

MARCH 1, 2011

MINUTES OF MECKLENBURG BOARD OF COUNTY 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 1, 2011.

ATTENDANCE

Present: Chairman Jennifer Roberts and Commissioners
Karen Bentley, Dumont Clarke, Harold Cogdell, Jr.
Neil Cooksey, George Dunlap, Bill James
Vilma Leake and Jim Pendergraph
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.

(1) REMOVAL OF ITEMS FROM CONSENT

The Board identified item(s) they wanted removed from consent and voted upon separately. The items identified were Items 11, 13, 15, 16, and 18.

(2) STAFF BRIEFINGS - NONE

(3A, B) CLOSED SESSION - BUSINESS LOCATION AND EXPANSION AND CONSULT WITH ATTORNEY

Prior to going into Closed Session, Attorney Bethune announced the following Consult with Attorney matter to be discussed in Closed Session: Melanie S. Sizemore, Clifton G. Settlemyer, 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.

County Attorney Bethune informed the Board that the Court of Appeals, today, March 1, 2011, handed down a decision in the fifth of the Jerry Reese lawsuits and that as they had on the previous four lawsuits, affirmed the dismissal of the case by the Trial Court. County Attorney Bethune said he would send the Board a copy of the opinion.

Commissioner Cooksey asked was this the last of the lawsuits. *County Attorney Bethune said yes.*

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

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carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph 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 5:16 p.m. and came back into Open Session at 6:03 p.m.

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

-FORMAL SESSION-

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

CITIZEN PARTICIPATION

(1) AWARDS/RECOGNITION – NONE

(2) PUBLIC APPEARANCE

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

Chris Driggs spoke in opposition to the ReVenture project and addressed potential water contamination issues.

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

Mary McCray addressed “National Educators Association’s Read Across America,” a national celebration of Dr. Seuss’s 107th birthday on March 2, 2011 that promotes reading and adult involvement in the education of our community’s students.

APPOINTMENTS

(3A) CENTRALINA ECONOMIC DEVELOPMENT COMMISSION

Motion was made by Commissioner Cogdell, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to reappoint Commissioner George Dunlap as the Board’s public sector representative to the Centralina Economic Development Commission and Ron Leeper as the Board’s private sector representative for two year terms.

(4) PUBLIC HEARINGS – NONE

(5) ADVISORY COMMITTEE REPORTS – NONE

MANAGER’S REPORT

(6A) BUDGET UPDATE

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The Board received budget updates from Finance Director Dena Diorio and Budget/Management Director Hyong Yi.

The following topics were addressed:

- Total Revenues
- Property Tax
- Sales Tax
- Investment Income
- Governor's Budget

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

(6B) CIAA TICKET DISTRIBUTION

The Board addressed the distribution of CIAA tickets provided to the County by the Charlotte Regional Visitors Authority (CRVA).

Motion was made by Commissioner Clarke, seconded by Commissioner James, to 1) amend the County's Code of Ethics Policy, Section 1. Standards of Conduct (f) Gifts, to insert the following words: "including a gift made to the County by a third person or entity;" 2) that the Board make a finding that the receipt, or that it could reasonably be inferred that the receipt by a County Commissioner or members of this board of any tickets to attend the CIAA Tournament that the Charlotte Regional Visitors Authority (CRVA) gave to the County, that could be expected to influence him or her in the performance of their official duty; therefore the receipt of such tickets by County Commissioners would violate the Code of Ethics as amended by part one of this motion; 3) that the Board direct the County Manager to appoint a member of his staff, to act, without interference from anyone else, to distribute any CIAA tickets received by the County from the Charlotte Regional Visitors Authority (CRVA) on a first come, first serve basis to County employees only, without discrimination, with no County employee to receive tickets with a value in excess of the dollar amount acceptable to receive in the current Code of Ethics that's applicable to all employees.

Commissioner Dunlap said the rule should apply to any tickets received for any event from an organization that receives or could potentially receive funding from the County.

Commissioner Clarke said he was not proposing putting the words CIAA in the Code of Ethics. Commissioner Clarke said he was only proposing that since the Board votes annually to give to the CRVA for the CIAA, that the Board makes a finding that to receive these tickets might or that it could be inferred to influence a board member's decision.

Commissioner Clarke said he was amenable to accepting Commissioner Dunlap's recommendation that the motion be changed to include in the finding, tickets as well for any other events and not just the CIAA. Commissioner James accepted this as well.

Commissioner Bentley asked the County Manager to give an overview of the contract with the CRVA with respect to the CIAA Tournament, which he addressed.

County Manager Jones also addressed his distribution of CIAA tickets in the past.

Commissioner Dunlap asked if the County provided any other funding to the CRVA for events. *The response was yes, for Nextel (NASCAR event). It was noted also that in the past funds have been provided for the ESPN Bass Fishing event and also the Final Four.*

After further discussion, Commissioner Clarke amended the second part of his motion to read as follows: that the board finds that it could be reasonably inferred that the receipt by a

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County Commissioner of any tickets to attend any sporting event or other events supported financially by the County could be expected to influence him or her in the performance of his or her official duties.

After further discussion, County Attorney Bethune brought to the Board's attention that the second part of Commissioner Clarke's motion was more stringent than the Board's current policy because it would prohibit the receipt of any tickets regardless of the value. Thus, if approved the Board would need to amend its current policy.

County Attorney Bethune suggested the Board only act upon parts one and three of Commissioner Clarke's motion and refer the matter addressed in part two, to the Board's Effective and Efficient Government Committee for further review.

Substitute Motion was made by Commissioner Cogdell seconded by Commissioner Bentley and carried 6-3 with Commissioners Bentley, Clarke, Cogdell, Cooksey, James, Pendergraph and Roberts voting yes and Commissioners Clarke, Dunlap, and Leake voting no, to direct the County Manager to return tickets received from the Charlotte Regional Visitors Authority (CRVA) for the CIAA Tournament. Secondly, that the matter of receiving tickets for events be referred to the Board's Effective and Efficient Government Committee for review.

STAFF REPORTS AND REQUESTS

(7A) RESOLUTION TO MODIFY 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, Pendergraph and Roberts voting yes, to adopt a resolution to modify the Board of Equalization and Review, entitled, Resolution Establishing a Special Board of Equalization and Review for Mecklenburg County.

Resolution recorded in full in Minute Book 45-A Document # _____.

COUNTY COMMISSIONERS REPORTS AND REQUESTS

(8A) UPDATE FROM COMMISSIONER DUNLAP ON RECENT EVENTS (COMMISSIONER DUNLAP)

Commissioner Dunlap said "over the course of the last weeks much has been said about the actions of the County Commission with regard to the County Manager."

Commissioner Dunlap said he wanted to update the community and address some of these issues as he sees them and to respond to some of the "allegations" that have been made by some of his fellow commissioners.

Commissioner Dunlap said he would be speaking for himself and no one else.

Commissioner Dunlap then proceeded to make his remarks.

In his remarks, Commissioner Dunlap addressed the editorial staff at The Charlotte Observer, actions by Commissioner James, the release of Commissioner Pendergraph's (former Sheriff) "payout" upon retirement, the agreement the Board agreed upon with respect to the resignation of former Area Mental Health Director Grayce Crockett and the release of information from Commissioner Pendergraph's (former Sheriff) personnel file, and the settlement of lawsuits in the Sheriff's Office in the past.

Note: The above is a summary of topics addressed.

At the conclusion of his remarks, Commissioner Dunlap asked that the County Manager provide Board members “every dollar” spent to fight or to defend or to pay people who were sued at the Sheriff’s Office; and for every lawsuit that the County might have had to pay money as a result of information that was improperly leaked by members of this County Commission. He said this was being requested in the spirit of transparency and being accountable.

Chairman Roberts made the following statement once Commissioner Dunlap concluded: “I just want to remind folks at this dais that we are, under our Code of Ethics, bound to treat other county officials and the public with respect and honor the opinions of others, even when we disagree.” She asked that board members keep that in mind and to remember “that we are doing the people’s business here in Mecklenburg County; that we are working together as a board; that it takes five members of this board to vote to act on behalf of the County.” Chairman Roberts said she would hope that fellow commissioners would “try to work toward that respect.”

CONSENT ITEMS

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

(9) APPROVAL OF MINUTES

Approve minutes of Regular meeting held February 15, 2011 and Closed Session held February 15, 2011.

(10) PROCLAMATION – SOCIAL WORK APPRECIATION MONTH

Adopt a proclamation designating March 2011 as “Social Work Appreciation Month” in Mecklenburg County.

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

(12) GRANT APPLICATION – COMMUNITY WASTE REDUCTION AND RECYCLING

1) Approve the submission of a grant application for \$20,000 to the N.C. Department of Environment and Natural Resources (NCDENR) under the 2011 Community Waste Reduction and Recycling Grant Program.

2) Recognize, receive, and appropriate the amount awarded from NCDENR when the award is received.

(14) BUDGET AMENDMENT – LUESA (REVENUE INCREASE)

1. Recognize, receive, and appropriate \$1,056,724 in Hazard Mitigation Funds from the NC Department of Crime Control and Public Safety, Division of Emergency Management.

2. Authorize the County Manager to execute a contract with the NC Department of Crime Control and Public Safety, Division of Emergency Management for a Pre-Disaster Mitigation

Grant.

3. Authorize the carry forward of unspent grant funds to subsequent years until completion of the project.

(17) AUCTION FOR DISPOSAL OF SURPLUS EQUIPMENT

1) Approve the attached list (Exhibit A) as surplus, and

2) Adopt a Resolution authorizing sale of surplus personal property by public auction at 10 a.m. on Saturday, April 9, 2011 at 3301 Rotary Drive, Charlotte, NC.

Resolution recorded in full in Minute Book 45-A Document # _____.

(19) SET PUBLIC HEARING – NCDOT COMMUNITY TRANSPORTATION GRANT APPLICATION

1) Schedule a public hearing on March 15, 2011 to receive comments on the Mecklenburg County Department of Social Services' application for the North Carolina Department of Transportation's Community Transportation Grant for Fiscal Year 2011-2012.

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

THIS CONCLUDED ITEMS APPROVED BY CONSENT

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

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

(11) GRANT APPLICATION – THE UNITED STATES DEPARTMENT OF JUSTICE, OFFICE ON VIOLENCE AGAINST WOMEN

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

1) Approve the submission of a grant application for funding in the amount of \$400,000 over two years to the United States Department of Justice, (OVW), for the Grant to provide services for children and youth exposed to domestic violence.

2) If awarded, recognize, receive and appropriate such funds.

Commissioner Leake removed this item from Consent for more public awareness. She also asked when would the funding be available. County Manager Jones said he would find that out.

(20) BUDGET AMENDMENT – DSS (REVENUE INCREASE)

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, Pendergraph, and Roberts voting yes, to amend the Department of Social Services (DSS) Fiscal Year 2011 Adopted Budget to recognize, receive and appropriate \$550,000 of additional Federal revenue for the Crisis Intervention

Program (CIP).

Note: These funds will be used to provide heating or cooling assistance to low-income households throughout Mecklenburg County.

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

(13) GRANT APPLICATION – RYAN WHITE PART D

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:

- 1) Approve the submission of a grant application for \$435,000 in Ryan White Part D funds covering the period of August 1, 2011 through July 31, 2012 from the U.S. Department of Health and Human Services, Health Resources and Services Administration (HRSA). Application is due March 11, 2011.
- 2) If awarded, recognize, receive and appropriate such funds.
- 3) Approve the allocation process involving regional participation in accordance with HRSA of the US Department of Health and Human Services guidelines.

Note: The administration of the Ryan White Part D program was transferred to the Health Department when the Metrolina AIDS Project closed its office in the spring of 2010. These funds provide clinical care and supportive services for women, children and youth infected with HIV/AIDS. The current program provides services to approximately 200 women and 20 children/youth in a nine-county region through a network of six providers.

Commissioner Leake removed this item from Consent for more public awareness. Commissioner Leake said she'd like to know who the Health Department's administrator was over the Ryan White grant.

Commissioners Cooksey and Pendergraph returned to the dais.

(15) RECOMBINATION OF COUNTY-OWNED PROPERTY

Motion was made by Commissioner Cogdell, seconded by Commissioner Bentley and carried 7-1 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Pendergraph, and Roberts voting yes and Commissioner Leake voting no, to authorize the County Manager to execute documents to:

- 1) Submit a Recombination Application for County-owned parcels 081-083-01 through 081-083-09 and 081-082-04 through 081-082-07; and
- 2) Support Duke Energy's abandonment of 13th Street and N. Myers Street right-of-way that adjoins County-owned property.

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

Commissioner Leake said she'd like to know if the residents in this area have been informed of the closing.

(16) AD VALOREM TAX ADVERTISEMENT

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Motion was made by Commissioner Leake but died for lack of a second, to not approve the advertisement of delinquent 2010 real estate and personal taxes in the Charlotte Observer.

Note: The advertisement is a notification to taxpayers of outstanding tax balances. This action is required by NCGS 105-369(a).

Commissioner Leake removed this item from Consent for more public awareness and for clarification regarding where this information must be advertised. County Attorney Bethune said it's required that it be published in a newspaper of "general circulation."

Commissioner Leake said she would recommend using the Charlotte Post and the County's website.

Chairman Roberts noted that until the proposed legislation in the General Assembly passes, requesting that the County be allowed to publish this information on-line and not in the newspaper, that the County was required to publish the information in a newspaper of "general circulation."

County Attorney Bethune said the Charlotte Observer and Mecklenburg Times qualify as newspapers of "general circulation," but he wasn't sure about the Charlotte Post.

Commissioner Cogdell asked about the total cost of the advertisement.

Tax Collector Neal Dixon said the estimate was \$80,000 - \$100,000. He said the cost is added to the person's tax bill.

Commissioner Dunlap asked that for future reference, staff bring back to the Board what it would cost to advertise in other newspapers as well.

Motion was made by Commissioner Pendergraph, seconded by Commissioner Clarke and carried 7-1 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Pendergraph, and Roberts voting yes and Commissioner Leake voting no, to approve ordering the advertisement of delinquent 2010 real estate and personal taxes.

(18) RENAMING REQUEST FOR THE REVOLUTION PARK GOLF COURSE

Motion was made by Commissioner Cogdell, seconded by Commissioner Dunlap and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, Pendergraph, and Roberts voting yes, to approve renaming the Revolution Park Golf Course to the Dr. Charles L. Sifford Golf Course at Revolution Park.

Note: Mecklenburg County Park and Recreation Department received a renaming request to name the 9-hole golf course located at 1225 Remount Road to the Charles L. Sifford Golf Course at Revolution Park. The renaming request was endorsed by the Consolidated Golf Advisory Council on December 2, 2010, the Central Region Advisory Council on January 24, 2011 and the Park and Recreation Commission on February 8, 2011 in accordance with the required three (3) public readings. The renaming request is also supported by Park and Recreation Department staff and the Revolution Park Neighborhood Association. It was noted that Dr. Sifford was one of three African Americans (James Black & Curtis Sifford) who played the Revolution Park Golf Course and went on to become Professional Golf Association (PGA) players.

Commissioners Cogdell and Leake removed this item from Consent for more public awareness.

James Alsop with Park and Recreation addressed this request.

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ADJOURNMENT

Motion was made by Commissioner Cooksey, seconded by Commissioner Cogdell and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, Pendergraph and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 9:33 p.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman