

APRIL 19, 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, April 19, 2011.

ATTENDANCE

Present: Vice-Chairman Jim Pendergraph and Commissioners
Karen Bentley, Dumont Clarke, Harold Cogdell, Jr.,
Neil Cooksey, George Dunlap, Bill James and Vilma Leake
General Manager Bobbie Shields
County Attorney Marvin A. Bethune
Clerk to the Board Janice S. Paige

Absent: Chairman Jennifer Roberts

-INFORMAL SESSION-

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

The meeting was called to order by Vice-Chairman Jim Pendergraph, 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 10, 11, 12, 15, and 16.

Commissioner Dunlap questioned whether Item 12 Charlotte-Mecklenburg Schools Vacant School Facilities was appropriate at this time.

Commissioner Clarke entered the meeting.

County Attorney Bethune addressed how the County's statutory right of first refusal worked. He said the Board could defer this matter, if it wanted to, and ask Charlotte-Mecklenburg Schools to bring these facilities to the Board on a case by case basis.

Commissioner Cogdell asked was there any debt on the facilities listed by Charlotte-Mecklenburg Schools. *Finance Director Dena Diorio said she didn't think so.*

General Manager Bobbie Shields said the County had no need for any of the facilities listed by Charlotte-Mecklenburg Schools in Item 12.

(2) STAFF BRIEFINGS - NONE

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(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: Jerry Alan Reese vs. Mecklenburg County, Mecklenburg County Public Facilities Corporation, R.B.C. Corporation, 300 South Church Street, LLC.

Commissioner Cogdell left the meeting and was absent until noted in the minutes.

It was noted that the Board would not have a Business Location and Expansion matter to be discussed in Closed Session.

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and carried 7-0 with Commissioners Bentley, Clarke, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, to go into Closed Session for the following purpose: Consult with Attorney.

The Board went into Closed Session at 5:30 p.m. and came back into Open Session at 5:35 p.m.

Commissioner Cogdell was present when the Board came back into Open Session. He returned to the meeting during Closed Session.

Commissioner Leake asked with respect to Item (6b) Human Services Agency Finance Division, whether she could get the gender, race, and longevity of those that may lose their job because of a reduction in force (RIF).

General Manager John McGillicuddy said the only thing that could be made available would be years of service and the number of employees impacted. He said that information, however, would not be available until after the RIF occurred.

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

-FORMAL SESSION-

Commissioner Cogdell 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

(8B) DISTRICT TWO UPDATE (COMMISSIONER LEAKE)

The Board received a District Two update from Commissioner Leake, which consisted of the following:

1. Recognition of West Charlotte High School Basketball Team for winning the State championship. The principal, coach and team members were present. They thanked the Board for recognizing their accomplishment.

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2. A presentation from Links, Inc. regarding their childhood obesity initiative. Eddyce Hobson made the presentation. She was accompanied at the podium by Carlenia Ivory, Angelia Fryer, Nancy Stroud, and Ida Reed.

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

3. A presentation from Darryl Bego regarding Fran's Kids Summer Enrichment Program, "The Step Up!" The program involves the following components: Skills Training Empowering Parents, Summer Testing Enrichment Program, and a Secondary Transition Education Plan. He was accompanied by William Perkins and Fran Witherspoon.

A copy of his remarks and information regarding the program is on file with the Clerk to the Board.

Vice-Chairman Pendergraph took a point of personal privilege and acknowledged Mecklenburg County Tax Collector Neal Dixon's receipt of the Tax Collector of the Year Award for North Carolina.

(2) PUBLIC APPEARANCE

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

Coach Willie Gripper appeared to inform the Board and public of things that were going on with the Charlotte Boxing Academy. He said he wanted to make the community aware of the Charlotte Boxing Academy and the difference it's making in the lives of youth. Coach Gripper noted that program participants recently won Regional Championships held in Wilmington, NC. and would be going to Palm Beach, Florida for more competitions.

(8C) AUDIT REVIEW COMMITTEE AND INTERNAL AUDIT DEPARTMENT CHARTERS (COMMISSIONER CLARKE)

Motion was made by Commissioner Clarke, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, to approve the charter for the Audit Review Committee (ARC) as recommended by the ARC.

A copy of the Charter is on file with the Clerk to the Board in Minute Book 45-A, Document # _____.

Motion was made by Commissioner Clarke, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, to approve the charter for the Internal Audit Department, as recommended by the County Manager and the Audit Review Committee (ARC).

A copy of the Charter is on file with the Clerk to the Board in Minute Book 45-A, Document # _____.

Motion was made by Commissioner Clarke, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, to approve revisions to the Resolution Establishing an Audit Review Committee consistent with recommended changes to the ARC Charter.

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

APPOINTMENTS

(3A) NOMINATIONS/APPOINTMENTS

BUILDING DEVELOPMENT COMMISSION

Motion was made by Commissioner Clarke, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, to allow Will Caulder to continue to serve the remainder of his term on the Building Development Commission as the Mecklenburg General Contractor's Association representative, expiring July 31, 2011.

Note: Mr. Caulder was removed because of attendance, however, he provided the Board an explanation regarding the reason for his absences.

CRIMINAL JUSTICE CITIZEN'S ADVISORY COMMITTEE

Motion was made by Commissioner Cogdell, seconded by Commissioner Clarke and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, to reappoint Myra Byarm, Carol Logan, Anthony Scheer, Mark Sumwalt and Karen Worrell to the Criminal Justice Citizen's Advisory Committee for a three-year term expiring May 31, 2014.

Motion was made by Commissioner Clarke, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, to allow James Henry to continue to serve the remainder of his term on the Criminal Justice Citizen's Advisory Committee as the District Two representative, expiring May 31, 2012.

Note: Mr. Henry was removed because of attendance, however, he provided the Board an explanation regarding the reason for his absences.

INFORMATION SERVICES & TECHNOLOGY COMMITTEE

Motion was made by Commissioner Clarke, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, to nominate and appoint Mike Hill to the Information Services and Technology Committee to fill an unexpired term expiring February 28, 2012.

Note: He is replacing Dennis Hill.

JUVENILE CRIME PREVENTION COUNCIL

Commissioner Clarke nominated all applicants for appointment consideration to the Juvenile Crime Prevention Council: Tabitha Barwell, Stephanie Carter-Tyson, LaQuanda Coulotte, Chris Ferguson, and Sara Holland.

Note: An appointment will occur on May 3, 2011.

LIBRARY BOARD OF TRUSTEES

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Motion was made by Commissioner Clarke, seconded by Commissioner James, to nominate and appoint Ed Williams to the Library Board of Trustees to fill an unexpired term expiring December 31, 2012.

Substitute motion was made by Commissioner Dunlap, seconded by Commissioner Bentley to nominate Ed Williams for appointment consideration to the Library Board of Trustees and that the Board follows its interview process, even though Mr. Williams was the only applicant.

After further discussion, Commissioner Clarke withdrew his motion and instead nominated Ed Williams. Likewise, Commissioner Dunlap withdrew his substitute motion.

Note: An appointment will occur following an interview of the above nominee by an ad hoc committee of the Board appointed by the Chairman. Per Board policy, persons seeking appointment to the Library Board of Trustees must undergo an interview process.

The appointment will occur on May 3, 2011.

PERSONNEL COMMISSION

Motion was made by Commissioner Cogdell, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, to nominate and appoint Daniella Williams to the Personnel Commission to fill an unexpired term expiring June 30, 2011 and a three-year term effective July 1, 2011 expiring June 30, 2014.

WASTE MANAGEMENT ADVISORY BOARD

Commissioner Clarke nominated all applicants for appointment consideration to the Waste Management Advisory Board: Christopher Hardin, Carlos Johnson, Jose Ramirez, Shawn Rogers, and William Smith.

Note: Appointments will occur on May 3, 2011.

WOMEN'S ADVISORY BOARD

Commissioner Leake noted that the two advisory board members scheduled to be replaced on the Women's Advisory Board were not aware that they could ask the Board to allow them to continue serving. Commissioner Leake said both individuals had illness in their family which caused them to not meet the attendance requirement. Commissioner Leake spoke in support of these individuals being given an opportunity to serve.

Commissioner Dunlap nominated all applicants for appointment consideration to the Women's Advisory Board: Robyn Codrington, Vickie Evans, Faith Fickling, Sandra Johnson, Heather McCullough, Yvonne McJetters, Kathleen Odom, Sybil Richardson, Daniella Williams, and the individuals noted by Commissioner Leake, Donna Hughes and Natheley McElrath.

It was the consensus of the Board that staff request a letter from Ms. Hughes and Ms. McElrath explaining their absence and their commitment going forward and that it be included in the Board's appointment packet on May 3, 2011.

Note: Appointments will occur on May 3, 2011.

(4) PUBLIC HEARINGS – NONE

(5) ADVISORY COMMITTEE REPORTS – NONE

MANAGER'S REPORT

(6A) BUDGET UPDATE

Budget/Management Director Hyong Yi presented the budget calendar leading up to the Board's adoption of a budget for FY2011-2012.

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

(6B) HUMAN SERVICES AGENCY FINANCE DIVISION

The Board received a report on the reorganization of financial management functions of the consolidated human services agency.

Note: In December 2010, County Manager Harry Jones announced an initiative to merge the financial management functions within the County's consolidated human services agency (Area Mental Health, Community Support Services, Public Health and Social Services) into a single entity serving all of these areas. The primary purpose of the initiative is to achieve greater consistency in compliance with financial management policies and procedures throughout the consolidated human service agency departments.

General Manager John McGillicuddy, Director of Finance Dena R. Diorio, and Deputy Finance Director Gail Murchison gave the report.

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

Comments

Commissioner Cooksey asked about the working relationships with the respective departments with the finance division being at a different site, which was addressed by Deputy Finance Director Murchison.

Commissioner Cooksey asked about contract management under this structure, which was addressed by Deputy Finance Director Murchison.

Commissioner Bentley asked how would the proposed compliance officer position interrelate under this structure. *General Manager McGillicuddy addressed how that would work.*

Commissioner Leake asked about other counties that had this model. *Deputy Finance Director Murchison said Wake County was the only other N. C. county that had a consolidated human services structure.*

Commissioner Leake asked about counties outside of N.C. *Deputy Finance Director Murchison said staff did not look outside of N.C. because the laws in other states were different than those in N.C.*

Commissioner Leake requested information on employees that would be impacted as a result of the new structure, particularly, where those employees were now and where they would be after the new structure goes into effect. She also wants to know the years of service of those

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impacted. Commissioner Leake said she'd been advised by staff already that the race and gender of those impacted could not be provided.

Finance Director Diorio said after the reduction in force occurred, staff could then provide the years of service of those impacted.

This concluded the presentation. No action was necessary.

(7) STAFF REPORTS AND REQUESTS - NONE

COUNTY COMMISSIONERS REPORTS AND REQUESTS

(8A) ROMARE BEARDEN PARK

General Manager Bobbie Shields addressed Romare Bearden Park.

Note: On April 5, 2011, the Board voted to delay action on Romare Bearden Park until April 19 and directed the County Manager to meet with representatives from R.B.C. Corporation (a subsidiary of Wells Fargo) to ask them if they would give the County more time before exercising their option to repurchase a portion of the site designated for the proposed Romare Bearden Park. That meeting occurred on April 12, 2011. R.B.C representatives reminded County staff that they sold the property at their cost because they would like to see a public park at that location. In general, they will agree to a one-year extension but will retain the option to repurchase the property if the County has not executed the park construction contract by October 8, 2012. Additionally, they would require that if the contract is terminated between October 8, 2012 and October 8, 2014, or the work under the contract is not proceeding in a commercially reasonable manner between October 8, 2012 and October 8, 2014, they would, upon proper notice, have the right to exercise the option prior to October 8, 2014. The previous requirement that the existing buildings must be demolished and grading "substantially" completed was changed to better define when they may exercise their repurchase option. The new repurchase option is linked to the Construction Contract execution date generally shown as milestone number 16 on the attached draft construction schedule. In order to meet the terms of the proposed amended Agreement, the funding decision must be made by January 2012. This amendment would allow enough time for the proposed Romare Bearden Park to be prioritized along with other capital projects.

The following persons spoke in support of moving forward with Romare Bearden Park: Ruth Sloane, Christopher Seiger, and Matt McGlothlin.

Comments

Commissioner James asked if staff only asked for a one year extension.

General Manager Shields said staff asked them to drop the requirement entirely but the response was that they would give the County an extension but only for one year. General Manager Shields said staff was told that they would only give a one year extension because they want to see the park built.

Commissioner Cooksey encouraged Park and Recreation staff and Partners for Parks to put together a capital campaign in order to get private dollars to help move the building of the park forward.

Commissioner Cooksey said the extension does provide the Board with a little more time, such that it may be January before the Board would have to take action.

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Commissioner Clarke said he wanted to note that the Board may have to make a funding decision before January 2012 because of the schedule it's faced with.

Commissioner Cogdell addressed the importance of this project going through the capital prioritization process.

Commissioner Cooksey left the meeting and was absent until noted in the minutes.

Commissioner Dunlap referenced the list of capital projects provided by staff and noted that there may be things on that list that may come off, in light of current circumstances.

Commissioner Dunlap addressed the benefits of the park.

Motion was made by Commissioner Dunlap, seconded by Commissioner Leake and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake and Pendergraph voting yes, to authorize the County Manager to execute an amendment to the Option to Repurchase Agreement between R.B.C. Corporation and Mecklenburg County.

Commissioner Cooksey returned to the meeting.

CONSENT ITEMS

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

(9) APPROVAL OF MINUTES

Approve minutes of Regular meeting held April 5, 2011.

(13) PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES

Authorize the County Manager to negotiate and execute a contract with Wildlands Engineering to provide professional engineering services.

Note: This action is necessary to provide engineering services for a stream restoration and enhancement project along Torrence Creek located in the Huntersville Business Park between McCoy Road and Reese Boulevard.

(14) AMENDMENTS TO GROUNDWATER WELL REGULATIONS

Amend the Mecklenburg County Groundwater Well Regulations

Note: The Health Department proposes amending the Mecklenburg County Groundwater Well Regulations in response to a review of the regulations by the North Carolina Private Well Branch. The proposed amendment will clarify the grout emplacement of bentonite slurry grout, maintenance of monitoring wells and revise the regulations for artesian wells to coincide with the artesian well requirements of 15A NCAC 2C .0100. Specifically water supply wells that flow under natural artesian pressure shall be properly constructed, equipped and operated to prevent the unnecessary discharge of water. Flow shall be completely stopped unless the discharge is for beneficial use. The amendments would modify the Groundwater Well Regulations to align the requirements for well construction standards for water supply wells with that of the North Carolina Well construction standards. Amendments to the Mecklenburg County Groundwater Well Regulations have been drafted for the Board's consideration.

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

(15) DONATION – CONSTRUCTION OF PARKING LOT AT FOUR-MILE CREEK GREENWAY

Recognize, receive and appropriate up to \$20,000, a donation from Lat Purser & Associates to offset the cost to construct a trailhead parking lot for Four-Mile Creek Greenway.

(17) PROFESSIONAL SERVICES AGREEMENT FOR DESIGN SERVICES

Authorize the County Manager to negotiate and execute a contract with Kimley-Horn and Associates, Inc. to provide professional engineering services.

Note: This action is necessary to provide engineering services for a stream restoration and enhancement project along Torrence Creek-Tributary #1 located in Huntersville between I-77 and Bradford Hill Lane.

THIS CONCLUDED ITEMS APPROVED BY CONSENT

(10) PROCLAMATION – CHARLOTTE-MECKLENBURG SENIOR GAMES

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Pendergraph voting yes, to adopt a joint proclamation designating April 18 - June 11, 2011 as "Charlotte-Mecklenburg Senior Games" in Charlotte and Mecklenburg County.

Vice-Chairman Pendergraph and Commissioner Leake removed this item from Consent for more public awareness.

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

(11) GRANT APPLICATION – U.S. DEPARTMENT OF LABOR, VETERAN'S EMPLOYMENT AND TRAINING SERVICE AWARD

Motion was made by Commissioner Leake, seconded by Commissioner Cogdell and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Pendergraph voting yes, to approve the submission of a grant application for funding in the amount of \$7,000 for a grant from the U.S. Department of Labor, Veterans' Employment and Training Service award; and If awarded, recognize, receive and appropriate such funds.

Note: The requested funding would support a one-day event on October 11, 2011 at the Grady Cole Center to provide homeless veterans with aid, comfort, and connections with employment, housing, and medical resources.

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

(12) CHARLOTTE-MECKLENBURG SCHOOLS VACANT SCHOOL FACILITIES

Motion was made by Commissioner Cogdell, seconded by Commissioner James and carried 7-1

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with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, and Pendergraph voting yes and Commissioner Leake voting no, to decline the County's statutory right of first refusal to lease the following CMS School Facilities:

- 1) Amay James Pre-K Center
- 2) Davidson IB Middle School
- 3) Double Oaks Pre-K Center
- 4) Midwood High School
- 5) Pawtuckett Elementary School
- 6) Plaza Road Pre-K Center
- 7) Sedgefield Elementary School (Old school site)
- 8) Smith Middle School
- 9) Tryon Hills Pre-K Center
- 10) Wilmore Elementary School
- 11) Wilson Middle School

Note: As a result of a comprehensive district review in the fall 2010, Charlotte-Mecklenburg Schools decided to close eleven school buildings for the 2011-2012 school year. CMS expects that the closure of these facilities will streamline the district's operations and reduce operating costs. CMS plans to lease the vacant buildings, and is currently accepting proposals from interested parties. Pursuant to North Carolina GS 115C-518, the local board of county commissioners for the location of the property shall be afforded the first opportunity to obtain property that is no longer needed by the local board of education. The County's Real Estate Services Department has determined that there is no County use for the school buildings that will be vacated. By declining the right of first refusal, CMS will be allowed to proceed with leasing the above listed school facilities.

Commissioner Leake removed this item from Consent, in order to express her opposition.

(16) WAIVER OF COMPENSATION FOR APPOINTED BOARDS

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, and Pendergraph voting yes, to adopt a Resolution entitled "Resolution Authorizing Waiver Of Compensation" which will allow persons appointed to boards that have compensation to waive receiving compensation.

Commissioner Leake removed this item from Consent for clarification. County Attorney Bethune addressed the origin of this matter.

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

ADJOURNMENT

Motion was made by Commissioner Cogdell, seconded by Commissioner Leake and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake and Pendergraph voting yes, that there being no further business to come before the Board that the meeting be adjourned at 8:53 p.m.

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Janice S. Paige, Clerk

Jim Pendergraph, Vice-Chairman