

MARCH 22, 2011

MINUTES OF MECKLENBURG COUNTY BOARD OF COMMISSIONERS
MECKLENBURG COUNTY
NORTH CAROLINA

The Board of Commissioners of Mecklenburg County, North Carolina, met in Special Budget/Public Policy Session in Conference Room CH-14 of the Charlotte-Mecklenburg Government Center located at 600 East Fourth Street at 3:00 p.m. on Tuesday, March 22, 2011.

ATTENDANCE

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

Absent: Commissioner Bill James

Commissioners Cooksey and Cogdell were absent when the meeting was called to order and until noted in the minutes.

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

(1) URBAN PARKS AND AAA BASEBALL

General Manager Bobbie Shields addressed urban parks and AAA Baseball and associated agreements where applicable.

The parks addressed were First Ward, Second Ward, Third Ward, Fourth Ward and Romare Bearden Park.

Commissioner Cooksey entered the meeting.

General Manager Shields said the goal was to have an urban park in each ward.

General Manager Shields said the site for the proposed baseball stadium was not associated with the land swap. He said the land swap was in reference to land exchanges associated with the urban park.

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

Comments

Commissioner Dunlap with respect to First Ward Park (south of 8th Street) Agreements with Levine Properties, asked what would be the benefit of having the developer build the park for the County. *The response was that it was related to the developer's desire to build out to develop that location.*

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General Manager Shields said the developer has a plan for a major capital investment in that location and the thought was that it's better from a marketing perspective to have a nice large urban park at that location.

Commissioner Cooksey with respect to First and Second Ward Parks Agreement w/ Board of Education, asked about the timelines associated with the agreement, which was addressed.

Commissioner Cooksey asked about the plan use of the Berewick-Dixie River Elementary School property, which was addressed.

Commissioner Bentley requested the current assessed value of the Charlotte-Mecklenburg Schools (CMS) Board of Education Center.

Commissioner Cogdell entered the meeting.

Commissioner Bentley asked for clarification regarding the transaction involving the Berewick-Dixie River Elementary School property, which was addressed.

Commissioner Bentley asked about the asbestos in the Board of Education Center and what impact does that have on the County. *The response was the County knew asbestos was in the building but not that it was a problem. Also, the County is responsible for abatement of the asbestos once the building is turned over to the County.*

County Attorney Marvin Bethune said the County's obligation to abate the asbestos was not for the benefit of CMS, but for Brooklyn Village. He said after CMS turns the property over to the County, the County would remove the asbestos and turn the vacant building over to Brooklyn Village, LLC and they'll demolish it.

It was explained that the asbestos has to be removed before the building could be demolished.

Commissioner Dunlap with respect to Second Ward Park: Agreement w/ City of Charlotte asked for clarification regarding the debt service associated with this, which was addressed. *It was noted that the debt service referenced was the City of Charlotte's, not the County's.*

Commissioner Dunlap with respect to Second Ward Park Agreement w/ Brooklyn Village, LLC, questioned whether the County was "cheating" CMS if the County pays CMS \$13.75 million for the Education Center property and then the County sells a portion of that property to someone else for \$18 million. *The response was no. It was clarified that the property the County would be selling was not just the CMS property, but property that was obtained from the City of Charlotte also (Marshall Park), as well as additional property.*

Commissioner Cooksey with respect to AAA Baseball-Development Agreement asked how long it would take to repay the \$8 million synthetic TIF. *General Manager Shields said he believed it was set up to be paid for in whatever time it would take. There wasn't a term.*

Commissioner Cooksey asked was it set up that a certain amount would be paid annually. *General Manager Shields said he believed it was 90% of the taxes paid, for however long it takes to repay it back.*

Commissioner Cooksey asked was there an estimate on how long it may take. *The response was around four or five years, originally.*

Commissioner Cooksey asked was there a timeframe associated with the AAA Baseball-Development Agreement. *The response was that it's tied to the lease agreement, which was addressed.*

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Commissioner Dunlap with respect to the Baseball Lease Agreement asked was it correct the Knights could develop the retail, generate the revenue as a result of that, as long as they pay the taxes on the improvements. *The response was yes, they would have to pay taxes on the improvements.*

Commissioner Dunlap asked since the County still owns the property, would the lease for the buildings or whatever, run concurrent with the 100 year lease. *The response was that there's a provision in the agreement about commercial interests.*

General Manager Shields said if the stadium is built and for whatever reason, is abandoned, then falls back to the County's ownership, there's a provision where the County would honor those lease agreements for any commercial/retail establishment that might be in place.

General Manager Shields said if the Knights decide against building the baseball stadium as agreed, which is tied to the September 2011 substantial completion, they are obligated to reimburse the County for legal fees associated with the pending lawsuit. Also, the County may recover liquidated damages or cancel the lease for what's called non-relocate default.

General Manager Shields said the Knights are required to play their home games in the stadium, and if they do not, or if for some reason they decide to sell the team, relocate the team, then the County could recover part of the TIF payment.

Commissioner Cooksey asked if the lease agreement provides for a rental rate. *The response was yes, \$1.00.*

Commissioner Cooksey asked about the tax value of the Knights interest in the stadium and how would it work if the Knights owned the leasehold improvements and the land. *County Attorney Bethune said the Knights would be taxed the same way the Panthers are taxed, because the stadium is on land owned by the City of Charlotte. He said each year their tax rate is based on three components, personal property, real property, and the leasehold estate.*

Commissioner Bentley asked for clarification with respect to the stadium being "substantially complete" by September 2011. *Dan Rajkowski, General Manager with the Knights said that this has been a "lengthy" process. Mr. Rajkowski gave a summary of the history of the proposed project.*

Mr. Rajkowski said since the resolve of the lawsuit last fall that was tied to the Knights lease, the Knights have been gearing the project back up, i.e. re-pricing the project in a different pricing environment, sitting down with the banking industry that supported the project, looking at how they can better price down the project. He said they were still dealing with challenges, but they've been reengaging their teams, such as construction management, architects, sponsors, community leaders, etc. to get the process going again.

Mr. Rajkowski said the Knights organization has spent a lot of time, energy and money to relocate its business to N. C. and with that, has come some "pain" with finances, but the goal is to bring the team to N.C., the business, and the jobs as soon as they "possibly" can.

Commissioner Clarke asked how long it would take to construct the stadium. *The response was 18 – 22 months barring any environmental issues.*

Commissioner Clarke asked about the term of the Knights current lease. *The response was it expires December 2013.*

Commissioner Bentley asked how would the Board deal with the provision that the stadium must be substantially complete by September 2011. *General Manager Shields said at some point the Board would have to hear from the Knights about what their issues are. He said they*

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might request an extension and if they do so, then it would be up to the Board to decide if it wants to grant an extension. General Manager Shields said the Knights still have a "legitimate" lease until September 2011.

Commissioner Cooksey asked Mr. Rajkowski if he had a sense for how much more time the Knights would need if an extension is requested. Commissioner Cooksey said his preference would be not to tie it to "substantially complete" as much as set some "milestones." He noted as an example, a milestone that would say by a certain date they would have a commitment to financing or will start construction by a certain date; so that if it doesn't look like it's going to happen the County could go on and do something else.

Mr. Rajkowski said the hope is that in the "very near future" they want to come back and be able to present at least as much definitive information as they can at that point, to make those types of decisions. He said construction timelines and financing was tied predominantly to the revenues generated from the team. He said there's owner equity in this as a part of the financing model. He said the financing model has changed "significantly," but with it, a lot of it is driven by revenues generated by the team, i.e. naming rights, founding sponsorships, club seats and suites.

Commissioner Cooksey said the Board would need to see some specifics before it could consider any extension. He said the Board will need to know if this is going to come to "fruition."

Commissioner Cogdell asked Mr. Rajkowski would it be of benefit to the Knights if the Board were to say come back in 90-120 days with some very specific tangibles about what their financing package looks like.

Commissioner Cogdell said he concurred with Commissioner Cooksey that the Board needs some assurances, that if the County continues to be a part of this, that the County will see some progress taking place.

Mr. Rajkowski said it would be of benefit and that it was a reasonable expectation.

Commissioner Dunlap asked Mr. Rajkowski would it be beneficial to the development of this total concept, if that portion of the agreement was modified, if, in fact, the County was satisfied with the timelines and it gets to a certain stage where "it's known for a fact" things are going to happen.

Mr. Rajkowski said you'd have to go back to the philosophy of the development. He said the development aspect was a second element to the baseball stadium. Mr. Rajkowski said the thought process at that time was mixed-use.

Mr. Rajkowski said this was something that would need to be looked at. He said they saw the development component as a benefit to help them fund a privately funded ballpark and help them get through and be able to utilize that development to create a more energetic atmosphere at this location.

General Manager Shields said the County would be "hard pressed" to allow one entity to come in and do the commercial and retail development, absent the baseball stadium.

General Manager Shields said there were a lot of developers very interested in developing this site.

Commissioner Dunlap said if the agreement with the Knights were to end, what benefit would that be to the County. *General Manager Shields said he could not think of any benefit that would be to the County to cancel the lease.*

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General Manager Shields said at the present time the County doesn't have any plans for disposing of that property; nor, is now a good time to dispose of the property. He said there's no urgency or real driver for the County to cancel the lease at this point.

Commissioner Clarke concurred also that the County needs some "reasonable" assurances.

Commissioner Clarke said the County needs to inform the Knights of what its standard is going to be for evaluating what they come back with.

Commissioner Clarke proposed that the Knights provide the Board with something that would place the Board in a position to say that the Board thinks it's reasonably possible that the Knights will be able to finance the stadium; get their financing and start their construction within two years, 2013.

Commissioner Clarke said if the Knights could get construction started by September or the fall of 2013, then they could finish up and within five years they could open. Commissioner Clarke said he could not see the County going beyond five years.

Commissioner Clarke suggested the Knights work with the Board's Economic Development Committee on this to help guide them through the process.

Commissioner Cooksey asked if the County was putting out any other funds to support this other than the TIF. *The response was no.*

Commissioner Cooksey asked had the concept of the stadium changed since it was originally proposed. *Mr. Rajkowski said it was essentially the same stadium with some modifications. He said the main modification involved the number of seats. He said originally the seat capacity was up to 11,300, which included an upper deck in the left field corner but that has been since pulled out.*

Commissioner Cooksey asked about the estimated cost of the stadium. *The response was \$54+ million.*

Commissioner Cogdell also suggested this matter be referred to the Board's Economic Development Committee so that they can vet it out more and give guidance on what type of assurances the County would be looking for; and come back to the full board with a recommendation at a later date.

It was the consensus of the Board that the matter of the Baseball Lease Agreement be referred to the Board's Economic Development Committee for further review and a recommendation back to the full Board.

Commissioner Dunlap asked would the stadium be designed in such a way that capacity could be increased. *Mr. Rajkowski said it is expandable, but he'd have to get back to the Board on to what extent.*

ROMARE BEARDEN PARK

Finance Director Dena Diorio addressed the "debt-diet" decision, the status of Park Bonds, and the project prioritizing timetable.

Commissioner Dunlap asked whether the Romare Bearden Park project and the baseball stadium were linked. *The response was no.*

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Commissioner Cooksey asked if the design of the park and the stadium linked. *The response was that they'll work to make sure their compatible, but from a construction perspective they're not tied to each other. General Manager Shields said there's an infrastructure piece that the County would have to provide, especially around Mint Street, if the County proceeds with Romare Bearden Park.*

Park and Recreation Director James Garges addressed Romare Bearden's Birthday Celebration and the desired construction schedule.

Director Garges said staff believes between March – April they can start getting the building ready for demolition and some permitting taken care of; May – June complete the demolition. He said there's also some roadway and infrastructure work that has to be done. Further, that between August – October the bids could be ready and the contracts, in order to start construction, which should take about 11 months. Thus, the park would be finished sometime in September 2012. Director Garges said \$11 million was needed for the park.

Director Garges said all of this was on a tight timeframe but was doable.

Director Garges said the park needs to be a true public/private partnership.

Comments

Commissioner Cogdell asked why this project was being considered outside of the capital planning evaluation process. *Director Garges said the County has an issue with the bank that if they want to, they have the option to buy back a portion of the park land. He said if they were to do that, it would significantly impact the park.*

General Manager Shields said this particular park project was unique in that it has been vetted through the whole Park and Recreation process and was set to go until the economy took a downward turn.

Commissioner Clarke asked Mr. Rajkowski if it would help the Knights financing efforts if the Board were to move forward with the park. *The response was that it may.*

Commissioner Clarke asked when could construction start if the Board decided at its first meeting in May to move forward. *Director Garges said staff would be ready to go.*

Commissioner Clarke asked Finance Director Diorio with respect to the prioritization process is credit being given for essentially being ready to go. *The response was no, but there is consideration for leveraging private dollars.*

Commissioner Cooksey asked about the cost of the park. *The response was \$11 million.*

Commissioner Cooksey asked were any of the sponsors locked in. *The response was not yet.*

Commissioner Cooksey asked if there was a plan to market sponsorships, which was addressed.

Commissioner Cooksey asked Director Diorio how would the \$11 million that's needed impact the County's debt, if the Board were to approve appropriating the \$11 million. *Director Diorio said this project is in the 2004 bond package, not all of it, but part of it. Director Diorio said the County was short about \$3-4 million to get the project done but that the authorization was there. Director Diorio said if the project is to be started sooner rather than later, then funds need to be committed now. She said this was not a project that would put the County over any of its debt ratios.*

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Commissioner Cooksey asked about the status of the capital project ranking process. *Director Diorio said staff anticipates reporting back to the Board late June or mid-July.*

Commissioner Cooksey said if the Board moves forward with this project in May, then it would not go through the capital project ranking process. *The response was that's correct.*

General Manager Shields said the next step for staff, unless there's objection from the Board, would be to pursue getting partnerships, consistent with the Balanced Scorecard goal of 20% leveraging, for funding the park and to subsequently report back to the Board regarding any interests expressed.

Chairman Roberts noted the history behind the park, particularly the communities' interests in getting this park.

Commissioner Cogdell said he was reluctant to support moving forward at this point because the project was being taken out of the capital project ranking process.

Chairman Roberts suggested the Romare Bearden matter be referred to the Board's Natural Resources Committee and placed on their April 5th agenda to go over some of the options as it relates to moving forward with the park; and to report back to the full Board at the Board's Regular meeting scheduled for April 5, 2011.

Commissioner Clarke suggested the Board vote on the issue of moving forward at its April meeting.

Commissioner Cooksey said if it's being done because it's a project the County has been working on and has invested in and is at risk of losing a part of the site, then he would consider moving forward, but if it's being done because of the Democratic National Convention coming to Charlotte, then he's not supportive of moving forward at this time.

Commissioner Cooksey said he would like there to be a discussion at the Board's Natural Resources Committee meeting regarding the option that the bank has (RBC), when it's exercisable and under what conditions and how much they have to pay to get the property back.

It was the consensus of the Board to refer the Romare Bearden Park matter to the Board's Natural Resources Committee for further review and discussion of the options available to the County and that the Committee report back to the full Board with a recommendation.

This concluded the discussion.

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

ADJOURNMENT

There being no further business to come before the Board, the meeting was declared adjourned at 5:40 p.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman