CHARLOTTE

Charlotte City Council

Governmental Affairs Committee

Meeting Summary for October 11, 2010

COMMITTEE AGENDA TOPICS

I. **Subject:** **Discussion of Preliminary 2011 Federal Legislative Agenda**

Action: None.

II. **Subject:** **Discussion of Preliminary 2011 State Legislative Agenda**

Action: None.

III. **Subject:** **Hot Topics**

Action: None.

V. **Subject:** **Next Meeting**

Action: Monday, November 1 at **3:30 p.m.** in Room 280

COMMITTEE INFORMATION

Present: Nancy Carter, Warren Turner, Patrick Cannon and Andy Dulin
Time: 12:00 p.m. to 1:50 p.m.

ATTACHMENTS

1. Agenda Package

DISCUSSION HIGHLIGHTS

Committee Discussion:

Council member Carter welcomed everyone to the meeting and asked those in attendance to introduce themselves. She then turned the meeting over to Ron Kimble. Mr. Kimble advised the Committee they would be looking at a draft of the federal and state legislative agendas and Dana Fenton would be leading the conversation. Representatives from Holland & Knight [Lisa Tofil and Jeff Boothe] are on line to assist with answering questions about the federal legislative agenda.

I. Discussion of Preliminary 2011 Federal Legislative Agenda

Dana Fenton began the presentation [copy attached]

[Current Status – Slide]

Carter: If there is an omnibus, will the Delegation be required to prioritize?

Fenton: Yes, for the upcoming session.

Carter: So, they will prioritize for their entire district?

Fenton: Yes. It is a requirement in the House for them to prioritize. I have a pending slide on that topic.

Mr. Fenton added that the National Commission on Fiscal Responsibility and Reform final report [due on December 1], could be very controversial.

Carter: That is a month and a half away, has there been no indication of their priority target?

Fenton: There has been speculation that an expenditures formula will be determined to help to reduce the deficit. But, they are probably looking at spending reductions or a tax increase. It is hard to tell.

Tofil: They are close to consensus on revenue raisers as well as mandatory reductions. The Committee is made up of liberals and conservatives and all points in between and what they are interested in or focusing on is not raising taxes by eliminating deductions and not raising rates. By not raising rates, they would be narrowing the list of deductions without getting to Medicare/Medicaid. That is not a focus due to the recent healthcare legislation. But, reductions in discretionary programs and cuts could be a concern to Charlotte. There could be agreement with this plan, and if there is not, who knows.

[Federal Legislative Agenda – Earmark Reforms – Slide]

Carter: Does this play in our favor? I know Myrick has previously said no earmarks.

Fenton: Yes, it is a good thing going to discretionary grants. The City rates favorable with the current administration. This administration favors land use criteria which favors our projects because we have land use goals. It is difficult for them to recommend more than one earmark.

Tofil: I think Mr. Fenton captured it. The problem is there needs to be some earmark reform but that is more dependent on the election. The members will have to give projects a priority, which they haven't had to do previously, and if the City has more than one need, it will actually be competing against itself. The strategy has to be to find the most emphasis and smaller numbers make sense in this new environment. We just need to determine how best to navigate for Charlotte.

Carter: Can we unify requests at this level? For instance Weed and Seed and Gang of One are similar, so could they be compiled?

Fenton: There are some ways to group things together and we will be looking at that, but I'm not sure what is Weed and Seed?

Carter: That was something we actually looked at last year. I just used it as an example of pairing.

Kimble: We will work to identify those.

Fenton: Holland & Knight is working with us to position us better with the administration and working with Congress, and the Secretary of Transportation for the Blue Line Extension discussion. There is a potential pot of money out there with a recent announcement that we will be fashioning a proposal around.

Carter: We are looking at this prior to NLC in Denver and there will be transportation meetings there that might result in other items.

Fenton: We can look at this ongoing.

Carter: Should we reach out to Council member Howard and ask him to network for us?

Fenton: Yes.

[“Roads, Railways and Runways” – Slide]

Cannon: Are there any real indicators of what they are looking at?

Fenton: No. The administration hopes to have a proposal in February 2011.

Boothe: The Secretary spoke two weeks ago and commented that the 1991 program lacked purpose, so many programs lack focus. By consolidating, there could be a federal purpose. They are looking at projects with regional or national significance that are beyond the wherewithal of the State to help to reestablish purpose to gain support. There needs to be an overarching goal or purpose especially as they are looking to raise the gas tax. That will draw attention to a national focus.

Cannon: Do our friends to the north have a governmental affairs committee like us? And, if so or even not, is there something that will come out to make sure we are on the right playing field? Regional relationships are essential and significant and obviously if we are not there that results in a disqualification position if they hear things that cause friction.

Fenton: Secretary LaHood has said he would like to see regions come together with solutions.

Carter: I have heard discussions [MTC meetings] that it is important to push distinctive projects and Council member Howard has asked me to sit in on the Red Line meetings prior to the MTC on his behalf so if there is anything to say there to carry the message to invite regionalism across the State and County lines. Iredell is natural, but we have heard Mooresville is a “yes” but the County is a “no.” Economic development and transportation are two way. We have the Council of Governments helping with the economic development push. We need to get the message across as before that it is important.

Kimble: There is progress being made with the north. We need to get our own house in order before we touch others. We are reaching beyond and making good progress. Things are calming down.

Carter: I wrote to the three mayors inviting them to the TIS meeting during NLC. I know Jill Swain is going. We need to support the North Carolina League because they will keep us informed.

Cannon: Council member Carter, were you talking about going into South Carolina?

Carter: Yes.

Dulin: Why?

Carter: Looking at express service or light rail.

Dulin: Light rail into South Carolina?

Carter: Ultimately.

Cannon: Can you give us an update about what the plans are, timetables, players or is that still up for conversation?

Kimble: It is different across state lines with their regulations and organizations and trying to include areas to capitalize on. The touch points are harder.

Carter: There is a representative from SC DOT that participates in the Centralina Council of Governments, which is a leap from last year.

Cannon: South Carolina can lay claim to Charlotte with Lancaster and Rock Hill and could step up to the plate. There is no harm in discussing light rail from DC to Atlanta. It brings people together.

Kimble: There are regional issues of the environment, transportation, job creation/economic development and those are interrelated with border partnerships and border antagonism. We have to fight through those issues, but gain South Carolina as a partner. On the other hand, they are suing us for water, so things get in the way.

[Earmark Requests – Slide]

Cannon: I would like to know the logic in the $10-$20 million ask?

Fenton: We are in the stage before the full funding grant agreement and in that stage typically you see $10-$15 million or less from the federal government. If you include the $3.7 million received that is $40 million over the past four years to this point. There is a lot of competition and a lot of projects before us. Really $5-$15 million is what we could expect to receive.

Boothe: If you lay out the number of earmarks, the number has declined in size and it is harder to get large chunks more than $10 million even for projects headed for final funding. If it is on the radar screen, it generally is in the President's budget, which is seven to ten projects receiving $3-$5 million. $10-$20 million is in the range of a reasonable request and we feel there is a good chance to receive it.

Carter: In the discussion of the full funding request of $40 million, if we step back does it reflect on our readiness to move forward? Does it give the impression we are compromising?

Fenton: The $40 million comes after the right-of-way acquisition as part of the cost of final design. We are in a good position to move forward. In this environment, asking for $40 million doesn't put us in a position to be successful. Asking for $40 million and receiving $3 million doesn't put our Delegation in a good position. $3.7 million keeps the project moving forward. We think it is a realistic request.

Cannon: My concern – and I get the logic – is making sure we aren't selling Charlotte short. $25 million or $30 million doesn't roll the dice differently but what if that approach gets us more than $10 or $20 million? What if we would have gotten $25 million? I understand the competition; I'm just trying to see if $10 million to $20 million to a district representative is heavy enough interest. I would be hard pressed to be on board to make sure it was included.

Turner: Is there any fat in the request? The $10 to $20 million? I know $3 million is for design. Is any of this for land acquisition?

Fenton: This request has no money for right-of-way acquisition. The FTA won't fund right-of-way acquisition until later so we would be asking for something we won't get.

Turner: Is the cost of design where we want it to be?

Fenton: With $3.7 million we will be able to get final design done. The feds will fund 80% of the final design. 80% of the final design will take the 50/50 and right-of-way and stretch our local dollars.

Carter: Does the final recommendation rest with the MTC or Council?

Kimble: The MTC is looking at the legislative agenda.

Carter: Are you looking for approval or a Committee recommendation because I am concerned about low balling the figure?

Turner: The concern I have is asking for something we won't get and setting ourselves up for failure. The rules have changed and we need to make adjustments. It's like asking for something for Christmas. We are not going to get $40 million. We need to stay in the ballgame and by staying back we send our Delegation in with a fighting chance to bring back more than what we need. $3 million from $40 million seems like we are far apart.

Cannon: I think it is fair say if we land soft it could be $10 million to $20 million or any level we can realistically take away. If we go in with staff and ask for X but get Y we are still leaving with something. I'm not suggesting you go for $40 million, but to have a conversation even understanding the number to present.

Dulin: All of this is premature. We need to wait and see what happens on November 3. Right now this is all conjecture. We know it needs to be a lower ask this year, but we need to wait and see until after the election what the temperature is on the hill and decide after that.

Fenton: At the next meeting we will be requesting a recommendation because we plan to brief the full Council on November 8 with approval requested on November 22.

Dulin: Our next meeting is November 1, before the election.

Cannon: We're with you.

Kimble: This is good discussion to give us feedback. We have plenty of time to talk to get everyone comfortable – Council, MTC and Holland Knight. But, we agree it will be a smaller number.

Cannon: But, more than $3.7 million.

[Policy Issues – Slide]

Dulin: Can you describe the temporary gas tax?

Fenton: They are looking at raising the rate until Congress can determine a new source of revenue.

Dulin: So, we're talking about raising this nationally?

Fenton: Yes.

Carter: Vehicle miles traveled has been discussed for years. Will they need to hear input from us in DC?

Fenton: Yes, in March at NLC or even Denver.

Carter: The ENR and TIS have discussed and they are in favor of vehicle miles travelled and NLC has endorsed this policy.

Dulin: They are in favor?

Carter: Yes, because of alternative energy to propel vehicles they would use this tax because roads are being used if not gas.

Dulin: And, there is NLC support?

Carter: They already have a policy.

Turner: With that said, even if we raise the tax on a national level there is still concern about the formula with the State. Will the funding appropriations go to the Governor to determine projects? Stimulus money by the President went to certain projects, so will it be appropriated by the Governor at some point to get to the regionalism objective to get the project done? How will it benefit us?

Fenton: That is a good question. Does the funding going to the state from the federal have any leeway given to the state to allocate? Congress is not going to get involved in divvying up the funding. The rise of the earmark was a way to get around the formula and this is something Congress will not resolve.

Turner: For six and half years I have had opportunity to go to the hill and lobby for projects. The concern is the formula North Carolina uses to recommend money. If the formula doesn't change and Congress is not willing to get involved, how is the money distributed? How does this help us going forward? Mr. Fenton, if we look at earmarks based on how much money in general and they change the rules again, I'm concerned nothing changes to help us. I don't see the benefit.

Tofil: That is part of the challenge. Earmarks were the way we worked through the last reauthorization with the State of North Carolina. Queens College was taken out of the overall formula less the money the State gave to the City. The City didn't make specific requirements, but we will have a different approach in the future with the Delegation not using earmarks. The highway bill comes out of the state. And, this is an ongoing debate that should be discussed. Formula funding always has us giving more than we get back.

Boothe: There are two issues. One is within the State and highway money punishing the region. The other is being a donor and this is a long-standing issue where the amount in and what percentage comes back. No matter how funding is projected, Congress does not focus on what is paid in versus what is given out and the fight to adjust the formula. They will still argue for broad national purpose, but not donor vs. donee.

Carter: It is important to note there is no willingness to open that can.

Boothe: It is a federal conversation with every authorization bill, so they will have that conversation but the inevitable conversation is internal to North Carolina and Charlotte and Raleigh are threats to their own earmarks.

Carter: Is there some validity to the division of the state line to be able to serve another state?

Boothe: Talking about Rock Hill being part of the Charlotte region? "No." Historically, representatives maintain the boundaries of their district. Additionally, every state is now donee and putting more in than they receive back. The gas tax hasn't been able to support itself since 2008.

[Last Slide]

Dulin: I am with you on opposition to collective bargaining, but the White House is still out there. So, this might get pulled?

Fenton: Obama still supports this.

Carter: Back to the third item under the *Water Security Act*, is this something we need to discuss with NCLM?

Fenton: Barry Gullet has a very good relationship with the League and will be sending this to them.

Carter: At the Board meeting, I think water and sewer will be a point of discussion that will be important to the entire membership.

Thank you Lisa and Jeff for being available today.

II. Discussion of Preliminary 2011 State Legislative Agenda

Dana Fenton began the presentation [copy attached]

[Current Status – Slide]

Cannon: The State budget shouldn't affect the City's pension?

Fenton: The State has not been putting in what it should have.

Kimble: So, it is indirectly affected.

[ABC Privatization – Slide]

Carter: We are not involved with the licensing and public safety, but are notified after the permits have been issued.

Turner: Again?

Carter: When ABC permits are issued, we are notified, not before.

Turner: Charlotte-Mecklenburg Police is notified.

Kimble: When they apply. We can only comment.

Carter: "We" is not Council members.

Cannon: Could we ask if we could add a direction that permits come back to us, which keeps us on point? We are not involved, but could find out more.

Kimble: The majority of applications are routine. We need to know on the controversial ones what's the process for engaging Council in discussion. Not the normal ones, but the ones that cause concern.

Carter: Is there a process for us to be appraised?

Fenton: We can explore that.

Carter: Do we know when the Governor might move?

Fenton: The recommendation would be in the next several weeks, but if that's before or after the election, we are not sure.

Cannon: Should we send a position statement to the Governor's office in support or dissatisfaction?

Carter: Do you want to carry forward the impact of your statement?

Cannon: There are impacts. There is an economic impact if this goes away and there is a public safety impact if you allow operations into fragile or threatened areas – vulnerable areas. There is image that I think we should look into. It could cause issues.

Turner: It leads to disparity and other states have battled with this and run ABCs private. The facts are there will be disparity and the majority of the stores will be in minority communities, which impacts the quality of life, revitalization and has economic impact. Other states have had great concern. I would recommend we go to Council and ask them to send a letter to the Governor. I assure you we won't be the only city and I imagine the NAACP, black churches, etc. will take a position.

Fenton: This is more of a discussion item at this point. We need to find out more what the Governor is thinking, which is why this landed in the category of **"Other."**

Turner: I hear you, but we don't need to know what is being considered to know where we are.

Dulin: I'm not sure we will all be on the same page as a Council. We might need to talk. I am actually in favor of privatization. These are new entrepreneurs and many of them will be opened by people who already work in the ABC, so they would be perfect to start their own businesses. They know what sells and what goes into running a business. We see spirits in every neighborhood now up and down. I would send a letter of full support.

Carter: Should we send this to Economic Development and Public Safety?

Dulin: It is too early.

Fenton: There is no recommendation yet.

Carter: What is the timeframe for advising before the decision is made to see an impact? And, Council member Dulin, I think a minority opinion would also be appropriate.

Kimble: I'm glad we are having this meeting today because there are different opinions. We need to do some more research and you are giving us great heads up.

Cannon: I think full support should be a trigger. The district reps know the plagues. If you look at Detroit, Philly, New York, it is not pleasant to see who's hanging out of these establishments. Remember when Belmont wanted fortified wine? That was a big issue. For the Governor to even consider this, we need to let her know our position.

Carter: We need to bring this to Council.

Turner: The Committee needs to put Council on alert. From a government standpoint, the Governor needs to hear our opinion to make a better decision.

[City Initiatives – Slide]

Right-of-Way Withdrawal

Carter: I have a concern regarding Independence.

Fenton: The subdivision roads are about cut throughs.

Carter: Isn't that a long-term decision by the City?

Pleasant: This is regarding platted streets that were dedicated but not accepted for maintenance over a long period of time. After fifteen years, the property owner can withdraw the dedicated claim, we are just seeking notification. It can be done now by filing with the Register of Deeds, but we would like to be notified so we can comment.

Carter: If we notify, will that impact the disposition?

Kimble: We just want to be given the time to act.

Carter: Acting, not developing?

Kimble: Accepting for maintenance.

Pleasant: Sometimes the roads are never built or paved in a development. There is a road, but no ownership.

Turner: What do we do now? Can we claim the property?

Pleasant: You have a real life example in Wright Avenue. It platted but never opened, dedicated but never accepted. Sometimes the roads are just there, sometimes people grow tomatoes on them, and sometimes they leave cars. The property owners might never file.

Turner: So, then it's fifteen years later, there is no use and we get notice the property is deeded, but our position hasn't changed?

Kimble: We can accept it or let it continue as platted right-of-way.

Turner: If we accept it, does that mean the City completes the road and brings it under for maintenance?

Pleasant: Not necessarily. We accept links and then make decisions at that time.

Turner: Exactly what will we say?

Kimble: If we accept it "as is" the same rules apply.

Cannon: Why is not automatically accepted? There was just that Beazer example

where the road was not paved. Why would we assume that role?

Kimble: The courts have determined that after fifteen years the adjoining property owners can ask for a withdrawal. Half will go to one property owner and half to the other. We are just asking for notification if we think the right-of-way might be important.

Pleasant: You routinely abandon right-of-ways. We are seeing to make the abandonment more reliable. Withdrawal is the complete burden of the property owner, so there is risk of it being contested. Abandonment is a sure fired way. It doesn't change anything, because we have an opportunity later in the process, this just gives us the ability to take action sooner.

Subscriber List

Tuner: I know there has been a complaint; this should be protected, I'm glad to see this.

Nuisance Abatement

Carter: Can we get more information? I know CMPD can require the permanent land owner to be accountable.

Turner: It is a long drawn out process.

Fenton: Yes, we will get more information.

Energy

Cannon: What would this be?

Fenton: Things like tax credits for energy businesses, incenting business and government.

Carter: Charlotte is becoming known as an alternative energy hub.

Kimble: Right now this is just a placeholder because we can't fully define it.

Cannon: While we are looking at energy, performance contracting seems a step in the right direction.

Kimble: That is something that can be explored.

Dulin: We've already gone down that road.

Kimble: You have your green building policy.

Dulin: We have made cuts already all over; the big savings just aren't there.

Cannon: That's a good point.

Carter: That is also a function of our Environmental Director.

[Transit – Slide]

Carter: Does State maintenance include operations?

Fenton: Light rail is not included, but buses are.

Carter: Should we say maintenance and operations?

Fenton: We can, we just went with the formal name of the program.

[Next Steps – Slide]

Cannon: Thanks to all of you for your efforts.

Fenton: A lot of people were involved.

Cannon: I was reminded when I saw "criminal justice system" under "**Other"** to remind folks that public safety in the state budget is 2.4%. We do need to be supportive. It would be great going forward to say 1) no more cuts; 2) help us with criminal justice system technology. Technology locally is not there from the State. We had money set aside that we were not able to use, which created a "slush fund" for us. But, only 2.4% statewide is an issue.

III. Hot Topics

None.

IV. Next Meeting

Monday, November 1 at **3:30 p.m.** in Room 280

Fenton: Thanks to everyone for the discussion today.

Carter: It was good to see the Committee engaged.

Dulin: Do you think meeting at 4:00 on November 1 gives us enough time?

Kimble: There is also another option and that is to schedule a meeting between November 8 and November 22 in addition to the meeting on November 1.

The Committee agreed to start the November 1 meeting thirty minutes earlier.

Meeting Adjourned.

Governmental Affairs Committee

Monday, October 11, 2010 at 12:00 noon
Charlotte-Mecklenburg Government Center
Room 280

Committee Members: Nancy Carter, Chair
Warren Turner, Vice Chair
Patrick Cannon
Andy Dulin

Staff Resource: Ron Kimble

AGENDA

I. Discussion of Preliminary 2011 Federal Legislative Agenda

- Current Status
- Issues Update
- Preliminary Agenda

II. Discussion of Preliminary 2011 State Legislative Agenda

- Current Status
- Preliminary Agenda

III. Hot Topics

IV. <u>Next Meeting:</u>

November 1, 2010 at 4:00 p.m. in Room 280

Distribution:	Mayor/City Council	Curt Walton, City Manager	Leadership Team
	Mac McCarley	Stephanie Kelly	Bob Hagemann
	Greg Gaskins	Kim Eagle	Keith Richardson

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Preliminary 2011
Federal Legislative Agenda

Government Affairs Committee

October 11, 2010

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Current Status

- No further action has been taken on appropriations measures of interest to City
  - Blue Line Extension: Senate $3.7 million
  - Gang of One: Senate $400,000; House $350,000
  - Briar Creek: Senate Interior bill pending
- Congress has adjourned until after the elections
  - Continuing Resolution keeps Federal government running
- National Commission on Fiscal Responsibility and Reform
  - Final report due December 1, 2010

Federal Legislative Agenda

- Earmark reforms
  - Number/dollar value of earmarks less than previous yrs
  - Member prioritization
  - Shift towards discretionary grants
- How does this impact preliminary federal agenda?
  - Fewer earmarks, more discretionary grants
  - One earmark per appropriations bill
- Discussions with Congressional and Administration staffs
  - Position City favorably with respect to grants

Federal Legislative Agenda

"Roads, Railways and Runways"

- Administration blueprint for transportation reauthorization
- Upfront investment of $50 billion in National Infrastructure Bank
- High Speed Rail
- Consolidating programs
- More competitive grants

Preliminary Federal Agenda

- Earmark requests:
  - Northeast Corridor
  - Briar Creek Relief Sewer
  - Gang of One
- Policy Issues:
  - Federal Surface Transportation Program Reauthorization
  - Water Security Act
  - Collective Bargaining

Earmark Requests

- Northeast Corridor:
  - Request $10 - $20 million from New Starts Program
  - Final Design
  - Pending before MTC
- Briar Creek Relief Sewer:
  - Continuation of 2010 Request
  - $4 million
- Gang of One:
  - Continuation of 2010 Request
  - $1 million

Policy Issues

- Transportation Reauthorization:
  - Reinvigorate National purpose of transportation
  - Administration's blueprint for reauthorization
  - 2030 Transit Action Plan projects
  - Temporary gas tax adjustment
  - Higher federal share of local projects
  - New Starts / Small Starts criteria changes

Federal Legislative Agenda

- Water Security Act:
  - Pending before US Senate (S. 3598)
  - Requires disclosure of security measures to persons not in chain of command nor part of emergency response
  - Places final decision on which materials and processes to utilize with State drinking water primary agencies
  - Recommendation is to oppose these provisions
- Collective Bargaining:
  - Continuation of 2010 position

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Preliminary 2011
State Legislative Agenda

Government Affairs Committee

October 11, 2010

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State Legislative Agenda

Process

- Started 2011 agenda building process in July
- Scanned the environment
- Worked with KBUs
- Met with GAC in September
- Legislative Agenda Goals
  - Reflective of Council priorities
  - Supported by City management
  - Connection with MTC agenda
  - Strategic
  - Nimble
  - Orderly development process
  - Doable

Current Status

- November elections
- State Budget
  - $3.5 billion budget shortfall
  - May be understated by $1 billion
- Tax Reform
- ABC Privatization
- North Carolina Mobility Fund
- Annexation
- Water Issues

ABC Privatization

- Public safety
- Licensing
- Zoning
- Revenues
- Small Business Opportunities

City Initiatives

- Design-Build
- Quick Take / Sidewalks
- Right-of-Way Withdrawal
- Subscriber List Exceptions
- Nuisance Abatement
- Energy

Transit

- Proposals are pending before the MTC:
  - Higher federal share for transit projects
  - Additional revenue source for Transit
  - Changes in New Starts / Small Starts criteria
  - State contribution for non-Federal projects
  - Support additional funding for NC Mobility Fund
  - Retention of State's Local Share for Transit
  - State Maintenance Assistance Program / Rail
  - Additional funding for bus/rail operating costs

Other

- Business Privilege License Tax Preservation
- Annexation Preservation
- Support Criminal Justice System

Next Steps

- November 1 Approval by GAC
- November 8 Briefing for Council
- November 22 Council adoption
- December 13 Joint Council/Delegation Meeting
- January 4 Congress convenes
- January 26 General Assembly convenes