't be charged any interest. He said interest comes about if you pay over time.*

Commissioner Dunlap said the current interest rate was around 5% or 6%.

Commissioner Cooksey asked when did the state take over maintenance. *Mr. Cole said the state took over maintenance in 2008.*

Commissioner Cooksey asked why had it taken five years for this matter to come before the Board, if the design and construction of the improvements to the roadways were completed in 2005. *Mr. Cole said when the work was initially completed there was a series of required inspections by state. He said he believed the first few inspections received failure ratings. Thus, additional work had to be done on those areas that failed the inspection. Mr. Cole said he wasn't sure what the meeting schedule for the state was with respect to making road maintenance decisions.*

Commissioner Cooksey said he would like more information regarding the timeframe involved with this project. Commissioner Cooksey said he didn't understand why this matter wasn't on the Board's agenda in 2008.

APRIL 20, 2010

County Manager Jones said he would provide the Board with an update on this matter.

County Manager Jones informed the Board it had the option of continuing the public hearing to the next meeting in order to receive an update, prior to making a decision.

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

County Attorney Bethune said according to state statute, all installments shall bare interest as determined by the board of commissioners and the maximum interest that can be charged is eight percent.

Commissioner Cogdell said he, too, would like to know why it took two years for this matter to come before the Board.

Commissioner Dunlap said he'd like to know the reasons why the state did not accept the roadways initially.

Commissioner Clarke said he'd like to know how much all taxpayers spent to bring these roads up to standards, so that the state could take them over.

Commissioner James said, although the hearing would be continued, he didn't want the homeowners to think that the assessment wouldn't be charged, because the County did make this expenditure.

Motion was made by Commissioner Leake, seconded by Commissioner Cogdell and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to continue the public hearing on the assessment of property owners in the Farmwood North/Stone Mountain Subdivisions for funds spent on the improvement to roadways, so as to bring them to acceptable standards for maintenance by the North Carolina Department of Transportation (NCDOT), to the Board's May 5, 2010 meeting at 6:30 p.m.

(4B) NCDOT COMMUNITY TRANSPORTATION GRANT APPLICATION

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 open the public hearing on the Mecklenburg County Department of Social Services request to submit an application for the North Carolina Department of Transportation's Community Transportation Grant for Fiscal Year 2010-2011.

Chairman Roberts read the following statement:

Voluntary Title VI Public Involvement

Title VI of the Civil Right's Act of 1964 requires North Carolina Department of Transportation to gather statistical data on participants and beneficiaries of the agency's federal-aid highway programs and activities. The North Carolina Department of Transportation collects information on race, color, national origin and gender of the attendees to this public meeting to ensure the inclusion of all segments of the population affected by a proposed project.

The North Carolina Department of Transportation wishes to clarify that this information gathering process is completely voluntary and that you are not required to disclose the statistical data requested in order to participate in this meeting. This form is a public document.

The completed forms will be held on file at the North Carolina Department of Transportation. For Further information regarding this process please contact Sharon Lipscomb, the Title VI Manager at telephone number 919.508.1808 or email at slipscomb@ncdot.gov.

APRIL 20, 2010

No one appeared to speak.

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 close the public hearing on the Mecklenburg County Department of Social Services request to submit an application for the North Carolina Department of Transportation's Community Transportation Grant for Fiscal Year 2010-2011. Secondly, to adopt a Resolution granting approval for the Mecklenburg County Department of Social Services to submit an application for the North Carolina Department of Transportation's Community Transportation Grant for Fiscal Year 2010-2011, and to recognize, receive and appropriate grant funds when awarded.

COMMUNITY TRANSPORTATION PROGRAM RESOLUTION

Section 5311

FY 2010 - FY 2011 RESOLUTION

Applicant seeking permission to apply for Community Transportation Program funding, enter into agreement with the North Carolina Department of Transportation and to provide the necessary assurances.

A motion was made by Commissioner Dumont Clarke and seconded by Commissioner Vilma Leake for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services consistent with the policy requirements for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis);

WHEREAS, Mecklenburg County hereby assures and certifies that it will comply with the federal and state Statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements which relates to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U. S. C.

NOW, THEREFORE, be it resolved that the (*Authorized Official's Title*)* County Manager of (Name of Applicant's Governing Body) Mecklenburg Board of County Commissioners is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

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

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

(4C) REAL ESTATE EXCISE TAX REFUND REQUEST

Motion was made by Commissioner Clarke, seconded by Commissioner Bentley and carried 7-0 with Commissioners Bentley, Clarke, Dunlap, James, Leake, Murrey, and Roberts voting yes, to hold a hearing on request by Griffin, Brunson & Wood, L.L.P Attorneys At Law for reimbursement of overpayment of North Carolina excise tax in the

APRIL 20, 2010

amount of \$650.00, which was denied by the County Manager because it did not meet the statutory timeframe for making a request.

No one appeared to speak.

Motion was made by Commissioner Clarke, seconded by Commissioner Leake, to close the hearing on the request by Griffin, Brunson & Wood, L.L.P Attorneys At Law for reimbursement of overpayment of North Carolina excise tax in the amount of \$650.00 and approve the request for reimbursement in the amount of \$650.00.

Attorney Bethune explained that statutorily the Board could not approve the request for reimbursement because it was received beyond the required deadline, which was April 16, 2007. The request was received nearly three years later, February 11, 2010.

Commissioner Clarke withdrew his original motion.

Commissioners Cogdell and Cooksey returned to the dais.

Motion was made by Commissioner Clarke, seconded by Commissioner Cogdell and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey, and Roberts voting yes, to close the hearing on the request by Griffin, Brunson & Wood, L.L.P Attorneys At Law for reimbursement of overpayment of North Carolina excise tax in the amount of \$650.00. Secondly, to deny the request for reimbursement in the amount of \$650.00, on the grounds that the request for reimbursement was not received within six months after the date the tax was paid as required by NC G.S. 105-228.37 Refund of Overpayment of Tax; thus the request is not eligible for a refund having been received nearly three years later.

Note: The deadline for submitting the request for reimbursement was April 16, 2007. The request for reimbursement was received on February 11, 2010.

(5) ADVISORY COMMITTEE REPORTS – NONE

MANAGER'S REPORT

(6A) CMS FUNDING REDUCTION

The Board considered information provided by the Board of Education in the proposed \$6.3 million reduction in FY10 County appropriation to Charlotte-Mecklenburg Schools.

County Manager Jones addressed the need for the proposed reduction.

Note: Due to the economic recession, Mecklenburg County is cutting expenditures to balance its FY2010 budget. As part of these actions, the County Manager recommended reducing the County's FY2010 appropriation to Charlotte-Mecklenburg Schools by \$6.3 million. Approval of this reduction would bring the County's FY2010 appropriation for CMS operations total to \$311,067,391, which includes \$4 million in fines and forfeitures. General Statute 159-13, section nine (9), requires specific steps be taken to reduce school funding.

Section 9 of GS-159-13 states:

(9) Appropriations made to a school administrative unit by a county may not be reduced after the budget ordinance is adopted, unless the board of education of the administrative unit agrees by resolution to a reduction, or unless a general reduction in county expenditures is required because of prevailing economic conditions. Before a board of county commissioners may reduce appropriations to a school administrative unit as part of a general reduction in county expenditures required because of prevailing economic conditions, it must do all of the following:

APRIL 20, 2010

a. Hold a public meeting at which the school board is given an opportunity to present information on the impact of the reduction.

b. Take a public vote on the decision to reduce appropriations to a school administrative unit.

Charlotte-Mecklenburg Schools Superintendent Dr. Peter Gorman addressed the proposed reduction. He was accompanied at the podium by Board of Education Chairman Eric Davis.

Dr. Gorman said the \$6.3 million reduction in the FY10 County appropriation to Charlotte-Mecklenburg Schools would bring reductions to over \$40 million compared to the prior year's budget. Dr. Gorman said this would have the potential of a negative impact on CMS. He said the plan, however, was to limit the impact as much as possible and not do that by cutting staff at this time in the school year.

Dr. Gorman said CMS would replace or backfill any reductions that are made from the County allotment by taking funds from two areas. The first, a reimbursement for overpayments for Walton Plaza, which CMS was currently in discussion with the County about. The second was the redirecting of the \$4.7 million in Safe Light funds to cover this reduction.

Dr. Gorman said otherwise the Safe Light funds would have carried forward into next year's budget and used to pay for teacher effectiveness and other initiatives going forward. He said instead CMS would not do that with those dollars. He said the Safe Light funds would be redirected to cover the cuts by the County, in order to avoid cutting staff at this point in the school year.

Dr. Gorman said CMS would continue to focus on student achievement. He said CMS looked forward to meeting with the Board next week to discuss the progress CMS has made over the last several years and the matrix CMS was using to measure that progress. Dr. Gorman said CMS looked forward also to meeting with the Board on May 25, 2010, at which time CMS would present its budget.

Comments

Commissioner Murrey asked about the anticipated impact of the Safe Light funding going away on next year's ability to fund those programs. *Dr. Gorman said those were one time funds and that there would not be any future revenue from Safe Light. Dr. Gorman said with respect to those programs, CMS was developing its budget and would redirect other funds to cover that and would have to make other cuts totaling \$4.7 million to offset what they had planned to use those funds for.*

Commissioner Murrey asked what were the programs supported by Safe Light funding. *Dr. Gorman said part of it was for CMS' matrix for measuring teacher effectiveness on a teacher by teacher basis. Dr. Gorman said CMS would redirect other funds to pay for that.*

Commissioner Murrey asked was it correct then that the program won't be going away, it's just that some other things would have to go away to support that particular program. *Dr. Gorman said that was correct.*

Commissioner Murrey said it was his understanding that CMS was seeking through its state legislative agenda, to have more flexibility when it came to dealing with cuts late in the year or unexpected cuts, to have the ability to do furloughs or shorten the school year. Thus, he asked was this something that CMS would like for the Board of County Commissioners to place on its state legislative agenda as well.

Dr. Gorman said yes and that it was their desire to have more decision-making flexibility when it comes to these two areas.

Commissioner James asked for clarification regarding an overpayment by CMS to the County for rent at Walton Plaza. *Dr. Gorman explained that those were solely CMS dollars, not dollars*

APRIL 20, 2010

received by CMS from the County. Dr. Gorman said these would be one-time funds that CMS would use for the one-time reduction.

Commissioner James noted that the County had to eliminate its employee 401-k match for County employees. He asked if budgetwise had CMS reached that point, if they offer 401k or 457. *Dr. Gorman said CMS didn't have funds to provide that type of benefit.*

Commissioner James said he would like to know, at a later date, how the Bright Beginnings money went from being a County program to now mostly being funded by federal dollars.

Commissioner James said it appears that when you move something from a County category over to a federal category, using Bright Beginnings as an example, it seems to be for "protecting it."

Commissioner James said if CMS eliminated Bright Beginnings and other non-core programs and closed empty schools, it wouldn't have to layoff teachers. He said federal funds could be used to maintain teachers.

Commissioner Leake said she had concerns regarding the laying off of teachers, Title I, II, III, etc. funds, and the \$9 million spent on the Learning Communities, which she said was not producing anything towards student achievement. Commissioner Leake said it would be her hope that those Learning Community sites would be placed in schools.

Commissioner Cogdell asked what was the status of CMS's legislative request for furlough discretion or calendar discretion. *Dr. Gorman said the calendar request had gone through the House and was stalled in the Senate.*

Dr. Gorman said the furlough request would be a local bill.

Commissioner Cogdell asked how long had CMS contended that the City of Charlotte owed the \$4.7 million in Safe Light funds. *Dr. Gorman said he didn't know the exact date, but it went on for several years.*

Commissioner Dunlap asked County Manager Jones how much did the County account for in lottery funds in last year's budget for CMS. *County Manager Jones said he thought it was approximately \$15-\$16 million.*

Commissioner Dunlap asked County Manager Jones if he knew how much the County actually received in lottery funds. *County Manager Jones said about \$15 million.*

Commissioner Dunlap asked was that with another installment expected. *Finance Director Dena Diorio said another installment was expected in May.*

Commissioner Dunlap asked if it was known how much would be received. *The response was possibly \$4 million.*

County Manager Jones, with respect to questions regarding lottery funds, said that it should be kept in mind that "you're mixing apples and oranges" relative to how lottery funds were used.

County Manager Jones reminded the Board that when the law was past, with respect to lottery proceeds, the law allowed County's to use those funds for renovations, capital items, and for debt service payments incurred since January 1, 2003.

County Manager Jones said the policy the Board of County Commissioners elected was to use lottery proceeds for debt service payments.

County Manager Jones said as the Board goes into next fiscal year, it can decide if it wants to continue that as a policy. He said the Board could elect to use lottery proceeds in one of the other manners prescribed by law.

Commissioner Dunlap said he asked the question because many people in the community weren't aware of the fact that those dollars that they think go to education, actually go to the County Commission. Commissioner Dunlap said many think those funds go directly to CMS.

Commissioner Dunlap said his only concern and opposition to this reduction process was not that he didn't think CMS shouldn't be taxed along with other agencies throughout the county, he just thought there was a "better way" to do it.

Commissioner Dunlap said his thought was that since the County told CMS it would be receiving these funds, then they should let them have the funds for the remainder of the year, and start off the new fiscal year with \$6.3 million less for CMS. Thus, CMS could finish out this school year and not disrupt what's going on.

The following person appeared to speak to this issue: Martin Davis. Mr. Davis said the County's proposed cut to CMS was not enough. Mr. Davis said his suggestion would be the following: Since "CMS has 18,862 employees, 8,965 are teachers, 47.5%, instruct Dr. Gorman to fire 7,000 of the 9,897 non-teaching personnel and retain all of the teachers." Mr. Davis said this should conservatively save \$250 million annually. He said next, instruct Dr. Gorman to "moth ball his gigantic 1,155 vehicle taxi fleet." Mr. Davis said this green initiative would save a minimum of \$75 million annually in fuel cost and prevent CMS from becoming the "number one air polluter" in Mecklenburg County. Mr. Davis said these measures would save over \$325 million annually, which could be returned to the taxpayers in the form of tax cuts.

Chairman Roberts said the County was in a situation that no one was happy with. She said the Board was facing some very tough decisions, probably some of the toughest it has had to make.

Chairman Roberts said it was evident at the Board's Strategic Planning Conference that the Board cares about education because it's one of the Board's top priorities.

Chairman Roberts said CMS was being cut less than what's being cut in other areas of the County's budget, which reflects the priority the Board has set for education.

Chairman Roberts said gains have been made in the area of CMS achievement and this was something no one wants to see eroded.

Chairman Roberts said she appreciated all of the work that CMS was doing.

Chairman Roberts said the community would get through these tough times.

Motion was made by Commissioner James, seconded by Commissioner Bentley and carried 8-1 with Commissioners Bentley, Clarke, Cogdell, Cooksey, James, Leake, Murrey and Roberts voting yes and Commissioner Dunlap voting no, to amend the 2009-2010 budget ordinance by reducing the allocated appropriation for The Charlotte-Mecklenburg Board of Education under North Carolina General Statute 159-13(b)(9) by \$6.3 million because a general reduction in county expenditures is required because of prevailing economic conditions.

(6B) BUDGET UPDATE

The Board received a budget update with respect to the condition of and outlook for the community as a part of the planning and preparation process for the FY2011 budget.

Budget/Management Director Hyong Yi and Finance Director Dena Diorio gave the update.

The following was covered:

- March Revenue Update

- FY 2010 Budget Update
- Property Tax
- Tax Billings & Collections by Type (through March)
- FY 2010 Projected Revenue (through March)
- FY 2010 Gap Closing Actions
- Match Information
- On April 27, 2010 there would be a joint meeting with the Charlotte-Mecklenburg Board of Education. The topic of discussion will be Charlotte-Mecklenburg Schools Performance.

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

Comments

Commissioner Clarke asked for clarification on the number of employees impacted by the elimination of the County's 401-k and 457 match, which was addressed by Director Yi.

Commissioner Cogdell asked for clarification regarding the FY 2010 Projected Revenue (through March), revenue source, Charges for Services on page five of the report and the variance associated with that, which was addressed by Director Diorio.

Commissioner Cogdell asked for an example of where Charges for Services was off the most. *Director Diorio said the largest was in the Sheriff's Office as it relates to reimbursement for federal prisoners. Director Diorio elaborated on this.*

Commissioner Leake asked about per inmate cost annually. *Director Diorio said she would have to get that information.*

Commissioner Dunlap asked if staff knew how much was spent on the 287G program. *Director Diorio said she did not have that breakdown with her but would get that information back to the Board.*

Commissioner Dunlap inquired about the number of inmates in the jail and asked if the number of inmates was decreasing, does that change the Board's recommendation about a new jail. *County Manager Jones said the Board would need to revisit that issue to see what the need would be based on the current and projected jail population.*

Commissioner Dunlap asked County Manager Jones had he given any thought to what his budget recommendation would be for funding the court system, which he said was a state function. *County Manager Jones said yes, but he was not prepared to discuss that at this time.*

Commissioner Dunlap said he would like to see separated out those expenditures that don't really effect the overall budget. He used Land Use and Environmental Services as an example since they're fee based.

Director Diorio clarified that what Commissioner Dunlap was wanting was the non-county funded services expenditures, segregated out from the county funded services.

Commissioner Dunlap said that was correct.

Commissioner Cogdell commented on the accuracy of projections as it relates to the jail population. Commissioner Cogdell said he thinks it's important to make data driven decisions when it comes to prioritizing core functions.

County Manager Jones said when those calculations were made, it was done based on the best data available at that time. County Manager Jones said he didn't want anyone to believe that even if we had not had this downturn and did not have the debt capacity, that had the County gone

APRIL 20, 2010

forward with the building of the jail, that he would not have come back to the Board based upon some evolving trends that said we don't need to spend that much.

Commissioner Bentley asked County Manager Jones to explain the process he used to close the gap for the remainder of this fiscal year and the response received from the department heads regarding budget cuts. *County Manager Jones commented on both.*

Commissioner James said he would like to know with respect to Tax Billings & Collections, had any progress been made on collecting taxes that were extremely past due.

Commissioner James asked about sales tax revenue projections which was addressed.

Commissioner James asked had staff reviewed the Governor's budget to determine what impact it would have on the County. *The response was that the Governor's budget just came out today and that staff would be looking at it to determine its impact.*

Commissioner James asked how much did the County receive from the state to house state inmates. *Director Diorio said the County use to receive \$18 per day to house misdemeanants, but that's no longer occurring.*

Commissioner James asked how much was received from the federal government to house federal inmates. *Director Diorio said she would get that amount and report back.*

Chairman Roberts said she thought it was \$109.00

Commissioner James commented on jail overcrowding.

Director Diorio clarified that although the number of inmates was down, that didn't mean the jail wasn't crowded. Director Diorio said the distinction needed to be made that the jail may not be as overcrowded as it was but that doesn't mean it's not operating at capacity.

Chairman Roberts said she would like to know what's included in the sales tax.

This concluded the discussion.

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

No action was taken or required.

(6C) STATE LEGISLATIVE AGENDA

Assistant to the County Manager Brian Francis presented the County's proposed state legislative agenda. Below are the requests.

Specific Bill Requests

1. Expand the membership of the Board of Equalization and Review to 15 members and make other changes to make the property tax appeal process more efficient.
2. Grant Mecklenburg County the same authority previously granted to the cities of Raleigh and Winston Salem to enter leases of greater than 10 years when contracting for energy efficiency equipment.
3. Restore Charlotte Mecklenburg Library's status as an entity that is eligible to receive state sales tax refunds
4. Allow Mecklenburg County to maintain local EMS protocols which reflect the best practices in emergency medical care

APRIL 20, 2010

5. Restore State-Aid to Counties for Departments of Social Services.
6. Restore Funding cuts to Area Mental Health and reform the distribution formula for Mental Health funds
7. Restore per diem payment for state prisoners housed in county jails
8. Allow Mecklenburg County to publish names of delinquent taxpayers on its website in lieu of purchasing a newspaper advertisement

General Policy Positions

1. Support legislation that grants greater flexibility to counties.
2. Oppose legislation that restricts county flexibility.
3. Oppose legislation that creates unfunded mandates to counties.
4. Oppose legislation that shifts costs from state to county government.

Comments

Commissioner Leake asked if the requests presented were in priority order. *The response was no that the intent was to get them all done.*

Commissioner Dunlap asked would it benefit Charlotte-Mecklenburg Schools if the County included in its legislative agenda support for two of CMS' legislative requests, as it relates to CMS having flexibility to furlough employees and to modify the school calendar. *The response was yes.*

Commissioner Dunlap said perhaps this was something the Board should consider doing.

Note: There was discussion regarding supporting CMS's legislative requests, as noted later in the minutes. The Board, however, decided to consider that matter separately. The Board then took the following action:

Motion was made by Commissioner Cooksey, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey and Roberts voting yes, to adopt as presented by staff the following Specific Bill Requests and General Policy Positions as Mecklenburg County's 2010 State Legislative Agenda.

Specific Bill Requests

1. Expand the membership of the Board of Equalization and Review to 15 members and make other changes to make the property tax appeal process more efficient.
2. Grant Mecklenburg County the same authority previously granted to the cities of Raleigh and Winston Salem to enter leases of greater than 10 years when contracting for energy efficiency equipment.
3. Restore Charlotte Mecklenburg Library's status as an entity that is eligible to receive state sales tax refunds
4. Allow Mecklenburg County to maintain local EMS protocols which reflect the best practices in emergency medical care
5. Restore State-Aid to Counties for Departments of Social Services.
6. Restore Funding cuts to Area Mental Health and reform the distribution formula for Mental Health funds
7. Restore per diem payment for state prisoners housed in county jails
8. Allow Mecklenburg County to publish names of delinquent taxpayers on its website in lieu of purchasing a newspaper advertisement

General Policy Positions

1. Support legislation that grants greater flexibility to counties.
2. Oppose legislation that restricts county flexibility.
3. Oppose legislation that creates unfunded mandates to counties.
4. Oppose legislation that shifts costs from state to county government.

Motion was made by Commissioner Murrey, seconded by Commissioner Dunlap, to amend the County's state legislative agenda to add an item to support the legislative requests of the Charlotte-Mecklenburg Board of Education to increase flexibility for CMS in terms of their school calendar and staff furlough/spending decisions to address budget shortfalls.

Commissioner Leake said per meetings she's attended with the teachers' organization and parents, they're opposed to giving CMS furlough authority. Commissioner Leake said some members of the General Assembly were also opposed.

Commissioner Leake also questioned the need to reduce the number of days students are in school.

Commissioner James said he was not clear on the issue of CMS's desire to have the flexibility to furlough employees, thus he was not comfortable with voting on this matter.

The vote was then taken on the motion as follows:

Motion was made by Commissioner Murrey, seconded by Commissioner Dunlap and carried 7-2 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Murrey, and Roberts Commissioner Murrey voting yes and Commissioners James and Leake voting no, to amend the County's state legislative agenda to add an item to support the legislative request of the Charlotte-Mecklenburg Board of Education to increase flexibility for CMS in terms of their school calendar and staff furlough/spending decisions to address budget shortfalls.

The Board then considered Commissioner Legislative Requests.

Commissioner Requests

1. Create additional methods for taxpayers to prove payment of property taxes occurred before interest penalty date. (Cooksey)
2. Support feed-in rates. (Roberts)
3. Restore funding for HIV case management (Cogdell)
4. Support a new state mandate requiring that Teen Dating Violence Awareness be taught as part of the Health Education course in all NC Middle and High Schools. (Roberts)
5. Support Small Business Tax Incentives (Roberts)
6. Support legislation that provides incentives to local governments that develop Regional Planning Organizations (Roberts)
7. Support tax reform that broadens the sales tax base. (Roberts)
8. Unfreeze magistrate positions to allow for the hiring of a magistrate in North Mecklenburg (Bentley)

Commissioner Cooksey decided to withdraw his request: Create additional methods for taxpayers to prove payment of property taxes occurred before interest penalty date.

Chairman Roberts decided to withdraw the following of her requests: *Support feed-in rates.

APRIL 20, 2010

*Support a new state mandate requiring that Teen Dating Violence Awareness be taught as part of the Health Education course in all NC Middle and High Schools. *Support Small Business Tax Incentives.

Motion was made by Commissioner Clarke, seconded by Commissioner Cogdell and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey, and Roberts voting yes, to add to the County's State Legislative Agenda, as suggested by Commissioner Bentley, a request to unfreeze magistrate positions to allow for the hiring of a magistrate in North Mecklenburg.

Motion was made by Commissioner Murrey but died for lack of a second, to add to the County's State Legislative Agenda as suggested by Chairman Roberts, a request to support legislation that provides incentives to local governments that develop Regional Planning Organizations and a request to support tax reform that broadens the sales tax base and lowers the sales tax rate. (*Note: The part about "and lowers the sales tax rate" was added at the suggestion of Commissioner Clarke and accepted by Chairman Roberts.*)

Motion was made by Commissioner Clarke, seconded by Commissioner Murrey and failed 5-4 with Commissioners Bentley, Cogdell, Cooksey, James, and Leake voting no and Commissioners Clarke, Dunlap, Murrey, and Roberts voting yes, to add to the County's State Legislative Agenda, as suggested by Chairman Roberts, a request to support tax reform that broadens the sales tax base and lowers the sales tax rate. (*Note: The part about "and lowers the sales tax rate" was added at the suggestion of Commissioner Clarke and accepted by Chairman Roberts.*)

Motion was made by Commissioner Cogdell, seconded by Commissioner Bentley and carried 6-3 with Commissioners Bentley, Clarke, Cogdell, James, Murrey, and Roberts voting yes and Commissioners Cooksey, Dunlap, and Leake voting no, to add to the County's State Legislative Agenda, as suggested by Chairman Roberts, a request to support legislation that provides incentives to local governments that develop Regional Planning Organizations.

Motion was made by Commissioner Cogdell, seconded by Commissioner Leake and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Murrey, and Roberts voting yes, to add to the County's State Legislative Agenda, as suggested by Commissioner Cogdell, a request to restore funding for the North Carolina AIDS Drug Assistance Program, HIV/AIDS case management.

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

COUNTY COMMISSIONERS REPORTS AND REQUESTS

(23) CHARLOTTE-MECKLENBURG PUBLIC LIBRARY (COMMISSIONER LEAKE)

The Board received information on the Charlotte-Mecklenburg Library in order to bring awareness to the residents of Mecklenburg County on the following items related to the public library: Budget information and Facility information.

The following persons appeared to speak in support of the library: Christina Brown, who home schools her children, Melva Hanna (a Myers Park Library patron), Scottie Stowe (student and supporter of library services.)

Charlotte-Mecklenburg Library Director Charles Brown addressed questions regarding the leasing of library facilities.

APRIL 20, 2010

Commissioner Leake asked if there was a charge for library cards. *The response was there's a charge imposed for out of county residents. Further, that per state statute, the Library can't charge a fee for basic library charges to Mecklenburg County residents. A library card is considered a basic service.*

Commissioner James asked about the leases for Carmel and old Hickory Grove and the terms of other leases, which was addressed.

Commissioner James asked about the three scenarios developed by the Library regarding reductions, which was addressed. Commissioner James said before acting upon any of the scenarios, his recommendation would be that the Board consider increasing cuts to CMS and lower cuts to the Library.

Commissioner Bentley asked about the annual operating budget for ImaginOn and the Main Library, which was addressed.

Commissioner Bentley asked about the number of visitors to ImaginOn annually, which was addressed.

Commissioner Murrey said he'd like to see consideration given to 1) possible areas of functional consolidation of services between the County and the Library, 2) creative staffing ideas, & 3) use of volunteers more.

Director Brown said the Library had been and still was in discussions with the County around possible areas of functional consolidation.

Library Board Trustee Bob Sink addressed actions the Library has taken in response to the cuts.

Library Board of Trustees Chairman Robin Branstrom commented on how she felt the communication between the two bodies and respective staff had increased. Library Board Chairman Branstrom said she felt everyone was working as a team. She thanked the Board for its support.

Commissioner Cogdell asked about the Library's FY09 budget, which was addressed.

Note: The above is not inclusive of every comment.

No action was taken or required.

CONSENT ITEMS

Motion was made by Commissioner Bentley, seconded by Commissioner Dunlap and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to approve the following item(s) with the exception of Items 9, 11, 14, and 16 to be voted upon separately:

(7) APPROVAL OF MINUTES

Approve minutes of Regular meeting held April 6, 2010 and Closed Session held April 6, 2010.

(8) TAX REFUNDS

Approve refunds in the amount of \$32,446.09 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) DEPARTMENT OF SOCIAL SERVICES – MECKLENBURG
TRANSPORTATION SYSTEM – EQUIPMENT PURCHASE**

Approve the capital purchase of four lift-equipped 25-foot light transit vehicles and 30 mobile data computer devices.

Note: This is an equipment purchase for the Department of Social Services Mecklenburg Transportation System.

**(12) RETAIL TENANT LEASE – GOVERNMENT DISTRICT PARKING DECK —
AMEND RESOLUTION**

Amend resolution adopted April 6, 2010 titled “Mecklenburg County Board of Commissioners Resolution Declaring Intent to Lease Property to Derrick Johnson and William Saddler, owners of One Way Hotdogs” to reflect a date correction in the text of the resolution.

Note: The text of the resolution adopted on April 6, 2010 stated the Board’s intent was to approve the lease arrangement with Derrick Johnson and William Saddler at the Board’s April 6, 2010 meeting. It should have said at the Board’s April 20, 2010 meeting. The notice of intent, which was published in the newspaper on Friday, April 9, 2010, had the correct date of April 20, 2010. Board approval is required in order to change the date in the resolution of intent.

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

(13) RETAIL TENANT LEASE – GOVERNMENT DISTRICT PARKING DECK

Adopt the resolution entitled “Mecklenburg County Board of Commissioners Resolution Authorizing Lease of Property to Derrick Johnson and William Saddler, Owners of One Way Hotdogs.”

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

**(15) REVISION TO THE LAND USE & ENVIRONMENTAL SERVICES FEE
ORDINANCE (GREEN PERMIT REBATE) – SECOND READING**

Amend the LUESA Fee Ordinance to suspend the Sustainable Design Permit Fee (Green Permit Rebate) Program.

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

THIS CONCLUDED ITEMS APPROVED BY CONSENT

(9) FEMA LETTERS OF MAP CHANGE DELEGATION GRANT APPLICATION

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

- 1) Authorize the County Manager to submit a \$20,000 grant request to FEMA.
- 2) If awarded, recognize, receive and appropriate grant funds and authorize the County Manager to execute the grant contract.
- 3) Authorize the carry-forward of unspent funds for the duration of the grant.
- 4) Authorize the County Manager to negotiate and execute a Mapping Activity Statement contract between Mecklenburg County and FEMA.

Note: On July 1, 2006, Charlotte-Mecklenburg Storm Water Services became the first local government in the country to be given the authority to process requests for Letters of Map Change (LOMCs). These LOMCs make conditional and permanent changes to our Flood Insurance Rate Maps. The Flood Insurance Rate Maps are used for floodplain management activities such as rating flood insurance, regulating development, assessing existing flood risk, etc. LOMC requests have averaged five (5) cases per year.

The requested actions are necessary to obtain grant funds for reimbursement of eligible LOMC Delegation program expenses and to negotiate and execute a Mapping Activity Statement with FEMA to allow the County's Flood Mitigation Program to continue processing LOMCs in Mecklenburg County, the City of Charlotte, and all six towns. The Mapping Activity Statement will define roles, responsibilities, and contractual obligations for the County and for FEMA. FEMA will provide funding to Mecklenburg County through a Flood Map Modernization Management Support Grant Agreement, based on the actual cost for processing Letters of Map Revisions.

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

(11) BUDGET AMENDMENT – DSS (REVENUE INCREASE)

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey, and Roberts voting yes, to Amend the Department of Social Services' FY10 budget to recognize, receive, and appropriate \$798,083 in additional funding for Food and Nutrition Services.

Note: The Department of Social Services will use this funding for temporary staffing to assist with the increased demand for food stamps assistance. This is 100% federal funding.

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

(14) PIEDMONT NATURAL GAS UTILITY EASEMENT

Commissioner Clarke asked to be excused from voting on Item 14 – Piedmont Natural Gas Utility Easement to avoid a conflict of interest.

Motion was made by Commissioner Cogdell, seconded by Commissioner Murrey and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey, and Roberts voting yes, to excuse Commissioner Clarke from voting on Item 14 – Piedmont Natural Gas Utility Easement to avoid a conflict of interest.

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

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

APRIL 20, 2010

(1) Grant a 50' wide easement on County owned Tax Parcels #141-171-12 & #141-171-19 to Piedmont Natural Gas for the installation and maintenance of a natural gas pipeline.

(2) Recognize \$68,800 from Piedmont Natural Gas as compensation for an easement on County owned Tax Parcels #141-171-12 & #141-171-19 and appropriate \$10,000 of that amount for land and property management associated costs with the remaining \$58,800 appropriated to the County's Pay-As-You-Go fund for capital projects.

Commissioner Leake removed this item from Consent for clarification of what this matter was about.

(16) REVISIONS TO THE LAND USE & ENVIRONMENTAL SERVICES FEE ORDINANCE – SECOND READING

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and carried 7-0 with Commissioners Bentley, Cogdell, Dunlap, James, Leake, Murrey, and Roberts voting yes, to amend LUESA Fee Ordinance to revise fees for:

- Increase base building permit fees by 4.75%
- Alteration/renovation minimum permit fee criteria
- Add fees for ABC inspections
- Revise criteria for small project B/E/M/P multi-trade
- Increase the hourly rate for OnSchedule plan review charges
- Increase Express Review fees
- Increase Fire Marshal permit fees on Hazardous Materials and other Fire Marshal related items

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

STAFF REPORTS AND REQUESTS

(17) DONATION – PARK & RECREATION COMMUNITY GARDEN – ITEM WAS REMOVED FROM THE AGENDA

Commissioner Clarke returned to the dais.

(18) CAROLINA THREAD TRAIL

Motion was made by Commissioner Murrey, seconded by Commissioner Cogdell and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to 1) adopt Resolution of Support for the Carolina Thread Trail. 2) to approve Resolution to adopt the Carolina Thread Trail Master Plan for Mecklenburg County.

Note: The Carolina Thread Trail is a regional trail network that will eventually reach 15 counties and over 2 million people. It will link people and places. It will link cities, towns, and attractions. More than a hiking trail, more than a bike path, the Carolina Thread Trail will preserve our natural areas and will be a place for exploration of nature, culture, science and history, for family adventures and celebrations of friendship. It will be for young and old, athlete and average. This is a landmark project.

Julie Clark with Park and Recreation and Ann Browning, Project Director for the Carolina Thread Trail presented the plan.

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

APRIL 20, 2010

Resolutions recorded in full in Minute Book 44-A, Documents # ____ and ____.

(19) BUSINESS INVESTMENT PROGRAM GRANT: CLARIANT CORPORATION

Motion was made by Commissioner Cogdell, seconded by Commissioner Clarke and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to approve resolution authorizing the County Manager to negotiate and execute a contract for a Business Investment Program grant to Clariant Corporation for a total estimated amount of \$55,207.

**MECKLENBURG COUNTY BOARD OF COMMISSIONERS
RESOLUTION
APPROVING BUSINESS INVESTMENT PROGRAM GRANT
FOR CLARIANT CORPORATION**

WHEREAS, Clariant Corporation (Clariant) is the U.S. subsidiary of Clariant AG, a specialty chemical company based in Switzerland. Clariant's North American Headquarters are in Charlotte, as well as three of the company's ten business units. They employ 200 workers locally. Clariant, known as Sandoz Chemicals until 1995, has operated at 4000 Monroe Road for more than 50 years, and is one of the oldest continuously operating foreign-owned companies in Charlotte; and

WHEREAS, Clariant recently closed a production facility in Rhode Island, and evaluated three options for associated business units currently located there including relocating to Charlotte; and

WHEREAS, this project as described by the company was determined to meet all of the criteria for a Business Investment Program grant from the City and County. The Board of Commissioners voted its intent to provide a Business Investment Program grant to Clariant during a closed session meeting on February 16, 2010 and as authorized by the Board, the County communicated this information to the company; and

WHEREAS, taking into consideration the Board's stated intent to make an economic development grant, the company subsequently decided to relocate to their facility at 4000 Monroe Road. The expansion will include a capital investment of approximately \$2.5 million and will create 48 new jobs within three years at an average annual salary of \$87,000. Approximately 40% of the jobs will be hired locally. The Business Investment Program grant is a 90% grant over 3 years, with an estimated total amount of \$55,207, and will be subject to the County's standard contract provisions, including compliance requirements for the company related to job creation targets and clawback provisions. A Fiscal Impact Analysis shows a present value of net benefits to the County of \$210,946 over 6 years;

NOW, THEREFORE, BE IT RESOLVED that the Mecklenburg Board of County Commissioners does hereby approve the Business Investment Program grant as described above, and authorizes the County Manager to execute a contract for the same, with any necessary or helpful non-material changes.

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

John Allen, Economic Development Director presented this matter to the Board.

(20) FIRST WARD PARK CONCEPTUAL MASTER PLAN

Lee Jones with Park and Recreation and J.P. Shadley with Shadley Associates presented the Conceptual Park Master Plan for First Ward Park.

Comments

Commissioner Dunlap asked about the placement of electrical outlets across the landscape, which was addressed.

Commissioner Murrey commented on the farmers market idea. He said he was disappointed that there's not a permanent structure in place for it in the plan.

Mr. Jones addressed this issue. He said it was being studied and recommendations were forthcoming regarding the best locations for a farmers market.

Motion was made by Commissioner Clarke, seconded by Commissioner Cogdell and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to approve the Conceptual Park Master Plan and authorize staff to proceed with construction drawings.

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

COUNTY COMMISSIONERS REPORTS AND REQUESTS

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

(21) HOSPITAL, MEDICAL AND INFECTIOUS WASTE INCINERATORS (COMMISSIONER ROBERTS)

Motion was made by Commissioner James, seconded by Commissioner Cogdell and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, James, Leake, Murrey and Roberts voting yes, to adopt a resolution in support of staff's recommendation to the State regarding new rules governing hospital, medical and infectious waste incinerators. Secondly, to adopt a resolution directing staff to begin a process to revise the Mecklenburg County Air Pollution Control Ordinance to implement new hospital, medical and infectious waste incinerator rules effective December 1, 2010, contingent upon approval by the North Carolina Environmental Management Commission.

Prior to the above vote, the following persons addressed this issue:

Alan Burns said he challenges statements that have been made by the County's Air Quality Division that the BMWNC Inc, incinerator emission level was not a health risk. Mr. Burns said health problems do exist for residents living in this area. He said there has to be some cause. He said it's possible that the incinerator has contributed to those health problems. He said if it's something else causing these health problems, then the community needs to be informed of that.

Katherine Mitchell spoke in support of the resolutions. Ms. Mitchell said because of the high number of cancer cases in the area, her group was going to begin a series of cancer counts in as many neighborhoods that they can access that surround the BMWNC Inc incinerator. Ms. Mitchell said this information would be documented. Ms. Mitchell said she was aware that funds weren't available on the local or state level to do a health study in this area, but that her organization was going to do their own air sampling, EPA approved testing techniques and labs. They also plan to test the soil for dioxins.

Sue Dayton with the Blue Ridge Environmental Defense League spoke in support of the resolutions. Ms. Dayton said the resolutions would result in a decrease in residents' exposure to toxic air pollutants from the BMWNC medical waste incinerator located in Matthews.

William Gupton on behalf of the Sierra Club Central Piedmont Group spoke in support of the resolutions. Mr. Gupton also presented the following requests for consideration by the Board: 1) That procedures be developed and actively pursued to implement the new EPA guidelines prior to the stated October 6, 2012 deadline, 2) To review the handling of this permit renewal and request that policy and process be changed, 3) That a comprehensive air, water and land analysis of the site and surrounding community to determine the extent of any adverse environmental impact, and 4) That a health impact study be undertaken to determine if the operation of the site has produced a negative impact on community health and an increased incidence and/or risk of cancer.

Also, prior to the above vote, Commissioner Murrey, chairman of the Board's Health & Community Support Committee, addressed the committee's review of this matter and plans for moving forward.

APRIL 20, 2010

Commissioner Leake expressed concern for other possible locations in the County with similar types of problems.

Copies of handouts from Ms. Dayton and Mr. Gupton are on file in the Office of the Clerk to the Board.

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

Commissioner Dunlap returned to the dais.

**(22) POLICE SERVICES IN EXTRA-TERRITORIAL JURISDICTIONS (ETJ)
(COMMISSIONER JAMES)**

Commissioner James addressed police services in extra-territorial jurisdictions. He suggested providing in writing to the Office of the Charlotte City Manager a notice termination of the Agreement Between the City of Charlotte and Mecklenburg County for the Continued Consolidation of the Charlotte-Mecklenburg Police Department, effective July 1, 2011.

Secondly, to direct the County Manager to communicate with the Mecklenburg town managers the desire of Mecklenburg County to enter into agreements with the towns for the provision of police services within the towns' Extra-Territorial Jurisdiction (ETJ), including providing the towns with tax revenue equal to the estimated cost to provide police services in this area. If the County does not have the legal basis/authority to enter into such an agreement, instruct the County Manager and County Attorney to work with the Mecklenburg County Sheriff to deputize each of the town police forces to perform all police functions within each town's ETJ.

Commissioner James said it's his understanding that the towns were willing to take this service over.

Comments

Chairman Roberts said her interpretation of the information received from the towns was that they're willing to discuss the issue.

Chairman Roberts said the Charlotte/Mecklenburg Police Department has the capability of providing a broader array of services than the towns.

Chairman Roberts said she didn't think the County was at a point of moving forward with this at this time. She asked County Manager Jones to comment.

County Manager Jones addressed the process for terminating the agreement and what would happen, per that termination. County Manager Jones noted that special legislation would have to be obtained to allow the towns to provide these services in their ETJ. County Manager Jones said it could also require a special taxing district for the towns.

County Manager Jones said another option would be for the Sheriff's Office to provide law enforcement services in the unincorporated area, which could result in a tax equity problem.

Attorney Bethune said if the Board terminated the agreement with the City of Charlotte and did not get additional legislative authority, effective July 1, 2011, two things could happen. 1) The Sheriff would have the legal authority to patrol and 2) the Board could not have a law enforcement district tax. Thus, it would have to be paid for out of the general fund.

Attorney Bethune said additional legislative authority would be needed in order for the towns to provide this service.

Commissioner Bentley said she'd been in communication with the towns regarding this matter,

APRIL 20, 2010

and with the exception of Davidson, there was broad support for this. Commissioner Bentley said Davidson was pleased with their current arrangement.

Discussion continued.

Motion was made by Commissioner Bentley, seconded by Commissioner Cogdell and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to refer to the Board's Criminal Justice Committee for review and a recommendation back to the Board, the issue of the provision of police services in the extra-territorial jurisdictions.

(24) NAME SUPPRESSION OF POLARIS ONLINE PROPERTY RECORDS – SURVEY RESULTS (COMMISSIONER CLARKE)

The Board received as information the results of the County's survey on the effects of removing the name-search function from the POLARIS web-based land records access system.

Note: In response to a letter from members of the Mecklenburg County Criminal Justice Community dated August 31, 2009, the BOCC Criminal Justice Committee received information at its meetings in October 2009, November 2009, December 2010, and April 2010 regarding the feasibility, impact, and cost of removing the name-search function from the POLARIS web-based land records access system for the homes of all members of the law enforcement community.

Commissioner Clarke said the survey results strongly indicated that this was a useful tool and that it should not be removed.

Commissioner Clarke said the Board's Criminal Justice Committee recommends that the Board not remove the name search function from the POLARIS web-based land records access system. Secondly, that staff be directed to provide support to members of the Law Enforcement community, in the event that they wish to pursue the suppression of individual records in POLARIS, by assisting them in working with State Legislators to change existing legislation.

Motion was made by Commissioner Clarke, seconded by Commissioner Dunlap and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, to direct staff to provide support to members of the Law Enforcement community, in the event that they wish to pursue the suppression of individual records in POLARIS, by assisting them in working with State Legislators to change existing legislation.

COMMISSION COMMENTS – No General comments were made at this time by various Commissioners regarding upcoming events and/or events they attended, as well as, other matters which they deemed note worthy.

ADJOURNMENT

Motion was made by Commissioner Cogdell, seconded by Commissioner Bentley and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 12:24 a.m.

Janice S. Paige, Clerk

APRIL 20, 2010
Jennifer Roberts, Chairman