

JUNE 21, 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, June 21, 2011.

**ATTENDANCE**

**Present:** Chairman Jennifer Roberts and Commissioners  
Karen Bentley, Dumont Clarke, Harold Cogdell, Jr.  
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:** Commissioner Neil Cooksey

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**-INFORMAL SESSION-**

*Commissioner Cogdell 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.*

**(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 15 and 16.

**(2A) STAFF BRIEFINGS - MECKLENBURG COUNTY 457 PLAN**

The Board received information regarding the County's 457 deferred compensation plan.

Finance Director Dena Diorio provided the information. The following was noted:

- Recently it was discovered that an error had been made in setting up the County's employer match for the 457 Plan back in 2001, which resulted in FICA withholdings not being taken out.
- The County has two deferred compensation plans, 401K and 457. The 401K Plan does not require FICA tax withholdings be taken out, but the 457 Plan does. The plans were set up at the same time, with respect to the County's employer match, and both were set up under the 401K Plan guidelines and they should not have been.
- Since 2001 approximately \$6.2 million in employer match has been contributed to the 457 Plan.
- Staff has engaged an attorney at Womble, Carlye to advise the County as to the steps that need to be taken to remedy the situation.

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- Letters will be sent to all affected employees and retirees notifying them of the situation.
- It appears that nearly 1000 employees are affected, current and former employees and retirees.
- Staff is still gathering information.
- Any amounts due for the past three years and fall within the statute of limitations, can be corrected through the filing of amended 941 Returns and W-2s.
- For years beyond the three year statute of limitations, the error cannot be corrected through this method.
- When FICA taxes have not been properly withheld, the amounts deferred, including income on those amounts are subject to FICA when they come available, which is when a distribution occurs.
- In terms of next steps, for the past three years, the County is going to calculate the FICA due on the employer match and file amended 941 Returns and amended W-2s.
- The County will “likely” pay both portions of the FICA for the employer and the employee that is owed and will include that amount as wages to the employees in 2011.
- For retirees that have taken distributions from the Plan within the last three years, amended 941 Returns and W-2s will need to be issued for those individuals.
- The filing of the amended 941 Returns and W-2s must occur prior to July 31, 2011.
- It’s staff’s understanding, that there will be no penalties or interest assessed to the County for failure to file.
- For the years prior to 2009, strategies are still being developed.
- The employer match resumes on July 1, 2011 and FICA taxes will be paid.

Commissioner James asked for clarification on what occurred. *Director Diorio said employees with the 457 Plan did not pay taxes on the employer match.*

Commissioner James asked was the approximate amount per year for an individual employee known. *Director Diorio said FICA was a straight percentage.*

Director Diorio said what staff knows currently, not taking into consideration those employees that may have maxed out, that for the \$6.2 million contributed for the employer match, which would equate to about \$944,000 for all years in FICA taxes, which is based on doing a straight percentage across the board, not analyzing by individual employees.

Director Diorio emphasized that the \$944,000 was an estimate.

Commissioner James said if employees and retirees file amended returns, they will be subject to an audit, starting with the new date they file their returns.

Director Diorio said the remedy says for the years prior to the last three, the FICA becomes due when the funds become available, meaning when someone takes a distribution from the plan. Director Diorio said this means that over time when someone takes a distribution from their 457 Plan, they have to pay the FICA tax on the employer match at that time. They’ll get a 1099 or 1098 that will have FICA on the base amount of the employer match, plus whatever earnings they have earned on that employer match.

Commissioner Clarke asked if the problem occurred because of the software used. *Director Diorio said it appears what occurred was that when the employer match was set up, both plans were treated the same, when they should not have been treated the same. They both were set up as 401ks.*

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Commissioner Clarke asked if the County used a payroll service. *Director Diorio said no, County payroll has always been done in-house. She said the plan was not set up correctly in the payroll system to do the proper deductions.*

This concluded the discussion. No action was taken or required.

**(3A) CLOSED SESSION - CONSULT WITH ATTORNEY**

Motion was made by Commissioner Dunlap, seconded by Commissioner Leake and carried 7-0 with Commissioners Bentley, Clarke, 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 5:37 p.m. and came back into Open Session at 5:49 p.m.***

***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 Dunlap, which was followed by the Pledge of Allegiance to the Flag and introductions; after which, the matters below were addressed.***

**CITIZEN PARTICIPATION**

**AWARDS/RECOGNITION**

**(1A) RECOGNITION OF MALLARD CREEK AND NEWELL VOLUNTEER FIRE AND RESCUE, INC.**

The Board recognized the retiring Mallard Creek and Newell Volunteer Fire Departments after a combined service of more than 120 years to the citizens of Mecklenburg County.

*Note: The Mallard Creek and Newell Volunteer Fire Departments are dissolving and retiring their fire and rescue services to the residents of Mecklenburg County as of June 30, 2011. These Departments and all their dedicated fire officers and firefighters have more than 120 years of combined service and have volunteered thousands of hours protecting the residents of their respective communities. They have provided outstanding fire and rescue services to this county. As they prepare to respond to their last alarm, it is appropriate for the Board of County Commissioners to recognize these brave firefighters of the Mallard Creek and Newell Volunteer Fire Departments.*

*Mark Auten, Fire Marshal presented the chiefs and members of the respective fire departments.*

The Mallard Creek Fire Department was chartered in 1953 and was organized out of the Derita VFD in order to better serve the Mallard Creek Community.

The Newell Volunteer Fire Department has faithfully provided fire and rescue services to the citizens of Mecklenburg County for over 60 years. Newell was chartered in 1949 and organized in 1950.

Commissioners expressed thanks and appreciation for the service given.

**(2) PUBLIC APPEARANCE - NONE**

**APPOINTMENTS**

**(3A) NOMINATIONS/APPOINTMENTS**

*Commissioner Cogdell entered the meeting.*

**BOARD OF MOTOR VEHICLE REVIEW**

Motion was made by Commissioner Dunlap, seconded by Commissioner Leake and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to reappoint Tommie Blakeney, Dietrich Brown, John Kral and Eric Little to the Board of Motor Vehicle Review for a one-year term expiring July 18, 2012.

Commissioner Dunlap nominated Charles Roberts for appointment consideration to the Board of Motor Vehicle Review.

*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 Board of Motor Vehicle Review must undergo an interview process.*

**CHARLOTTE MECKLENBURG COALITION FOR HOUSING**

Motion was made by Commissioner Dunlap, seconded by Commissioner Pendergraph and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to reappoint Frank Cantrell to the Charlotte Mecklenburg Coalition for Housing as the Law Enforcement representative for a three-year term expiring June 30, 2014.

**CHARLOTTE MECKLENBURG COMMUNITY RELATIONS COMMITTEE**

Motion was made by Commissioner James, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to reappoint Stefanie Austin, Tyyawdi Baker, Henry Black, Tonya Curry, Gwendolyn High and Bolyn McClung to the Charlotte Mecklenburg Community Relations Committee for three-year terms expiring July 2, 2014.

Commissioner James nominated all applicants for appointment consideration to the Charlotte Mecklenburg Community Relations Committee: Jaye Alexander, Toria Boldware, Janet Lama, Edward Mattison, Shay Merritt, Damon Miller, Omar Saxton, Bill Schreiner, Andrew Smith, Doug Wilson, and Shari Wright-Harley

*Note: Appointments will occur on July 12, 2011.*

**CMUD ADVISORY COMMITTEE**

Motion was made by Commissioner James, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to reappoint Erica Van Tassel to the CMUD Advisory Committee as the Civil Engineer representative for a three-year term expiring June 30, 2014.

**HISTORIC LANDMARKS COMMISSION**

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Motion was made by Commissioner James, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to reappoint Louis Asbury and John Shurley to the Historic Landmarks Commission for three-year terms expiring July 31, 2014.

The following persons were nominated for appointment consideration to the Historic Landmarks Commission:

John Kenneth Pursley                    by Commissioner Clarke  
Sonya Young                                by Commissioner Dunlap

Motion was made by Commissioner Dunlap, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to nominate and appoint John Kenneth Pursley to the Historic Landmarks Commission for a three-year term expiring July 31, 2014 and Sonya Young to fill an unexpired term expiring July 31, 2012.

**JUVENILE CRIME PREVENTION COUNCIL**

Motion was made by Commissioner Dunlap, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to reappoint Douglas Edwards, Susan McCarter, Simona Mitchell-Kelly, Pamela Morris and Richard Zaleskie to the Juvenile Crime Prevention Council as General Public representatives and Laura Johnson as the Business representative for two-year terms expiring June 30, 2013.

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

*Note: An appointment will occur on July 12, 2011.*

**PARK AND RECREATION COMMISSION**

Motion was made by Commissioner James, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to reappoint Robert Brisley to the Park and Recreation Commission as the South Region 3 representative and Ed Barnhart as the South Region 2 representative for three-year terms expiring June 30, 2014.

**STORM WATER ADVISORY COMMITTEE**

Motion was made by Commissioner James, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to reappoint Paula Martin to the Storm Water Advisory Committee for a three-year term expiring June 30, 2014 as the County's Environmental representative.

**PUBLIC HEARINGS**

**(4A) STORM WATER FEE –TOWN OF DAVIDSON'S MINOR SYSTEM RATES**

Motion was made by Commissioner James, seconded by Commissioner Bentley and

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unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to open a public hearing to hear comments related to a proposed change in the Town of Davidson's minor system rates inside the Town.

No one appeared to speak.

Motion was made by Commissioner Pendergraph, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to close the public hearing related to a proposed change in the Town of Davidson's minor system rates inside the Town; and adopt a Resolution authorizing setting the minor system cost component of the storm water service charges to be levied within the Town of Davidson.

***Resolution recorded in full in Minute Book 45-A Document #\_\_\_\_\_.***

**(4B) STREET NAME CHANGE – CHANGE A SECTION OF DIXIE RIVER ROAD AND SANDHAVEN WAY TO SHOPTON ROAD**

Motion was made by Commissioner Leake, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to open a public hearing to hear comments on the proposed renaming of a section of Dixie River Road and Sandhaven Way to Shopton Road.

No one appeared to speak.

Motion was made by Commissioner James, seconded by Commissioner Bentley and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to close the public hearing on the proposed renaming of a section of Dixie River Road and Sandhaven Way to Shopton Road and approve the renaming of a section of Dixie River Road and Sandhaven Way to Shopton Road.

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

**MANAGER'S REPORT**

**(6A) CAPITAL PROJECTS PRIORITIZATION; REPEAL OF JAIL FACILITIES CAPITAL PROJECT ORDINANCE**

The Board received information regarding the Capital Projects Prioritization process.

Finance Director Dena Diorio gave the report.

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

Comments

Commissioner Dunlap asked about the recommendation for Charlotte-Mecklenburg Schools (CMS), specifically for Pineville Elementary replacement, Newell Elementary renovations, and Bain Elementary replacement.

Commissioner Dunlap said he'd like to receive a history of major renovations and replacements for the schools he referenced. Commissioner Dunlap said his concern was that if you can build a new school for \$13 million, why renovate a school for \$11 million.

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Commissioner Dunlap posed the question of perhaps using the remaining 2004 Park & Recreation Bond Authorization of \$3.6 million that staff recommends let lapse, be used for other projects.

Commissioner Bentley questioned how Stumptown Elementary went from a previous CMS ranking of three or four, to 26. She requested an explanation from CMS.

Director Diorio said the CMS projects listed were new priorities based on renovations of existing facilities. Director Diorio said there was nothing on the CMS list that represented growth.

Director Diorio said CMS has taken their growth projects and put them as lower priorities. She said the projects listed represented CMS' current priorities.

Director Diorio said when she spoke with CMS officials and shared with them the schools that ranked the highest; they indicated to her that those listed were their top priorities.

Commissioner James asked about the ranking process and whether CMS was given an amount to work within. *Director Diorio said the projects were not ranked based on how much someone gets, but rather, each project was ranked based on its merit, in accordance with the ranking criteria approved by the Board.*

Commissioner Dunlap asked if the process the Board set in place change the order and the ranking that CMS had for these schools. *Director Diorio said yes, the rankings were based on the Board's criteria.*

Commissioner Dunlap said that concerned him. He said he liked the fact the County has a process but what has occurred is that the County is now saying to CMS, "we don't like your priority ranking, we have a different priority, which may or may not fit CMS' needs based on where they need to build schools, i.e. Stumptown."

Commissioner Dunlap said if the County sees where there's a flaw in the process, it should take the necessary steps to correct it.

Commissioner Dunlap questioned why the County would make schools that CMS has said were a lower priority, a higher priority. *Director Diorio said the County was not doing that. She said the schools that ranked highest for CMS on the list, were the schools that CMS told County staff was their top priorities. Director Diorio said CMS moved Stumptown on its own.*

Director Diorio clarified that CMS changed their rankings before they submitted their request to the County. She said CMS changed their rankings based on the fact that renovations were more critical to them now than growth.

Commissioner Dunlap said he thought the County's ranking process had changed CMS' priority ranking based on Director Diorio's earlier comment. *Director Diorio said no and that she may have misstated earlier.*

Director Diorio said the rankings, priorities, and criteria were not flawed. She said the amount of money the County has was limited. She said if the County had more money to spend it could go "deeper" on the list. Director Diorio said staff feels the criteria works.

Commissioner Cogdell thanked staff for its work.

Commissioner James asked when Board approval was needed. *Director Diorio said this was being brought to the Board as information because these projects have already been approved*

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*in prior referendums. She said staff was sharing the process used and would proceed based on the results of the process. She said staff will come back at some point and have the Board approved the bonds.*

Commissioner Pendergraph asked how did Romare Bearden Park rank #5. *Shawn Phillips of Finance said Romare Bearden ranked high because of the economic outcome, the funding that was included with it.*

Commissioner Bentley asked what was the obligation to Park and Recreation for finding private funding. *Park and Recreation Director Jim Garges said it would be more correct to talk about the economic impact of the park.*

Director Garges said the original plan was to try and leverage all capital money to the 20% level. He said there's no guarantee that there will be any money from the private sector for the Romare Bearden Park. He said that doesn't mean, staff hasn't asked or won't ask. He said if the Board authorized the project at \$11 million, which is the request for it, that's what the project will go forward at. He said if the "challenge" is that the Board doesn't want to give \$11 million, but a lesser amount and the rest be raised, then that's another process, that staff would have to go through.

Chairman Roberts asked Director Garges was he saying that part of the economic impact, was not just the leveraging in the capital spending, but also in the economic impact generated by the placement of the park or the activity around the park. *Director Garges said that was correct. He said the economic impact was not related to private donations, but rather it's related to the dollars that a park would generate once it's completed.*

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

Motion was made by Commissioner Cogdell, seconded by Commissioner Dunlap and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to receive information regarding the Capital Projects Prioritization and approve repealing Capital Project Ordinance: "Jail Facilities – 2008."

## **(6B) INTERLOCAL AGREEMENT WITH CHARLOTTE MECKLENBURG HOSPITAL AUTHORITY**

County Manager Jones gave the Board an update regarding the Interlocal Agreement between the County and the Charlotte Mecklenburg Hospital Authority.

The following was noted:

- The County opposed the passage of SB 578 "An Act to Facilitate the Transfer of Beds From a State Psychiatric Hospital to a Community Facility Within Certain LMES."
- SB 578 was introduced at the insistence of the Charlotte Mecklenburg Hospital Authority.
- The purpose of SB 578 was to circumvent the County's authority by eliminating Mecklenburg County from the state's approval process and authorizing the transfer of 44 psychiatric beds from the license from the state's Broughton hospital to the license of the Hospital Authority's Mercy Hospital for a new facility in Huntersville.
- The Hospital Authority did not inform the County of this bill, the County learned from others.
- Despite the County's opposition to the bill (SB578) and efforts to negotiate a resolution of the 44 bed transfer with the Hospital Authority in lieu of the legislation, the bill was adopted last week by the General Assembly.
- The County had made it clear to the Hospital Authority, that the County was not opposing the bed transfer, however, to be able to assess bed need and assess the adequacy of community support services for these beds, and to meet other state



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requirements for execution of a required agreement with the state, the County needed to receive and analyze industry standard behavioral health data and other information from the Hospital Authority.

- The Hospital Authority refused to provide the information requested by the County and instead chose to seek this legislation without the County's knowledge or consent.
- The County had also requested data and other information to gain a better understanding of how significant County tax dollars were being spent by the Hospital Authority in its operation of the Carolinas Medical Center's Randolph facility and whether the opening of this new facility in Huntersville by the Hospital Authority would have an adverse financial impact on the County's subsidy of the deficit cost incurred by the Hospital Authority for providing hospital based psychiatric services at CMC-Randolph.
- Under the County's existing interlocal agreement with the Hospital Authority, the County pays the deficit cost related to the Hospital Authority's providing of comprehensive hospital based psychiatric services.
- Some data and other information are now being "slowly" given to the County by the Hospital Authority's General Counsel.
- The Hospital Authority has prohibited its staff from communicating directly with County staff and is funneling all communications through its General Counsel.
- The Hospital Authority instructed the County in a May 20, 2011 letter from its CEO Michael Tarwater that the County may only communicate with the Hospital Authority's General Counsel on matters related to the County contract.

County Manager Jones said he doesn't believe that communicating only through attorneys is the best or most efficient way to administer a \$60 million contract. County Manager Jones said he has expressed this to the Hospital Authority's CEO.

County Manager Jones said in a subsequent letter to Mr. Tarwater, on behalf of the County, he gave the Hospital Authority notice of its breach of the interlocal agreement between the Hospital Authority and the County resulting from the Hospital Authority's failure to fulfill the County's request for data and information and for its chronic failure to provide the County other information as required by the interlocal agreement. Further, that the letter also provides that the County is withholding payment of funds to the Hospital Authority until the Hospital Authority complies with the outstanding data and information request, to the County's satisfaction under the interlocal agreement.

County Manager Jones said it was not the County's intention to "impune" the integrity of the Hospital Authority or any of its employees in any way, as was recently suggested by the Hospital Authority's management according to an article in the Charlotte Observer.

County Manager Jones said the Hospital Authority has provided "excellent and valued service to this community, but the County is disappointed that the Hospital Authority has not been more open and responsive to the County's request for information." County Manager Jones said the County can't administer its contracts and assess community needs without relevant data and information and on-going communication with its partners.

County Manager Jones said with all that has transpired over the past few months between the County and the Hospital Authority, the County should now assess and perhaps redefine the current relationship under the interlocal agreement. County Manager Jones said the County should reconsider the current interlocal agreement, also in light of the state's concept of the administration of behavioral health Medicaid funds by mental health local management entities (LMEs) through the waiver program.

County Manager Jones said Mecklenburg County will likely soon be in the role of managing Medicaid funding for hospital based psychiatric services, which could be "problematic" if the current contract with the Hospital Authority also requires the County to subsidize funding of

these same services.

County Manager Jones said as a next step in assessing the interlocal agreement, he was recommending that the Board schedule a Special Meeting on July 12, 2011 at 3:00 p.m. He said the purpose of the meeting will be to ensure the Board has the information it needs regarding the current provisions of the interlocal agreement and to discuss options for reconsidering the agreement. Staff will also discuss options for transitioning from the interlocal agreement, whereby County staff would operate all aspects of the Health department, as well as a process for determining the appropriate roll for the County, if any, in providing a subsidy for hospital based psychiatric services.

#### Comments

Commissioner James referenced the two options mentioned in emails that have gone back and forth, that he said CHS rejected. Option 1, the County would give CHS the building and pay them \$20 million; Option 2, the County would keep the building and pay CHS \$750.00 per patient day.

Commissioner James asked County Manager Jones about the format of the July 12<sup>th</sup> meeting and if he planned to invite CHS, CEO, Michael Tarwater to the meeting.

County Manager Jones said it would be an open meeting and that Mr. Tarwater and any of the County's other community partners were welcome to attend.

County Manager Jones said the meeting would consist of staff briefing the Board on information that has been requested of the Charlotte Mecklenburg Hospital Authority and why that information is important, as well as, what the plans are for moving forward, if the Board agrees that the County needs to rethink the agreement with the Hospital Authority. He said moving forward could include establishing a blue ribbon committee.

County Manager Jones said he viewed the meeting as being one of a staff presentation to the Board, more so than it being partner involvement in that process.

Commissioner James asked when was the next payment due to CHS. *General Manager Michelle Lancaster said the psychiatric payments are made on a monthly basis and would probably be due in about 2 ½ weeks.*

General Manager Lancaster said the County would continue to withhold payment until the Hospital Authority provides the information the County has requested with respect to the psychiatric side of the contract.

Chairman Roberts spoke in support of a blue ribbon committee.

Chairman Roberts informed the Board that the chairman of the Hospital Authority has asked that she and Vice-Chairman Pendergraph meet with him to have a conversation about the "bigger picture" and moving forward.

Chairman Roberts asked the County Manager and the Board were they comfortable with that meeting taking place.

It was the consensus of the Board that the Chairman and Vice-chairman not meet with Hospital Authority officials, in light of what has transpired over the last few weeks and in light of the fact that a previous meeting was held, which ended as a result of Hospital Authority officials leaving the meeting abruptly. Further, that the Board needs to first hear from staff on July 12<sup>th</sup> before any more meetings are held.

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Commissioner Leake said she would like to know the names of those serving on the Hospital Authority, how long they've served, and the salaries of those persons who are key persons for the County.

Commissioner Pendergraph suggested the Hospital Authority be invited to the Board's Special meeting on July 12, 2011.

Commissioner Cogdell asked that a specific invitation be sent to the Hospital Authority welcoming their attendance at the July 12, 2011 Special meeting and giving them an opportunity to respond at that meeting after the Board has had an opportunity to respond to the information received from staff.

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

***Commissioners Bentley and Pendergraph left the dais and were away until noted in the minutes.***

#### **STAFF REPORTS AND REQUESTS**

##### **(7A) DRUG TREATMENT COURT POSITIONS**

Motion was made by Commissioner Cogdell, seconded by Commissioner James and carried 6-0 with Commissioners Clarke, Cogdell, Dunlap, James, Leake, and Roberts voting yes, to approve establishing thirteen (13) county positions for the continued operation of Drug Treatment Court.

***Commissioners Bentley and Pendergraph returned the dais.***

#### **COUNTY COMMISSIONERS REPORTS AND REQUESTS**

##### **(8C) WOMEN'S EQUALITY DAY FUNDING**

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and carried 6-2 with Commissioners Clarke, Cogdell, Dunlap, James, Leake, and Roberts voting yes and Commissioners Bentley and Pendergraph voting no, to appropriate \$1,500 from FY2010-2011 Unrestricted Contingency to fund the Women's Equality Day event to be held in August 2011.

Dr. Angelia Fryer, chairman of the Women's Advisory Board addressed the request, prior to the above vote.

##### **(8A) SELECTION OF NACO VOTING DELEGATE**

Motion was made by Commissioner Leake, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Pendergraph and Roberts voting yes, to select Commissioner Leake as the Board's voting delegate for the 2011 National Association of Counties (NACo) Annual Conference to be held July 15-19, 2011 in Portland, Oregon.

##### **(8B) ECONOMIC DEVELOPMENT COMMITTEE RECOMMENDATIONS – CHARLOTTE KNIGHTS**

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Motion was made by Commissioner Cogdell, seconded by Commissioner Leake and carried 7-1 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, Pendergraph and Roberts voting yes and Commissioner James voting no, to approve the recommendations from the Economic Development Committee for amendment of agreements with the Charlotte Knights and direct County staff to prepare an agenda item for the July 12, 2011 meeting to begin the formal process of approving amendments, and authorize the County Manager to negotiate revised agreements for Board consideration.

**Economic Development Committee Recommendation for Amendment of Agreements with Charlotte Knights**

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- August 2011 – County amends Lease and Development and Economic Grant Agreement (Agreement) with following Milestones:
  - August 31, 2011 - Knights deposit \$100,000 towards its obligation to pay County legal fees as provided in Section 13.5 of the Agreement into an escrow account.
  - March 31, 2012 – Knights provide evidence of 2 Founding Level Sponsors or deposit another \$100,000 into escrow towards its obligation to pay County legal fees as provided in Section 13.5 of the Agreement.
  - June 30, 2012 – Knights submit stadium Project Financing plan in accordance with Article VII of the Agreement.
  - October 1, 2012 – Construction must begin on new stadium.
  - 2014 baseball season - Knights play home games in new stadium.
  - Within two weeks of first home game in 2014 played in the new stadium – Escrowed funds returned to Knights by County.
- Knights agree not to seek County funds for stadium construction.
- Knights retain parking revenues and assume responsibility to pay any future County legal fees as provided in Section 13.5 of the Agreement.
- Failure of the Knights to meet any Milestone is an event of default that enables County to terminate the Lease, at which time money in escrow would be paid to the County, and the Knights would pay the County the balance of the County’s legal fees as provided in Section 13.5 of the Agreement.

Note: Jerry Reese spoke in opposition to the above motion. Mr. Reese said the lease with the Charlotte Knights should be terminated. Mr. Reese said if the lease is not terminated as of September 5, 2011, he plans to take the following actions:

- Through an extensive social media initiative, he will provide the public with the same detailed and impeachable data that the Board has received regarding the size and scope of Charlotte Carolinas baseball market.
- Since prior action of the Board presently render it impossible to locate a major league baseball stadium complex uptown, he will pursue the development of the stadium complex in one of three suburban locations: York County near Ballantyne, Cabarrus County near the Speedway, and Cabarrus County in the Concord-Kannapolis Corridor.
- Any official action to extend or modify the lease with the Charlotte Knights will be challenged in court.
- The Board, the Knights, and anyone who might consider being involved with this “ill advised” project “are hereby fore-warned and put on notice.”

Also, prior to the above vote, Commissioner Bentley asked for clarification of “evidence” as referenced in the March 31, 2012 bullet. *County Attorney Bethune said that was something that would have to be negotiated.*

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County Attorney Bethune said the Board would have to approve whatever comes about as a result of negotiations. County Attorney Bethune said what the Board has at this point was a conceptual document.

Commissioner Bentley asked for clarification with respect to the Knights Project Financing plan, which County Attorney Bethune addressed.

Commissioner James asked if the Knights had audited financial statements.

Dan Rajkowski, General Manager with the Knights said the Lease agreement the Knights have with the County don't require that the Knights provide that information, but they do have them for their operating club.

Commissioner James asked was the Knights audited financials done by a CPA. *The response was yes.*

Commissioner James asked Mr. Rajkowski how much money did the Knights make last year. *Mr. Rajkowski said didn't think that was relevant to the matter before the Board.*

Commissioner James said he wanted to know because he wants to make sure the Knights will be able to cover a \$30-\$40 million loan. *Mr. Rajkowski said they would.*

Commissioner James said he felt the Knights should be providing their financials to the County, including their audited financial statements.

This concluded the discussion prior to the above vote. It's not inclusive of every comment but is a summary.

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

#### **(8D) REVIEW OF REVALUATION PROCESS**

Motion was made by Commissioner Pendergraph, seconded by Commissioner Bentley, to direct the County Manager to request that the State Department of Revenue, Real Estate Division, assess the revaluation process used in Mecklenburg County to assure property owners that the process has been done accurately, correctly, and in accordance with the law.

Commissioner Pendergraph addressed a review of the revaluation process. The following was noted: There have been many questions about the revaluation process and about changes in values that homeowners have received during the 2011 revaluation. This type of assessment of a revaluation process is done frequently by the State at the request of counties, and should take about a month. Further, that this review could help discover any issues that there might be or could help re-assure citizens of the integrity of the process.

Commissioner Pendergraph said he doesn't think the state would charge for this.

Commissioner Pendergraph said this request was not a negative reflection on the Tax Assessor's Office. The intent was to give taxpayers another level of confidence in the process. Commissioner Pendergraph said he has every confidence in the Tax Assessor and his staff.

After further discussion regarding the timing of this request, Commissioner Bentley made the following motion:

Substitute motion was made by Commissioner Bentley, seconded by Commissioner Cogdell and

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carried 5-2 with Commissioners Bentley, Cogdell, Dunlap, Pendergraph and Roberts voting yes and Commissioners Clarke and Leake voting no, to defer taking action on a review of the County's revaluation process until there's been an opportunity to confer with the tax assessor regarding the timing of this request and that the matter be brought back to the Board the first meeting in September, 2011.

**CONSENT ITEMS**

**Motion was made by Commissioner Pendergraph, seconded by Commissioner Dunlap and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, Pendergraph and Roberts voting yes, to approve the following item(s):**

**(9) APPROVAL OF MINUTES**

Approve minutes of Regular meeting held June 7, 2011.

**(10) TAX REFUNDS**

Approve refunds in the amount of \$1,875.17 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.*

**(11) STORM WATER FEE – RESOLUTION ADOPTING THE CITY OF CHARLOTTE'S MINOR SYSTEM RATES**

Adopt the Resolution Authorizing Increasing The Minor System Cost Component Of The Storm Water Service Charges To Be Levied Within The City Of Charlotte.

*Resolution recorded in full in Minute Book 45-A Document # \_\_\_\_\_.*

**(12) BUILDING-DEVELOPMENT ORDINANCE AND LAND USE AND ENVIRONMENTAL SERVICES FEE ORDINANCE REVISIONS**

1. Amend the Building-Development Ordinance to align with current State Codes and Statutes.
2. Amend the LUESA Fee Ordinance to align with process revisions on temporary utilities.

*Note: Since all Commissioners were not present, this matter will be brought back to the Board for a Second Reading at the July 12, 2011 meeting.*

**(13) CARRY FORWARD OF FUNDS – AREA MENTAL HEALTH**

Authorize carry forward of unspent State crisis service program funds estimated to be \$2,434,123 at June 30, 2011.

**(14) YMCA OF GREATER CHARLOTTE / MCPRD PARTNERSHIP**

- 1) Approve an updated master plan concept for Park Road Park.

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2) Approve resolution declaring intent to enter into a lease agreement with the YMCA of Greater Charlotte to construct a joint use indoor shelter at Park Road Park.

3) Authorize the County Manager to seek approval of the Charlotte City Council for the County to enter into the lease agreement.

*Note: The YMCA and the Mecklenburg County Park and Recreation Department desire to enter into an agreement to construct an indoor shelter at Park Road Park. The need for this shelter was previously identified in the 2008 Mecklenburg County Park and Recreation 10-Year Master Plan. This proposed multi-use facility will provide health, wellness and recreational support to children and much needed space for community gatherings and rental events in the South Charlotte and South Boulevard corridor communities.*

*Note: County Attorney Bethune informed the Board that although the action includes the adoption of a resolution, it was not included as a part of the agenda material. He said the actual resolution would be brought back to the Board at a later date.*

**(17) BUDGET AMENDMENT – DSS (REVENUE INCREASE)**

Amend the Department of Social Services (DSS) FY12 budget to recognize, receive and appropriate Federal revenue for the TANF Job Boost program in the amount of \$1,320,000.

**(18) OTHER POST-EMPLOYMENT BENEFITS (OPEB) TRUST**

Approve Other Post-Employment Benefits (OPEB) Trust Document.

*Note: When the Government Accounting Standards Board (GASB) guidance on the funding of OPEB liabilities was implemented in 2007, the County opted to join the State Treasurer's OPEB fund through which the funds were invested on our behalf. The fund was initially opened as an irrevocable trust and funds deposited were credited towards the government unit's OPEB liability. After further discussion with the GASB, the State Treasurer's Office has determined that the original structure was not the appropriate approach. The current structure would require all government units to perform actuarial valuations at the same time using the same methodology. This would result in onerous reporting requirements for the participating government units.*

*As a result, the General Assembly recreated the fund as an investment fund. Therefore, participating units must establish their own irrevocable trusts which must be approved and executed by June 30, 2011. The County's funds will still be invested in the State Treasurer's OPEB Investment Fund pursuant to that investment policy.*

*The County's irrevocable trust names the County Manager, the Finance Director and Human Resources Director as Trustees. The Trustees' primary responsibility is to direct the investment of the funds, monitor the performance of the funds and perform the necessary administrative and accounting of the trust.*

**Agreement recorded in full in Minute Book 45-A Document #\_\_\_\_\_.**

**(19) CARRY FORWARD OF FUNDS - CHILD SUPPORT ENFORCEMENT FILES MANAGEMENT AND DOCUMENT IMAGING PROJECT**

1) Rescind action taken on June 7, 2011 to carry forward to FY12 of funds remaining at June 30,

2010 for completion of the files management project; and

2) Approve the carry forward to FY12 of funds remaining at June 30, 2011 for completion of the files management project.

*Note: The Board was asked to rescind the action taken on June 7, 2011, because of a date error.*

**(20) CARRY FORWARD OF FUNDS: COURT SYSTEM PLANNING PROFESSIONAL FEES**

Carry forward remaining funds as of June 30, 2011 to FY12 for the County's agreement to support the court system.

*Note: This action item was requesting authorization from the Board to carry forward FY11 funds appropriated to Court System Planning (MGR) for professional service fees to FY12. The funding is used for providing support services, primarily staffing, to the court system through agreements with the Administrative Office of the Courts and the local state criminal justice agencies. By carrying the funds forward, the SJS will be able to fulfill the County's obligations. This action item provides for a carry forward of approximately \$600,000.*

**THIS CONCLUDED ITEMS APPROVED BY CONSENT**

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**(15) CAPITAL RESERVE REQUEST – CONSOLIDATED GOLF – PARK AND RECREATION**

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, Pendergraph and Roberts voting yes, to recognize, receive and appropriate to the consolidated golf capital reserve account the sum of \$27,000 from the City of Charlotte.

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

**(16) HOME AND COMMUNITY CARE BLOCK GRANT FUNDING PLAN - DSS**

Motion was made by Commissioner Leake, seconded by Commissioner Dunlap and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, Pendergraph and Roberts voting yes, to approve the Home and Community Care Block Grant funding plan for FY 2012.

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

**ADJOURNMENT**

Motion was made by Commissioner Cogdell, seconded by Commissioner Bentley and carried 7-2 with Commissioners Bentley, Clarke, Cogdell, Dunlap, Leake, Pendergraph and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 9:37 p.m.



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Janice S. Paige, Clerk

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Jennifer Roberts, Chairman