

**MINUTES OF MECKLENBURG COUNTY BOARD OF COMMISSIONERS**

**SEPTEMBER 18, 2007**

**5:00 P.M.**

**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, September, 18, 2007.

**ATTENDANCE**

**Present:** Chairman Jennifer Roberts and Commissioners Karen Bentley, J. Daniel Bishop, H. Parks Helms, Bill James, Norman A. Mitchell, Sr., Dan Ramirez and Valerie C. Woodard  
County Manager Harry L. Jones, Sr.  
County Attorney Marvin A. Bethune  
Clerk to the Board Janice S. Paige

**Absent:** Commissioner Dumont Clarke

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**-INFORMAL SESSION-**

*Commissioner Woodard was 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 matters below were addressed.*

**(1A) STAFF BRIEFINGS – HOUSING AUTHORITY MIXED INCOME DEVELOPMENTS**

The Board received a briefing from Finance Director Dena Diorio regarding Housing Authority Mixed Income Developments and specifically the Charlotte Housing Authority (CHA).

*Commissioner Woodard entered the meeting during this time.*

The following was noted:

- Under North Carolina General Statutes, local Housing Authorities are tax-exempt organizations. However, the U.S. Department of Housing and Urban Development requires local housing authorities to enter into payment-in-lieu-of-taxes (PILOT) agreements, which in the case of the CHA, are negotiated amounts agreed upon by the County and the City of Charlotte. The General Statutes do permit housing authorities to make PILOTs on properties owned by the Authority.
- The PILOT agreements between the CHA, the City and the County allow the CHA to pay the lower of 10 percent of the shelter rent (total rents minus utilities) for housing development properties that it owns or the billed property taxes. As a result of the CHA's involvement, the development agreements for First Ward Place, Arbor Glen Phases 1, 2 and 3 and the Park at Oaklawn included provisions that allowed the payment

of PILOTs instead of property taxes. For the past five years, the CHA has made PILOT payments totaling \$321,882. The land for these projects is owned by CHA. The buildings are owned by LLCs that include the CHA as a partner with the project developer and therefore are not exempt from property tax which has resulted in a billing oversight for the taxes on these properties. Thus, the land is tax exempt but not the structures.

- It was originally thought that the CHA would own the structures, but lease them to the LLCs but this is not the case.
- The taxes owed on the structures is \$1,432,133 over a five year period.
- CHA is requesting a grant in the amount of \$1,432,133 for their programs to continue to provide affordable housing for County residents.
- Currently the City of Charlotte has granted back to these developments in the amount of \$744,000 and the CHA would like the County to do the same.
- There are also PILOT payments (\$317,085) due to the County and with that amount plus the amount for the taxes owed, the cost for the County would be \$808,868.
- To force these developments to pay the back taxes may put them in a negative cash flow position.
- Staff was initially going to ask the Board to
  - Recognize \$1,432,133 in prior years tax revenue for the Charlotte Housing Authority (CHA) Mixed Income Developments.
  - Appropriate up to \$1,432,133 to the Charlotte Housing Authority as partner in five mixed income affordable housing developments.
  - Direct staff to collaborate with CHA and the City to develop an alternative agreement to address PILOT-like payments for mixed income affordable housing developments.

Staff instead informed the Board that additional time is needed to review this matter because there may be other properties that this may be applicable to as well.

Staff will report back at a later date, meanwhile the Board needs to decide what it wants to do about the prior taxes, if anything, and going forward what would the County like to do about future taxes.

Comments:

Commissioner James asked for clarification about the flow of the money, which was explained.

Commissioner Bishop asked what authority the tax collector has to stall on collecting taxes. *The response was none.*

Commissioner Helms said he feels in light of the history of this matter, the County should approve a grant as requested by the CHA, but moving forward it needs to be clear on what's to take place.

Commissioner Ramirez asked what prompted the discovery of this matter, which was explained.

Commissioner James said staff should take the time to review this matter to make sure everything has been accounted for.

It was noted again that staff would report back.

No action was taken or required at this time.

*A handout provided by Director Diorio answering questions regarding the PILOT Program for Housing Authority Mixed Income Developments is on file with the Clerk to the Board.*

**(2A, B) CLOSED SESSION – A) LAND ACQUISITION, B) CONSULT WITH ATTORNEY**

Prior to going into Closed Session Attorney Bethune announced that the Land Acquisition had to do with Tax Parcel 229-041-07 and Tax Parcel 229-041-30 both located off North Community House Road and Bryant Farms Road.

It was also announced that it would not be necessary for the Board to go into Closed Session to Consult with the Attorney.

Motion was made by Commissioner James, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodward voting yes, to go into Closed Session to discuss Land Acquisition.

*The Board went into Closed Session at 6:03 p.m. and came back into Open Session at 6:10 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 8 and 15.

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

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**-FORMAL SESSION-**

*Invocation was given by Commissioner Roberts, 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) FAMILY DAY**

Motion was made by Commissioner Bentley, seconded by Commissioner Ramirez and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to adopt a proclamation designating September 24, 2007 as Family Day - A Day to Eat Dinner With Your Children.

*The proclamation was read by Commissioner Bentley.*

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

**(1B) BIG SWEEP**

Motion was made by Commissioner Helms, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to adopt a joint proclamation designating October 6, 2007 as Big Sweep Day in Charlotte and Mecklenburg County.

*The Proclamation was read by Commissioner Helms and received by Erin Oliverio with Water Quality.*

*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:

Rev. Willie Simpson addressed the enforcement of laws with respect to Indecent Exposure. Rev. Simpson said the wearing of one's pants below the hips by the young generation is a form of indecent exposure. Rev. Simpson said something needs to be done to address this problem. Rev. Simpson said on a separate matter, he's heard that school is scheduled for Good Friday, which he said is a mistake. Rev. Simpson said this day needs to be honored.

James Bensman addressed Transit/Schools/Redistricting. Mr. Bensman said he supports the school bonds but questions the need to pay \$57 million for a high school. He also asked the Board to give thought to what's going to be in the TIF (tax increment financing) as it relates to transit. Lastly, he asked that consideration be given to looking at whether or not it's time for redistricting to occur because of the increase in population in the northern part of the County. He asked also that consideration be given to limiting terms of office.

Blanche Penn with Winners Plus addressed the STAR (Students Together Against Recklessness) Program, which is a program for youth. Ms. Penn announced the performance of a play by STAR scheduled for September 30 at 4:00 p.m. at E.E. Waddell High School.

Rico Ray addressed the sale of the Hal Marshall Center and asked was it too late for him to bid. Mr. Ray also mentioned that he had expressed interest in developing the Hal Marshall Center years ago but never received a response. *Attorney Bethune informed Mr. Ray that the time had expired for receiving upset bids.*

Martin Davis addressed Social Services Director Richard Jacobsen's pending new position with the Institute for Social Capital at the University of N.C. at Charlotte. Mr. Davis said Director Jacobsen should be treated as any other employee that can no longer perform at capacity. He questioned why Director Jacobsen would continue to keep his current salary.

## **(3A) APPOINTMENTS**

### **NOMINATIONS/REAPPOINTMENTS**

### **ENGINEERS AND SURVEYORS SELECTION COMMITTEE**

Motion was made by Commissioner Helms, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to reappoint Edward Elliott to the Engineers and Surveyors Selection Committee for a three-year term expiring September 30, 2010.

### **INDUSTRIAL FACILITIES & POLLUTION CONTROL FINANCING AUTHORITY**

Commissioner Helms nominated Rick Sanderson for appointment consideration for the Industrial Facilities and Pollution Control Financing Authority.

*Note: The appointment will occur on October 2, 2007.*

### **MOUNTAIN ISLAND LAKE MARINE COMMISSION**

Motion was made by Commissioner Helms, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to reappoint Tim Bishop to the Mountain Island Lake Marine Commission for a three-year term expiring September 30, 2010.

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

Motion was made by Commissioner Helms, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to reappoint Peggy McClain to the Nursing Home Community Advisory Committee for a three-year term expiring August 30, 2010.

Motion was made by Commissioner Helms, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to waive the Board's term limit policy and reappointment Peggy Quinn to the Nursing Home Community Advisory Committee for a three-year term expiring September 30, 2010.

*It was noted that Ms. Quinn is the current chairperson of the committee and is very active and desires to continue her service.*

Commissioner Helms nominated all applicants for appointment consideration to the Nursing Home Community Advisory Committee. They are: Jeffrey Giddens, Delia Holder, Jenita Hooks, Charles Jackson, and Joann Yandle.

*Note: Appointments will occur on October 2, 2007.*

### **PARK AND RECREATION COMMISSION**

Commissioner James nominated the following persons for appointment consideration to the Park and Recreation Commission: David Morgan, Thomas O'Brien, Kirkwood Otey, and Owen Sutkowski.

*Note: An appointment will occur on October 2, 2007.*

### **WASTE MANAGEMENT ADVISORY BOARD**

Motion was made by Commissioner Helms, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to reappoint Charles Rogers to the Waste Management Advisory Board for a three-year term expiring October 30, 2010.

### **(3B) ZONING BOARD OF ADJUSTMENT (ETJ)**

Motion was made by Commissioner Bishop, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to appoint Michael T. Knotts to the City of Charlotte's Zoning Board of Adjustment as the City's extraterritorial jurisdiction (ETJ) representative for a three-year term expiring September 30, 2010.

### **PUBLIC HEARINGS**

#### **(4A) ROAD ABANDONMENT AND CLOSING – TOM SHORT ROAD**

Motion was made by Commissioner Helms, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to open a public hearing to hear citizen's comments on the proposed abandonment and closing of two unused sections of Tom Short Road (SR# 5700) totaling 0.10 miles located through the Stone Creek Ranch Subdivision near the intersection of I-485 and Providence Road.

No one appeared to speak.

Motion was made by Commissioner Helms, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to close the public hearing on the proposed abandonment and closing of two unused sections of Tom Short Road (SR# 5700) totaling 0.10 miles located through the Stone Creek Ranch Subdivision near the intersection of I-485 and Providence Road; and approve the Order for closing these portions of roadway and their right-of way.

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

**(4B) ROAD ABANDONMENT AND CLOSING – LAWATHER ROAD**

Motion was made by Commissioner James, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to open a public hearing to hear citizen's comments on the proposed abandonment and closing of a 0.25 mile section of Lawther Road (SR# 2447) located off Huntersville-Concord Road.

No one appeared to speak.

Motion was made by Commissioner James, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to close the public hearing on the proposed abandonment and closing of a 0.25 mile section of Lawther Road (SR# 2447) located off Huntersville-Concord Road; and approve the Order for closing this portion of roadway and its right-of way.

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

**(4C) ROAD ABANDONMENT AND CLOSING – BERRYHILL ROAD**

Motion was made by Commissioner Bishop, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to open a public hearing to hear citizen's comments on the proposed abandonment and closing of a 0.05 mile section of Berryhill Road (SR# 1198) located south off the intersection of I-485 and Wilkinson Boulevard.

No one appeared to speak.

Motion was made by Commissioner Bishop, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to the close public hearing on the proposed abandonment and closing of a 0.05 mile section of Berryhill Road (SR# 1198) located south off the intersection of I-485 and Wilkinson Boulevard; and approve the Order for closing this portion of roadway and its right-of-way.

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

**(5) ADVISORY COMMITTEE REPORTS - NONE**

**(6) MANAGER’S REPORT – WESTMORELAND ATHLETIC COMPLEX**

County Manager Jones and Attorney Bethune addressed a request recently received from the Town of Cornelius with respect to the Westmoreland Athletic Complex as it relates to a change in the development plan.

*Background:*

- *The Town of Cornelius requested the County acquire and subsequently lease to the Town, properties for the development and management of an athletic complex. The parcels are adjacent to the proposed reconfigured boundaries of Robbins Park.*
- *In December of 2006 the Board approved the purchase of Tax Parcels 005-071-18 (+/- 14.37 acres) and 005-071-66 (+/- 4.831 acres) for \$1,567,500 from Westmoreland Athletic Complex, LLC, which has been done. The County Manager was also authorized to negotiate and execute a 40-year lease with the Town of Cornelius for development and management of the site as an athletic complex.*
- *It was stated by Cornelius that the construction of the complex was estimated to cost \$3.5 million and that Westmoreland Athletic Complex, LLC (WAC) pledged up to \$1.5 million provided the Town of Cornelius contributed the additional funding needed to construct the facility within twelve months.*
- *The Town of Cornelius submitted a grant application to the N.C. Park and Recreation Trust Fund to assist with the funding and subsequently received a grant in the amount of \$500,000.*
- *The Town recently informed the County that they needed the lease agreement signed by the end of September or they would lose the grant.*
- *County staff informed the Town of Cornelius that in order to move forward with the lease, a copy of the agreement between the Town of Cornelius and the entity that would be operating the facility was needed. Staff was informed that agreement was still being negotiated. Staff was also informed of revised development plan, which was not going to occur within a year, but would be phased in.*
- *Staff felt that since this phased in approach was not what was originally presented to the Board, that the Board needed to be aware of these changes before the County Manager moves forward with a lease agreement. Staff wants to be sure that the Board is still comfortable with executing the 40-year lease and with the fact that construction will be phased in basically over six years, rather than within one year.*
- *It was also noted that County Park and Recreation staff were disappointed about the delay but are supportive of the request in light of the fact that construction costs are higher than anticipated by the Town of Cornelius; also Westmoreland Athletic Complex, LLC is not able to come up with the additional \$720,000, and the Town of Cornelius is not sure where they’re going to come up with their \$1.5 million.*

Attorney Bethune said the Board has three options with respect to this matter: 1) take no action, 2) concur with the proposed changes by the Town of Cornelius, or 3) inform the County Manager that the Board is not supportive of him signing the lease based on the new phasing plan.

County Manager Jones said he was not comfortable at this time making a recommendation to the Board with respect to the Town of Cornelius’ latest request. He asked the Board to defer consideration until he and staff can review this matter more closely and schedule a Special meeting for Board consideration by the end of the month.

Commissioner Bentley asked for clarification on the reason for the phased in approach. Attorney Bethune said staff was told by Cornelius that it was because of increased costs but he’s not sure

if that's accurate. Attorney Bethune said he thinks it's a matter of the inability of pulling together all of the money as quickly as originally anticipated to fund the full \$3.5 million.

Commissioner Bentley asked had the Town of Cornelius Board of Commissioners voted and committed to the \$1.5 million needed by Cornelius. *The response was that the Town Board has voted to authorized the execution of a lease that has this phasing plan as an attachment and they voted to commit to this phasing plan, which is not a commitment of how they're going to come up with the additional \$1.5 million that's needed.*

Commissioner Bentley asked what's the County's risk in all of this. *The response was that the County would have a piece of land that it has no current plans for.*

Commissioners Mitchell and Ramirez said they were not comfortable with moving forward at this time and would rather give staff more time to analyze this new proposal.

Commissioner James asked for clarification on what changed about the proposal. *The response was that it was originally to have been developed in one phase with a private entity (WAC) to manage and maintain the park for the Town of Cornelius and they were to put in \$1.5 million. Now, in Phase 1 the Town is going to manage it and WAC is only putting in half of the money and when WAC comes up with the other half of its money and the Town comes up with an additional \$1.5, WAC will then operate and maintain the facility. It was noted also that the original plan may have addressed a batting cage but it's not shown in the new proposal.*

Commissioner Bishop suggested continuing discussion of this matter at the Board's Special Meeting scheduled for September 25, 2007.

Attorney Bethune advised the Board that it could recess this meeting until 5:00 p.m. on September 25, 2007 prior to meeting with the Library Board of Trustees but at that location, which is ImaginOn.

It was the consensus of the Board to defer making a decision at this time and to continue discussion of the matter at the Board's upcoming meeting on September 25, 2007 as suggested by Attorney Bethune.

## **(2A) LAND EXCHANGE WITH YMCA AT BALLANTYNE PARK - CLOSED SESSION**

Motion was made by Commissioner Ramirez, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to adopt a Resolution of Intent to exchange a 1.8972-acre portion of County Tax Parcel 229-041-07 for a 1.8972-acre portion of Young Men's Christian Association of Greater Charlotte Tax Parcel 229-041-30 both located off North Community House Road and Bryant Farms Road in south Charlotte at the Ballantyne Park site.

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

## **CONSENT ITEMS**

Motion was made by Commissioner Ramirez, seconded by Commissioner Woodard and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts and Woodard voting yes, to approve the following item (s) with the exception of Items 8 and 15 to be voted upon separately:

## **(7) APPROVAL OF MINUTES**

Approve minutes of Regular Meeting held September 5, 2007, Special Meetings held July 10, 2007, June 27, 2007, & May 8, 2007 and Closed Session meeting held September 5, 2007 and

July 10, 2007.

**(9) REEDY CREEK GREENWAY DONATION**

Accept the donation of 11.045 acres included in Tax Parcels 111-011-98 and 111-012-99, located off Gold Pan Road on Reedy Creek, from the H.C. Grimmer Development Company, Inc.

**(10) HAZARD MITIGATION PROGRAM – FLOODPLAIN ACQUISITION**

1. Accept the “Offer Of Sale Of Land” from Clarence E. Fraley, owner of 1039 Andrill Terrace for \$38,200.
2. Accept the “Offer Of Sale Of Land” from Clarence E. Fraley, owner of 1052 Andrill Terrace for \$38,200.
3. Accept the “Offer Of Sale Of Land” from Clarence E. Fraley, owner of 1058 Andrill Terrace for \$38,200.
4. Authorize the Charlotte-Mecklenburg Police and Fire Departments to utilize the structures for training exercises.

*Note: This is purchase of floodplain property under the Hazard Mitigation Program*

**(11) ABANDONMENT AND CLOSING – EXCESS RIGHT-OF-WAY OF OLD STEELE CREEK ROAD (OLD NC 160) – SET PUBLIC HEARING**

Adopt a resolution of intent to close and set a public hearing at 6:30 p.m. on October 16, 2007 to hear citizen’s comments on the abandonment and requested closing as a result of realignment of this section of roadway is the excess right-of-way of Old Steele Creek Road (Old NC 160) located at the intersection of York Road (NC 49).

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

**(12) EASTFIELD ROAD ROADWAY IMPROVEMENTS – ITEM WAS REMOVED**

**(13) WEST SUGAR CREEK ROAD ROADWAY IMPROVEMENTS**

Approve conveyance of +/- .64-acre from Tax Parcel 043-074-64 to the North Carolina Department of Transportation for right of way on West Sugar Creek Road.

**(14) AMENDMENTS TO CITY/COUNTY PARKING AGREEMENTS**

Adopt Resolution authorizing the County Manager to amend the Charlotte-Mecklenburg Government Center Contract and the Davidson Street Parking Deck Contract.

*Note: On July 10, 2007, the Board of Mecklenburg County Commissioners authorized the County Manager to execute a lease with the City of Charlotte for City space on the 5<sup>th</sup> Floor of the Charlotte-Mecklenburg Government Center to be leased to the Board of Education, and authorized several other leases to implement the agreement with the Board of Education for the County to acquire the Education Center. While negotiating the lease with the City of Charlotte for its portion of the 5<sup>th</sup> Floor of the Charlotte-Mecklenburg Government Center, it was determined that it would be necessary to amend the Parking Deck Contract to enable Board of Education employees who would have their offices on the 5<sup>th</sup> floor of the Government Center to be able to park in parking spaces allocated for County employees in the Parking Deck Contract, and to amend the Government Center Contract to provide for a revised allocation of parking spaces in the Sub-Plaza Level of the Charlotte-Mecklenburg Government Center to enable the*

*Superintendent of the Board of Education and other Board of Education staff members to park in this area.*

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

**(16) BUDGETARY ACTION – COURTHOUSE CONSTRUCTION**

Approve reallocation of \$168,000 to a capital line item for additional Courthouse construction expenditures.

**THIS CONCLUDED ITEMS APPROVED BY CONSENT**

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Commissioner Bishop asked to be excused from voting on and participating in the discussion of Item 8 – Award of Construction Contract for the Medical Examiner’s Office to avoid a conflict of interest.

Motion was made by Commissioner James, seconded by Commissioner Mitchell and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to excuse Commissioner Bishop from voting on and participating in the discussion of Item 8 – Award of Construction Contract for the Medical Examiner’s Office to avoid a conflict of interest.

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

**(8) AWARD OF CONSTRUCTION CONTRACT – MEDICAL EXAMINER’S OFFICE**

Motion was made by Commissioner James, seconded by Commissioner Mitchell and carried 7-0 with Commissioners Bentley, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, to award a construction contract to Edison Foard Inc. in the amount of \$5,495,900 for work on the Medical Examiners Office.

*Commissioner Bishop returned to the dais.*

**(15) AMENDMENTS TO CMS/COUNTY LAND SWAP INTERLOCAL AGREEMENT**

Motion was made by Commissioner Helms, seconded by Commissioner Mitchell and carried 7-1 with Commissioners Bentley, Bishop, Helms, Mitchell, Ramirez, Roberts, and Woodard voting yes and Commissioner James voting no, to adopt a Resolution authorizing the Chairman to amend the Land Swap Interlocal Agreement with the Charlotte-Mecklenburg Board of Education.

**MECKLENBURG COUNTY  
BOARD OF COMMISSIONERS**

**RESOLUTION  
AUTHORIZING THE FIRST AMENDMENT TO  
BROOKLYN VILLAGE  
INTERLOCAL COOPERATION AGREEMENT**

*WHEREAS, Mecklenburg County (“County”) and The Charlotte-Mecklenburg Board of Education (“Board of Education”) entered into the Brooklyn Village Interlocal Cooperation Agreement with respect to the transfer of the Board of Education Office Building Site to the County which referenced that the County would be doing an exchange of some of the property obtained from the Board of Education with Cornerstone Real Estate*

Advisors; and

**WHEREAS**, the County has determined that it may structure that real estate transaction somewhat differently than an exchange; and

**WHEREAS**, the County has determined that it would be appropriate to amend the Brooklyn Village Interlocal Cooperation Agreement to remove certain references to an exchange of property, and to provide that any failure of the Board of Education to vacate the Education Center by the end of the term of the lease would not require it indemnify the County or any future owner of the Education Center property; now, therefore be it

**RESOLVED** by the Mecklenburg Board of County Commissioners that the First Amendment to the Brooklyn Village Interlocal Cooperation Agreement in the form provided to the Board is approved, the Chairman of the Board of County Commissioners is hereby authorized to execute such Amendment with any minor changes as might later be determined to be necessary, and this Resolution shall be spread upon its minutes.

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

Note: Commissioner James removed this item from Consent in order to vote in opposition.

## STAFF REPORTS AND REQUESTS

### (17) NORTH CORRIDOR COMMUTER RAIL PROJECT FINANCING STRATEGY

The Board received as information the North Corridor Commuter Rail Project Financing Strategy, approved for continued development by the Metropolitan Transit Commission.

David Carol with Charlotte Area Transit System (CATS) presented the report.

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

Comments:

Commissioner Woodard with respect to the proposed repeal of the ½ cent Sales Tax questioned the validity of some of the information that's being provided to the public and what she referred to as "scare tactics" with respect to the consequences of a repeal of the ½ cent Sales Tax. Commissioner Woodard also said she feels that the make up of the Metropolitan Transit Commission (MTC) is not representative of the community.

Commissioner Bentley commented that there are alternate routes, such as Beatties Ford Road, I-77, Hwy. 21, Hwy. 16, and Hwy. 115 if the North Corridor Rail is not built. *The response was that these routes are already congested.*

Commissioner Bentley questioned the ridership numbers. *The response centered on the difference between commuter rail and light rail. It was also noted that this will not eliminate congestion in the North Corridor because most people will continue to use their car; but rather, it will provide an alternative to those living in a transit oriented development and those that will have access to the train, possibly 4600 people a day, to take the train to and from north to south.*

Commissioner Bentley said there are other less expensive alternatives.

Martin Davis spoke in opposition to the North Corridor Commuter Rail Project. Mr. Davis said what's needed are more and improved roads.

Commissioner Bishop said he was in favor of the repeal of the ½ cent Sales Tax.

Commissioner Bishop said he doesn't think most people, nor does he, would disagree with the importance of having an effective bus transportation system, but he doesn't support the North Corridor project. Commissioner Bishop said he can't see spending \$9 billion for a 2%-3% ridership.

Commissioner Helms said it doesn't take a repeal of the ½ cent Sales Tax in order to decide that all of the revenue should be used for buses or other transportation issues. Commissioner Helms said that's a decision Charlotte City Council and the MTC can make.

Commissioner Helms said "why should we give up \$70 million in a revenue stream that was voted on by the public, who understood the concept."

Commissioner James with respect to funding CATS suggested establishing a Special Taxing District that would be within a ½ mile radius of a transit station. Commissioner James said although he's suggesting a Special Taxing District, he's not supportive of any new taxes.

Commissioner James said he feels the only people that should be taxed with respect to light rail are those that use it, rather than taxing everyone.

Chairman Roberts said she was supportive of the ½ cent Sales Tax. Chairman Roberts said she believes it has worked and that it's still in motion in terms of the decisions that are being made for future light rail and future bus service.

Chairman Roberts said although the County has the taxing authority, Charlotte City Council runs the transit system. Chairman Roberts said she feels all of the concerned bodies can collaborate and work together and that as the Board's representative on the MTC, she would be happy to take the concerns that have been expressed to the MTC.

Motion was made by Commissioner Bishop, seconded by Commissioner Bentley and failed 4-4 with Commissioners Bentley, Bishop, James, and Ramirez voting yes and Commissioners Helms, Mitchell, Roberts, and Woodard voting no, that this Board of County Commissioners resolves that if the voters repeal the ½ cent Sales Tax, that the Board of County Commissioners would place on the next ballot a referendum to institute a ½ cent Sales Tax for transit that would be specifically restricted to uses for the bus system and other mass transit purposes, including operation of the South Corridor Light Rail line, however, restricted so that it could not be used for the construction of additional light rail.

Prior to the above vote and with respect to Commissioner Bishop's motion, Commissioner Mitchell asked Attorney Bethune wouldn't the Board have to go back to the General Assembly to get authorization for another ½ cent sales tax.

Attorney Bethune said he has spoken with Mack McCarley and they believe the legislation as written would give the Board, if it's repealed, the ability to put it back on for another referendum. Attorney Bethune said it could be done.

Attorney Bethune said the limitation on the use of those funds by law would be the current limitation. It would not be any narrower than what it was. Further, that to achieve what Commissioner Bishop is talking about, the Board of Commissioners, being the party that levies the tax would have to say to the City Council or the Charlotte Area Transit System (CATS), "we're going to let you have this money but you can only have it for these purposes, which could be a subset of what's authorized by law." Attorney Bethune said it could not be expanded but it could be contracted. Attorney Bethune said as long as the Board of Commissioners was of that mind, they could put restraints on how the money is used by City Council or by CATS.

Attorney Bethune also noted that the current tax was subject to an interlocal agreement with the City and that as long as the Board has that interlocal agreement with the City, the money goes to the City of Charlotte and they can spend it for any purpose the interlocal agreement allows, which is basically any purpose allowed by the legislation. Further, that to achieve the goal that Commissioner Bishop wants the scenario would run something like this, he believes. 1) The public repeals it. 2) The Board of Commissioners withdraws from the interlocal agreement with the City. 3) The Board of Commissioners puts a new item before the public as a ballot for transit, public transportation, still subject to the exact limitations by law which would allow it to be used for transit. 4) The public approves it. 5) Then the Board of Commissioners says to City Council, if you want this money you have to enter into a new interlocal agreement and in this interlocal agreement these are the funding limitations.

Attorney Bethune said to do it now would require the consent of the other parties to the interlocal agreement because the current interlocal agreement requires that money to be used and it basically says if you withdraw your money you have to find another way to replace it. So the current agreement would have to go away, to create a new funding limitation. Further, that City Council themselves could voluntarily decide that when they fund a budget for CATS that they're not going to let any money be used for 'x' purpose.

Attorney Bethune reminded the Board that it amended its interlocal agreement with the City to remove itself from any budgetary approval of CATS budget. It's now subject to City Council approval only.

**COUNTY COMMISSIONERS REPORTS AND REQUESTS - NONE**

**COMMISSION COMMENTS - NONE**

**ADJOURNMENT**

Motion was made by Commissioner Woodard, seconded by Commissioner Ramirez and unanimously carried with Commissioners Bentley, Bishop, Helms, James, Mitchell, Ramirez, Roberts, and Woodard voting yes, that there being no further business to come before the Board that the meeting be recessed at 10:00 p.m. and reconvened at 5:00 p.m. on Tuesday, September 25, 2007 at ImaginON located at 300 East Seventh Street.

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Janice S. Paige, Clerk

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Jennifer Roberts, Chairman