

APRIL 5, 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 5, 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-

Commissioners Clarke, Cooksey and James 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 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, 13, 14, 17, 20, 21, and 22.

(2A) STAFF BRIEFINGS - TEAM BUILDING PROPOSAL – CHAIRMAN JENNIFER ROBERTS

The Board received a briefing from Mike Whitehead, with Whitehead Associates, Inc. and The Center for Intentional Leadership regarding a team building/team development workshop that he would like to provide to the Board.

Commissioners James and Clarke entered the meeting.

Mr. Whitehead said what he was proposing was not the typical team building workshop that most people were accustomed to. Mr. Whitehead said the focus would be on the working relationships and climate of the board. It would be a one day retreat, the objective of which would be to “create a high-performing commission body that is genuinely aligned and committed to its vision, mission and values-and which serves its citizens at the highest level. A respectful, transparent environment, open dialogue and stronger relationships within the commission will have a considerable positive impact on the city and its citizens.”

Mr. Whitehead reviewed the focus areas, outcomes, components of the process, and the agreement between his company and the County.

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Mr. Whitehead said he would provide his services pro-bono as a public service, contingent on members agreeing to participate fully. He said certain expenses, however, would be billed to the County.

Comments

Chairman Roberts spoke in support of the offer. Chairman Roberts said if the Board decided to move forward, a decision would need to be made regarding whether or not the County Manager and his executive team should also participate.

Commissioner Clarke said he didn't doubt that this would be useful for the Board but questioned whether members have the time to commit to this at the present time. Commissioner Clarke said he would not.

Commissioners Pendergraph and Bentley concurred with Commissioner Clarke regarding Board members being available to participate.

Commissioner Cogdell said perhaps the Board should consider this after the budget process.

Commissioner James spoke in opposition of the proposal. Commissioner James said he failed to see the value of doing this. Commissioner James said the things that the Board has experienced in carrying out its duties, was typical for politicians.

Commissioner Leake questioned some of the comments made regarding why this was needed.

Commissioner Dunlap said he was not opposed.

Commissioner Clarke suggested the Board take no action and that Board members be allowed more time to think about this.

It was the consensus of the Board, not to take any action at this time.

Chairman Roberts thanked Mr. Whitehead for his presentation and offer.

Mr. Whitehead said whenever the Board was ready, his offer still stood.

(3A) CLOSED SESSION - CONSULT WITH ATTORNEY

Prior to going into Closed Session, Attorney Bethune announced the following Consult with Attorney matters 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; Jerry Alan Reese vs. Mecklenburg County and Brooklyn Village LLC.; and Measurement, Inc. vs. Mecklenburg County.

Motion was made by Commissioner Dunlap, seconded by Commissioner Clarke and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to go into Closed Session for the following purpose: Consult with Attorney.

The Board went into Closed Session at 5:49 p.m. and came back into Open Session at 5:55 p.m.

Chairman Roberts was absent when the Board came back into Open Session. She left the meeting during Closed Session and was absent until noted in the minutes.

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Vice-Chairman Pendergraph presided until noted in the minutes.

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

-FORMAL SESSION-

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

Note: Three-year old Jayla Jacobs lead the Board in the Pledge of Allegiance. She's the daughter of Frank & Kim Jacobs. She was invited by Commissioner Leake.

CITIZEN PARTICIPATION

(1) AWARDS/RECOGNITION – NONE

(2) PUBLIC APPEARANCE

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

Chairman Roberts returned to the meeting and presided for the remainder of the meeting.

Pamela Lue-hing of Legacy Partners, LLC, Alicia Verdun of Verdun Consulting, Kim Jacobs of Daily Balance with Kim Jacobs (a talk show) and United Maintenance Services, and Yvonne McJeters of Healing, Hope, Hands & Heart Outreach Ministries, Inc. appeared on behalf of the Small Business Consortium. It was noted by Ms. Lue-hing that the Small Business Consortium was established by Commissioner Leake as a way to bridge the gap between City and County contractual opportunities and small businesses. Further, that the purpose of the Consortium was to educate, collaborate, and communicate those opportunities. They each addressed their respective business and encouraged other small businesses to become a part of the consortium.

Copies of their business literature is on file with the Clerk to the Board.

Michelle O'Reilly said she was appearing in response to a proposed grant for Bright Beginnings that the Board discussed in February. She presented a petition with 1,671 signatures, in support of funding Bright Beginnings.

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

APPOINTMENTS

(3A) APPOINTMENTS

BOARD OF EQUALIZATION AND REVIEW

Motion was made by Commissioner Dunlap, seconded by Commissioner Bentley and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph, and Roberts voting yes, to appoint the following nominees to the Board of Equalization and Review for three-year terms expiring April 7, 2014: Parker Black, David Guilford, Keith Horton, Harvey

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Jeffers, Gregory Lee, and Alfred Tucker; and appoint John Deas to fill an unexpired term expiring April 7, 2012.

Note: Mr. Deas is replacing Jack Morgan.

Note: The appointments were made based on the recommendation received from the Board's Ad Hoc Appointment Committee.

CHARLOTTE-MECKLENBURG COMMUNITY RELATIONS COMMITTEE

The vote was taken on the following nominees for appointment to the Charlotte-Mecklenburg Community Relations Committee:

Bolyn McClung	Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph, and Roberts
	<i>Voting Ceased</i>
Bill Schreiner	
Andrew Smith	
Doug Wilson	

Chairman Roberts announced the appointment of Bolyn McClung to the Charlotte-Mecklenburg Community Relations Committee to fill an unexpired term expiring July 2, 2011.

Note: He is replacing Owen Sutkowski.

ENGINEERS AND SURVEYORS SELECTION COMMITTEE

Motion was made by Commissioner Cogdell, seconded by Commissioner Bentley and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to appoint Edward Elliott to the Engineers and Surveyors Selection Committee for a three-year term expiring September 30, 2013.

(4) PUBLIC HEARINGS – NONE

(5) ADVISORY COMMITTEE REPORTS – NONE

MANAGER'S REPORT

(6A) BUDGET UPDATE

The Board received updates from Finance Director Dena Diorio and Budget/Management Director Hyong Yi. The following was topics were covered:

- Total Revenues
- Property Tax
- Sales Tax
- Investment Income

Director Diorio said revenues were coming in as expected and that to date staff doesn't anticipate any issues between now and the end of the fiscal year.

Comments

Commissioner Leake asked about the impact of the CIAA Tournament held in February. *Director Diorio said it would be May before the County finds out the impact of the tournament on sales tax. Director Diorio clarified that the sales tax report would only show the amount of sales tax received by the County. She said the report is not broken out by a specific event. Thus, you won't be able to tell the specific impact of the tournament on sales tax.*

Director Yi addressed

- Reducing Expenses Consistent with New Revenue Levels

Commissioner Cooksey entered the meeting.

- Redesigning and Reshaping Mecklenburg County

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

(6B) PRESBYTERIAN HEALTHCARE – COMMUNITY INVOLVEMENT

The Board received an overview of Presbyterian Healthcare and their Financial Assistance programs for the uninsured and their community involvement. Mark Billings, President and CEO gave the overview. He was assisted by Jim Tobalski Senior Vice-President.

Mr. Billings informed the Board that whatever is earmarked for Presbyterian by the County for indigent care, Presbyterian will return 50% of that back to the County to use at its discretion.

Mr. Billings said Presbyterian feels it should be at risk also for some of the cuts the County has spoken about.

Mr. Billings thanked the Board for allowing Presbyterian the opportunity to come and share.

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

Comments

Commissioner Pendergraph asked about the formula for indigent care with respect to Presbyterian Healthcare.

General Manager Michelle Lancaster said the amount the County paid for indigent care this fiscal year was \$16,850,000 and of that Presbyterian HealthCare probably received about a \$1 million.

Commissioner Pendergraph asked when was the formula developed. *The response was 1994.*

Commissioner Pendergraph asked why was there such a big difference between what's received by Presbyterian Healthcare and Carolinas Medical Center. *General Manager Lancaster said the formula was complicated, but it's based on the percentage of money that's spent toward the indigent with the community clinics, and Carolinas Healthcare getting the first piece of that formula. She said theirs was a larger investment in community clinics.*

Commissioner Leake requested the 10 zip codes that receive services via the Presbyterian Community Care Cruiser and the schedule for going into those neighborhoods. *Mr. Billings said he would provide that information.*

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Commissioner Leake asked why was there a \$3 parking fee at Presbyterian Healthcare's downtown facility, when there's no fee charged at the other locations. *Mr. Billings said he would go back and take a look at the parking issue, but he believes it's a deterrent to keep people who work somewhere else from parking there and taking spots from patients.*

Commissioner Cogdell requested data on the number of indigent emergency room patients seen by Presbyterian Healthcare.

Commissioner Clarke asked about Presbyterian Healthcare's sources of revenue, which was addressed.

This concluded the discussion. The above is not inclusive of every comment but is a summary.

Chairman Roberts on behalf of the Board thanked Presbyterian officials for coming and making a presentation to the Board.

STAFF REPORTS AND REQUESTS

(7A) SOLID WASTE DISPOSAL OPTIONS

The Board received an update from Director of Land Use & Environmental Services Cary Saul on solid waste disposal options.

Note: All residential solid waste collected by the County and its Solid Waste Interlocal Agreement partners is currently disposed in the Republic Speedway Landfill located in Concord, Cabarrus County. The Term of the current contract between the County and the Speedway Landfill ends on June 30, 2012. No final decisions have been made on providing disposal capacity for the approximate 370,000 tons of residential solid waste handled annually after that date, but multiple disposal options remain.

As amended by the BOCC on June 1, 2010, the Mecklenburg County Ten-Year Solid Waste Management Plan 2009-2019 includes three options for the long-term disposal of the County's residential solid waste. The first of these is the County-owned Foxhole Landfill, permitted to receive municipal solid waste (MSW), including residential waste, but currently only receiving construction and demolition waste (C&D). The second option is a new multi-year contract with the Republic Speedway Landfill. Finally, there is the ReVenture Project, currently in development and seeking a long-term (20-year) contract with Mecklenburg County for the receipt of the residential waste that the County controls through the Solid Waste Interlocal Agreements with the seven (7) municipalities in the County.

Director Saul said discussion had taken place between staff and BFI Landfill about a one-year extension to the County's current agreement with them, since the deployment of the ReVenture Project was taking longer than anticipated.

Per Director Saul, BFI said they would be glad to discuss extending the existing contract for five years under similar terms and a one-year term extension under different terms than currently exist. To date, staff has not received a concrete proposal and will continue discussions.

Per Director Saul, in order for ReVenture to submit a complete application to the State for the processing facility for the waste, they have to designate where the residue and by-pass waste for that facility would be landfilled. ReVenture has been working with private landfills to get a long term deal for where the waste would go, but they've not been successful. Thus, ReVenture was asking the County if it would authorize them to state that the Foxhole Landfill would be a potential disposal point for the ReVenture Project.

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Director Saul said this authorization would not bind the County to using the Foxhole landfill. He said in order for the ReVenture project to go forward, ReVenture would have to come back to the County with a detailed agreement for the County to contract with them for the disposal of their waste.

Comments

Commissioner James questioned why there hadn't been any discussion with the Foxhole landfill advisory group regarding this matter.

Director Saul said discussion had not occurred yet because the County was under a tight time schedule for making a decision. He said a meeting is held with the advisory group quarterly and that the next meeting was scheduled for April 25. At that time, these matters would be discussed. There would also be a presentation by ReVenture. It was noted that the advisory group has received the same information that's being presented to the Board.

Commissioner James shared concerns expressed to him from members of the Foxhole advisory group.

Director Saul said the agreement with GRACE (the advisory group) says the County would continue to work on long term and cost effective alternatives for municipal solid waste disposal through the private sector for the period following the termination of the BFI contract.

Director Saul said pursuing the ReVenture Project was doing exactly what the County told GRACE that it would do under the agreement. He said the County was trying to pursue long term disposal options which would allow the County to minimize the amount of waste to be put in the Foxhole landfill.

Commissioner James questioned why the County was paying for the evaluation study and not ReVenture. *Director Saul said it would be better for the County to contract with an independent consultant rather than have the project developer pay for a consultant's recommendation regarding their own project.*

Commissioner Cooksey about the amount of residential waste currently being landfilled and what it would be if the ReVenture Project moved forward, which was addressed.

Commissioner Cooksey asked about the cost difference for the County currently versus what it would be if the ReVenture Project moved forward, which was addressed.

Commissioner Cooksey asked about recycling proceeds, which was addressed.

Commissioner Clarke asked what happens if the County doesn't do the three actions being requested. *Director Saul the Board would be telling Republic Landfill that the County doesn't want to use the Foxhole Landfill or enter into an agreement with ReVenture, and therefore, would want Republic to give the County the best price they can as the only alternative for disposing of the County's solid waste.*

Commissioner Dunlap asked for clarification on the County's agreement with the neighborhood group that was in place, at that time, regarding the Foxhole landfill which was addressed.

Commissioner Pendergraph asked about capacity at Republic's landfill, which was addressed.

Commissioner Pendergraph asked about the timeframe for conducting the technical study. *Director Saul said staff believed a report would be back earlier fall.*

Commissioner Pendergraph asked would the fall be too late to act upon Actions 1 & 3, if Action2, the technical evaluation study, came back favorable. *Director Saul said there's no way*

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to have a landfill expansion ready on July 1, 2012 if the Board waits until the fall. Director Saul said staff would like to begin construction on the cell at the Foxhole landfill this summer.

Motion was made by Commissioner Pendergraph, seconded by Commissioner Dunlap, to

- 1)** Adopt a Capital Project Ordinance in the amount of \$15 million authorizing the funding, construction and equipment acquisition for Phase 2 of LUESA Solid Waste's Foxhole Landfill.
- 2)** Authorize and appropriate \$100,000 from the Solid Waste Enterprise Fund Balance to the FY 2011 Operating Budget for the purpose of performing an expert technical evaluation of the ReVenture Project.
- 3)** Authorize the developer of the ReVenture Project to include the County's Foxhole Landfill as the receiving landfill for residuals and by-pass waste in their Solid Waste Permit Application.

Commissioner Cogdell asked for clarification on Action 1 with respect to it being a capital project and was it under contemplation by the same group that's doing the capital prioritization. *The response was that it was in the 2009 CIP, all except for the equipment.*

Commissioner Cogdell asked was it correct that had the issuance of bonds in 2009 not been delayed it would have covered some portion of Phase 2. *Finance Director Diorio said this project was included in the 2009 CIP, but it was always anticipated that the project would be funded and considered a fee funded project out of the Solid Waste fund.*

Director Diorio said this project would not have any impact on the County's debt position and would not be used to calculate any of the County's debt ratios. She said it was specific to the Enterprise fund and is treated differently from general obligation bonds.

Commissioner Cogdell asked what would be the impact on the ReVenture Project if the Board didn't take action on Actions 1 & 3. *Director Saul said they could proceed without Action 1 but not Action 3, because they have to designate a disposal site for residue in their permit application, otherwise the state will consider it deficient and would not process it.*

Commissioner Cogdell asked was the County ReVenture's only viable option. *Director Saul said the County was the option they're considering because ReVenture has been unable to work out a deal with any other private sector landfill providers in the area.*

Director Saul said the reason ReVenture can't work out a deal with a private sector landfill was because the private landfill loses tonnage if that project moves forward.

Commissioner Bentley said ReVenture should not take part in the selection of a private technical consultant, nor should they contribute towards the cost of that study. She said it should be strictly independent of ReVenture.

Commissioner Bentley said she agreed with Commissioner James that the residents in the Foxhole landfill area should be given an opportunity for input. *Director Saul said staff planned to review all of the options with the neighborhood group at the quarterly meeting scheduled for April 25. They will also have ReVenture to discuss their project.*

Commissioner Bentley asked if the Board approved Action 1 and the meeting with the neighborhood isn't until April 25, wouldn't that make their input null and void. *Director Saul said no.*

Director Saul said the action that would make their opinion null and void would be if the group opposed it and two months from now staff came back with a contract with ReVenture and the

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Board approved it. Director Saul said waste would not go to the Foxhole landfill from ReVenture if the Board doesn't approve the ReVenture Project.

Director Saul said he was not asking the Board to support or approve the ReVenture Project tonight, but was asking that the Board not "kill it."

Commissioner Bentley asked if all of this moves forward and ReVenture was approved, when would ReVenture be operational. *Director Saul said on the processing facility, he would anticipate a year to a year and a half, but on the gasification plant, he doesn't know.*

Tom McKettrick with Forsite Development addressed the scheduling of the ReVenture Project. He said the fuel facility would probably be available July 2013. He said they anticipate having the waste-to-energy facility operational at the end of 2013.

Commissioner James said he felt ReVenture should pay for the study because from the County's perspective it should be treated as a plan review. Secondly, he doesn't think Action 1 was appropriate at this point because the County has not had discussions with the residents in the Foxhole landfill area.

The following persons spoke to this matter:

Bill Gupton on behalf of himself and not the Sierra Club, expressed concern for residents of the Foxhole landfill area not having an opportunity to provide input, prior to this matter being on the Board's agenda. Mr. Gupton said this matter was not discussed at the last meeting of the Waste Management Advisory Board. Mr. Gupton said he was disappointed in the entire process. He referenced concerns expressed by the Waste Management Advisory Board. He urged the Board to delay taking action on Action 1 and to hold a public hearing in order to give the residents in the Foxhole landfill area an opportunity for input.

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

Chris Diggs said the ReVenture solid waste option should be denied for the following reasons:

- ReVenture has inadequate experience, knowledge, and expertise in waste-to-energy.
- There are significant risks associated the proposed technologies.
- The ReVenture type facility does not exist in the U.S.

He asked the Board to put the community's health and welfare as its top priority and deny ReVenture as a solid waste option.

Commissioner Cogdell clarified for the public that these actions do not impact the County's operational budget. Thus, it's not a matter of the County deciding to invest in a landfill in lieu of funding something else that's important and critical to the community. .

Substitute motion was made by Commissioner Cooksey, seconded by Commissioner Cogdell, to

- 1) Adopt a Capital Project Ordinance in the amount of \$15 million authorizing the funding, construction and equipment acquisition for Phase 2 of LUESA Solid Waste's Foxhole Landfill.**
- 2) Authorize and appropriate \$100,000 from the Solid Waste Enterprise Fund Balance to the FY 2011 Operating Budget for the purpose of performing an expert technical evaluation of the ReVenture Project.**
- 3) Authorize the developer of the ReVenture Project to include the County's Foxhole Landfill as the receiving landfill for residuals and by-pass waste in their Solid Waste Permit Application.**

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4) Ask ReVenture to contribute \$50,000 towards the cost of the technical study as a good faith payment in exchange for the County approving Actions 1, 2, & 3, to help offset the County's cost and become a partner with the County in this process for the technical evaluation.

Note: Commissioner Cooksey said if the County did the study and decided that the ReVenture Project was not viable going forward, the County would be out of \$100,000, which is what the study would cost. He said ReVenture should share in the risk of going forward.

Commissioner Cooksey said the County wouldn't be giving up any right with respect to who to select for the study and would retain full discretion as to who got selected.

Chairman Roberts said the County's solid waste experts were advising the Board to keep the County's options open.

Chairman Roberts said the County should pay for the study because of the tremendous amount of concern that has been expressed regarding the ReVenture Project and to avoid any conflicts of interest.

Commissioner Leake asked Mr. McKittrick to respond to comments made regarding ReVenture's inexperience and its ability to make this happen successfully, which he did.

Mr. McKittrick said they appreciated all of the public input that's been received and expected for a project of this nature. He said they have secured their project financing partners for the entire project. Mr. McKittrick said they've put together a very sound team to ensure that the project moves forward in an environmentally sensitive way and in a way that minimizes risk for Mecklenburg County.

The vote was taken on the Substitute motion as follows:

Substitute motion was made by Commissioner Cooksey, seconded by Commissioner Cogdell and failed 7-2 with Commissioners Bentley, Clarke, Dunlap, James, Leake, Pendergraph and Roberts voting no and Commissioners Cogdell and Cooksey voting yes, to

- 1) Adopt a Capital Project Ordinance in the amount of \$15 million authorizing the funding, construction and equipment acquisition for Phase 2 of LUESA Solid Waste's Foxhole Landfill.
- 2) Authorize and appropriate \$100,000 from the Solid Waste Enterprise Fund Balance to the FY 2011 Operating Budget for the purpose of performing an expert technical evaluation of the ReVenture Project.
- 3) Authorize the developer of the ReVenture Project to include the County's Foxhole Landfill as the receiving landfill for residuals and by-pass waste in their Solid Waste Permit Application.
- 4) Ask ReVenture to contribute \$50,000 towards the cost of the technical study as a good faith payment in exchange for the County approving Actions 1, 2, & 3, to help offset the County's cost and become a partner with the County in this process for the technical evaluation.

The vote was then taken on the original motion as follows:

Motion was made by Commissioner Pendergraph, seconded by Commissioner Dunlap, and carried 8-1 with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, Leake, Pendergraph and Roberts voting yes and Commissioner James voting no, to

- 1) Adopt a Capital Project Ordinance in the amount of \$15 million authorizing the funding, construction and equipment acquisition for Phase 2 of LUESA Solid Waste's Foxhole Landfill.

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2) Authorize and appropriate \$100,000 from the Solid Waste Enterprise Fund Balance to the FY 2011 Operating Budget for the purpose of performing an expert technical evaluation of the ReVenture Project.

3) Authorize the developer of the ReVenture Project to include the County's Foxhole Landfill as the receiving landfill for residuals and by-pass waste in their Solid Waste Permit Application.

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

COUNTY COMMISSIONERS REPORTS AND REQUESTS

(8A) ROMARE BEARDEN PARK – (NATURAL RESOURCES COMMITTEE)

Chairman Roberts acknowledged the Board's Natural Resources Committee's discussion of Romare Bearden Park.

Note: At its March 22, 2011 meeting, the Board referred to the Natural Resources Committee further discussion and consideration of the proposed Romare Bearden Park.

Chairman Roberts said the recommendation of the Committee was to approve \$2.5 million from Pay-Go that exist for the current fiscal year, to begin grading and site work preparation on Romare Bearden Park; with the anticipation of having discussion about the additional expense from a bond issue that might take place in the summer.

Chairman Roberts said because of time constraints related to agreements with the original folks the County purchased the property from, the County has to have substantial completion of site preparation by October 8, 2011. Chairman Roberts said that's why this matter was before the Board.

The following persons spoke in support of moving forward with Romare Bearden Park: Ryan Johnston with Partners for Parks, Rob Brisley, chair of the Park and Recreation Commission, and Ed Schweitzer with Partners for Parks.

Chairman Roberts gave an overview of the committee's discussion.

Park and Recreation Director Jim Garges addressed the park.

Commissioner James addressed the park and asked that his comments regarding the history of the park be included in the minutes as noted below.

"About 10+ years ago, Becky Carney and I worked together to acquire roughly eight acres of land, which was between the old federal courthouse (the back of it) and Panthers Stadium. Those eight acres were supposed to be Third Ward Park. Since that land was acquired, this process has been mishandled and manhandled and mangled by Uptown, most unrecognizable. I don't know how you would describe the process that has occurred, which is a good example of how when powerful people, at a whim, decide they want to do something, they do it. Originally we paid, rough numbers, about \$25 million to Wachovia to buy the land. Wachovia wasn't all that keen on selling and we almost had to foreclose to take it by eminent domain, basically, not foreclosure. We acquired the park, but before we could actually get the park the Charlotte Center City Partners and Uptown, working with the City of Charlotte tried to take the land for Time Warner arena, even though we had already expressed a desire that we were going to use it for a park and even though we had told Wachovia we were going to buy it. Thankfully, the very night that the referendum for the arena failed, the Board agreed to pursue taking by eminent domain, if necessary, the property; and because the referendum failed, the property was "safe." Then in comes the Knights and they decide that they kind of like that land we'd just purchased from Wachovia. So, they basically set up

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a process to see if they could acquire a part of it and we set up a baseball committee and we had meeting after meeting. The County Commission designated that Memorial Stadium should be used for an Uptown ball park for the Knights, if they determined that they wanted to. Then the Board of County Commissioners realizing that the Knights were suppose to go to Memorial Stadium, approved some 2004 bonds. Now the 2004 bonds were for the original eight acres that go between the back of the old federal courthouse and Panthers stadium, not for this current dream that's before us. But, we go to the voters and we put in the ballot initiative, we promise we would not use this for baseball. Course, we weren't telling the truth as it turned out. So after the bond passes the Center City Partners decided to move the park; and working with Parks Helms and others on this board, they decided that the park didn't have the right look and that it wasn't designed properly. The next thing we find is, coincidentally, that baseball picks up four acres that we had purchased from Wachovia, more or less. We ended up having to buy \$19 million worth of land from Massachusetts Mutual. What started out as an 8 acre park turned in to a three acre park and after Mass Mutual people bought it, 5.7 some odd acres. Right now everybody around this knows that the Knights don't have a pot to you know what in and that they're about to be in default on this agreement. There's already discussion about whether we should give them a break. Maybe we should extend it. In the mean time, we have one square city block of nothing. If we cancel the baseball agreement we could acquire that land and create a Romare Bearden Park that is closer to probably 11 acres, maybe 12. It wouldn't cost us that much more money because we already own the land. Land, by the way, being worth \$10 million, if the appraisals are to be believed."

"Here's the deal. I don't mind that we're spending \$2.5 million to start the park. The truth is Becky Carney and I, like I pointed out, are the ones that started and made the motions to acquire this park in the first place, 10 years ago. But what is offensive is the fact that this park has been so abused by the political process and by people in positions of power that aren't even elected. So we have a plan for the park. A plan, by the way, that Third Ward neighborhood people approved. The original plan, they approved. Then, we came back with a revised plan and that's when all this other Mass Mutual junk showed up and cost us an extra \$19 million."

"I think we're going to be making big mistake, if we build the park without trying to get back that square city block. I don't expect this Board to do it, because I have always had concerns about the influence between the Charlotte Center City Partners, the grand soviet of Charlotte and political influence. However, I would be remised and not do my job as an elected official if I did not express concern that we are about to give the public, I think bad information; and by not canceling the baseball agreement for cause, which we clearly will have and not recapturing that square city block, we're creating less of a park than we could have. Also, not to be persnickety, but it wasn't Valerie Woodard that first mentioned Romare Bearden. It was Ruth Samuelson, a republican, who by the way, owns a Romare Bearden print, an original. She came up with the idea and while it might be nice to give Commissioner Woodard credit, she's not the one that came up with it, originally. Nonetheless, I think the bigger concern, however, is eliminating the baseball agreement and recapturing the land so that the park can be 11 or 12 acres, not 5.7 something."

Commissioner Clarke said he would like to add something to the history that Commissioner James noted. Commissioner Clarke said he was just coming on the Board when that land purchase was made and that it was a pretty rushed decision. Commissioner Clarke said the Board later had a consultant to come in and to look at this. Commissioner Clarke said he felt at that time, that putting the park where the baseball stadium would go was the wrong place for it. He said the Consultant came back and said this was a great opportunity to get the park located to where it should be, which is now where the County is preparing to put it.

Commissioner Cogdell said he wanted to make sure that there's a legitimate reason to take action on construction of this park separate and apart from the capital prioritization process and not have this project go through the process.

Director Garges addressed why this project was coming before the Board.

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County Attorney Bethune explained how the purchase took place. He said R.B. C. Corporation, a subsidiary originally of First Union, then Wachovia and now Wells Fargo, sold the County a portion of the land, which roughly equates to 50%. In that agreement, the County had to agree that if the park was not substantially started by the third anniversary, they had a right to buy it back.

Attorney Bethune said the trigger was that the demolition and the grading had to be substantially completed by October 8, 2011. Attorney Bethune said if the County doesn't hit that trigger, they have the right to buy it back at the same price the County paid them for the land.

Commissioner Cogdell asked had there been any discussion with them regarding their intention.

Attorney Bethune said he received a phone call from someone with Wachovia wanting know where the document was that allowed them to do that, which is the only thing he's aware of.

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap, to approve allocating \$2.2 million from Pay-Go that exist for the current fiscal year, to begin grading, demolition and site work preparation on Romare Bearden Park.

Commissioner Cooksey asked had staff talked to Wachovia about getting an extension of time. *Attorney Bethune said he has not been asked by the Board to do that.*

Commissioner Clarke asked Director Garges to comment on the funding of the remainder of the park, which he did.

Commissioner Cooksey asked about the timeframe for completion of the preparation work. *Director Garges said things need to begin right away.*

Commissioner Cooksey said he had concerns also about this project not going through the capital prioritization process.

Commissioner Cooksey said contact should be made with Wachovia to see if the County could get an extension and if so, then this project should go through the prioritization process.

Chairman Roberts said she had not spoken with anyone at the bank but she has heard from persons in real estate that there have been inquires about the land. Chairman Roberts said the County may be on the verge of losing it, if something isn't done.

Substitute Motion was made by Commissioner Bentley, seconded by Commissioner Pendergraph, to defer taking action until the Board's April 19, 2011 meeting and direct the County Attorney to contact R.B.C. Corporation to inquire about the possibility of an extension.

Commissioner Dunlap asked Director Garges how would this impact the project. *Director Garges said if the County received an extension, then there wouldn't be an issue about the lost of the property and when the project's approved you just move ahead.*

Director Garges said he couldn't say with certainty that a two week delay would or would not impact the timeframe for completion of the prep work. He said the County needs to get started as soon as it can.

Commissioner Cogdell requested a list all pending capital projects in either the 2004 – 2008 bond packages. He would like to see where those projects are within the County.

The vote was then taken on the Substitute as follows:

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Motion was made by Commissioner Bentley, seconded by Commissioner Pendergraph and carried 6-3 with Commissioners Bentley, Clarke, Cogdell, Cooksey, James, and Pendergraph voting yes, and Commissioners Dunlap, Leake, and Roberts voting no, to defer taking action until the Board's April 19, 2011 meeting and direct the County Attorney to contact R.B.C. Corporation to inquire about the possibility of an extension.

CONSENT ITEMS

Motion was made by Commissioner Pendergraph, seconded by Commissioner Bentley 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 March 15, 2011.

(15) TAX REFUNDS

Approve refunds in the amount of \$92,364.17 to be made by the Finance Department as requested by the Tax Assessor resulting from clerical errors, audits and other amendments.

A list of the tax refund recipients is on file with the Clerk to the Board.

(16) NOTICE OF AMENDMENTS TO GROUNDWATER WELL REGULATIONS

Instruct the Clerk to the Board to publish a notice of proposed amendments to the Mecklenburg County Groundwater Well Regulations to be considered by the Board on April 19, 2011.

(18) LAND CONVEYANCE TO CITY OF CHARLOTTE

Approve conveyance of a portion of Tax Parcel 231-042-13 (1,387 SF) to the City of Charlotte to facilitate the McKee Road Sidewalk Project

(19) PROCLAMATION – FAIR HOUSING MONTH

Adopt a joint proclamation designating April 2011 as "Fair Housing Month" in Charlotte Mecklenburg County.

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

THIS CONCLUDED ITEMS APPROVED BY CONSENT

(10) CAPITAL RESERVE REQUEST – CONSOLIDATED AQUATICS

Motion was made by Commissioner Leake, seconded by Commissioner Cooksey and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph, and Roberts voting yes, to authorize and appropriate a capital expenditure of \$19,000 from the Consolidated Aquatics Capital Reserve Account to replace the diving board and diving board stand at the Cordelia Neighborhood Pool (\$15,000) and

resurface two diving boards at the Mecklenburg County Aquatic Center (\$4,000).

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

(11) WTVI STUDIO BROADCAST REPAIR REQUEST

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph, and Roberts voting yes, to approve appropriation of up to \$44,100 from Unrestricted Contingency to fund WTVI's equipment request.

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

(12) BUDGET AMENDMENT – SHERIFF'S OFFICE (REVENUE INCREASE)

Motion was made by Commissioner Leake, seconded by Commissioner Pendergraph and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph, and Roberts voting yes, to recognize and appropriate for the Sheriff's Special Revenue Fund, \$120,495 from Inmate Commissary. Secondly, recognize and appropriate for Sheriff's Special Revenue Fund, \$40,000 from Vocational Facility Telephone Revenue.

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

(13) BUDGET AMENDMENT – LIBRARY (REVENUE INCREASE)

Motion was made by Commissioner Leake, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph, and Roberts voting yes, to recognize and appropriate \$700,000 from funds provided by the City of Charlotte for Library operations.

Note: The City of Charlotte approved providing up to \$1,400,000 to support Library operations in Fiscal Year 2011. The first half of the City's appropriation was received in July 2010. The remainder is being provided based upon the County's release of funds in restricted contingency to the Library.

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

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

(14) ENGINEER SELECTION – AMERICAN LEGION MEMORIAL STADIUM

Motion was made by Commissioner Leake, seconded by Commissioner Pendergraph and carried 8-0 with Commissioners Bentley, Clarke, Cooksey, Dunlap, James, Leake, Pendergraph, and Roberts voting yes, to authorize the County Manager to negotiate a fee and execute a contract with Clark Nexsen Architecture and Engineering, Inc. for architectural/engineering design services for the assessment and repairs to American Legion Memorial Stadium. In the event negotiations with this firm are unsuccessful, the Selection Committee recommends a new Request for Qualifications be advertised and the interview process repeated.

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

Commissioner Cogdell returned to the dais.

(17) ARTS & SCIENCE COUNCIL CULTURAL ACCESS GRANT

Motion was made by Commissioner Leake, seconded by Commissioner Pendergraph and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to approve submission of two applications for an Arts and Science Council Cultural Access Grant. Recognize, receive and appropriate funds for grants, if approved by the Arts and Science Council.

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

(20) PROCLAMATION – CHILD ABUSE AWARENESS AND PREVENTION MONTH

Motion was made by Commissioner Leake, seconded by Commissioner Pendergraph and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to adopt proclamation designating April 2011 as “Child Abuse Awareness and Prevention” month in Mecklenburg County.

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

(21) PROCLAMATION – CONNECT A MILLION MINDS WEEK

Motion was made by Commissioner Leake, seconded by Commissioner Pendergraph and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to adopt proclamation designating April 4-8, 2011 “Connect A Million Minds Week” in Mecklenburg County.

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

(22) PROCLAMATION – MINORITY HEALTH MONTH

Motion was made by Commissioner Leake, seconded by Commissioner Pendergraph and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to adopt a proclamation designating April 2011 as “Planting Seeds of Wellness for Minority Health Month” in Mecklenburg County.

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

(3A) CLOSED SESSION – CONSULT WITH ATTORNEY

Motion was made by Commissioner Clarke seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Cooksey, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to go into Closed Session to Consult with Attorney with respect to Jerry Alan Reese vs. Mecklenburg County, Mecklenburg County Public Facilities Corporation, R.B.C. Corporation, 300 South Church Street, LLC; Jerry Alan Reese vs. Mecklenburg County and Brooklyn Village LLC.

The Board went into Closed Session at 10:36 p.m. and came back into Open Session at 10:50 p.m.

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

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The Board then proceeded back to the Meeting Chamber.

ADJOURNMENT

Motion was made by Commissioner Cooksey, seconded by Commissioner Bentley and carried 8-0 with Commissioners Bentley, Clarke, Cogdell, Cooksey, James, Leake, Pendergraph and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 10:51 p.m.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman