

STATE OF NORTH CAROLINA)
)
COUNTY OF STOKES)
)

OFFICE OF THE COMMISSIONERS
STOKES COUNTY GOVERNMENT
DANBURY, NORTH CAROLINA
OCTOBER 12, 2009

The Board of Commissioners of the County of Stokes, State of North Carolina, met for regular session in the Commissioners' Chambers of the Ronald Wilson Reagan Memorial Building (Administration Building) located in Danbury, North Carolina on Monday, October 12, 2009 at 1:30 pm with the following members present:

Chairman J. Leon Inman
Vice-Chairman Jimmy Walker
Commissioner Ron Carroll
Commissioner Ernest Lankford
Commissioner Stanley Smith

County Personnel in Attendance:
County Manager K. Bryan Steen
Clerk to the Board Darlene Bullins
Finance Director Julia Edwards
Tax Administrator Jake Oakley
Support Services Supervisor Danny Stovall
Economic Development Director Alan Wood

Chairman J. Leon Inman called the meeting to order.

Vice Chairman Walker delivered the invocation.

GENERAL GOVERNMENT-GOVERNING BODY-PLEDGE OF ALLEGIANCE

Chairman Inman opened the meeting by inviting the citizens in attendance to join the Board with the Pledge of Allegiance.

GENERAL GOVERNMENT – GOVERNING BODY – APPROVAL OF AGENDA

Chairman Inman entertained a motion to approve or amend the October 12, 2009 Agenda.

Commissioner Lankford moved to approve the October 12, 2009 Agenda as presented.

Vice Chairman Walker seconded and the motion carried unanimously.

PUBLIC COMMENTS

There were no public comments.

CONSENT AGENDA

Chairman Inman entertained a motion to approve or amend the following items on the Consent Agenda:

Minutes

- Minutes of September 28, 2009

Social Services - Budget Amendment #20

Finance Director Julia Edwards submitted Budget Amendment #20.

To amend the General Fund, the expenditures are to be changed as follows:

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
Social Services				
100.5850.000	Adult Day Care	\$8,771.00	\$2,972.00	\$11,743.00
100.5850.001	Day Care (TANF) MOE	<u>\$14,321.00</u>	<u>\$(494.00)</u>	<u>\$13,827.00</u>
	Totals	\$23,092.00	\$2,478.00	\$25,570.00

This budget amendment is justified as follows:
To appropriate additional funding for the Adult Day Care Fund.

This will result in a net increase of \$2,478.00 in the expenditures and other financial use to the County’s annual budget. To provide the additional revenue for the above, the following revenues will increase. These revenues have already been received or are verified they will be received this fiscal year.

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
100.3301.203	Adult Day Care	<u>\$7,797.00</u>	<u>\$2,478.00</u>	<u>\$10,275.00</u>
	Totals	\$7,797.00	\$2,478.00	\$10,275.00

Board of Education – Budget Amendment #21

Finance Director Julia Edwards submitted Budget Amendment #21.

To amend the General Fund, the expenditures are to be changed as follows:

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
	Contingency			
100.9910.200	Hold Harmless Contingency	\$400,000.00	\$(300,000.00)	\$100,000.00
	Transfers			
100.9820.991	Transfer to School Capital Outlay Fund	\$00.00	\$300,000.00	\$300,000.00
	Totals	\$400,000.00	\$00.00	\$400,000.00
	School Capital Outlay & Capital Reserve Fund			
212.5912.000	Capital Outlay	\$00.00	\$300,000.00	\$300,000.00
	Totals	\$00.00	\$300,000.00	\$300,000.00

This budget amendment is justified as follows:

To transfer funds from Contingency per the 2009-10 Budget Ordinance funded by Hold Harmless.

This will result in a net increase of \$300,000.00 in the expenditures and other financial use to the County's annual budget. To provide the additional revenue for the above, the following revenues will increase. These revenues have already been received or are verified they will be received this fiscal year.

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
	School Capital Outlay & Capital Reserve Fund			
212.3982.020	Transfer from General Fund	\$00.00	\$300,000.00	\$300,000.00
	Totals	\$00.00	\$300,000.00	\$300,000.00

Finance – Budget Amendment #22

Finance Director Julia Edwards submitted Budget Amendment #22.

To amend the General Fund, the expenditures are to be changed as follows:

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
	Finance			
100.4130.440	Misc. Contractual Services	\$46,000.00	\$1,500.00	\$47,500.00
	Totals	\$46,000.00	\$1,500.00	\$47,500.00
	Capital Reserve Fund			
201.4130.000	Finance	\$1,500.00	\$(1,500.00)	\$00.00
201.9810.000	Transfer to General Fund	\$50,198.00	\$1,500.00	\$51,698.00
	Totals	\$51,698.00	\$00.00	\$51,698.00

This budget amendment is justified as follows:
 To transfer funds from Capital Reserve Fund to General Fund for the Finance software upgrade.

This will result in a net increase of \$1,500.00 in the expenditures and other financial use to the County's annual budget. To provide the additional revenue for the above, the following revenues will increase. These revenues have already been received or are verified they will be received this fiscal year.

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
	General Fund			
100.3982.960	Transfer from Capital Reserve Fund	<u>\$47,198.00</u>	<u>\$1,500.00</u>	<u>\$48,698.00</u>
	Totals	\$47,198.00	\$1,500.00	\$48,698.00

Leave Pay Off – Budget Amendment #23

Finance Director Julia Edwards submitted Budget Amendment #23.

To amend the General Fund, the expenditures are to be changed as follows:

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
	Jail			
100.4320.000	Salaries and Wages	\$573,340.00	\$49,891.00	\$623,231.00
	District Resource Center			
100.4321.000	Salaries and Wages	\$86,507.00	\$2,919.00	\$89,426.00
	Emergency Communications			
100.4325.000	Salaries and Wages	\$357,809.00	\$23,010.00	\$380,819.00
	Solid Waste			
100.4720.000	Salaries and Wages	\$175,092.00	\$1,059.00	\$176,151.00
	Health Department			
100.5100.000	Salaries and Wages	\$980,712.00	\$3,127.00	\$983,839.00
	Social Services			
100.5310.000	Salaries and Wages	\$1,642,708.00	\$281.00	\$1,642,989.00
	Veteran Services			
100.5820.000	Salaries and Wages	\$15,331.00	\$227.00	\$15,558.00
	Contingency			
100.9910.100	Leave Cost	<u>\$100,000.00</u>	<u>\$(80,514.00)</u>	<u>\$19,486.00</u>
	Totals	\$3,931,499.00	\$00.00	\$3,931,499.00

This budget amendment is justified as follows:

To transfer funds for leave cost payout for employees who have retired, resigned, or terminated during the first quarter of the fiscal year. The payout consisted of vacation time = \$17,851, compensatory time = \$1,943, and holiday time = \$60,720.

This will result in a net decrease of \$00.00 in the expenditures and other financial use to the County’s annual budget. To provide the additional revenue for the above, the following revenues will increase. These revenues have already been received or are verified they will be received this fiscal year.

Public Buildings/Parks – Budget Amendment #24

Finance Director Julia Edwards submitted Budget Amendment #24.

To amend the General Fund, the expenditures are to be changed as follows:

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
Public Buildings				
100.4190.000	Salaries & Wages	\$227,327.00	\$(3,299.00)	\$224,028.00
100.4190.090	Social Security	\$14,094.00	\$(205.00)	\$13,889.00
100.4190.091	Medicare Tax	\$3,296.00	\$(48.00)	\$3,248.00
Parks				
100.6121.020	Salaries & Wages-Part time	\$5,800.00	\$3,299.00	\$9,099.00
100.6121.090	Social Security	\$360.00	\$205.00	\$565.00
100.6121.091	Medicare Tax	\$84.00	\$48.00	\$132.00
Totals		\$250,961.00	\$00.00	\$250,961.00

This budget amendment is justified as follows:

To transfer funds to pay Public Buildings Maintenance/Parks part time position for 17.5 hours per week and utilize a grant that will pay for 20 hours per week until 04-02-2010.

This will result in a net increase of \$00.00 in the expenditures and other financial use to the County’s annual budget. To provide the additional revenue for the above, the following revenues will increase. These revenues have already been received or are verified they will be received this fiscal year.

Proposed Memorandum of Understanding (MOU)- Cooperative Extension

County Manager Bryan Steen submitted the proposed Memorandum of Understanding (MOU) for Cooperative Extension for the Board’s consideration and approval. The proposed MOU is the standard MOU provided by the State each year between NC Cooperative Extension Service, NC State University, NC A&T State University, and the Stokes County Board of Commissioners. (A copy of the proposed MOU will be retained by the Clerk and the Stokes County Cooperative

Extensive)

Proposed Resolution – Solid Waste Comprehensive Management Ten-Year Plan

Public Works Director Mark Delehant submitted the following proposed Resolution regarding the Solid Waste Comprehensive Ten-Year Plan that was approved by the Stokes County Board of Commissioners at their September 28, 2009 meeting:

**RESOLUTION TO APPROVE
THE STOKES COUNTY
COMPREHENSIVE SOLID WASTE TEN YEAR PLAN**

WHEREAS, Better planning for solid waste will help protect public health and the environment, provide for an improved solid waste management system, better utilize our natural resources, control the cost of solid waste management; and,

WHEREAS, NC General Statute 130A-309.09A J(b) requires each unit of local government, either individually or in cooperation with other units of local government, to develop a 10-year Comprehensive Solid Waste Management Plan; and,

WHEREAS, Stokes County was adequately represented on the Stokes County Planning Advisory Committee and has been actively involved in the planning process.

NOW, THEREFORE, BE IT RESOLVED that the **Stokes County Board of Commissioners** hereby approved the **Stokes County Comprehensive Solid Waste Management Ten Year Plan** at their regular meeting on September 28, 2009.

This **Resolution** adopted by the **Stokes County Board of Commissioners** during regular session on this **12th** day of **October, 2009**.

J. Leon Inman - Chairman

Jimmy Walker - Vice Chairman

Ron Carroll - Commissioner

Ernest Lankford - Commissioner

Stanley Smith - Commissioner

Attest:

Darlene M. Bullins – Clerk to the Board

Director Delehant requested the Board’s approval.

Proposed Resolution – October 2009 – “Big Sweep Month”

Soil Conservationist Technician Sara Durham submitted the following proposed Resolution declaring October 2009 as “Big Sweep Month” for the Board’s consideration and approval:

**A RESOLUTION OF THE STOKES COUNTY BOARD OF COMMISSIONERS
DECLARING OCTOBER 2009
AS STOKES COUNTY BIG SWEEP 2009 MONTH**

WHEREAS, Stokes County is rich in natural resources and beauty; and

WHEREAS, water is a basic and essential need for all life; and,

WHEREAS, trash fouls our waterways as well as our landscapes, and,

WHEREAS, every citizen should contribute to keeping our environment clean and healthy by working together to preserve clean water and the natural beauty of our surroundings; and,

WHEREAS, North Carolina Big Sweep is a statewide and global community effort to retrieve trash from North Carolina’s waterways and landscapes.

NOW, THEREFORE, BE IT RESOLVED that the **Stokes County Board of Commissioners**, does hereby declare **OCTOBER 2009** as **STOKES COUNTY BIG SWEEP 2009 MONTH** , and does further hereby urge every citizen to do his or her part to restore the beauty and function of our streams by volunteering to participate in the N.C. BIG SWEEP event.

Adopted this **12th** day of **October, 2009**.

J. Leon Inman – Chairman

Jimmy Walker – Vice Chairman

Ron Carroll – Commissioner

Ernest Lankford –Commissioner

Stanley Smith – Commissioner

Attest:

Darlene M. Bullins – Clerk of the Board

Proposed Resolution – Utilities Easement – Nancy Reynolds Elementary School Renovation Project

Manager Bryan Steen submitted the following proposed Resolution regarding an

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utilities easement for the Nancy Reynolds Elementary Renovation Project for the Board's consideration and approval:

**RESOLUTION AUTHORIZING THE COUNTY MANAGER
TO EXECUTE A PERMANENT UTILITIES EASEMENT FOR
THE NANCY REYNOLDS SCHOOL RENOVATION PROJECT**

WHEREAS, the Stokes County Board of Commissioners approved funding at their May 11, 2009 meeting to purchase land identified by the Stokes County Tax Office as parcels 6908-00-40-4547 and 6908-00-40-1566 for the Nancy Reynolds School Renovation Project; and

WHEREAS, a primary use of the aforesaid tracts will be used for location of the wastewater sewer system necessary for the new Nancy Reynolds Elementary School; and

WHEREAS, the North Carolina Department of Environment and Natural Resources (NCDENR) requires that the Grantee (Stokes County Board of Education) have a permanent utilities easement for the use of the aforesaid tracts owned by the Grantor (Stokes County) in order to construct and maintain this water and sewer system.

THEREFORE, BE IT RESOLVED, that **Stokes County Board of Commissioners** authorizes County Manager Kenneth B. Steen to execute a permanent utilities easement which does hereby grant, convey, and confirm unto the Grantee (Stokes County Board of Education) a permanent and perpetual easement for the occupancy and use of the aforesaid tracts of real property owned by the Grantor (Stokes County) and described on attached Exhibit A in constructing and maintaining a wastewater sewer system for the new Nancy Reynolds Elementary School.

Adopted this the 12th day of **October, 2009**.

J. Leon Inman- Chairman

Jimmy Walker – Vice Chairman

Ron Carroll - Commissioner

Ernest Lankford - Commissioner

Stanley Smith - Commissioner

Attest:

Darlene M. Bullins – Clerk to the Board

Commissioner Carroll suggested the following change:

- Grant, convey, and **confirm** unto the Grantee... be changed to grant, convey, and **confer** unto the Grantee... – located in last paragraph

The Board had no issues with Commissioner Carroll's suggestion.

Commissioner Lankford moved to approve the Consent Agenda as amended.

Vice Chairman Walker seconded and the motion carried unanimously.

GENERAL GOVERNMENT – GOVERNING BODY – INFORMATION AGENDA

Update – Manager and Board of Commissioners

County Manager Bryan Steen noted the following:

- Board of Education Chairperson Bill Hart dropped payment requests by the Administrative Office prior to today's meeting, requests will be reviewed and submitted to the Board if necessary

Stokes Core – Update

Stokes Core Director Tony McGee presented a power point presentation and discussed the following items relating to Camp Sertoma: (Stokes Core Resource Development Director Larry Weston, Stokes Core Board Member Dale Swanson, and Stokes Core Associate Director Jane Morgan Smith were also in attendance for the presentation)

- Camp Sertoma is now owned by NC State University
- Camp Sertoma covers approximately 700+ acres
- Forsyth Technical Community College currently offers 14 continuing educational programs with approximately 40-50 students enrolled at Camp Sertoma
- Courses being offered are HVAC, welding, electrical, etc.
- Courses being offered at Camp Sertoma is only an interim solution until Stokes County has a free standing campus
- Stokes Core is raising the funds to bring the programs to Camp Sertoma
- Workforce Development is currently providing the funding for the programs
- Stokes Core will continue to raise the needed funding with no plans in the future to request funding from the Board
- Programs are very successful, using students do to repair work at the Camp while getting training
- Another program taking place on part of the Camp (known as the Moore's Spring Conservation Reserve) is clearing and building mountain bike riding trails
- Trails and camping are the only things that can be done on the Conservation Reserve (Workforce Development is providing funding for this project)
- Moore's Spring Conservation Reserve is a permanent easement for a very rare endangered salamander
- Program is providing employment for 10 individuals (20 hours per week for six months) who have had problems being employed, these individuals are clearing and building the trails - (projected to clear and build 10-12 miles of trails)

- Project cost is estimated at approximately \$100,000 with no county funding
- Negotiating an agreement to allow the campground to be opened back up with improvements being made from funding provided by Stokes Core and campground being managed by Stokes Core
- About a mile a month is being cleared and built for the bike trails
- Mountain Bike Trails will be a huge tourism generator for the County
- When project is completed, it will draw bikers from three states with hopes of having special events on this part of the property
- Project will be a positive impact for Stokes County

Vice Chairman Walker suggested that Director McGee present this power point presentation to the Economic Development Commission.

Mr. Dale Swanson noted that the Dan River Basin Association now has a presence in Stokes County and is bringing in North Carolina Wildlife resources, working to reopen closed canoe access sites, and hoping to improve current canoe access sites.

The Board commended Director McGee and Stokes Core for their continued commitment to Stokes County.

GENERAL GOVERNMENT – GOVERNING BODY – DISCUSSION AGENDA

Tax Administration Report – September 2009

Tax Administrator Jake Oakley presented the following informational data:

Fiscal Year 2009-10	Budget Amt	Collected Amt	Over Budget	Under Budget
County Regular & Motor Vehicles	\$ (20,702,277.00)	\$ 10,294,981.22		\$ 10,407,295.78
Prior Taxes 1993-2009 Tax Years				
County Regular & Motor Vehicles	\$ 600,000.00	\$ 293,082.23		\$ 306,917.77
EMS Collections				
Total Collected (09-1-09/09-0-09)	\$ 6,103.67			
Total Collected (7-01-09/6-30-10)	\$ 23,902.17			
Delinquent accounts received from EMS - none				
Personal Property Discovery Report		# of	Total	Taxes
Audit Dates		Accts	Value	Due
09-01-09/09-30-09		55	\$ 713,554	\$ 5,484.58
Business Personal Property Discovery Report		# of	Total	Taxes
Audit Dates		Accts	Value	Due
09-01-09/09-30-09		0	\$ 00.00	\$ 00.00

Motor Vehicle Release Report	Accounts	Total Value
Audit Dates		
09-01-09/09-30-09	54	\$2,298.69

Motor Vehicle Refund Report	Accounts	Total Accounts
Audit Dates		
09-01-09/09-30-09	6	\$121.15
Number billed for Sept. 2009	5097	

Garnishment Totals			
Month	Total Accounts	Original Levy Amt	Collected Amt
F/Year 2009-10			
(July 1 – June 30)	422	\$91,346.50	\$99,176.08
Sept.-09	318	\$69,129.42	\$40,545.14

Real and Personal Property Releases Less than \$100–September 09-Per NCGS 105-381 (b)

Name	Bill Number	Amount
Flora Smith	09A155895952.07	\$36.50
	09A155895952.04	\$39.01
David Odell	09A52503.09	\$40.95
Betty & Roger Boles	09A55547.06	\$36.33
Mark A. Brim	09A698402959238	\$81.13
	09A3218.01	\$41.08
Linda W Treece	09A11299.09	\$62.11
Christi & Jimmy Fulp	09A601000812805	\$58.52
Joe Pack	09A31663.09	\$34.16
Henry/Lane Roemer	09A690800900689	\$41.23
	Total Amount	\$471.02

Real and Personal Property Refunds Less than \$100–September 09-Per NCGS 105-381 (b)

Name	Bill Number	Amount
Joe Tucker	09A11763.09	\$38.05
	08A11763.09	\$37.80
	07A692201052984	\$38.31
	06A692201052984	\$38.44
	05A2005028070	\$57.54
	04A2004028027	\$66.56
Martina Tunat*	09A58088.08	\$36.53
	08A58088.08	\$40.00
Robert Wall	09A155956232.01	\$56.00
	08A155956232.01	\$69.46
	07A155956232.01	\$77.01
Ervin Tucker	09A155913916.02	\$27.02

Mary Cockerham	09A155914141.04	\$30.36
Christi Fulp	08A60100812805	\$61.35
Jimmy Fulp**	07A60100812805	\$64.35
	06A60100812805	\$58.30
	05A2005009061	\$63.38

*Ms. Tunat's refund will be applied to account number 58088 rather than given a check.

**Mr. Fulp's refund will be applied to account number 155909780 rather than given a check.

Totals **\$860.46**

Tax Administrator Oakley presented the following Real and Personal Property Releases (September 2009) which are more than \$100 for the Board's consideration:

Real and Personal Property Releases More than \$100—September 09-Per NCGS 105-381 (b)

Name	Bill Number	Amount	Reason
Shelby Woodruff	09A155888977.09	\$106.74	Taxpayer's error
Betty & Roger Boles	09A599800024890	\$116.38	Elderly Application Approved
Louis Frohlich	09A698400170798	\$207.15	Elderly Application Approved
Norma Hill	09A597603339708	\$401.33	Elderly Application Approved
John Lawson Heirs (Maeola Lawson)	09A598301496034	\$266.43	Elderly Application Approved
James & Velma Shelton	09A604700673697	\$160.28	Elderly Application Approved
Lillie King Sheff Heirs (Frank Y Sheff)	09A690800799220	\$166.25	Elderly Application Approved
Allard/Kathleen Smith	09A598215542318	\$412.30	Elderly Application Approved
Lee Sweeney	09A598601274249	\$248.05	Elderly Application Approved
Linda W. Treece	09A599301283520	\$104.14	Elderly Application Approved
Floyd Vaden	09A699900686240	\$229.43	Elderly Application Approved
Paul Warren	09A695102864237	\$370.50	Elderly Application Approved
	Total Amount	\$2,748.98	

Tax Administrator Oakley noted that the Elderly Applications included on the Releases more than \$100 reflect the Elderly Applications approved at the previous month.

Chairman Inman directed the Clerk to place the Releases more than \$100 on the October 26th Consent Agenda.

Tax Administrator Oakley presented the following Real and Personal Property Refunds (September 2009) which are more than \$100 for the Board's consideration:

Real and Personal Property Refunds More than \$100–September 09-Per NCGS 105-381 (b)

Name	Bill Number	Amount	Reason
Wells Fargo	09A598101487383	\$296.92	Elderly Application Approved
Mary Cockerham Arne and Charlotte Eriksen	09A695504807412	\$122.20	Elderly Application Approved
Billy & Eva Priddy	09A690213037973	\$336.90	Elderly Application Approved
Avoline Smith	09A699900140688	\$356.44	Elderly Application Approved
Kathleen Tedder	09A598216848339	\$203.49	Elderly Application Approved
	09A692503328169	\$351.45	Elderly Application Approved
	Total Amount	\$1,667.40	

Chairman Inman directed the Clerk to place the Refunds more than \$100 on the October 26th Consent Agenda.

Tax Administrator Oakley presented the following Late Applications for Elderly Exemption, Disabled Exemption and Disabled Veterans for 2009 for the Board's consideration:

Name	Parcel Number	Acreage	Assigned Value
Rose Wall Ivester	6912-01-06-6108	Lot	\$105,800.00

Tax Administrator Oakley recommends approval of the submitted Late Application for Elderly Exemption, Disabled Exemption, and Disabled Veteran for 2009.

Chairman Inman directed the Clerk to place the Late Application for Elderly Exemption, Disabled Exemption, and Disabled Veteran on the October 26th Consent Agenda.

Tax Administrator Oakley presented the following Present-Use Value Applications for the Board's consideration:

Name	Parcel #	Acres	Reason
Leann Gallimore	597307691132	97.01	Agricultural
Mary Helen Bowman Betty Bowman	599700099694	32	Forestry

Tax Administrator Oakley recommends approval of the submitted Present –Use Value Late Applications.

Chairman Inman directed the Clerk to place the Late Applications on the October 26th Consent Agenda.

Tax Administrator Oakley noted the County has received approximately 50% of the projected budget revenue.

Courtroom “C” and District Attorney – Renovations Projects – Proposed Bids

Support Services Supervisor Danny Stovall noted that bids for Courtroom “C” and District Attorney Renovation Projects were accepted until Friday, October 9th at 5:00 pm.

Mr. Stovall noted that there were some questions with the bids and did not want to release the individual bids until the questions have been answered.

Ms. Stovall noted the following:

- Available funding for Courtroom “C” is \$100,000
- Funding remaining from 3rd floor renovation project = \$26,751
- Total available funding = \$126,751.00
- Projected bid costs received on Friday = \$154,166 (worse case scenario)
- Bids do not include building judges’ bench – county staff will be building the judges’ bench (estimated cost does not include the cost of materials)
- Having contractors estimate the demolition cost to see if county staff could possibly do that part of the Courtroom “C” Renovation Project
- County staff unsure of removing block walls
- District Attorney’s staff has reviewed and approved the proposed drawings for the renovation project
- Planning for Courtroom “C” Project started in 2004
- Will provide the Board with 3 cost options – Courtroom “C” only, District Attorney’s office only, and Courtroom “C” and District Attorney’s Office both

The Board discussed the estimated bids with Mr. Stovall.

Chairman Inman, with full consent of the Board, directed Mr. Stovall to review the drawings for any cost savings and bring the best cost back to the Board.

Chairman Inman directed the Clerk to place the item on the October 26th Action Agenda.

Commissioner Lankford requested the County Manager provide the Board with the number of times Courtroom “C” has been used during the past year.

Chairman Inman noted that information he had received was an average of 2-3 times a month.

Mr. Stovall noted that he had received the following information from the District

Attorney’s office:

- Courtroom “C” is scheduled for 4 days in October, scheduled for 3 days in November, and scheduled for 2 days in December

Vice Chairman Walker noted that information he had received was that the number of times being used is increasing instead of decreasing.

Selection of Engineering Firm and Survey for Community College

County Manager Bryan Steen noted that the County would like to engage the services of an architect regarding the development of a tract of land to be utilized by Forsyth Technical Community College and Stokes County School when/if property is acquired by the County. Manager Steen noted that he had met with Forsyth Technical Community College Facility Manager Ken Jarvis and Danny Stovall to discuss the engineering proposals. Manager Steen stated that Robbins Architecture of High Point could best provide the needed services. Manager Steen requested the Board authorize the County to enter into negotiations with Robbins Architecture and return a projected fee to the Board. Stokes County Schools contracted Robbins Architecture for the PODS Project at Pinnacle.

Support Services Supervisor Danny Stovall noted the following:

- In accordance with NCGS 143-64.31 Request for Qualification statements were accepted until September 29, 2009 at 5:00 pm
- RFQ was requested for a single point of contact to handle waste water design, water system design, site plans, erosion control issues, permitting process, specifications, construction administration, design drawings, as needed for POD installation, evaluation of an existing sewerage treatment facility and related services necessary for the development of a tract of land to be utilized by Forsyth Technical Community College and Stokes County Schools

- RFQ's were mailed to 14 vendors with 12 responses received
- Feels Robbins Architecture is the most qualified to provide the services requested by the County in the RFQ
- Would request the Board allow the County to start negotiations with the best qualified firm (Robbins Architecture) and proceed to the next qualified firm if no agreement can be made

Mr. Stovall presented the following proposed Resolution for Exemption from NCGS

143.64.31 Provisions for Surveying Services for the Board's consideration if surveying will need

to be done before the next meeting:

RESOLUTION

FOR EXEMPTION FROM NCGS 143.64.31 PROVISIONS FOR SURVEYING SERVICES

WHEREAS, Stokes County will be soliciting proposals for land surveying services; and

WHEREAS, Stokes County believes that it is in the best interest of the County to exempt this project from NCGS 143.64.31 and request that prices be given; and

WHEREAS, cost is one of a number of considerations used in the selection of a vendor for this project, qualifications and competence of the vendor will be of paramount consideration in the selection process, and the County does not believe that exempting itself from GS 143.64.31 will have a negative impact on this project, health, safety, or welfare of its citizens;

NOW THEREFORE, BE IT RESOLVED THAT Stokes County be exempt from the provisions of NCGS 143.64.31 per NCGS 143-64.32 with the regard to the selection of a firm to complete a survey for its early college campus project.

Adopted this the ____ day of _____ 2009.

J. Leon Inman- Chairman

Jimmy Walker – Vice Chairman

Ron Carroll - Commissioner

Ernest Lankford - Commissioner

Stanley Smith – Commissioner

Attest _____
Darlene Bullins
Clerk to the Board

The Board discussed the Agenda item with Manager Steen and Mr. Stovall.

Chairman Inman, with full consent of the Board, directed the Manager and Mr. Stovall to enter into negotiations starting with Robbins Architecture.

Chairman Inman directed the Clerk to place the proposed Resolution on the October 26th Action Agenda.

Job Vacancies

County Manager Bryan Steen requested the Board's approval to advertise and fill the following positions:

- **Public Buildings – Custodian – Retirement 10-30-09**
 - Public Works Director Mark Delehant's correspondence notes that his custodial staff which consists of three employees share the responsibility of providing janitorial services for 11 different County buildings totaling over 130,000 sq. ft. which many have a high volume of public traffic
- **Licensed Practical Nurse II – Health Department – Vacant 10-02-09**
 - Health Director Josh Swift's correspondence notes that the LPN II is vital to clinic functions providing treatment, vaccine, and referrals for patients
- **Home Health Public Health Nurse II**
 - Health Director Josh Swift's correspondence also notes that the Home Health PHNII was previously approved at the April 29th meeting to be filled, but due to a budget hiring freeze, it was held until October – the position generates revenue through home health services to community members

The Board discussed the Agenda item with Manager Steen.

The Board unanimously agreed to direct the Manager to move forward with the hiring of the Custodian, the LPNII, and PHNII positions.

Appointments – NWPCOG – Region I Aging Advisory Council

Chairman Inman noted that Lou Charland, Jacqueline Nuckols and Jewel Mabe were nominated at the September 28th meeting to serve on the NWPCOG – Region I Aging Advisory Council. (No other applications received)

Commissioner Lankford moved to approve the following appointments to the

NWPCOG – Region I Aging Advisory:

- Lou Charland,
- Jacqueline Nuckols
- Jewel Mabe

Vice Chairman Walker seconded and the motion carried unanimously.

Appointments – Jury Commission

Chairman Inman noted that Lynwood Shelton was nominated at the September 28th meeting to serve on the Stokes County Jury Commission. (No other applications received)

Commissioner Smith moved to appoint Lynwood Shelton to serve on the Stokes County Jury Commission. Commissioner Lankford seconded and the motion carried unanimously.

Exempt Employees- Compensatory Leave Time – Further Discussion

Chairman Inman noted that County Attorney Edward Powell submitted the following legal review as requested by the Board:

County Attorney Edward Powell:

I have reviewed the County Personnel Policy concerning overtime provisions for exempt employees:

Article VII. Overtime Provisions

Section 2. Exempt Employees

Old Policy

Employees in this class are deemed to be exempt from the Fair Labor Standards Act minimum wage and overtime standards. Employees in this class fall into three categories: Executive, Administrative and Professional. The County shall follow either the short test or long test as set forth in the Fair Labor Standards Act, whichever is applicable, to determine the “exempt” status employees.

Employees classified as exempt shall be eligible for compensatory time at a rate of one hour for every overtime hour worked. In the event of voluntary or involuntary termination as an employee of Stokes County, exempt personnel shall not be eligible for monetary reimbursement of accumulated compensatory hours.

New Policy

Section 2 – Exempt Employees

Employees in this class are deemed to be exempt from the Fair Labor Standards Act minimum wage and overtime standards. Employees in this class fall into three categories: Executive,

Administrative and Professional. The County shall follow either the short test or long test as set forth in the Fair Labor Standards Act, whichever is applicable, to determine the “exempt” status employees.

Employees classified as exempt will not maintain a timesheet unless reporting the use of sick, annual, or holiday leave.

The Clerk to the Board of Commissioners has contacted the School of Government regarding the old and the new policy, and she received the following reply from Associate Professor of Public Law and Government, Diane M. Juffras:

Darlene:

I don't know – the policy doesn't say what happens to it. Arguably, they “earned” it and it should remain on the books, but the counterargument would be that just as it doesn't get cashed out, it can be taken away. It is a discretionary benefit. Don't know what a judge would say.

Diane

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I have researched the issue of a possible vested right in this compensatory time, and the North Carolina appellate Courts have made decisions concerning other rights provided by ordinance as follows:

TRIPP v. CITY OF WINSTON-SALEM, 655 S.E.2d 890 (2008), NC Court of Appeals.

“Plaintiff's argument presumes that her interest in her retirement benefits is a protected property interest, but in order for this to be so, she must have a legitimate claim of entitlement to the property interest. *See Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577, 92 S.Ct. 2701, 2709, 33 L.Ed.2d 548, 561 (1972). “Property interests . . . are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law - rules or understandings that secure certain benefits and that support claims of entitlement to those benefits.” *Id.* Thus, to determine whether plaintiff has a claim of entitlement to her benefits, this Court must look to the Winston-Salem Code of Ordinances, which created the property interest.”

Simpson v. N.C. Local Gov't Employees' Retirement Sys., 88 N.C. App. 218, 223-24, 363 S.E.2d 90, 94 (1987)

(quoting *Great Am. Ins. Co. v. Johnson*, 257 N.C. 367, 370, 126 S.E.2d 92, 94 (1962)), *aff'd per curiam*, 323 N.C. 362, 372 S.E.2d 559 (1988)), *quoted in Bailey*, 348 N.C. at 141, 500 S.E.2d at 60.

Simpson stated that fundamental fairness dictated this result and concluded that:

“A public employee has a right to expect that the retirement rights bargained for in exchange for his loyalty and continued services, and continually promised him over many years, will not be removed or diminished. Plaintiffs, as

members of the North Carolina Local Governmental Employees' Retirement System, had a *contractual right to rely on the terms of the retirement plan as these terms existed at the moment their retirement rights became vested.*"

The North Carolina Court of Appeals has addressed the issue of sovereign immunity regarding these type situations:

ARCHER v. ROCKINGHAM COUNTY, 144 N.C. App. 550 (2001)

"[T]he existence of the relation of employer and employee . . . is essentially contractual in its nature, and is to be determined by the rules governing the establishment of contracts, express or implied." *Hollowell v. Department of Conservation and Development*, [206 N.C. 206](#), 208, [173 S.E. 603](#), 604 (1934). Guided by this principle, as well as the reasoning in *Smith*, we hold that the County may not assert the defense of sovereign immunity in this case, even though plaintiff alleges the county has violated the FLSA. We agree with plaintiffs' assertion that the employment arrangement between the County and plaintiffs was contractual in nature, although the contract was implied. Employment contracts may be express or implied. An implied contract refers to an actual contract inferred from the circumstances, conduct, acts or relations of the parties, showing a tacit understanding. See 3 Arthur L. Corbin, *Corbin on Contracts* § 564 (1964 & Supp. 2000) and *United States v. Maryland Casualty Co.*, [64 F.Supp. 522](#) (S.D.Cal. 1946). We do not limit *Smith* to written contracts; its reasoning is equally sound when applied to implied oral contracts.

It is certainly possible that Stokes County employees who have accumulated compensatory time prior to the change in the personnel policy would have a reasonable argument in Court that they have a vested right and are entitled to the benefits. The Board may wish to consider the adoption of written provisions in the policy clarifying this.

The Board discussed the following issues relating to the Exempt Employees –

Compensatory Leave Balances:

- Legal review submitted by County Attorney Powell
- Old policy which states exempt employees shall be eligible for compensatory time at a rate of one hour for every overtime hour worked and that exempt employees shall not be eligible for monetary reimbursement of accumulated compensatory hours if terminated, resigned, or retire from the County
- Current policy for exempt compensatory leave is where the Board wishes to be
- Use of compensatory leave time has always had to be approved by the County Manager
- What is legal and fair?
- Exempt employees with accrued compensatory balances being allowed to use the time until balances are exhausted
- If compensatory time is allowed to be used, exempt employees should follow the same practice as non-exempt employees – comp. time will be taken before any sick or vacation leave
- New Policy would still need to have language in it that states that no exempt employee will be eligible for monetary reimbursement of accumulated compensatory hours if terminated, resigned, or retire from the County
- Allowing the accrual of compensatory time in the past suggests an implied contract and could possibly be considered property rights
- Accountability of compensatory time accrued

Manager Steen stated he could provide the Board with a proposed policy regarding the use of exempt employees' compensatory leave balances for the Board's consideration at the October 26th meeting.

The Board unanimously agreed to direct Manager Steen to propose a policy for the next meeting for the Board's consideration.

Chairman Inman directed the Clerk to place the item on the October 26th Discussion Agenda.

GENERAL GOVERNMENT – GOVERNING BODY – ACTION AGENDA

Broadband – Feasibility Study – Proposed Bids

Economic Development Director Alan Wood presented the following information regarding two proposals received for a Broadband Feasibility Study:

- Improving broadband is probably the most important step the County can take to improve the economic and educational levels in the community
- Broadband is the center of the strategic plan adopted by the Economic Development Commission
- Best estimate for broadband coverage in the County is 60-65%
- Still meeting with representatives from Embarq, which is now CenturyLink
- Embarq does have some future expansion plans, but it will not take the County to where the County needs to be with broadband coverage for a majority of the residents
- It will be very important during this process to try to form partnerships
- Private entities will only be interested in going where it is profitable for them, the county will have to subsidize those areas that private entities are not willing to go
- Two proposals received: Howell Group, LLC and Excelsio Communications
- Both companies can provide the services requested
- Howell Group provides phases – Phase I- Feasibility Study which will determine where broadband is located in the County, who the providers are, and then provide the County with information to determine whether to proceed any further with the project – Cost Estimate = \$20,000 - \$23,000
- Howell Group Phase II – Would provide network architecture and technology recommendations, determine the optimal broadband technology, and would also provide the County with a financial model and business plan for the network - Cost Estimate = \$24,000 (this would be a shovel ready proposal)
- Howell Group Phase III – Grant Application for stimulus funding – Cost = \$8,000 which could be less if combined with Rockingham and Caswell counties

- Excelsio Communications is a lump sum fee of \$55,000 for a complete Feasibility Study along with \$10,000 for Grant Application which could be less if combined with Rockingham and Caswell counties

Economic Development Director Wood recommended that the County move forward with The Howell Group, LLC proposal which has more flexibility, allows the County to make adjustments in the plan as it moves forward, has extensive contacts in North Carolina, has recently been involved in completing studies and applications submitted for federal stimulus funding, and their timeline shows that they can complete the work in compliance with the County’s needs to be ready for the next round of funding.

The Board discussed the two proposals with Economic Development Commission, available funding for the proposal, and the need for expansion of broadband services in Stokes County.

The Board unanimously agreed to proceed with the Feasibility Study.

Economic Development Director Wood presented the Board with the Budget Amendment #25 which includes funding for Phase I with the Howell Group:

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
Economic Development				
100.4920.184	Professional Services	<u>00.00</u>	<u>\$21,000.00</u>	<u>\$21,000.00</u>
	Totals	00.00	\$21,000.00	\$21,000.00
Capital Reserve Fund				
201.4920.027	Economic Development	\$214,178.00	\$(21,000.00)	\$193,178.00
201.9810.000	Transfer to General Fund	<u>\$51,698.00</u>	<u>\$21,000.00</u>	<u>\$72,698.00</u>
		<u>\$265,876.00</u>	<u>\$00.00</u>	<u>\$265,876.00</u>

This budget amendment is justified as follows:
To transfer funds from Capital Reserve Fund to General Fund for the Feasibility Study for expansion of broadband services in Stokes County.

This will result in a net increase of \$21,000.00 in the expenditures and other financial use to the County’s annual budget. To provide the additional revenue for the above, the following revenues will increase. These revenues have already been received or are verified they will be received this fiscal year.

Account Number	Account Description	Current Budgeted Amount	Increase (Decrease)	As Amended
100.3982.960	Transfer from Capital Reserve Fund	<u>\$48,698.00</u>	<u>\$21,000.00</u>	<u>\$69,698.00</u>
	Totals	\$48,698.00	\$21,000.00	\$69,698.00

Chairman Inman entertained a motion.

Vice Chairman Walker moved to proceed with the broadband feasibility study per the Economic Development Commission and Economic Development Director’s recommendation with The Howell Group as presented and Budget Amendment #25 not to exceed \$21,000.

Commissioner Carroll seconded and the motion carried unanimously.

Closed Session

Chairman Inman entertained a motion to enter into closed session for the following:

- To consult with the Attorney employed or retained by the Public Body in Order to preserve the attorney-client privilege between the Attorney and the Public Body, which privilege is hereby acknowledged, and to consider and give instructions to an attorney concerning the handling or settlement of a claim judicial action, mediation, arbitration, or administrative procedure pursuant to G.S. 143-318.11(a)(3).
- To discuss matters relating to the location or expansion of industries or other businesses in the County pursuant to G.S. 143-318.11(a)(4).
- To consider and take action with respect to the position to be taken by the county in negotiating the price or other materials, terms of an agreement for the acquisition or lease of real property pursuant to G.S. 143-318-11(a)(5).
- To consider the initial employment or appointment of an individual to any office or position, other than a vacancy in the Board of County Commissioners or any other public body, or to consider the qualifications, competence, performance, character, and fitness of any public officer or employee, other than a member of the Board of Commissioners or of some other public body pursuant to G.S. 143-318.11(a)(6).

Commissioner Lankford moved to enter closed session for the following:

- To consult with the Attorney employed or retained by the Public Body in Order to preserve the attorney-client privilege between the Attorney and the Public Body, which privilege is hereby acknowledged, and to consider and give instructions to an attorney concerning the handling or settlement of a claim judicial action, mediation, arbitration, or administrative procedure pursuant to G.S. 143-318.11(a)(3).

- To discuss matters relating to the location or expansion of industries or other businesses in the County pursuant to G.S. 143-318.11(a)(4).
- To consider and take action with respect to the position to be taken by the county in negotiating the price or other materials, terms of an agreement for the acquisition or lease of real property pursuant to G.S. 143-318-11(a)(5).
- To consider the initial employment or appointment of an individual to any office or position, other than a vacancy in the Board of County Commissioners or any other public body, or to consider the qualifications, competence, performance, character, and fitness of any public officer or employee, other than a member of the Board of Commissioners or of some other public body pursuant to G.S. 143-318.11(a)(6).

Vice Chairman Walker seconded and the motion carried unanimously.

The Board returned to the open session of the October 12th meeting.

Solid Waste

Chairman Inman entertained a motion.

Commissioner Smith moved to approve the request made by Public Works Director Mark Delehant to transfer Mr. Harry France into the Sanitation Truck Driver position at the step and grade requested and also allow the County to advertise the Heavy Equipment Operator position located at the Landfill on Sizemore Road.

Commissioner Carroll seconded and the motion carried unanimously.

Adjournment

There being no further business to come before the Board, Chairman Inman entertained a motion to adjourn the meeting.

Commissioner Lankford moved to adjourn the meeting. Commissioner Smith seconded and the motion carried unanimously.

Darlene M. Bullins
Clerk to the Board

J. Leon Inman
Chairman