AGENDA

Meeting Type:	S
Date.	01-15-1991
SUBJECT	Joint Meeting

City of Charlotte, City Clerk's Office

Charlotte-Mecklenburg Schools
Post Office Box 30035
Charlotte North Carolina 28230
Telephone (704) 379 7000

Calvin Wallace
Acting Superintendent

JOINT LUNCHEON

City Council/Board of County Commissioners/Board of Education

Tuesday, January 15, 1991

12:30 p.m.

Government Center - Room 267

Hosted by the Board of Education
George Battle, Jr., chairperson, presiding

1. Opening Remarks and Invocation

2. Overview of 1991 Legislative Programs

   . City Council - Mayor Sue Myrick (12:45-1:00)
   . County Commissioners - Rod Autrey (1:00-1:15)
   . Board of Education - George Battle, Jr. (1:15-1:30)

3 General discussion of legislative programs (1:30-2.00)

3. Adjournment:

   Next meeting - February 19, Noon, Government Center
   Host: County Commissioners
   Agenda: Budget Priorities

CITY OF CHARLOTTE
1991 LEGISLATIVE PROGRAM

January 9, 1991

Listed below are those items constituting the Legislative Program for the City of Charlotte for the upcoming 1991 Session of the North Carolina General Assembly. Each of these items have been reviewed and approved by the Charlotte City Council. Bills for each item are presently being drafted and will be provided to the Legislative Delegation in the very near future along with any additional explanation of items desired by the Delegation.

CRIME AND DRUGS

1 Urge the State to meet its responsibility to adequately fund the Criminal Justice System, or alternatively adopt legislation which would enable the County and the City to appropriate local funds to the Administrative Office of the Courts for a specified period of time to support the Criminal Justice System in Mecklenburg County. It should be emphasized that this is the City Council's number one priority.

2. Amend the State law regarding resisting arrest to provide that a person does not have the legal right to physically resist a police officer even if the officer is making what later turns out to be an unlawful arrest.

3. Seek a State law that would allow only one felony arrest during a five year period to be plea bargained down to a misdemeanor.

4. Seek a State law requiring a mandatory ten-year prison sentence for involving a minor in drug trafficking crimes.

5. Seek a State law requiring a ten-year to life sentence for carrying a gun during a drug trafficking crime.

6. Seek a State law establishing as a separate offense the carrying of a weapon while engaged in criminal activity, including toy guns.

7. Seek a State law making possession of a hand gun by a person under 21 years old a felony.

8. Seek a State law making transfer of a hand gun to a person under 21 years old a felony.

9. Seek a local act providing a mandatory waiting period prior to the purchase of a hand gun.

10. Seek a change in G.S. § 14-269 increasing the penalty for carrying a concealed weapon from a misdemeanor to a felony when the concealed weapon in question is a firearm.

11. Seek additional State funds to expand the dispute settlement program of the Charlotte-Mecklenburg Community Relations Committee.

12. Support State-wide legislation prohibiting topless entertainment in establishments were alcoholic beverages are sold.

ADMINISTRATION

13. See a local act that would temporarily remove the $50,000 limitation on the City Manager's authority to approve and award contracts in times of natural disaster.

14. Seek an amendment to the City Charter which would provide the minimum authority necessary for the City to implement a storm water utility and provide mechanisms to collect delinquent fees.

15. Amend the City Charter with respect to the Civil Service Board as follows:

    a) Authorize the Chiefs of the Police and Fire Departments to employ personnel subject to final approval by the Civil Service Board. (Presently the Board does all hiring.)

    b) Authorize the Chiefs of the Police and Fire Departments to promote all police and fire personnel without formal approval by the Civil Service Board.

    c) Clarify the terms "officer or employee as used in the Charter to refer to sworn officer with regard to the Police Department and uniform personnel with regard to the Fire Department who were approved for hire by the Civil Service Board. The current language is misleading and seems to imply that all personnel including civilian personnel in those departments are subject to the jurisdiction of the Civil Service Board.

    d) Authorize the Civil Service Board to require the City Manager to investigate any incident or circumstance involving officers of the Police and Fire Departments which comes to the Board's attention.

FINANCE

16. Seek legislation to change the penalty rate for late payments of the City business privilege license tax from 5% to 2-1/2% and

give a 1 year credit to tax payers who were penalized within the past 3 years.

17. Seek an amendment to G S. § 20-97(b) to permit an increase in the existing $20 amount that the City is allowed to charge for an auto privilege tax up to $35 with any increase totally dedicated or set aside for transit and transit-related activities

HOUSING

18. Seek an amendment to G.S. § 160A-443 to authorize the City Manager rather than the City Council to order the repair, closing or demolition of dwellings which fail to meet the City's housing code.

19. Seek an amendment to G.S § 160A-445 to eliminate the requirement that a property owner be personally served with a housing code order if that owner has deliberately refused service by certified mail.

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M E C K L E N B U R G C O U N T Y

1991

LEGISLATIVE GOALS

Mecklenburg County Board of Commssioners
T. Rodney Autrey, Chairman
Peter Keber, Vice-Chairman
Kenneth L. Andrews
Douglas W. Booth
Edna Chirico
Patsy Kinsey
Robert L. Walton

Gerald G. Fox, County Manager
Marvin A. Bethune, County Attorney
Sandra T. Bisanar, Associate County Attorney

December 17, 1990

INDEX OF PROPOSED LEGISLATIVE ITEMS

The following items have been approved by the Mecklenburg County Board of Commissioners for presentation to the Legislative Delegation:

SHORT TITLE	PAGE NUMBER
1. An Act to Amend G.S. 7A-302 and G.S. 153A-149 to Allow Mecklenburg County to Appropriate County Funds to the Administrative Office of the Courts for a Specified Period of Time to Support the Criminal Justice System in Mecklenburg County	1
2 An Act to Appropriate Funds for the Medical Examiner's Office in Mecklenburg County.	3
3. An Act to Provide for the Establishmentof a Volunteer Police Auxiliary for the Mecklenburg County Police Department.	4
4 An Act to Amend G.S. 143-135 to Increase the Limitation on Using Force Account Labor by Mecklenburg County and to Exempt Greenways and Nature Trails from Any Monetary Limitation.	7
5 An Act to Authorize Mecklenburg County to Adopt and Enact An Ordinance Regulating the Planting, Removal, Replacement, Maintenance, and Preservation of Trees within Mecklenburg County	9
6. An Act to Amend Chapter 908 of the 1983 Session Laws to a 24% Per Year Cap on Interest Charged on Transient Occupancy Tax in Mecklenburg County and to Distinguish between Intentional and Unintentional Violations of this Act.	25

GENERAL LEGISLATION

Mecklenburg County endorses the following legislative items:

1. Adopt statute abolishing tenure for public school principals.

2. Amend statute to repeal the 3% tax on registration of motor vehicles owned by local governments. The General Assembly in 1989 enacted a law which imposed a 3% registration tax but did not exempt local governments. The repeal of this tax would save Mecklenburg County several thousand dollars per year. (North Carolina Association of County Commissioners)

3 Amend statute to increase the interest rate charged on delinquent property taxes from 2% in the first month and 75% per month thereafter to 5% in the first month and 1% thereafter. Cumulatively the net effect would be to increase the total first-year interest rate from 10.25% to 16%. This change should encourage earlier payment at a more market-competitive interest rate. (North Carolina Association of County Commissioners)

4 Adopt statute to regulate the activities of tax representatives appealing property assessments on a fee basis by requiring that they be licensed by the State in a manner similar to real estate agents or appraisers. This law should help to eliminate the influx of frivolous appeals and should help to reserve the appeal system for bonafide appeals (North Carolina Association of County Commissioners)

5 Amend statutes to increase the elderly exemption on residential real property from $12,000 and increase the qualifying limit on income from $11,000 with indexing for inflation in the future With inflation, many elderly citizens no longer qualify, and the amount of the exemption is not sufficient (North Carolina Association of County Commissioners)

6. Amend statutes to provide for a more efficient and equitable procedure for assessing and collecting local ad valorem property taxes on motor vehicles. The current procedure is cumbersome and heavy in administrative costs. Changes in the procedures were proposed by the General Assembly in 1989 in House Bill 98. (North Carolina Association of County Commissioners)

7. Amend statutes to provide that mandatory revaluation of property will occur when: 1) the assessment/sales ratio, 2) coefficient of dispersion, and 3) price-related differential as measures of equity in a representative sales ratio study drop below industry-recommended standards (i.e. International Assessors Association's standards on assessment/sales ratios) This change in the law would provide for a more equitable distribution of the tax base.

8 Adopt statute which would allow the use of jail inmates as labor for County projects. This concept was discussed at the budget workshop, and it could be beneficial to the County and to the inmates if allowed under clearly defined conditions. (North Carolina Sheriffs Association)

9. Amend statutes to allow employees to invest employee and employer contributions on annual salary in excess of $35,000 in either the Local Government Retirement System or in an approved tax shelter program (such as the ICMA Deferred Compensation Plan in which the County participates). This legislation would allow employees at higher salary levels more flexibility in personal financial planning.

10 Amend statute which was adopted in 1989 to clarify tire tax revenue sharing arrangements. The tax is not sufficient to cover tire disposal costs and has resulted in administrative problems for some counties that already have alternative tire disposal options. Further, also needing clarification are the provisions requiring counties to provide disposal sites and allowing counties to impose fair charges for disposal. This legislation should help to resolve conflict between tire dealers, who want to share revenue or benefit from lower fees, and the Mecklenburg County, which does not need to provide disposal facilities for tires because of available regional private sector disposal facilties and services. (North Carolina Association of County Commissioners)

11. Amend statute to abolish the requirement for the Register of Deeds to certify the notary certificate on all recorded documents. This legislation

would eliminate a very time consuming task that delays the recording process of real estate documents. A bill providing this change was introduced in the 1989 General Assembly but did not pass. (North Carolina Association of Registers of Deeds)

12 Amend statute to allow the charging of a fee for the termination of Uniform Commercial Code recordings. This legislation would greatly increase the revenue in the Register of Deeds Office. Currently the Register of Deeds processes approximately 300-400 UCC's per month. At a charge of $8.00 per recording, there would be $2,800 in revenues. (North Carolina Association of Registers of Deeds)

13 Amend statute to allow the charging of a fee for the cancellation of all deeds of trust. Currently a cancellation fee is only allowed for deeds of trust recorded after July 1, 1973 This legislation would increase the revenue in the Register of Deeds Office by $10,000 per year (North Carolina Association of Registers of Deeds)

14. Endorse legislative proposals from the North Carolina Council of Community Mental Health, Developmental Disabilities, and Substance Abuse Programs as follows: (North Carolina Association of County Commissioners)

Priority Goals

Jordan-Adams· Continued implementation of Jordan-Adams funding for salary inflationary increases is essential to maintain overall funding parity for Area Programs. Without continued full implementation of these increases, maintenance of current levels of service will be jeopardized and the ability of most Area Programs to compete for qualified staff will be severely crippled. The non-salary element of Jordan-Adams, cut in 1989, must be restored.

Adult Substance Abuse Services: $2.5 million in expansion funds are urgently needed for community-based intervention and treatment services for alcohol and drug-dependent adults, particularly residential, outpatient and detoxification facilities. Substance abuse services have been consistently underfunded while the demand is at crisis proportions.

Children's Mental Health Services: We have just begun to build a statewide network of community-based services for emotionally disturbed children as called for in the State Plan adopted by the General Assembly in 1987. $3 million in expansion funding is needed to continue to implement that plan in all areas of North Carolina.

Community Services for Persons with Severe and Persistent Mental Illness: The Council joins with others to support expansion funding for the community-based continuum of care. $2 million in new State funds are urgently needed to continue recent progress in meeting community service deficits for case management, crisis care and psychosocial rehabilitation. New funding is essential to continue implementation of the 1989 State Plan adopted by the General Assembly for building a State/local service systems for the more than 84,000 North Carolinians who suffer from this disability.

Services for the Developmentally Disabled. The council supports new funding to expand community capacity to serve individuals with developmental disabilities who were made eligible for Area Program services in 1987. At least $2 million in new State funds are needed for additional Area Program staffing, early childhood programs, alternative family living programs and supported employment.

Capital Facilities for Community Services Area Programs face a ten year backlog of capital facility needs which, statewide, now exceeds $93 million. The lack of adequate facilities is severely limiting the ability of Area Programs to respond to mandates for new services in substance abuse and other critical needs A State capital fund of at least $75 million is needed now to match local resources in overcoming this deficit.

Reduce the Disparity in State Funding: The Council continues to support supplemental catch-up funding to overcome the extreme gap in State funding among Area Programs. On a per capita basis, the lowest funded program receives less than 60 % of the statewide median. While the Pioneer Funding Plan will hopefully lead to a more equitable allocation of State dollars, new State dollars are needed now to bring all Area Programs to the State median.

The Council Also Supports

Medicaid Income Guidelines for the Elderly and Disabled: The Council supports legislation to increase the Medicaid income guidelines to 75% of the federal poverty guidelines. This increase would provide essential health services to as many as 40,000 who suffer from mental and developmental disabilities. The Council also supports legislation which would revise Medicaid eligibility standards to expedite the qualification of mentally disabled clients.

Residential Needs: The Council applauds and supports the initiatives of the Mental Health Association, the Association of Retarded Citizens, and United Cerebral Palsy to evaluate and provide for the community residential needs of the disabled.

15. Amend statute or regulation to remove the occupancy cap of nine persons in group homes for the handicapped. This maximum occupancy restriction is burdensome and may be unlawful under the Fair Housing Amendments Act of 1988 because it treats the handicapped differently from other non-handicapped individuals. This restriction makes it very difficult to operate a cost effective boarding home program for the mentally ill.

16. Amend statute to repeal Hardison Amendments which limit the State's ability to be more stringent than federal regulations in environmental matters. Repeal of the Hardison Amendments would allow State and local officials to effectively address local environmental problems when more stringent regulations are needed to protect the health and safety of local citizens and the environment The Board of Commissioners supported the repeal of the Hardison Amendments in 1989, but the General Assembly did not repeal them If the Hardison Amendments were repealed the State could, for example, adopt more stringent regulations regarding regulation of medical waste incinerators

17 Oppose any amendments to statutes regarding reimbursements to local governments because of repeal of intangibles tax (1985) and exemption of business inventories from local property taxes (1987). In the 1990 Short Session, the General Assembly as a means of funding the State budget deficit, attempted to reduce the rate of reimbursement to local governments, which was strongly opposed by local governments. (North Carolina Association of County Commissioners)

18 Oppose moving misdemeanants with sentences over 180 days from State to local confinement facilities without appropriate per diem payments to fully recover capital and operating expenses. (North Carolina Association of County Commissioners)

STATE APPROPRIATIONS

Mecklenburg County also supports the following appropriations items

1. Increase from $2,000 to $10,000 the State appropriation to Mecklenburg County for assistance in operating a local veterans service office.

2 Increase State funding to allow Mecklenburg County to expand existing residential Adult Developmental Activity Program Services by 42 slots This expansion will allow some of the 300 individual names on Mecklenburg County's waiting list to be placed in a community setting. There has been no expansion of State funded DDA group homes in 4 years which has caused a "bottleneck" effect in the system preventing the County from providing a continuum of services to individuals in need of DDA placement.

3 Provide funding for Mecklenburg County to recognize persons with head injuries as a unique group within the developmentally disabled category and to set requirements for services with detailed fiscal incentives set aside especially for day and residential services. Despite knowledge of many head injured persons in Mecklenburg County, few are actually served. In both residential and day program services, the service needs are so differentiated from other developmentally disabled populations that adequate service is precluded and often denied. In 1988 the State mandated that State money be allocated to area mental health programs to serve all developmentally disabled individuals, yet funds have not been allocated to serve this unique group.

4 Provide funding to expand existing day activity Adult Developmental Activity Program (ADAP) Services by 44 slots Proposed expansion will meet a critical need to provide services to current unsponsored clients and those on existing waiting list. This money could support employment options for Mecklenburg County residents, thus creating the least restrictive environment.

5. Provide funds for residents of group homes under contract to an Area Mental Health Authority.

6 Provide increased funding for in-home services and adult day care for older and disabled adults. The growing number of frail and elderly in this County is stretching the current resources beyond the capacity to respond adequately Increasing revenue for the above referenced programs will allow the County to serve those who need serves in a more timely manner

7 Provide increased funding under the Elderly and Handicapped Transportation Assistance Program This program enables the County to provide transportation services to the frail, vulnerable population. Services are greatly needed outside the unincorporated areas of the County

8 Provide increased funding to support cost of juvenile detention services in Mecklenburg County. Additional funding would permit Mecklenburg County to offset expenses and possibly enhance the quality of services provided to children in secure care. Two previous attempts have been made to persuade the General Assembly to provide this funding, but the General Assembly has not supported the request. Counties funding and operating juvenile detention homes (Mecklenburg, Durham, and Wake) are penalized because of the state subsidy formula currently used. This formula allows the State to pay to a county detention home providing regional juvenile detention services a certain portion of its operating costs and its per capita daily cost per child for any child cared for from another county The State subsidy can be 50% of the operating costs of a county detention home and 100% of the per capita daily cost of caring for a child from another county The County of residence is required to reimburse the State for 50% of the per capita daily cost of caring for the child. Under this formula, if a county funds and operates its own juvenile detention home, then the State should also pay those counties 50% of the per capita daily cost of caring for the children from the county operating the home. This subsidy could be as much as $400,000 to Mecklenburg County This issue was addressed in 1989 in House Bill 80 which did not pass

AN ACT TO AMEND G S. 7A-302 AND G S 153A-149 TO ALLOW MECKLENBURG COUNTY TO APPROPRIATE TAX FUNDS TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR A SPECIFIED PERIOD OF TIME TO SUPPORT THE CRIMINAL JUSTICE SYSTEM IN MECKLENBURG COUNTY

INTENT AND REASON FOR NEED

Since 1987 Mecklenburg County has sought to no avail legislative authority to provide County funding for certain aspects of the criminal justice system in Mecklenburg County In 1989 Mecklenburg County specifically sought authority to fund positions in the District Attorney's Office as a result of a study commissioned by the City of Charlotte and Mecklenburg County conducted by American University. The findings of this study identified as the number one need of the criminal justice system in Mecklenburg County additional staffing for the District Attorney According to the study, our District Attorney cannot keep pace with the present volume and rate of increase in caseload, and as a result many offenses have been decriminalized in Mecklenburg County Our District Attorney received no additional prosecutorial positions from the Administrative Office of the Courts from 1979 to 1989 despite a 72% increase in crime, according to the American University study. It should also be noted that by contrast, according to the study, the indigent defense complement in Mecklenburg County has been given 33% more resources than the District Attorney, as well as additional representation provided by the private bar. In 1989 the Administrative Office of the Courts allocated two prosecutorial positions to our District Attorney, but because of the State's budget shortfall State regulations prohibit the District Attorney from filling vacancies occurring in his office for 180 days from the date of each vacancy, thus exacerbating his staffing problems.

The Citizens Criminal Justice Commission has requested that the City and the County seek legislative authority to appropriate County funds for all aspects of the criminal justice system, but along with this authority there should be a sunset provision so that Mecklenburg County will not be placed in the position once again of using local tax dollars to fulfill a responsibility that belongs exclusively to the State. It is envisioned that under this legislation the County would be authorized to appropriate the funds to the Administrative Office of the Courts which would in turn handle the hiring and personnel arrangements as though the funds had been provided by the State. This legislation must be carefully drafted because the Constitution of North Carolina, Article IV, Sec. 20 requires that the operating expenses of the judicial department, other than compensation to process servers and other locally paid non-judicial officers, shall be paid from State funds. The North Carolina Attorney General has in the past opined that the judicial department includes only judges and does not include administrative positions such as prosecutors. This issue must be explored more fully in order to assure the constitutionality of the legislation.

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The General Assembly of North Carolina enacts:

Section 1 G.S. 7A-302 is hereby amended to add a paragraph to read as follows:

> Additionally, a county may supplement with county funds the criminal justice system within the county, which support shall include, but not be limited to, the funding of personnel Funds for this purpose shall be paid by the county to the Administrative Office of the Courts, and the Administrative Office of the Courts shall expend the county funds as directed by the county Personnel hired by the Administrative Office of the Courts shall in all regards be employees of the State as though their positions were funded by the State instead of the County.

Sec 2 G S 153A-149(c) is hereby amended to add a new section to read as follows.

> (38) Criminal Justice System - To support the criminal justice system within the county which shall include, but not be limited to, the funding of personnel. Funds for this purpose shall be paid by the county to the Administrative Office of the Courts, and the Administrative Office of the Courts shall expend the county funds as directed by the county. Personnel hired by the Administrative Office of the Courts shall in all regards be employees of the State as though their positions were funded by the State instead of the County.

Sec. 3. These amendments shall be applicable to Mecklenburg County only.

Sec. 4. This Act is effective upon ratification.

AN ACT TO APPROPRIATE FUNDS FOR THE MEDICAL EXAMINER'S OFFICE IN MECKLENBURG COUNTY

INTENT AND REASON FOR NEED

Many years ago Mecklenburg County undertook the responsibility of funding and operating its own medical examiner's facility in order for the needs of the law enforcement community to be fully met Without our facility, many of the local services would be performed in Chapel Hill causing inconvenience and delay The State Chief Medical Examiner would like very much for the State to pay for the operations of our local facility in order for there to be a regional forensic pathology facility in Charlotte for autopsies and other services to for an area including 30 or more counties Under this arrangement Mecklenburg County would provide the State with the physical facility and morgue equipment and would provide maintenance, repair and custodial services in exchange for the normal County occupancy charge The County would also pay for investigation and autopsy fees if the decedent were a Mecklenburg County resident and died in Mecklenburg County, pursuant to G.S. 130A-387.

Currently the State pays the County approximately 30% of the total annual budget of our local Medical Examiner's Office which is what the Board of Commissioners has required. The total approved budget for our Medical Examiner's Office for FY 1991 was $330,000. The 30% appropriation will be included in the State Chief Medical Examiner's budget for next year, and at the very least we urge approval of this appropriation. We believe that the State should meet its responsibility by appropriating funds to provide Mecklenburg County the services required by law, and in exchange the State will be able to lease from the County at cost a state-of-the-art facility for regional use

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A VOLUNTEER POLICE AUXILIARY FOR THE MECKLENBURG COUNTY POLICE DEPARTMENT

INTENT AND REASON FOR NEED

A police auxiliary unit would effectively extend resources of the Mecklenburg County Police Department by using trained volunteers to help protect the public An auxiliary unit would allow the Department to focus manpower when and where it is needed cost-effectively and without depleting police protection throughout the County. Adequate training is available through existing programs, and auxiliary police would be expected to meet and uphold standards set by the Department.

Legislative authority has been granted for joint city-county reserve units and for auxiliary forces for the sheriffs' departments. Gaston County sought and received special legislation for an auxiliary force in 1965. As the Mecklenburg County Police Department is a free-standing law enforcement agency, enabling legislation is needed for the Board of Commissioners to authorize the formation of an auxiliary unit.

Although some funds will have to be expended to recruit, train and equip auxiliary officers, the cost of this kind of program is minimal when compared to the expense involved in adding full-time police officers to the ranks.

PROPOSED LEGISLATION

Proposed legislation is attached.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A VOLUNTEER POLICE AUXILIARY FOR THE MECKLENBURG COUNTY POLICE DEPARTMENT.

The General Assembly of North Carolina enacts

Section 1. The Board of Commissioners of Mecklenburg County may by proper resolution provide for the organization, recruiting, training, equipping, and appointing of auxiliary police officers for Mecklenburg County and prescribe the duties and responsibilities of such auxiliary police officers

Sec. 2 The Mecklenburg County Auxiliary Police Force and its members shall not be under the Civil Service Board but shall be excepted therefrom and if so ordered by the Board of Commissioners of Mecklenburg County, shall serve directly under and be responsible to the Chief of the Mecklenburg County Police Department whom the Board of Commissioners of Mecklenburg County may also authorize and direct to develop standards and regulations for employment, discipline, regulations and procedures for the operation of the volunteer police fuxiliary force and for the dismissal of members of said police auxiliary The Chief of the Mecklenburg County Police Department shall make provisions for uniforms, weapons, and for such other matters and things as shall be reasonably necessary in carrying out the functions of a voluntary police auxiliary force.

Sec. 3 Auxiliary police officers shall not be entitled to compensation for their services unless called into active duty by the Board of Commissioners of Mecklenburg County, or by such person as the Board of Commissioners of Mecklenburg County may designate, because of any emergency in which event they may receive such compensation for their services as shall be fixed by the Board of Commissioners of Mecklenburg County. Auxiliary police officers shall not be entitled to any benefits or compensation other than those provided by or pursuant to this Section; however, this subsection shall not in any manner affect the rights of any person to benefits provided by the State of North Carolina or by act of Congress for civilian defense workers or auxiliary police officers.

Sec. 4. Members of the Mecklenburg County Auxiliary Police Force shall, when certified as members thereof and when on active duty, have the same police powers and powers of law enforcement officers as regular members of the Mecklenburg County Police Department.

Sec. 5. Mecklenburg County shall be entitled to the same immunities with respect to the action of auxiliary policemen in the performance of their duties in training or otherwise as to which it is entitled with respect to the actions of regular members of the Mecklenburg County Police Department in the performance of their duties.

Sec. 6. The volunteer police auxiliary hereby contemplated is a volunteer organization and therefore the Board of Commissioners of Mecklenburg County or the persons so delegated by the Board may require as a prerequisite to service in the volunteer police auxiliary force that the prospect member enter into a release agreement which would release Mecklenburg County from liability for any accident, injury or death incurred while on duty

Sec 7 This Act shall be applicable to Mecklenburg County only

Sec 8 All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec 9 This Act is effective upon ratification

AN ACT TO AMEND G S 143-135 TO INCREASE THE LIMITATION ON USING FORCE ACCOUNT LABOR BY MECKLENBURG COUNTY AND TO EXEMPT GREENWAYS AND NATURE TRAILS FROM ANY MONETARY LIMITATION

INTENT AND REASON FOR NEED

G.S. 143-135 imposes a limit on local government's ability to use its own work crews on construction projects valued at no more than $75,000. In some instances, Mecklenburg County believes that it could handle small construction projects more economically by using county employees or hiring employees instead of contracting the work. The $75,000 figure was placed in the statute in 1981 and has become obsolete in an area of high construction costs such as Mecklenburg County Over the years many cities and counties have sought and obtained special legislation to increase this figure, and Mecklenburg County believes that an increase would now be beneficial.

Additionally, Mecklenburg County would like to exempt its greenways and nature trails from any monetary limitation. It would be more cost effective for the County to use its own crews on these projects, and the County would have the option of bidding the projects to compare the costs.

PROPOSED LEGISLATION

Proposed legislation is attached.

AN ACT TO AMEND G.S 143-135 TO INCREASE THE LIMITATION OF USING FORCE ACCOUNT LABOR BY MECKLENBURG COUNTY AND TO EXEMPT GREENWAYS AND NATURE TRAILS FROM ANY MONETARY LIMITATION

The General Assembly of North Carolina enacts:

Section 1. G S. 143-135 is hereby amended by deleting the words and number "seventy-five thousand dollars ($75,000)" as the same appears on lines nine and ten therein, and substituting the words and number "two hundred thousand dollars ($200,000)".

Sec 2 G S. 143-135 shall be further amended by adding a sentence to read as follows: "This statute shall not apply to greenways and nature trails located in public parks."

Sec 3 This act shall be applicable to Mecklenburg County only

Sec 4 This act is effective upon ratification.

AN ACT TO AUTHORIZE MECKLENBURG COUNTY TO ADOPT AND ENACT AN ORDINANCE REGULATING THE PLANTING, REMOVAL, REPLACEMENT, AMINTENANCE, AND PRESERVATION OF TREES WITHIN MECKLENBURG COUNTY

INTENT AND REASON FOR NEED

In 1989 Mecklenburg County asked the Legislative Delegation to support enabling legislation to allow the County to regulate the planting and removal of trees in much the same way as the City of Charlotte is able to do through its special legislation. The Legislative Delegation declined to sponsor or support such enabling legislation for the County without first seeing the language of the ordinance contemplated by the County under authority of the legislation In response the County appointed a citizens advisory committee to develop a draft ordinance for presentation to the Delegation.

The Board of Commissioners on November 19, 1990 approved in concept the draft ordinance prepared by the citizens advisory committee for presentation to the Legislative Delegation.

PROPOSED LEGISLATION

Proposed legislation is attached along with the draft ordinance.

AN ACT TO AUTHORIZE MECKLENBURG COUNTY TO ADOPT AND ENACT ORDINANCES REGULATING THE PLANTING, REMOVAL, REPLACEMENT, MAINTENANCE, AND PRESERVATION OF TREES WITHIN MECKLENBURG COUNTY

The General Assembly of North Carolina enacts:

Section 1. An act to authorize Mecklenburg County to adopt ordinances, only after holding public hearings, to regulate the planting, removal, replacement, and maintenance of trees from public and private property within the unincorporated areas of Mecklenburg County in order to preserve, protect and enhance one of the most valuable resources of the community and to protect the health, safety and welfare of its citizens

Sec 2 This act shall be applicable to Mecklenburg County only

Sec 3 All laws and clauses of laws in conflict with this act are hereby repealed.

Sec 4 This act is effective upon ratification.

MECKLENBURG COUNTY TREE ORDINANCE

ARTICLE I. GENERAL

Section 1-1: Purpose and Intent
The purpose of this Ordinance is to regulate and control planting of trees and shrubbery, to vigorously encourage the protection of existing trees on public property within the unincorporated areas of the County, including where their root systems extend onto private property, to regulate the preservation, replacement and indiscriminate removal of trees on private property in new and existing developments, and to establish procedures and practices for fulfilling these purposes.

Section 1-2: Tree Advisory Commission
The Board of County Commissioners may establish a Tree Advisory Commission This Commission may from time to time make recommendations regarding trees and shrubbery to the County Manager or his designee. The Tree Commission shall be composed of ten (10) members who are residents of the County. Eight (8) of the members shall be appointed by the Board of County Commissioners. The remaining two (2) members shall be representatives of County staff and shall be ex-officio non-voting members. Voting members shall serve two-year terms. No member shall serve more than two consecutive two-year terms. One-half of the members shall be appointed each year The Tree Advisory Commission may adopt such administrative rules and procedures as may be appropriate and/or necessary to carry out its duties.

Section 1-3: Jurisdiction, Duties, and Authority

(a) For the purposes of carrying out the provisions of this Ordinance the County Manager or his designee shall have the jurisdiction, authority, control, supervision and direction over all the trees and shrubs planted or growing in or upon public property in the unincorporated areas of the County, and the planting, removal, care, maintenance and protection thereof. In addition, he shall have the authority to regulate the preservation, replacement, and indiscriminate removal of trees on private property as set out in Article III of this Ordinance. The County Manager or his designee shall also have the responsibility of enforcing the provisions as stated in this chapter.

(b) The County Manager or his designee shall be responsible for formulating a master tree plan. The plan shall consider existing and future utility and environmental factors as well as specifying the priorities, standards, and guidelines for tree planting in tree protection zones of designated scenic or historic corridors and other public sites in the County. Prior to its publication, the plan shall be presented to the Tree Advisory Commission for review and recommendation as may be necessary. From and after the effective date of the master tree plan all planting, maintenance and removal is to be in accordance with the master tree plan. If planting is on a highway right of way, there must be an encroachment agreement executed by an official of the North Carolina Department of Transportation and the person seeking to plant, maintain or remove trees.

(c) The County Manager or his designee shall have the authority to review all requests for permits for any planting, removal and/or trimming or cutting of trees on public property. He shall also have the authority to grant or deny permits and attach reasonable conditions to any permits that are issued. The County Manager or his designee shall prepare, publish and promulgate the guidelines and specifications for tree planting, care, maintenance, removal, and landscape design which shall be incorporated into the Charlotte-Mecklenburg Land Development Standards Manual: for reference and use by developers, architects and the general public in furtherance of requirements and intent of this Ordinance.

Section 1-4: Authority to Treat or Remove Trees or Shrubbery on Private Property

(a) The County under the general police power may cause or order to be treated, trimmed, or removed any tree or part thereof on private property which because of its condition is unsafe, injurious to sewers or other improvements, or is affected with a fungus, insect or other pest which poses a serious threat of infection for other trees in the community

(b) The County shall have the power to enter upon any private property in the County and to spray or otherwise treat any tree or shrub infected or infested by any parasite, insect, or pest when it shall be necessary to do so to prevent the breeding or scattering of any parasite or animal pest and to protect danger therefrom to persons or property.

(c) Prior to exercising the authority conferred by this section, the County shall give the owner of the property an opportunity to correct the condition by ordering that corrective action be taken. The order shall be in writing to the owner of the property in question and shall be served personally or by certified mail. The order shall require that the condition be corrected within thirty (30) days from the date of receipt of the order. The County may require correction of the condition within a shorter time period if the condition is dangerous to persons or property. After the time stated in the order for correction of the condition has expired, if the owner has not corrected the condition or has not undertaken action that would lead to a timely correction of the condition, then the County is authorized to enter upon the property, perform the work necessary to correct the condition and to bill the owner for the actual costs incurred for the work performed. If full payment is not received within 60 days, the County is authorized to charge interest at the then-prevailing legal rate. Costs of collection, including attorneys fees will be charged to the owner. The County shall have a lien against the property for any unpaid costs. The charges imposed become a lien when the County files a Notice of Lien in the Office of the Clerk of Superior Court, which Notice may not be filed until 60 days after the owner is billed. This lien is next in priority after special assessment liens and may be enforced using the procedures provided for enforcement of special assessment liens.

Section 1-5: Definitions

Interpretation of these terms is to be consistent with definitions in the Mecklenburg County Zoning Ordinance. As used in this Chapter, unless the

context otherwise requires, the listed terms below shall have the following meanings.

a) Building lines: Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to the front, side and rear lot lines, and referred to as front, side and rear building lines, respectively

b) Caliper: diameter measure of the trunk taken six (6) inches above ground level for trees up to and including four (4) inch caliper size. Measurements shall be taken twelve (12) inches above ground level for larger trees.

c) Charlotte-Mecklenburg Land Development Standards Manual: The manual of construction standards and details jointly prepared by the City Engineer and the Mecklenburg County Director of Engineering, as the term is defined in the Mecklenburg County Subdivision Ordinance, as it may be amended

d) Commercial Timber Management Operation: Land that is a part of a forest unit that is actively engaged in the commercial growing of trees under a production plan designed to obtain the greatest net return from the land consistent with its conservation and long term improvement.

e) County: Mecklenburg County Manager or his designee.

f) DBH (diameter breast height): The diameter of a tree four and one-half feet above the average ground level.

g) Dripline A vertical line running through the outer-most portions of the tree crown extending to the ground.

h) Homeowner: An owner of an existing single family or duplex residence.

i) Impervious Cover: Building structures and other paved, compacted gravel or compacted areas which by their dense nature do not allow the passage of sufficient oxygen and moisture to support and sustain healthy root growth.

j) Large Maturing tree: Any tree species whose height normally exceeds thirty-five (35) feet at maturity.

k) Paved area: Any ground surface covered with concrete, asphalt, stone, gravel, brick, or other paving material.

l) Person: A public or private individual, corporation, company, firm, association, trust, estate, commission, board, public or private institution, utility cooperative or other legal entity.

m) Planting Strip or Area: Ground surface free of paved material which is reserved for landscaping purposes.

o) Public Property: Property owned, leased or controlled by Mecklenburg County.

p) Renovation Any construction activity to an existing structur which changes its square footage, footprint, or modifies the exterior wall material, excluding cosmetic maintenance and repairs.

q) Root protection zone· Generally 18 to 24 inches deep at a distance from the trunk equal to one-half of its height or to its dripline whichever is greater.

o) Scenic and Historic Corridors: The County may designate scenic and historic corridors which establish conditions, procedures, and/or standards and may also include a tree protection zone to protect special historical, architectural, archeological, esthetic, and cultural interest. The Board of Commissioners shall establish the tree protection zone as part of the designation process. Upon such designation, all permits (including maintenance thereon) shall be in strict accordance with the standards outlined for such corridors in the Mecklenburg County Tree Ordinance and supporting documents.

r) Small maturing tree: Any tree species whose height is normally less than 35 feet at maturity.

s) Subdivision: As used in this Ordinance, subdivision is defined and used as defined in the Mecklenburg County Subdivision Ordinance, as it may be amended. ~~A subdivision includes all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, or building development of any type, including both residential and non-residential multiple building site and multi-site projects, even if there is no division of the underlying land into separate parcels which is to be recorded with the Register of Deeds, and also includes all subdivisions of land involving the dedication of a new street or a new street right-of-way or a change in existing streets. All exceptions to this definition are reflected in the Mecklenburg County Subdivision Ordinance.~~

t) Thoroughfare: As used in this Ordinance, thoroughfare is defined and used as defined in the Mecklenburg County Zoning Ordinance, as it may be amended. ~~Any street designated on the official thoroughfare plan or any street which is an extension of any street on the thoroughfare plan and which extends into the area not covered by the thoroughfare plan. The words thoroughfare and arterial are used synonymously and indicate streets which are designated as class I, II, III-c or IV.~~

u) Topping: Any pruning practice that results in more than one-half of the foilage and limbs being removed or severely cuts back the tree without regard to the location of lateral branches

v) Treasure Tree: Any nominated tree which the Treasure Tree Committee determines to meet the criteria for Treasure Tree status.

w) Treasure Tree Committee: A standing committee of the Tree Commission representing various interests within the County whose responsibility it is to set program guidelines, act upon nomination and administer the program.

x) Treasure Tree Program: A program created to locate, document, and protect trees of significant size for their species or which are of special historical or ecological significance.

y) Tree Evaluation Formula: A formula for determining the value of ornamental trees published by the International Society of Arboriculture.

z) Tree protection zone: An area of undisturbed soil and protected vegetation between the public right of way and either the designated building line for the zoning district, or 40 feet from the property line abutting a public right-of-way whichever is less. Along designated scenic and historic corridors the tree protection zone shall be defined by the Board of County Commissioners at the time that the scenic and historic corridor is designated.

aa) Violations and Appeals Committee: A standing committee of the Mecklenburg County Tree Commission appointed by the Chairman to hear and decide appeals. The three (3) members must be appointed from the Tree Commission.

ARTICLE II

Section 2-1: Trimming, Pruning, Planting, and Removal of Trees on Public Property; Permit Required

a) No person shall remove, destroy, cut, severely prune (including the root system) or otherwise treat any tree or shrub having its trunk in or upon any public property, nor shall any person contract with another person to perform such acts without first obtaining a written permit from the County Manager or his designee. Such activity shall be conducted in compliance with the provisions of the permit and this Ordinance.

b) Public and private utilities shall submit written specifications for pruning and trenching operations to the County for approval. Upon approval of its specifications, a utility shall not be required to obtain a permit for routine trenching and pruning operations affecting trees or shrubs having their trunks on public property, as long as such work is done in accordance with the approved specifications. Removal of trees shall require a permit. Failure to comply with the approved specifications is a violation of this Ordinance.

c) No person shall plant or contract with another to plant any tree or shrub on any public property without a permit from the County Manager or his designee.

d) The persons performing the work and the persons contracting for the performance shall be jointly and severally liable for any penalties or other enforcement action imposed pursuant to this Ordinance, and for any other remedies sought or account of work performed in violation of this Ordinance.

e) Individual permits will not be required for County projects so long as tree preservation and protection requirements are included in the

project plans and contract special provisions and are approved by the County Manager or his designee

Section 2-2: Injuring Trees or Shrubbery on Public Property.

a) It shall be unlawful for any person except with a written permit to place or maintain upon the ground on any public property any stone, cement, or other impervious matter or substance in such a manner as may obstruct the free access of air and water to the roots of any tree or shrub. This provision shall not apply to the paving, repairing, or altering of public streets, sidewalks, and other public areas by the County.

b) No person shall perform or contract with another to perform construction work (including the operation or storage of equipment or materials) within the dripline of any tree or shrub having its trunk on any public property without first obtaining a permit from the County. The permit may include requirements that protective enclosures be erected at designated locations

c) It shall be unlawful for any person to attach any object, including but not limited to rope, wire, chain or sign to any tree or shrub on any public property, or to the guard or stake intended for the protection of such tree, except for the purpose of protecting it or the public.

d) Damages to trees on public property in violation of the provisions of this section shall be computed by the County using the standard tree evaluation formula developed by the International Society of Arboriculture. Damages are charged to the party responsible for the injury to the tree(s). No claim shall be made more than five years after the damage can be proven to have occurred. Appeals of damage assessments shall be heard as provided in Section 4-4.

Section 2-3 Trees, Shrubs, etc. Adjacent to Public Property to be Kept Trimmed; Responsibility of Owner.

a) Trees, vines, bushes, shrubbery, or flowers standing in or upon any lot or land adjacent to any street or public property and having branches, limbs, trunks, or other parts projecting into public property shall be kept trimmed by the owner of the property on which such trees, vines, bushes, shrubbery, or flowers are growing so as not to interfere with the free and safe passage along the public way by pedestrians and vehicular traffic.

b) If the owner of such property does not keep this growth from projecting into or on public property, the County shall have the authority (for the protection of the public's health and safety) to order its removal. The order shall be in writing to the owner responsible for such growth and shall be delivered in person or by certified mail. The order shall direct that the condition be corrected within thirty (30) days from the time of receipt of the order. If, after thirty (30) days, the owner has not responded or acted to remove the projecting growth of vines, trees, bushes, shrubbery, or flowers, then the County Manager or his designee shall have the authority to enter upon the property to perform such work as is necessary to correct the condition. The County shall have a lien against the property for the actual cost of correcting the problem.

Section 2-4 Planting Plan Required for More than 25 Trees to be Planted on Public Property

a) Any person desiring to plant more than twenty-five (25) trees, shrubs or vines in or upon the streets right-of-way on public property within the unincorporated areas of the County shall as a part of the permit application submit a planting plan or written statement in duplicate to the County. One copy is to be returned to the applicant upon approval.

b) All planting plans shall show accurately

1) The proposed street width together with its subdivision of pavement, curb and gutter, parking strip and sidewalk area to a definite indicated scale.

2) The proposed tree, shrub or vine together with the location of each existing tree, shrub or vine within the proposed street line in scaled relation to the other features of the plan.

3) The variety of each and every tree, shrub or vine proposed to be planted and of those already existing within the proposed street lines, either indicated on the plans or referenced with the number to a keyed list.

4) The distance, in feet, between tree, shrubs or vines in any one row.

5) The nature of the soil in the planting space to a depth of three feet, and all existing and proposed surface or subsoil drainage systems.

c) A statement filed in lieu of a planting plan shall contain the same information as required on the plan.

Section 2-5 Tree Preservation and or Planting Required on Public Property

The provisions of this Ordinance shall apply to public entities and owners of public property and it shall be unlawful for the said owners to fail to comply with all the provisions of this Ordinance.

ARTICLE III. PRIVATE PROPERTY

Section 3-1: Tree Protection on Private Property Required

Statement of Purpose:

Establishment of Fundamental Expectation Concerning Tree Preservation

Tree preservation and planting requirements are established to protect, preserve, and promote the visual appeal, character, and value of the surrounding neighborhood properties; to promote public health, safety, and welfare through the reduction of noise pollution, air pollution, visual pollution, air temperature extremes and soil erosion, and to improve the appearance of vehicular use areas and the property abutting public rights of way. An overriding purpose of this section is to preserve and reserve tree cover existing in the tree protection zone regardless of development status. Property in the unincorporated area of the County which is held by a public entity is subject to the provisions of this Article

(a) Tree Protection Zone. No living tree equal to or larger than eight (8) inches DBH within the tree protection zone as defined in Section 1 - 5 (x) may be removed, nor any portion of its root protection zone which falls within the tree protection zone may be disturbed without a permit Provisions of Section 3-1(a) shall apply to all unincorporated real property in Mecklenburg County including forest and farm operations, except:

1. Property which falls within the extraterritorial jurisdiction of any municipality.

2 Property developed under an approved subdivision plan for single and duplex residential use;

3. Property of less than five (5) acres which is zoned for single family or duplex residential use

The County Manager or his designee shall have the authority to review all requests for permits for planting, removal, and/or trimming or cutting of trees in any tree protection zone of a designated scenic or historic corridor.

(b) Protection of Treasure Trees. Trees or tree groups officially designated as Treasure Trees in Mecklenburg County, regardless of their location on public or private property, shall not be cut, pruned, removed, or damaged in any way, including the disturbance of any portion of the root protection zone without the owner first obtaining a permit from the County Manager or his designee. Removal of such trees shall be allowed if the preservation renders the property unusable for its intended purpose as determined using criteria to be developed and published by the County Manager. Pruning, removal or other action that may damage a Treasure Tree may be permitted where safety or tree health is a concern and as otherwise determined necessary by the County Manager or his designee.

(c) Tree survey required. Applications for grading, building, demolition, and change of use permits for any property where tree preservation is required according to this Ordinance or where tree preservation is a condition of application approval, must include a tree survey which shall reflect all trees of eight (8) inch DBH and larger within the tree protection zone, any Treasure Trees located anywhere on the property including their official identification number, and any other trees required to be preserved and indicating their species and DBH. Stands of southern yellow pine and other species may be indicated by groups with the average DBH indicated.

(d) Tree protection and planting plan required. Applications for grading, building, demolition and change of use permits shall be accompanied by a tree protection and planting plan which includes the following:

1. A tree and root protection zone plan for existing trees on the public right-of-way.

2. A tree and root protection zone plan for existing trees of 8 inches DBH and larger in the tree protection zone and for all Treasure Trees on the property.

3 A planting plan for required trees on public and private property.

This plan shall be approved prior to construction where street trees may be affected Standards for tree preservation and protection shall be published in the Land Development Standards Manual.

(e) Tree replacement and protection. When trees designated for protection or those planted in accordance with this Article die or are removed for any reason, they must be replaced during the next suitable planting season in a horticulturally appropriate manner. Replacement trees must be chosen from the approved list promulgated by the County Manager in the Land Development Standards Manual in such quantity as is necessary to provide an equivalent tree canopy within ten (10) years, but no replacement tree will be required in a size larger than 4" caliper. When the tree designated for preservation or those planted in accordance with this Article die or are removed for any reason, they must be replaced during the next suitable planting season in a manner, species, quantity, and size approved by the County. Wheel stops, curbs, or other barriers shall be provided where trees might otherwise be damaged by vehicles. Trees shall be allowed to grow to their natural height and form. Topping is prohibited.

Section 3-2: Tree Planting on Private Property Required.

(a) Applicability. This Article shall apply to all developers and/or owners of real property undertaking the erection, repair, alteration, or removal of any building or structure, change in use not involving a structure, as well as grading in anticipation of such development. All tree planting and landscape design required under this Article shall be submitted in written/design form and conform to the guidelines and specifications published in the Land Development Standards Manual.

(b) Property Excluded from the Requirements of this Section.

1. All previously developed property which as altered requires no addition of square footage or exterior renovations to the existing structures on that property.
2. Bonafide agricultural uses, commercial plant nursery operations and commercial timber management operations.
3 Construction, addition to, or renovation of single family or duplex residences.

(c) Perimeter Planting Requirements. A continuous perimeter planting strip exclusive of access driveways, with an average width of eight (8) feet abutting the public right-of-way shall be required. If large maturing trees are used, the planting strip shall include a tree with a minimum of two (2) inches of caliper and eight (8) feet in height for every forty (40) feet of frontage or fraction therof. If small maturing trees are used, the same conditions apply, but the increment drops to thirty (30) feet. When a building permit is requested for renovation of a previously developed site, and where the required perimeter strip does

not exist, tree planting is nevertheless required. For such sites, a pavement cut-out on the perimeter of the property equal to 200 square feet with a minimum width of five (5) feet may be substituted, with one pavement cut-out for each tree to be planted.

(d) Internal Planting Requirements. Whenever the impervious cover exceeds 10,000 square feet, an area equal to 10% of the total impervious surface must be provided for landscape purposes and tree planting. Internal tree planting is required at the rate of one tree per 10,000 square feet of impervious cover. Credit for existing trees may be given in determining necessary internal planting in accordance with the guidelines and any landscaped area on the property including the perimeter planting strip can be included in computation of the 10% planting area.

Trees must be planted within the paved area so that each parking space is an average of sixty (60) feet or less from a tree trunk. Minimum unpaved landscape area per tree shall be 200 square feet with a minimum dimension of 8 feet.

When a building permit is requested for the renovation of a site previously developed, internal tree planting is required and the minimum planting area shall be 200 square feet per tree with a minimum dimension of 8 feet. However, only 5% of the total impervious cover must be open for landscape purposes.

(e) Tree Specifications. The trees to be planted must be from an approved list supplied by the County Manager. The list shall contain as large a number of trees as possible, reflecting trees that are appropriate to grow in this geographical area and which are not prone to unusual growth patterns or susceptible to a high incidence of disease or insect infection. Minimum tree caliper measured 6 inches above the ground on all trees shall be two (2) inches and the minimum height shall be eight (8) feet. A minimum of 50% of the planted trees shall be large maturing shade trees. However, no trees identified as large maturing shall be planted within 20 feet of an electrical distribution line. This does not include low voltage insulated or covered lines of 240 volts or less, or telephone or cable television lines.

(f) Parking Structures. A perimeter planting strip adjacent to the public right of way will be required for parking structures. Such planting strip will be equal to the setback requirements for the zoning district, but in any case not more than twenty (20) feet. The requirements of perimeter planting as set out in Section 3-2(c) are applicable.

(g) Tree Preservation Credits. Tree preservation credits may be allowed for existing trees to satisfy internal and perimeter tree planting requirements where approved tree protection standards are utilized. Application for tree preservation credits shall be treated as a request for a modification under this Article.

(h) Variances. The County Tree Advisory Committee may grant a variance from the requirements of this section upon a finding that:

1) practical difficulties or unnecessary hardship would result if the strict letter of the law was followed; and

2) the variance is in accordance with the general purpose and intent of the Ordinance

A request for a variance must be submitted in writing and be accompanied by a landscape plan noting that which is proposed in lieu of compliance with the Ordinance. Variance requests will be reviewed, approved, or denied within thirty (30) days of receipt.

(i) Modification. The County Manager or his designee may grant a modification from the requirements of this section which complies with the spirit of the Ordinance. A modification is a minor technical change which is in accordance with the general purpose and intent of this Ordinance. A request for a modification must be submitted in writing and be accompanied by a landscape plan noting that which is proposed in lieu of compliance with the Ordinance A request for modification will be reviewed, approved, or denied within thirty (30) days of receipt. A request for delay in compliance with the Ordinance due to weather conditions will be considered following a written request.

(j) Certificates of Occupancy. If weather conditions or season make it inadvisable to plant trees at the time a project is completed, the owner or developer may receive a permanent certificate of occupancy upon filing with the County a bond secured by an irrevocable letter of credit, surety bond or other security acceptable to the County Attorney, in an amount necessary to complete the planting project with sureties satisfactory to the County guaranteeing completion of the project.

ARTICLE IV. ENFORCEMENT AND REMEDIES

Section 4-1: Inspection

(a) The County shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this Ordinance and for this purpose, may enter at reasonable times upon any property, public or private, for the purpose of inspecting the sites subject to the provisions of this Ordinance. No person shall refuse entry or access to any authorized representative or agent of the County who requests entry for the purpose of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with such representative in the process of carrying out his official duties.

(b) If, through inspection, it is determined that a person has failed to comply with the provisions of this Ordinance, a notice to comply shall be served upon that person by personal service, certified mail or posting the notice in a conspicious place. The notice shall set forth any measures necessary to comply with the Ordinance and a time period in which they must be accomplished.

Section 4-2: Emergencies

In the case of emergencies such as windstorms, ice storms, fire or other natural disasters, the requirements of this Ordinance may be waived by the County during the emergency period so that the requirements of this Ordinance will in no way hamper private or public work to restore order in the County. This shall not be interpreted to be a license to circumvent the intent of this Ordinance

Section 4-3: Penalties
The provisions of this Ordinance may be enforced by any, all, or a combination of the remedies authorized and prescribed by this section. If a person fails to comply with a particular Ordinance provision after criminal prosecution or a civil penalty is assessed, that person shall continue to be subject to the remedies prescribed by this section. In addition to any sanctions for enforcement of a judgment, each day of a continuing violation shall constitute a separate offense.

(a) Citation.

(1) The County shall designate specific employees of the County to enforce the provisions of this Ordinance. Those individuals designated by the County shall have the authority to issue citations for any violation of this chapter. If there is reasonable cause to believe that the person to be cited has violated a provision of this Ordinance, the citation may be delivered in person to the violator, or if the violator can not be readily found the citation may be sent to him or her by certified mail. The citation shall direct the violator to appear before the County's Violation and Appeals Committee within fifteen (15) days of the citation, or alternatively pay the citation by mail. Citation penalties shall be approved by the Board of Commissioners and incorporated into the County's fee schedule.

If the violator does not appear before the County's Violations and Appeals Committee and does not pay the citation by mail within fifteen (15) days of its issuance, a delinquency charge shall be added to the amount shown on the citation. A notice thereof will be mailed to the violator.

(2) If a violator fails to respond to the citation and delinquency notice, a complaint shall be entered against the violator for violation of the cited Ordinance and for collection of the delinquency charge.

(3) All citation forms shall be maintained in triplicate and shall be serially numbered. Records of all citations shall be maintained by the County so that a count may be kept of such forms in accordance with the rules and regulations of the Mecklenburg County Finance Department.

(b) Civil Penalties. Any person who violates any of the provisions of this Ordinance may be subject to a civil penalty. The Board of County Commissioners shall determine the specific amount of the penalty to be assessed. In determining the amount of a civil penalty, the Board of Commissioners shall consider the amount of money that the violator would be required to spend in order to achieve compliance with the Ordinance, any damage done by the violator, and the staff time involved n

investigation of the incident The Board may also consider any other relevant information offered, both in aggravation and mitigation. The civil penalty shall not be greater than one thousand dollars ($1,000). A non-monetary penalty, in the form of increased or additional planting requirements may be assessed in addition to or in lieu of any monetary penalties prescribed under this Article. Any additional planting requirements shall not exceed a standard which will create an equivalent tree canopy within ten (10) years or require planting trees with more than 4" caliper. No penalty shall be assessed until the violator has been given notice of the violation and an opportunity for a hearing, and the time for notice of appeal has expired. The violator shall be given at least two (2) weeks notice of the scheduled meeting at which the Board will determine the amount of the penalty and shall be given an opportunity to appear before the Board of Commissioners at the meeting. The County shall make written demand for payment of the penalty assessed and shall set forth in detail a description of the violation for which the penalty has been imposed If payment is not received within sixty (60) days after the demand for payment is made, the matter shall be referred to the County Attorney for appropriate legal action, which may include filing a lien against the violator's property for any unpaid penalties, costs of collection and attorney's fees. The charges imposed become a lien when the County files a Notice of Lien in the Office of the Clerk of Superior Court, which Notice may not be filed until 60 days after the owner is billed. This lien is next in priority after special assessment liens and may be enforced using the procedures provided for enforcement of special assessment liens.

(c) Criminal Prosecution. Any person who knowingly or willfully violates any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $500 and/or thirty (30) days imprisonment, in the court's discretion.

(d) Injunctive Relief. Whenever the County has reasonable cause to believe that any person is violating or threatening to violate the provisions of this Ordinance or any term, condition, or provision of an approved tree plan, the County Manager or his designee may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the County for injunctive relief to restrain the violation or threatened violation. Action will be brought in the Superior Court of Mecklenburg County.

Upon determination by a court that an alleged violation is occurring or threatened, the court shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section will not relieve any party to such proceedings from any civil or criminal penalty prescribed for violation of the Ordinance

Section 4-4: Notice and Appeal

(a) Any person who violates any of the provisions of this Ordinance shall be notified of the specific violation and possible sanctions by personal service or certified mail.

(b) A person may appeal a decision of the County Manager or his designee involving the interpretation or application of this Ordinance by requesting a hearing in writing within ten (10) working days after the receipt of the violation notice. The request must be directed to the Chairman of the Tree Commission who shall appoint a Violations and Appeals Committee made up of three (3) of the appointed members of the Tree Commission. They shall act as an appeal board and hear the complaints of the parties concerned. For the purposes of ruling on actions of the County Manager or his designee concerning violations, three members of the Committee will constitute a quorum. A majority vote of the quorum is needed to reverse the decision of the County Manager or his designee.

(c) After a full and complete hearing held within ten (10) working days after the request is received, the Violations and Appeals Committee shall render its written opinion within five (5) working days, either affirming, overruling or modifying the decision of the County Manager or his designee, as may be fit and proper based on the evidence presented.

(d) Appeals from the decision of the Violation and Appeals Committee shall be heard by the Mecklenburg County Board of Commissioners. Notice of Appeal must be filed in writing within five (5) working days of receipt of the Violation and Appeals Committee's decision. The notice must be directed to the County Manager, who shall have the appeal placed on the Board of Commissioners' agenda. The Board of Commissioners shall sit together as a board, hear evidence presented and render a decision to affirm, overrule, or modify the Appeals Committee. The regular Rules of Procedure of the Board of Commissioners control conduct of the hearing.

Section 4-8: Severability.
If any section or sections of this Ordinance is or are held to be invalid or unenforceable, all other sections will nevertheless continue in full force and effect. Whenever the provisions of this Ordinance impose more restrictive standards than are required in or under any other Ordinance, the regulations herein contained will prevail.

ord6a

AN ACT TO AMEND CHAPTER 908 OF THE 1983 SESSION LAWS TO PLACE A 24% PER YEAR CAP ON INTEREST CHARGED ON TRANSIENT OCCUPANCY TAX IN MECKLENBURG COUNTY AND TO DISTINGUISH BETWEEN INTENTIONAL AND UNINTENTIONAL VIOLATIONS OF THIS ACT

INTENT AND REASON FOR NEED

In 1983 Mecklenburg County was granted authorization to impose a tax on rooms rented in hotels, motels and inns Over the years many situations have been presented to the Board of Commissioners whereby owners of the hotels and motels are charged significant amounts of money in interest charges for failure to properly report income under this act. Often times the interest charges are widely disproportionate to the actual tax A change in this act is necessary to bring the interest charges more in line and to differentiate between intentional and unintentional violations of this act

CHARLOTTE-MECKLENBURG BOARD OF EDUCATION

1991 Legislative Program

The Charlotte-Mecklenburg Board of Education presents the following Legislative Program for 1991

NON-APPROPRIATIONS

1 **Tenure**

Support the efforts to eliminate the principal tenure law and provide for the employment of school administrators on a contractual basis with terms of up to four years

Support fair employment practices including due process for all school employees

2 **Local Flexibility**

Support more local flexibility, including the areas of setting school calendars, assignment of teacher assistants, and school organization

Support accountability based on the outcomes of the individual school improvement plans

3 **Funding Cycle**

Support legislation that either modifies the Budget and Fiscal Control Act or makes changes in the appropriation cycle in order to maximize responsible planning and the effective use of both state and local funds

The Board of Education supports local efforts for the appointment of the State Superintendent of Public Instruction

APPROPRIATIONS

1 **School Improvement and Accountability Act (Senate Bill 2)**

Support funding of the differentiated pay portion of the School Improvement and Accountability Act which rewards individual teachers for outstanding achievement and may also reward them as a faculty team member of an exemplary school

2 **School Employee Salaries**

Seek salary levels that are market sensitive and realistically capable of attracting and retaining high quality school employees

Complete mandated teacher salary schedule providing recognition for years of teaching experience

Implement salary schedule for administrators and non certified positions recognizing years of experience

3 **Early Childhood Education**

Provide funding of intensified learning programs for kindergarten through third grade students, such as *Writing to Read* and *Circle of Childhood* , and additional personnel to provide flexibility in scheduling

Support the implementation of programs for preschool at risk children, including local outreach programs (See second item listed below under Exceptional Children)

4 **Exceptional Children**

Increase the funding necessary to support adequate programs for exceptional children (We strongly support legislative efforts to further streamline the appeals process)

Enact legislation to comply with the 1986 Education of the Handicapped Act Amendments, P L 99-457, requiring states to mandate services for preschool children, beginning at age three The federal government will withdraw all EHA preschool funds, according to P L 99-457 regulations, if a state does not pass the necessary legislation Although North Carolina passed a limited mandate requiring preschool special education a year at a time, based on the availability of funds, the program entitles handicapped and at-risk children to services without sufficient federal dollars to back it up (*Education Daily,* August 24, 1990)

5 **Staff Development**

Support sufficient and flexible staff development funding for local school employees

Provide funding for local school planning which parallels the new emphasis on improved performance at the school level

6 **New Technology in Instruction**

Support the funding of technology in all aspects of the instructional program to reach and challenge every child

7 **Basic Education Program (BEP)**

Continue to support the funding of the Basic Education Program

AGENDA

Meeting Type:	S
Date	01-15-1991
SUBJECT	Joint Meeting

City of Charlotte, City Clerk's Office

CITY / COUNTY / SCHOOL BOARD
1/15/91

			JOE BRAUN, ASST. CTY MGR ✓
Mayor	✓	Autrey	✓
Campbell		Chirico	✓ Edna
Clodfelter		Booth	Doug
Hammond	✓	Kober	✓ Peter
McCrory	✓	Kinsey	Patsy ✓
Mangum	✓	Walton	✓ Bob
Martin	✓	Andrews	Ken
Matthews	✓		
Patterson		Calvin	Wallace
Scarborough	✓	Battle	✓
Underwood	✓	Sharon	Byrum ✓
Wheeler	✓	Jan	Richards ✓
		Susan	Burgess ✓
White	✓	Arthur	Griffin ✓
Seifert	✓	Joe	Martin ✓
Burch	✓	John	Tate Jr. ✓
		Jane	McIntyre ✓

12:53 p.m.

Battle
Walton - Invocation
Battle
Myrick
Underhill - Description of City's Legislative Pkg.
1- MEMORANDUM DATED 1/9/91

Harry Grimmer ASKED ABOUT ITEM 17
Fountain Odom
Vernon
Grimmer
Odom - Crime + Drugs
Underhill - Have not sought Att. Gen.'s Opinion
Odom ITEM 14, 15 A-D
W
Underhill
Odom - Wants minutes of CS Study Comm
Mr. Barnwell - -
Underhill
David - Baumer #14
Myrick - #1 is Priority #1
Baumer

Myrick + #9

Unroot - #12 + #15 were not unanimous

Grimes

Myrick

Odom

McCrory

Battle

Autry

Sandra Bisanar - Associate County Attorney

(Mary Cornelia - admin Office to the Board of Co Comm.)

GAVE DESCRIPTION OF COUNTY LEGISLATIVE PACKAGE.

Odom

Bisanar

Odom - #4 OPPOSITION IN RALEIGH

Autry

Keber

Cunningham - can't (CRIMINAL JUSTICE) City + County combine #1

Bisanar

Cunningham #4

Bisanar

Cunningham

Bisanar

Cunningham

Bisanar

Cunningham

Bisanar SIDE 2

Grimmer

Autrey

Grimmer

Bisanar

Grimmer

Bisanar

Grimmer - #4

Bisanar - autrey

Easterling

Autrey

Easterling

McLaughlin

Bisanar

Bethune

McLaughlin

Bethune

Autrey

Cunningham (Opp. Jim Richardson)

Grimmer

Bethune

Battle
? School Board Attorney
Sharon Bynum
Battle
J. Bynum
Please support eliminating
Jane McIntyre - Principal Tenure
Bynum - DESCRIBED School Board's Legislative
Package
Battle (Margin left 2:05)
Barnhill - Funding Cycle
Joe Martin
Battle
J. Martin
Bynum
Barnhill
Griffin
Battle (Mayor left 2:10)
Odom
Wallace
Odom - Tenure
Bynum
Wallace
J. Martin
Hoyle Martin

Battle

Wallace

H. Martin

Wallace

H. Martin

Wallace (Hammond left 2:15)

Cunningham

Battle

Cunningham

Battle

McCrory - Auto privilege tax INCREASE $3.9 MILLION INCREASE

Cunningham

McCrory

Cunningham

McCrory

Easterling

McCrory

Easterling

McCrory

H Martin

Easterling

McCrory

H Martin

Autry

Battle - Adjourned

2:17 p.m.