

Mayor Patrick L. McCrory

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Patsy Kinsey
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James Mitchell, Jr.
Edwin B. Peacock III
Warren F. Turner

CITY COUNCIL WORKSHOP

Monday, April 7, 2008

Room 267

- | | |
|------------------|---|
| 5:00 p.m. | Dinner |
| 5:15 p.m. | <u>Request for Council Action:</u>
Water and Sewer Rate Change |
| 6:00 p.m. | Economic Development: Charlotte Regional Partnership Update |
| 6:15 p.m. | Economic Development: NASCAR Hall of Fame Project Update |
| 7:00 p.m. | 2008 North Carolina Legislative Agenda |
| 7:30 p.m. | Citizens' Forum
Room 267 |

COUNCIL WORKSHOP AGENDA ITEM SUMMARY

TOPIC: Water and Sewer Rate Change

STAFF RESOURCE: Doug Bean, Charlotte-Mecklenburg Utilities Director

KEY POINTS:

- A water and sewer rate change is requested to respond to revenue shortfalls that have resulted from the current, historic drought.
- The Mayor and City Council considered the rate increase at the March 24, 2008 business meeting and requested additional information. Responses to the questions identified by the Mayor and City Council are attached.
- The FY2008 revenue shortfall was projected in February 2008 to be \$9.3 million. Additional data now increases the projected shortfall for FY2008 to \$13.5 million (not including one day a week watering).
- Mandatory restrictions have been revised and now allow lawn watering once per week. This revision will improve the revenue estimates from the March 24 Council meeting and will likely allow the rate increase to be approximately 1% lower than presented for FY2008 and approximately 1.5% lower than presented for FY2009.

COUNCIL DECISION OR DIRECTION REQUESTED:

Council is asked to vote on the water and sewer rate change at tonight's meeting.

ATTACHMENTS:

Request for Council Action *(to be distributed in the Friday, April 4 Council-Manager Memo)*

Questions and Answers from March 24, 2008 Council Meeting

**Water and Sewer Rates
Questions from March 24, 2008 Council Meeting**

1. How does Utilities' budget compare before & after the revenue shortfall was recognized?

There are savings in divisions that have not incurred extra costs due to the drought. Two divisions, Customer Service and Water and Sewer Line Maintenance, have had increased costs to take customer calls, enforce water restrictions, and accelerate repair of water main leaks.

<u>Division</u>	<u>FY08 Budget</u>	<u>Projected FY08 Expenses</u>	<u>Savings</u>
Administration	\$ 7,498,000	\$ 6,822,000	\$ 676,000
Water Plants	\$12,870,000	\$11,816,000	\$1,054,000
Wastewater Plants	<u>\$31,030,000</u>	<u>\$30,293,000</u>	<u>\$ 737,000</u>
Subtotal	\$51,298,000	\$48,931,000	\$2,467,000
Water & Sewer Lines	\$24,428,000	\$24,637,000	\$(209,000)
Customer Service	<u>\$ 6,179,000</u>	<u>\$ 7,132,000</u>	<u>\$(953,000)</u>
Subtotal	<u>\$30,607,000</u>	<u>\$31,769,000</u>	<u>\$(1,162,000)</u>
Total	\$82,005,000	\$80,700,000	\$1,305,000

2. How many workers did we have before we knew about the revenue shortfall compared to how many we have now?

January 5, 2008	810 employees
March 29, 2008	814 employees
June 28, 2008	788 employees (projected)

A hiring freeze has been in place for all positions except customer-facing and environmental jobs. Those jobs and the reason they were not frozen are:

Customer Service Assistants

- Staff was needed to continue to push call abandonment rate below 30%. It was as high as 61 % in October, 2007. The goal is less than 10%.
- Staff was needed to reduce average time to answer customer calls to under 7 minutes. It was as high as 22 minutes in October, 2007. The goal is less than 2 minutes.

Utility Technicians

- \$250,000 was spent in overtime to reduce leak response time from 5 days in July, 2007 to 2.7 days in February, 2008.
- Staff was needed to reduce sewer overflow initial response from 36 minutes in November, 2007 to 27 minutes in February, 2008. The goal is 30 minutes.

Wastewater Treatment Plant Operators

- Staff was needed to meet state permit requirement to have at least one operator on-site at all times
- Staff was needed to provide minimum security for critical facilities

Positions that were frozen included technology, engineering, and supervisory positions.

As revenue forecasts have continued to deteriorate, the hiring freeze has been “hardened.” Currently, all vacant positions are frozen through year-end.

3. What has been done to control costs?

Expenses have been reduced significantly in recent years through the use of managed competition for services and by optimizing other areas based on lessons learned from that process. Utilities has competed for operation and maintenance of water plants, wastewater plants, wastewater lift stations, and locating underground lines. In addition, Utilities chose to outsource some areas such as residuals management where the private sector had cost or other advantages over in-house capabilities and has optimized other areas including meter reading, inspection of sewer lines, and repairing water service connections.

The need to add staff to accommodate system growth has been met by optimizing service delivery. One example of this is the consolidation and re-organization of the divisions that repair and maintain water and sewer lines. Cross training of crews to perform work on both water and sewer lines allowed more scheduling flexibility, higher productivity, and reduced travel times. Organizing around geographic zones also reduced travel times and increased productivity.

These programs have helped hold down costs and rate increases and have resulted in an organization with staffing and expense levels at the minimum required to provide the services customers need.

Savings from the managed competition and optimization efforts have produced savings in excess of \$10M per year. Cross training of field crews and implementation of automated meter reading is generating additional savings.

There is a plan to sell two parcels of land that are no longer needed in FY09. That sale is expected to generate as much as \$10 M.

4. What are other cities in the basin doing relative to water use restrictions?

The Catawba-Wateree Drought Management Advisory Group (DMAG) met on April 1 to review and assess current drought indicators and conditions. The DMAG reached consensus that due to improving stream flows, relatively high lake levels and ground water levels, they would advise water users to allow one day per week lawn watering. This is in accordance with the minimum requirements of Stage 3 of the Low Inflow Protocol (LIP).

The LIP prescribes minimum actions that water users should take at different drought stages. Water users can, and many have, go beyond the LIP's minimum requirements. For example, in the fall when drought indicators were deteriorating rapidly, Charlotte and other water users went beyond the LIP Stage 3 minimum requirements and prohibited all lawn watering.

Monroe and some other cities withdraw water from their own, single-purpose reservoirs that are not part of the Catawba system and are restricting water use to different extents depending on the status of their own reservoir. Some cities that withdraw from small tributary streams are basing their water restrictions on the day-to-day flows in those streams.

5. Would there be savings if we delay capital projects? Would the delays impact tax revenues? Would inflation costs offset the savings?

To provide some relief during the current fiscal year, \$60 million in project costs have been identified that could be delayed 12 – 18 months. Of this total, delaying \$40 M of these project costs would impede environmental compliance, annexation, or economic development. Therefore, a delay of those projects is not recommended.

The remaining \$20M of project costs would be financed with long-term debt so the FY08 savings from delay would be the debt service for one year, or about \$433,334. The inflation rate for construction costs is currently about 3%, so deferring \$20 M in capital costs for one year would inflate the construction cost by \$600,000. Because the inflation costs are \$166,667 more than FY08 cash flow savings that would be realized from a one year delay, it is not recommended to defer these projects.

Therefore, no FY08 capital project cost reductions have been included in the rate model.

6. Can we produce savings from refinancing existing debt in this fiscal year?

The bond market conditions are not favorable for a refinancing this fiscal year (FY08) so no savings are included in the projections. We are hopeful however, that market conditions will improve in the coming year so that a refinancing could take place.

7. Could long-term financing be used to finance projects that have been programmed for PAYGO funding?

There were originally \$24 M of capital projects programmed in FY09 for PAYGO funding. \$8 M of those PAYGO projects have been shifted to long term financing to reduce cash flow requirements this year. Shifting more PAYGO funding to long-term debt has a negative impact on debt coverages.

8. Could funds be reallocated from the \$5 M GIS / mapping project to help satisfy bond rating tests?

Work on this project is more than 50% complete at this time. The cost of this work was financed and the debt has already been issued. Therefore delaying or suspending the project would not help meet bond rating tests.

9. What is the breakdown of the \$14M City overhead charge? Could the General Fund pay the administrative overhead cost for Utilities?

Four primary components comprise the \$14 million for city overhead:

- **General liability insurance:** This budgeted amount for FY2008 is \$3,526,468. This insurance coverage pertains to claims arising out of Utilities' liability for injuries or damage caused by ownership of property, operations, contracting operations, and the operation of machinery, as well as professional services.
- **Water/sewer collections and billing:** The budgeted amount for FY2008 is \$4,705,569. This involves the staff and equipment required to process bills and collect payments. The City's Revenue division in Finance performs these duties and is reimbursed directly from Utilities.
- **Retiree insurance:** The budgeted amount for FY2008 is \$1,391,924. The number of retirees from Utilities determines the allocation to the health insurance fund.
- **Cost Allocation Plan (CAP):** The CAP represents the fully allocated costs of all support business units within the City. Utilities, as well as all other Enterprise Funds (CATS, Aviation, and Storm Water) are allocated costs through this plan. The FY2008 budgeted amount is \$4,726,552.

The \$4.7 million for the city's cost allocation plan includes units such as CharMeck 311, Business Support Services, Human Resources, Finance, Budget and Evaluation, the City Manager's Office, Engineering, and Attorney. Each unit is assigned costs on an allocation basis such as; number of calls, personal computers, accounts, positions, etc. CharMeck 311 (\$1.2M) and Information Technology (about \$1.0 M) receive the largest allocations from Utilities. A complete breakdown of the cost allocation plan costs is available upon request.

In the current budget, the General Fund (along with the Health Insurance and Risk Reserves Funds) receives the \$14 million in overhead payment from Utilities as revenue. If the General Fund absorbed the \$14 million, there would need to be an increase in other revenues (such as property tax) or reduced expenditures (such as budget cuts) to offset the lost revenue to the General Fund. Since Charlotte-Mecklenburg Utilities provides service county-wide, any revenue increase to pay for overhead from the City's General Fund (such as property tax) would be subsidizing residents of the County and the other Mecklenburg towns.

10. How much lead time is needed to implement a new rate structure?

Three weeks are needed to complete the programming changes and perform testing to ensure billing accuracy.

11. Do commercial rates have a tier structure?

No. Most commercial customers use water at a more constant rate than residential customers and in larger amounts.

12. Can the rate increase be temporary depending on the rain?

Rates are reviewed and adjusted annually with projections of water consumption which is impacted by rain and drought.

13. What agreements with other Catawba basin cities are in place about the drought?

Fifteen cities that withdraw water directly from the Catawba reservoirs have joined the Catawba Wateree Water Management Group (WVG). Those cities, plus other cities that withdraw water from tributary streams to the Catawba and regulatory and resource agencies from North and South Carolina, are part of the Catawba-Wateree Drought Management Advisory Group.

Participants in the Duke Energy / Federal Energy Regulatory Commission (FERC) Relicensing process developed a Low Inflow Protocol (LIP) as a FERC licensing requirement. The LIP sets forth minimum actions that Duke Energy and other water users should take during drought conditions and establishes the trigger points for moving into and out of the stages of drought severity. The LIP allows for water users to take more stringent actions if they deem it appropriate or necessary. During the current drought, many cities, especially those withdrawing directly from the Catawba reservoirs, have implemented more stringent water use restrictions than the LIP required. They chose to do this because of the rate at which the drought was becoming more severe late last summer.

The actions required by the LIP are designed to prevent the region from running out of water during a drought by reducing usage so that the water stored in the lakes will last longer. The actions were tested using computer models based on 75 years of climate and river flow data.

14. If the rate increase is not approved, is there a plan to prevent the downgrade of our bond rating between now and June 30?

Due to the size of the revenue losses for FY08, a significant rate increase is required to meet bond covenants. A downgrade would mean approximately \$5 M dollars of additional interest expense would be incurred in FY09 and would also increase interest expenses in future years by several million dollars.

15. Why are we still in restrictions if the lakes are at normal levels?

There are three indicators that water users in the basin have agreed to use to gauge drought severity. The three are the amount of useable water remaining in the lakes, the 6-month running average of stream flows compared to long term averages, and the U.S. Drought Monitor Index averaged over the most recent 3 months. While the lake levels are at normal ranges, the other two indicators are still pointing toward continued drought.

16. If once per week watering is allowed through the end of May, do we anticipate increased policing costs in June?

Yes. Enforcement costs are expected to be higher when water use restrictions are changed and during times when customers are most prone to use water.

17. Are ground water levels considered as a drought indicator?

Ground water levels are monitored, but are not used to trigger movement into drought stages. They are considered as an indicator for moving out of drought. At this time, there are only

three ground water level monitoring stations in the Catawba basin. One of those monitoring stations is currently showing that ground water levels are consistent with stage 0 and two are at stage 1. Stage 0 is the lowest level of drought and stage 4 is the most severe.

The Water Management Group has funded expansion of this network of groundwater monitoring stations over the next four years so there will be a total of 10 stations. The Water Management Group was able to partner with USGS to do this work and was fortunate to receive \$181,000 in matching USGS funding for this work.

18. What are Duke Energy's concerns? Have they been at the table?

Duke Energy has been a leader in drought management during the current drought. They were the first to be impacted as the drought began last summer when they reduced hydrogenation to hold lake levels as high as possible. They have convened the Drought Management Advisory Group (DMAG) for periodic meetings and conference calls and have provided frequent updates on the drought indicators. Duke Energy is a water user and has a strong interest in extending the water supply.

COUNCIL WORKSHOP AGENDA ITEM SUMMARY

TOPIC: Charlotte Regional Partnership Update

COUNCIL FOCUS AREA: Economic Development

RESOURCES: Kenny McDonald, Senior Vice President, CRP
Tom Flynn

KEY POINTS:

- Charlotte Regional Partnership is a public/private partnership that markets the 16 county Charlotte region for economic development purposes.
- The Charlotte Regional Partnership is funded by a combination of public (State and Local) and private sector monies. In FY08, the City of Charlotte contributed \$144,000.
- This presentation will update City Council on the Partnership's activities in the last year and plans for FY09. It will also highlight the targeted sectors and the work of the Regional Film Commission.

COUNCIL DECISION OR DIRECTION REQUESTED:

None. This presentation is for information purposes only.

ATTACHMENTS:

None.

COUNCIL WORKSHOP AGENDA ITEM SUMMARY

TOPIC: NASCAR Hall of Fame Project Update

COUNCIL FOCUS AREA: Economic Development

RESOURCES: Jim Schumacher, City Manager's Office
Bruce White, Pei Cobb & Freed
Winston Kelley, CRVA

KEY POINTS:

Background

- Charlotte competed with four other cities to be awarded the franchise for the NASCAR Hall of Fame; an agreement was approved by the City Council in March 2006.
- The Hall of Fame complex includes a new 2,500 banquet seat ballroom for the Convention Center; a five level, 1,000 space parking deck; and a 400,000 square foot office building developed by Lauth Properties, along with the Hall of Fame venue.
- Construction began in May 2007 and is projected to be complete by April 2010.

Update

- The I-277/Caldwell interchange and streets around the Hall of Fame complex are being modified to improve traffic flow and pedestrian access. Construction began in August 2007 and is projected to be complete by May 2009.
- The modifications will result in over 10 acres of surplus right-of-way, which the City will sell for development. The proceeds of the sale support the construction of the Hall of Fame as well as recoup the street construction costs. Jim Schumacher will review the status of marketing the land.
- The design has now addressed the exterior spaces of the site, providing a plaza area that will serve both Hall of Fame operations and use by center city residents and visitors throughout the year. Bruce White of Pei Cobb Freed architectural firm will review the status of the design.

- The design of the exhibits continues as opportunities to incorporate artifacts are identified. Winston Kelley, Executive Director of the Hall of Fame, will review the status of acquiring artifacts, such as race cars, and how that will be incorporated into the Hall's visitor experience.
- Although the Hall of Fame is not to be LEED certified, the City Council has expressed interest in making the project more "sustainable."
- Through ongoing study, the consultants and staff have determined that the energy efficiency of the Hall of Fame and Convention Center would be improved, significantly decreasing annual energy costs and greenhouse gas emissions associated with the buildings' power consumption. Jim Schumacher will review this opportunity.

COUNCIL DECISION OR DIRECTION REQUESTED:

This presentation is for information only. Specific actions will be on the City Council business agenda over the next 60 days.

ATTACHMENTS:

None.

COUNCIL WORKSHOP AGENDA ITEM SUMMARY

TOPIC: 2008 North Carolina Legislative Agenda

COUNCIL FOCUS AREA: All Focus Areas

RESOURCES: Boyd Cauble

KEY POINTS:

- The North Carolina Legislative "Short Session" is scheduled to begin on Tuesday, May 13, 2008. The "Short Session" is primarily dedicated to budget adjustments; legislation that passed either the House or Senate in the previous session; study committee reports; or "non-controversial" local bills.
- We have included in Council's North Carolina Legislative Agenda the initiatives that have been approved by previous Council actions and non-controversial local Key Business Units' requests.
- The Council's Governmental Affairs Committee will review the draft package on April 7, prior to the Council Workshop. The final package will be presented to Council for approval on April 14 and then given to the Mecklenburg Delegation at a breakfast meeting on April 21.

COUNCIL DECISION OR DIRECTION REQUESTED:

Review the proposed agenda and suggest changes and/or additions.

ATTACHMENTS:

Draft 2008 North Carolina Legislative Agenda

PROPOSED 2008 NORTH CAROLINA LEGISLATIVE AGENDA

Statewide Legislative Issues:

Gangs

- Passage of Gang Legislation (HB274) in Senate – This Gang legislation addresses issues that limit our police department from prosecuting underage gang members who recruit and intimidate schoolchildren within our public school system. The proposed legislation also includes such provisions as:
 - Defines a “criminal street gang” as three or more persons participating in one or more types of felonious activities
 - Specifies criteria when a person will be considered a “criminal street gang member”
 - Defines “criminal gang activity” as a person who has participated in the commission of two or more selected felonies in the last three years (drugs, robberies, etc.) and adds additional punishment for gang activity
 - Makes it unlawful to threaten a person or their family if that person quits a gang
 - Enhances penalties for a conviction of certain offenses that benefits a street gang
 - Declares that property used to facilitate gang activity is contraband and subject to seizure and forfeiture proceedings under current law
 - Appropriates \$10 million to the Governor’s Crime Commission to fund grants for gang violence prevention and intervention

Transportation Funding

- Implementation of funding/legislation arising from recommendations from the 21st Century Transportation Committee, including but not limited to:
 - Projects to be funded from monies generated by elimination of Highway Trust Fund transfers to the State’s General Fund
 - Authorization for State monies/revenue sources dedicated to transit systems in urban areas
 - Authorization for new State road funding for construction and maintenance
 - Gap funding for proposed tollway projects

Local Departmental Requests:

CATS – Private Security for BusesPage 3

Economic Development – Coverage Area for Small Business Program.....Page 5

Neighborhood Development – Payments in Lieu of TaxesPage 7

Police – Salvage/Scrap Metal Yards.....Page 14

Legislative Request: Private Security for Buses

Requesting KBU: CATS

Detailed Description of Request:

To amend General Statute § 74E-6(c) “Company Police” to extend the territorial jurisdiction of professional security police under contract with the City of Charlotte to include CATS vehicles on the public streets and highways in operation for public transportation purposes.

Council Focus Area: Transportation

Justification for Request:

CATS has contracted with a professional security services agency (Allied Barton) for the provision of police/security services. Under current law, the contract police officers have jurisdiction on the grounds of CATS facilities and on the LYNX Blue Line light rail right-of-way and hence on rail vehicles. This amendment to G.S. § 74E-6(c) “Company Police”, would extend the territorial jurisdiction of contract police officers to include CATS motor vehicles on the public streets and highways while in operation for public transportation purposes in the CATS service area within North Carolina. Currently, contract police officers only have territorial jurisdiction on real property owned or controlled by the officers’ employer or the person or entity their employer has contracted with to provide on-site security personnel services.

KBU Staff Resource: James Dougherty

Legal Staff Resource: John Joye

Requested Before? No

Other Agencies Impacted: CMPD

AN ACT TO ALLOW COMPANY POLICE OFFICERS CONTRACTED BY THE CITY OF CHARLOTTE TO EXERCISE POLICE POWERS ON CHARLOTTE AREA TRANSIT SYSTEM VEHICLES

The General Assembly of North Carolina enacts:

Section 1. GS 74E-6(c) reads as rewritten:

“(c) All Company Police. -- Company police officers, while in the performance of their duties of employment, have the same powers as municipal and county police officers to make arrests for both felonies and misdemeanors and to charge for infractions on any of the following:

(1) Real property owned by or in the possession and control of their employer.

(2) Real property owned by or in the possession and control of a person who has contracted with the employer to provide on-site company police security personnel services for the property.

(3) Any public transportation vehicle owned by or in the possession and control of a person who has contracted with the employer to provide company police security personnel services for the property.

~~(3 4)~~ Any other real property while in continuous and immediate pursuit of a person for an offense committed upon property described in subdivisions (1), ~~(2)~~ (3) of this subsection.

Company police officers shall have, if duly authorized by the superior officer in charge, the authority to carry concealed weapons pursuant to and in conformity with G.S. 14-269(b)(4) and (5).”

Section 2. This act shall apply to the City of Charlotte only.

Section 3. This act is effective when it becomes law.

Legislative Request: Coverage Area for Small Business Program**Requesting KBU:** Economic Development and City Attorney's Office**Request Description:**

To seek legislative authority allowing the City to adjust the coverage area of the Small Business Opportunity Program to include two counties that were historically included in the Charlotte Metropolitan Statistical Area (MSA) (Lincoln and Rowan counties), but were subsequently removed from the defined Charlotte MSA by the U.S. Census Bureau . The purpose is to allow the City to continue to serve those small businesses in Rowan and Lincoln counties that were historically included in the Charlotte MSA to spur economic development in the Charlotte region.

Council Focus Area: Economic Development**Justification for Request:**

In August 2002, the North Carolina General Assembly enacted Senate Bill 1336, authorizing the City to establish a Small Business Opportunity Program to promote the development and use of small business enterprises in the Charlotte MSA. Pursuant to this legislation, the City adopted a Small Business Opportunity Program that went into effect in March 2003.

The Charlotte MSA in effect at the time Senate Bill 1336 was adopted included the following seven Counties: Mecklenburg, Cabarrus, Rowan, Union, Gaston & Lincoln counties in N.C., plus York County in S.C. In 2003, the U.S. Office of Management and Budget announced new geographic definitions for the nation's metropolitan statistical areas based upon criteria developed in the late 1990's and the 2000 census. The new definitions removed Rowan and Lincoln counties from the Charlotte MSA, and added Anson County.

Having run the SBO Program for approximately five years, staff believes that small businesses in Lincoln and Rowan counties have significant economic and social ties to economic development in Charlotte. Staff further believes that expanding coverage of the Program to bring these two counties back into the Small Business Opportunity Program coverage area will better achieve the City's objective of promoting economic development in the City of Charlotte. For these reasons, staff recommends amending the enabling legislation for the Small Business Opportunity Program to define the coverage area to include: (a) the Metropolitan Statistical Area that includes Charlotte, North Carolina, as defined by the U.S. Office of Management and Budget from time to time, and (b) Rowan County, N.C. and Lincoln County, N.C.

Staff Resource(s): Ron Kimble, Tom Flynn, Alicia Jolla**Legal Staff Resources:** Mac McCarley, Cindy White**Requested Before?** No**Other Agencies Impacted:** None

AN ACT TO AMEND THE CHARTER OF THE CITY OF CHARLOTTE TO ALLOW
ADJUSTMENT OF THE GEOGRAPHIC SCOPE OF THE CITY'S SMALL BUSINESS
ENTERPRISE PROGRAM

The General Assembly of North Carolina enacts:

Section 1. The Charter of the City of Charlotte, being Session Law 2000-26, is amended by revising Chapter 8, Article III Section 8.88(a) to read:

Section 8.88. Small Business Enterprise Program.

- (a) The City may establish a race and gender neutral small business enterprise program to promote the development of small businesses within the Charlotte Regional Area (as defined by this Section) and to enhance opportunities for small businesses to participate in City contracts. The City may define the term "small business enterprise" as appropriate and consistent with the City's contracting practices. The City may establish bid and proposal specifications that include subcontracting goals and good faith efforts requirements to enhance participation by small business enterprises in City contracts. Notwithstanding G.S. 143-129 and G.S. 143-131, the City may consider a bidder's efforts to comply with small business enterprise program requirements in its award of City contracts, and if a bidder is determined to have failed to comply with said requirements, the City may within its discretion, refuse to award a contract to such bidder.

As used in this Section, the term "Charlotte Regional Area" means: (a) the Metropolitan Statistical Area that includes Charlotte, North Carolina, as defined by the U.S. Office of Management and Budget from time to time, and (b) Rowan County, N.C. and Lincoln County, N.C.

Section 2. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provisions or applications, and to this end the provisions of this act are severable.

Section 3. This act is effective when it becomes law.

Legislative Request: Payments in Lieu of Taxes**Requesting KBU:** Neighborhood Development**Detailed Description of Request:**

Support Senate Bill 1309. Over the past year, the City of Charlotte and Mecklenburg County have been considering requests from the Charlotte Housing Authority (CHA) and their affordable housing partners for relief from property taxes they had not expected to owe. The Limited Liability Companies (LLCs) that have partnered with the CHA now owe property taxes on projects where they had expected to make much lower Payments In Lieu of Taxes (PILOTS). This problem may be partially or completely resolved by allowing the tax assessor to recognize the contractual limitations on rental rates imposed by affordable housing programs. At this time, those restrictions are not taken into account when assessing the property value for affordable housing projects.

The North Carolina State Senate has passed a Bill entitled “An Act Relating to the Property Tax Valuation of Low and Moderate Income Housing, to Reduce the Discrepancy between the Property Tax Value of Property and its Market Value and to Treat Mobile Homes the Same as Other Homes with Respect to Property Tax Liens.” The Bill requires that low and moderate income housing to be valued as a special class of property with “the effect of rent restrictions and income restrictions on the true value of the property shall be taken into account for the purposes of valuation.” Presently, restrictions in the amount of revenue affordable housing developments generate are not taken into account for assessed valuations for property taxes. Affordable housing developments are valued as similar market rate housing developments. The intended effect of this bill is to value low-income affordable housing units according to their ability to produce income and lower their property tax assessments and tax bills accordingly.

The bill’s new language requires the following:

- (1) *The property is subject to restriction on the income eligibility of tenants to whom it is leased or on the rents that may be charged pursuant to any State or federal government program providing for tax incentives, grants, interest subsidies, or loans.*
- (2) *The property is in compliance with the terms, covenants, and conditions of such State or federal government program.*

In addition, the value of the tax incentives, grants, interest subsidies, or loans provided to the property or the owner of the property shall be ignored for purposes of valuation under this Subchapter.”

We recommend the bill be modified to include the addition of local governments under section (1) as follows:

The property is subject to restriction on the income eligibility of tenants to whom it is leased or on the rents that may be charged pursuant to any local, State, or federal government program providing for tax incentives, grants, interest subsidies, or loans.

The addition of local programs would provide the same tax assessment treatment to projects that only receive assistance from the City's affordable housing programs such as the Housing Trust Fund.

Council Focus Area: Expand the supply of affordable housing.

Justification for Request: When affordable housing projects are evaluated for the amount of assistance needed to make them economically viable, all operating expenses including property taxes are considered. Senate Bill 1309 would allow those properties to be more fairly evaluated given the contractual limits on rents. Also, a lower tax bill would translate into a lower subsidy amount for the overall project.

City Council instructed City staff to work with County staff and industry representatives to explore the development of a workable agreement that would replace the Payment in Lieu of Taxes arrangement that has now been rendered invalid. City staff formed a stakeholders committee called the PILOT Policy Study Committee. The PILOT Policy Study Committee's research determined that affordable housing developments are assessed property taxes without regard to their contractual limitations on income. The Committee included support of Senate 1309 as one of their report recommendations. Senate Bill 1309 would reduce or possibly eliminate the difference between a PILOT and the property taxes owed by an affordable housing project. The bill would require the tax assessor to take into account the effect of rent restrictions and income restrictions for the purposes of valuation of affordable housing projects.

KBU Staff Resource: Richard Woodcock, Neighborhood Development

Legal Staff Resource: Anna Schleunes

Requested Before? No

Other Agencies Impacted: None

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1309
Finance Committee Substitute Adopted 7/30/07
Third Edition Engrossed 8/2/07

Short Title: Fairness in PT Values/Lien on Mobile Home.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT RELATING TO PROPERTY TAX VALUATION OF LOW AND MODERATE INCOME HOUSING, TO REDUCE THE DISCREPANCY BETWEEN THE PROPERTY TAX VALUE OF PROPERTY AND ITS MARKET VALUE AND TO TREAT MOBILE HOMES THE SAME AS OTHER HOMES WITH RESPECT TO PROPERTY TAX LIENS.

The General Assembly of North Carolina enacts:

SECTION 0.9. G.S. 105-283 reads as rewritten:

"§ 105-283. Uniform appraisal standards.

(a) All property, real and personal, shall as far as practicable be appraised or valued at its true value in money. When used in this Subchapter, the words "true value" shall be interpreted as meaning market value, that is, the price estimated in terms of money at which the property would change hands between a willing and financially able buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of all the uses to which the property is adapted and for which it is capable of being used. For the purposes of this section, the acquisition of an interest in land by an entity having the power of eminent domain with respect to the interest acquired shall not be considered competent evidence of the true value in money of comparable land.

(b) Property that meets all of the conditions provided in this subsection is designated a special class of property pursuant to Section 2(2) of Article V of the North Carolina Constitution and shall be appraised as provided in this subsection. In the case of real property that meets all of the following conditions, the effect of rent restrictions and income restrictions on the true value of the property shall be taken into account for purposes of valuation under this Subchapter:

(1) The property is subject to restriction on the income eligibility of tenants to whom it is leased or on the rents that may be charged pursuant to any State or

federal government program providing for tax incentives, grants, interest subsidies, or loans.

- (2) The property is in compliance with the terms, covenants, and conditions of such State or federal government program.

In addition, the value of the tax incentives, grants, interest subsidies, or loans provided to the property or the owner of the property shall be ignored for purposes of valuation under this Subchapter."

SECTION 1. G.S. 105-286 reads as rewritten:

"§ 105-286. Time for general reappraisal of real property.

(a) ~~Oetennial~~ Quadrennial Plan. – Unless the date shall be ~~advanced~~ postponed as provided in subdivision (a)(2), below, each county of the State, as of January 1 of the year prescribed in the schedule set out in subdivision (a)(1), below, and every ~~eight~~ fourth year thereafter, shall reappraise all real property in accordance with the provisions of G.S. 105-283 and 105-317.

- (1) Schedule of Initial Reappraisals. –

Division One – 1972: Avery, Camden, Cherokee, Cleveland, Cumberland, Guilford, Harnett, Haywood, Lee, Montgomery, Northampton, and Robeson.

Division Two – 1973: Caldwell, Carteret, Columbus, Currituck, Davidson, Gaston, Greene, Hyde, Lenoir, Madison, Orange, Pamlico, Pitt, Richmond, Swain, Transylvania, and Washington.

Division Three – 1974: Ashe, Buncombe, Chowan, Franklin, Henderson, Hoke, Jones, Pasquotank, Rowan, and Stokes.

Division Four – 1975: Alleghany, Bladen, Brunswick, Cabarrus, Catawba, Dare, Halifax, Macon, New Hanover, Surry, Tyrrell, and Yadkin.

Division Five – 1976: Bertie, Caswell, Forsyth, Iredell, Jackson, Lincoln, Onslow, Person, Perquimans, Rutherford, Union, Vance, Wake, Wilson, and Yancey.

Division Six – 1977: Alamance, Durham, Edgecombe, Gates, Martin, Mitchell, Nash, Polk, Randolph, Stanly, Warren, and Wilkes.

Division Seven – 1978: Alexander, Anson, Beaufort, Clay, Craven, Davie, Duplin, and Granville.

Division Eight – 1979: Burke, Chatham, Graham, Hertford, Johnston, McDowell, Mecklenburg, Moore, Pender, Rockingham, Sampson, Scotland, Watauga, and Wayne.

- (2) ~~Advancing Scheduled Oetennial Reappraisal.~~ Any county desiring to conduct a reappraisal of real property earlier than required by this subsection (a) may do so upon adoption by the board of county commissioners of a resolution so providing. A copy of any such resolution shall be forwarded promptly to the Department of Revenue. If the scheduled date for reappraisal for any county is advanced as provided herein, real property in that county shall thereafter be reappraised every eighth year following the advanced date unless, in accordance with the provisions of this subdivision (a)(2), an earlier date shall be adopted by resolution of the board of county commissioners, in which event a new schedule of oetennial reappraisals shall thereby be established for that county. Postponing Scheduled Quadrennial Reappraisal. – If, at the time for reappraisal of real property as required by subsection (a), the

sales assessment ratio defined in G.S. 105-289(h) exceeds .90 for a county, that county may postpone a reappraisal of real property upon adoption by the board of county commissioners of a resolution until the time for the next subsequent reappraisal of real property as required by subsection (a) for that county. A county passing a resolution under this subsection shall promptly submit a copy to the Department of Revenue.

~~(b) Fourth Year Horizontal Adjustments.—As of January 1 of the fourth year following a reappraisal of real property conducted under the provisions of subsection (a), above, each county shall review the appraised values of all real property and determine whether changes should be made to bring those values into line with then current true value. If it is determined that the appraised value of all real property or of defined types or categories of real property require such adjustment, the assessor shall revise the values accordingly by horizontal adjustments rather than by actual appraisal of individual properties: That is, by uniform application of percentages of increase or reduction to the appraised values of properties within defined types or categories or within defined geographic areas of the county.~~

(c) Value to Be Assigned Real Property When Not Subject to Appraisal. – In years in which real property within a county is not subject to reappraisal under ~~subsections (a) or (b),~~ subsection (a), above, or under G.S. 105-287, it shall be listed at the value assigned when last appraised under this section or under G.S. 105-287."

SECTION 2. G.S. 105-287 reads as rewritten:

"§ 105-287. Changing appraised value of real property in years in which general reappraisal or horizontal adjustment is not made.

(a) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor shall increase or decrease the appraised value of real property, as determined under G.S. 105-286, ~~to recognize a change in the property's value resulting from one or more of the reasons listed in this subsection. The reason necessitating a change in the property's value need not be under the control of or at the request of the owner of the affected property to accomplish any one or more of the following:~~

- (1) Correct a clerical or mathematical error.
- (2) Correct an appraisal error resulting from a misapplication of the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment.~~ reappraisal.
- (2a) Recognize an increase or decrease in the value of the property resulting from a conservation or preservation agreement subject to Article 4 of Chapter 121 of the General Statutes, the Conservation and Historic Preservation Agreements Act.
- (2b) ~~Recognize an increase or decrease in the value of the property resulting from a physical change to the land or to the improvements on the land, other than a change listed in subsection (b) of this section.~~ Recognize a change in whether the property meets the conditions of G.S. 105-283(b).
- (2c) ~~Recognize an increase or decrease in the value of the property resulting from a change in the legally permitted use of the property.~~
- (3) Recognize an increase or decrease in the value of the property resulting from a factor other than one listed in subsection (b).

(b) In a year in which a general reappraisal ~~or horizontal adjustment~~ of real property in the county is not made, the assessor may not increase or decrease the appraised value of real property, as determined under G.S. 105-286, to recognize a change in value caused by:

- (1) Normal, physical depreciation of improvements;
- (2) Inflation, deflation, or other economic changes affecting the county in general; or
- (3) Betterments to the property made by:
 - a. Repainting buildings or other structures;
 - b. Terracing or other methods of soil conservation;
 - c. Landscape gardening;
 - d. Protecting forests against fire; or
 - e. Impounding water on marshland for non-commercial purposes to preserve or enhance the natural habitat of wildlife.

(c) An increase or decrease in the appraised value of real property authorized by this section shall be made in accordance with the schedules, standards, and rules used in the county's most recent general ~~reappraisal or horizontal adjustment~~ reappraisal. An increase or decrease in appraised value made under this section is effective as of January 1 of the year in which it is made and is not retroactive. This section does not modify or restrict the provisions of G.S. 105-312 concerning the appraisal of discovered property.

(d) Notwithstanding subsection (a), if a tract of land has been subdivided into lots and more than five acres of the tract remain unsold by the owner of the tract, the assessor may appraise the unsold portion as land acreage rather than as lots. A tract is considered subdivided into lots when the lots are located on streets laid out and open for travel and the lots have been sold or offered for sale as lots since the last appraisal of the property."

SECTION 3. G.S. 105-355 reads as rewritten:

"§ 105-355. Creation of tax lien; date as of which lien attaches.

(a) Lien on Real Property. – Regardless of the time at which liability for a tax for a given fiscal year may arise or the exact amount thereof be determined, the lien for taxes levied on a parcel of real property shall attach to the parcel taxed on the date as of which property is to be listed under G.S. 105-285, and the lien for taxes levied on personal property shall attach to all real property of the taxpayer in the taxing unit on the same date. All penalties, interest, and costs allowed by law shall be added to the amount of the lien and shall be regarded as attaching at the same time as the lien for the principal amount of the taxes. For purposes of this subsection (a):

- (1) Taxes levied on real property listed in the name of a life tenant under G.S. 105-302 (c)(8) shall be a lien on the fee as well as the life estate.
- (2) Taxes levied on improvements on or separate rights in real property owned by one other than the owner of the land, whether or not listed separately from the land under G.S. 105-302 (c)(11), shall be a lien on both the improvements or rights and on the land.

(b) Lien on Mobile Home Listed as Personal Property. – The lien for taxes levied on a mobile home listed as personal property shall attach to the mobile home and to all real property of the taxpayer in the taxing unit on the date as of which property is to be listed under G.S. 105-285.

~~(b)~~(c) Lien on Personal Property. – Taxes levied on real and personal property (including penalties, interest, and costs allowed by law) shall be a lien on personal property from and after levy or attachment and garnishment of the personal property levied upon or attached."

SECTION 4. This act is effective for taxes imposed for taxable years beginning on or after July 1, 2008. The reappraisal schedule in G.S. 105-286, determined without regard to the amendment to that statute made by Section 1 of this act, applies to a county until the county conducts its next general reappraisal. When a county conducts its next general reappraisal, the schedule in G.S. 105-286, as amended by Section 1 of this act, applies to that county.

Legislative Request: Salvage/Scrap Metal Yards

Requesting KBU: CMPD

Detailed Description of Request:

Many vehicles are stolen throughout North Carolina and are sold as scrap metal. A recent change in the law (G.S. 20-62.1) allows anyone to sell a vehicle that is 10 years or older to a secondary metals recycler or salvage yard without providing a certificate of title. Although the salvage yard must retain information about the sale, including proof of ID, auto thieves are using false ID's when they sell an older stolen vehicle. According to the National Insurance Crime Bureau, the cars targeted for theft in North Carolina are all over 10 years old and are ranked below:

1. 1994 Honda Accord
2. 1995 Honda Civic
3. 1996 Jeep Cherokee/Grand Cherokee
4. 1996 Dodge Caravan
5. 1998 Ford Explorer
6. 1991 Toyota Camry
7. 1997 Ford Taurus
8. 1997 Ford F150 Series
9. 1996 Chevrolet Cavalier
10. 1990 Chevrolet Full Size C/K 1500 Pickup

Council Focus Area: Community Safety

Justification for Request: The amendment is sought to reduce auto thefts and the trafficking of stolen parts.

KBU Staff Resource: Deputy Chief Dave Graham / Detective Dave Hunter

Legal Staff Resource: Mark Newbold

Requested Before? No

Other Agencies Impacted: All North Carolina law enforcement agencies as well as insurance companies.

§ 20-62.1. Purchase of vehicles for purposes of scrap or parts only

(a) Records for Scrap or Parts. -- A secondary metals recycler, as defined in [G.S. 66-11\(a\)\(3\)](#), and a salvage yard, as defined in [G.S. 20-137.7\(6\)](#), purchasing motor vehicles solely for the purposes of dismantling or wrecking such motor vehicles for the recovery of scrap metal or for the sale of parts only, must comply with the provision of [G.S. 20-61](#), provided, however, that a secondary metals recycler or salvage yard may purchase a motor vehicle without a certificate of title, if the motor vehicle is 10 model years old or older and the secondary metals recycler or salvage yard comply with the following requirements:

(1) Maintain a record of all purchase transactions of motor vehicles. The following information shall be maintained for transactions of motor vehicles:

- a. The name and address of the secondary metals recycler or salvage yard.
- b. The name, initials, or other identification of the individual entering the information.
- c. The date of the transaction.
- d. A description of the motor vehicle, including the make and model to the extent practicable.
- e. The vehicle identification number (VIN) of the vehicle.
- f. The amount of consideration given for the motor vehicle.
- g. A written statement signed by the seller or the seller's agent certifying that the seller or the seller's agent has the lawful right to sell and dispose of the motor vehicle.
- h. The name and address of the person from whom the motor vehicle is being purchased.
- i. A photocopy or electronic scan of a valid drivers license or identification card issued by the Division of Motor Vehicles of the seller of the motor vehicle, or seller's agent, to the secondary metals recycler or salvage yard, or in lieu thereof, any other identification card containing a photograph of the seller as issued by any state or federal agency of the United States: provided, that if the buyer has a copy of the seller's photo identification on file, the buyer may reference the identification that is on file, without making a separate photocopy for each transaction. If seller has no identification as described in this sub-subdivision, the secondary metals recycler or salvage yard shall not complete the transaction.

(2) Maintain the information required under subdivision (1) of this subsection for not less than two years from the date of the purchase of the motor vehicle.

(b) Inspection of Motor Vehicles and Records. -- At any time it appears a secondary metals recycler, salvage yard, or any other person involved in secondary metals operations is open for business, a law enforcement officer shall have the right to inspect the following:

(1) Any and all motor vehicles in the possession of the secondary metals recycler, the salvage yard, or any other person involved in secondary metals operations.

(2) Any records required to be maintained under subsection (a) of this section.

(c) Violations. -- Any person who knowingly and willfully violates any of the provisions of this section, or any person who falsifies the statement required under subsection (a)(1)g. of this section, shall be guilty of a Class 1 misdemeanor for a first offense. A second or subsequent violation of this section is a Class I felony. The court may order a defendant seller under this subsection to make restitution to the secondary metals recycler or salvage yard for any damage or loss caused by the defendant seller arising out of an offense committed by the defendant seller.

(d) Confiscation of Vehicle or Tools Used in Illegal Sale. -- Any motor vehicle used to transport another motor vehicle illegally sold under this section may be seized by law enforcement and is subject to forfeiture by the court, provided, however, that no vehicle used by any person in the transaction of a sale of regulated metals is subject to forfeiture unless it appears that the owner or other person in charge of the motor vehicle is a consenting party or privy to the commission of a crime, and a forfeiture of the vehicle encumbered by a bona fide security interest is subject to the interest of the secured party who had no knowledge of or consented to the act.

Whenever property is forfeited under this subsection by order of the court, the law enforcement agency having custody of the property shall sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public, provided that the proceeds are remitted to the Civil Fines and Forfeitures Fund established pursuant to [G.S. 115C-457.1](#).

(e) Exemptions. -- As used in this section, the term "motor vehicle" shall not include motor vehicles which have been mechanically flattened, crushed, baled, or logged and sold for purposes of scrap metal only.

(f) Preemption. -- No local government shall enact any local law or ordinance with regards to the regulation of the sale of motor vehicles to secondary metals recyclers or salvage yards.