2011 State Legislative Agenda

Action: Approve the Government Affairs Committee's recommendation to approve the 2011 State Legislative Agenda.

Committee Chair: Nancy Carter, Governmental Affairs Committee

Staff Resources: Ron Kimble, City Manager's Office
Dana Fenton, City Manager's Office

Explanation

- At the November 8 meeting, Council received a briefing on the proposed 2011 State Legislative Agenda. As a result of Council discussion, several changes were made to the proposal described as follows:
  - Removed the "Amendment of Quick Take Provision" due to continuing concerns expressed by Council.
  - Shifted three "Preservation of Authority" issues to the "Legislative Watch List". North Carolina Department of Transportation is working with Charlotte Area Transit System staff at an administrative level on these issues, thus it would be not be appropriate to simultaneously suggest the possibility of legislative action. The three issues are:
    - Retention of State's Minimum 50% of Non Federal Match on Transit Projects
    - State Participation in Non Federal Transit Projects
    - Resources for State Maintenance Assistance Program
  - The "New Long Term Revenue Sources for Transit" was expanded to include Roads
- The Metropolitan Transit Commission (MTC) met on November 17 and adopted their 2011 State and Federal Legislative Agenda. The MTC adopted positions either identical to or substantially similar to several positions in the City's proposed State agenda and Legislative Watch List including:
  - Design-Build Authorization for CATS
  - New Local Long Term Revenue Sources for Roads and Transit
  - North Carolina Mobility Fund
  - Retention of State's Minimum 50% of Non-Federal Match for Transit projects
  - State Participation in Non-Federal Transit Projects
  - State Maintenance Assistance Program
- On January 26, the 2011 Legislative Session of the North Carolina General Assembly will begin. The "Long Session" will be primarily focused on balancing the State budget on the heels of an economy slowly coming out of the recession.
- The following issues are recommended for inclusion under the category of "City Initiatives". This category consists of issues identified by City staff for local or statewide resolution that the City will manage by identifying sponsors, drafting legislation, and leading in working with appropriate legislative committees and offices.
  - Authorization to use Design-Build for all City KBUs, including CATS
  - Notification of Withdrawal of Offers of Right-Of-Way Dedication
  - Revision to Nuisance Abatement

- Email Subscription
- Energy

- The following issues are recommended for inclusion under the category of "Preservation of Authority". This category consists of issues that the City will have to play defense on in the 2011 General Assembly.
  - Retention of Business Privilege License Tax
  - Retention of Annexation Authority
- The following issues are recommended for inclusion under the category of "Legislative Opportunities". This category consists of issues that the City has identified to place the community in position to address longstanding concerns if the legislative environment is ripe.
  - Development of a Criminal Justice System Strategy for Funding and Efficiencies Tailored to Local Needs
  - Additional Resources for North Carolina Mobility Fund
  - New Long Term Revenue Sources for Roads and Transit
- There are a number of issues being monitored by City staff and are included in the "Legislative Watch List" category. These issues have not fully emerged and consequently are not included in the proposed Agenda. The list of issues, which will undoubtedly be expanded up to the convening of and during the 2011 Legislative Session, include:
  - State Budget
  - Retention of State's Minimum 50% of Non Federal Match on Transit Projects (MTC)
  - State Participation in Non Federal Transit Projects (MTC)
  - Resources for State Maintenance Assistance Program (MTC)
  - Metropolitan Planning Organization Realignment
  - Underground Utilities Damage Prevention
  - Water Issues
  - Broadband / 911 Issues
  - ABC Privatization

Committee Action

- The State legislative agenda was reviewed by the Council's Government Affairs Committee on November 1, 2010 (Carter, Turner, Cannon and Dulin). The Committee voted unanimously to consider the State legislative agenda separately from the Federal legislative agenda, with the Federal agenda scheduled for full Council discussion on December 6 and action on December 13.

Next Step

The approved legislative agenda will be presented to the Mecklenburg Delegation at a breakfast meeting on Monday, December 13 at 7:45 a.m. in Room 267 of the Charlotte-Mecklenburg Government Center.

Attachment

2011 State Legislative Agenda

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2011 State Legislative Agenda

City Initiatives

- Design-Build Authorization
- Withdrawal of Offers of Right-Of-Way Dedication
- Nuisance Abatement Revisions
- Email Subscription
- Energy

Preservation of Authority

- Business Privilege License Tax
- Annexation

Legislative Opportunities

- Development of a Criminal Justice System Strategy for Funding and Efficiencies Tailored to Local Needs
- North Carolina Mobility Fund
- New Long Term Revenue Sources for Roads and Transit

Legislative Watch List

(This section consists of Issues to monitor; the attached Issues Papers will not be part of the adopted State Legislative Agenda)

- State Budget
- Retention of State's Minimum 50% of Non Federal Match on Transit Projects (MTC Agenda)
- State Participation in Non Federal Transit Projects (MTC Agenda)
- State Maintenance Assistance Program (MTC Agenda)
- MPO Realignment
- Underground Utilities Damage Prevention
- Water Issues
- Broadband / 911 Issues
- ABC Privatization

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2011 State Legislative Agenda

Legislative Advocacy/City Initiative

Category:	Infrastructure
Title of Item:	Design-Build Authorization
Position:	Gain express authorization to engage in design-build construction projects including combinations calling for financing, operating and maintaining of infrastructure
Statewide or Local Bill:	Local
Responsible Staff Person(s):	Bren Yett, E&PM, 704.336.3633 Tim Richards, E&PM, 704.336.4555 Mark Cole, CDOT, 704.432.5244 Dee Pereira, CATS, 704.336.2166 Jerry Orr, Aviation, 704.359.4000

Background and History: Local governments are not expressly authorized to use design-build as a construction project delivery option with the exception of Charlotte-Mecklenburg Utilities. Several state departments however have used design-build including the Department of Transportation and Department of Education. Reported benefits of the design-build approach include early collaboration between the designer and the contractor on the design and preparation of construction plans and specifications which allows for faster project completion. They also include increased efficiency and cooperation in evaluation and analysis of actual site conditions to determine need for any design modifications, ability to obtain a fixed or guaranteed price, shifting the risk/exposure of construction problems and cost overruns to the contractor, and reduction in contractor claims and assessment of liquidated damages.

Current Need/Problem (including potential allies or detractors): The extension of express authority to use design-build and other design-build combinations involving financing, operating and maintaining of infrastructure would better position the City to complete unique construction projects such as federally funded projects under compressed timelines, special transportation projects to address proposed development and high-profile structures that must be completed by a specific date for a particular need or event. Also for project stream restoration projects, which must operate successfully for five years, it allows the City to acquire warranties on these projects because it permits the City the authority to contract with one entity. Currently, when a failure occurs, the City must undertake a process to determine if the failure is the result of flawed design or poor construction. In the case of Design-Build-Operate-Maintain, the risks of project construction and operations can be transferred from the City to the contractor.

Impact if Not Addressed/Adopted: Design-build and other design-build combinations involving operating and maintaining of infrastructure allow the City to complete projects with compressed timelines, fixed costs or specified completion dates, as well as enhances

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efficiencies in the City's stream restoration program. Design-Build-Finance-Maintain-Operate has been a key component in the delivery of large scale transportation projects around the country and could be utilized for similar scale projects in the Metropolitan Transit Commission's 2030 Transit Corridor System Plan.

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2011 State Legislative Agenda

Legislative Advocacy/City Initiative

Category:	Infrastructure
Title of Item:	Withdrawal of Offers of Right-Of-Way Dedication
Position:	Require presentation to the affected municipality prior to recording a notice of withdrawal at the Register of Deeds
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Matt Magnasco, CDOT, 704.336.3368 Bob Hagemann, City Attorney, 704.336.2651

Background and History: Dedication is a process often used to establish public rights of way. Dedication is a two step process consisting of: (1) an "offer" from the owner of the property; and (2) "acceptance" of the offer by the municipality. Current law permits qualified property owners to withdraw an offer of dedication if it has not been accepted within fifteen years. Withdrawals may be filed in the Register of Deeds without notice to or approval by the municipality.

Current Need/Problem: The Transportation Action Plan (TAP) calls for increased street connectivity. In November 2009, City Council adopted additional policy guidance on connectivity, via the Five Connectivity Policy Statements. Statement #2 reads, *PRESERVE – Strive to preserve existing opportunities for connectivity: In the due diligence of evaluating disposal of City property and abandoning rights-of-way, opportunities to preserve connectivity will be identified and recommended to the City Council*

Prior to withdrawing an offer of dedication, the amendment would require property owners to request a certification from the affected municipality stating that the offer had not been accepted. Upon receiving such a request, the municipality would, within 90 days, have to either: 1) issue the certification and allow the withdrawal to proceed, 2) accept the offer in which case the municipality would be responsible for maintaining the right of way; or 3) state that the offer had already been accepted thereby precluding the withdrawal.

Impact if Not Addressed/Adopted: If adopted the amendment would allow Charlotte and other municipalities to preserve rights-of-way necessary for future road projects and improved street connectivity.

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2011 State Legislative Agenda

Legislative Advocacy/City Initiative

Category:	Community Safety
Title of Item:	Nuisance Abatement Revisions
Position:	Permit government entity to seek order of abatement of properties where criminal activity regularly occurs.
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Chief Rodney Monroe, CMPD, 704.336.2337 Mark Newbold, CMPD, 704.336.4977

Background and History: The existing language in the public nuisance statute (G.S. 19-1) as recently interpreted by the North Carolina Court of Appeals in *City of Salisbury v. Campbell* requires that a City prove that the owner or tenant used the property for the sole purpose of illegally possessing or selling illegal drugs, alcohol or maintaining a property solely for prostitution. This judicial requirement provides the property owner with a ready made defense in that the owner can admit that the activity occurred on their property, but it allows the owner to offer evidence that the property has another "legitimate" use such as a dance hall or restaurant thereby defeating the nuisance action.

Current Need/Problem: In order to be effective, the definition of a public nuisance needs to contain specific language that includes properties where the criminal activity occurs regularly albeit while the property is in part being used in a "legitimate" fashion. The Charlotte-Mecklenburg Police Department and other state law enforcement agencies have struggled to find effective tools to reduce crime on properties on which repeated acts of illegal drug activity, prostitution and illegal alcohol sales have occurred. Many of these properties are the source of collateral illegal activity which involves shootings and other criminal behavior such as organized gang activity.

Impact if Not Addressed/Adopted: Amendment of the statue will provide state law enforcement agencies a more nimble and effective tool to reduce crime on properties with chronic illegal activity.

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2011 State Legislative Agenda

Legislative Advocacy/City Initiative

Category:	Citizen Engagement
Title of Item:	Email Subscription
Position:	Authorize email addresses of subscribers to be open to public inspection only
Statewide or Local Bill:	Local
Responsible Staff Person(s):	Keith Richardson, Corporate Communications, 704.336.5865 Mujeeb Shah-Khan, City Attorney's Office, 704.336.5803

Background and History: The City of Charlotte uses its e-mail subscriber lists to communicate information ranging from updates on new ordinances to critical public emergency instructions. At this time upon a public records request, the City of Charlotte must provide copies of its subscriber lists to a requestor. The City is requesting authority similar to that provided to Yadkin County, Wake County and certain local governments in Wake County under Session Law 2010-83 to allow e-mail addresses of subscribers to be open to public inspection, but copies not provided to requestors.

Current Need/Problem: The requirement under the current statute reduces the City's ability to collect email addresses due to the general public's expectation of privacy and concern that this information can readily be provided to a third party upon request. The City has fielded requests for these lists from telemarketers, graduate students and candidates for public office. When the information is provided to a third party, the City notifies subscribers as a courtesy, and as a result numerous subscribers will request the removal of their information.

Impact if Not Addressed/Adopted: Permitting only public inspection of these lists allows the City to improve the effectiveness of these lists as communication resources and reduces the privacy concerns of citizens.

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2011 State Legislative Agenda

Legislative Advocacy/City Initiative

Category:	Infrastructure
Title of Item:	Energy
Position:	Support Energy related legislation which is appropriate for the City of Charlotte to champion before a statewide audience
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Ron Kimble, City Manager's Office, 704.336.4169

Background and History: The City of Charlotte is an emerging center of energy related research and innovation in the United States. The UNC Charlotte's Energy Production and Infrastructure Center (EPIC) will address the severe shortage of trained engineers capable of servicing and replacing an aging fossil fuel and nuclear infrastructure as well as developing future infrastructures for wind, solar, and biofuel. Private sector companies such as Charlotte-based Duke Energy and numerous other private entities are addressing the demand for alternative energy resources.

Current Need/Problem (including potential allies or detractors): The price volatility of fossil fuels, general environmental concerns and the policy direction of the US Congress provide an opportunity for the City and its private partners to advance research and development of alternative energy resources. Funding has been made available by the current administration for research into alternative energy resources. The American Recovery and Reinvestment Act of 2009 allocated funding to cities such as Charlotte for energy efficiency and conservation block grants. The City is using these resources for projects that achieve reduction of fossil fuel emissions created as a result of activities within the community; reducing total energy use, or improving energy efficiency in the transportation, construction and other sectors. The State of North Carolina has provided funding for UNC Charlotte's Energy Production and Infrastructure Center. Numerous private entities are allocating scarce resources for development of alternative energy resources.

Impact if Not Addressed/Adopted: The City of Charlotte has an opportunity to champion legislation to enhance and solidify its emergence as an energy center in the United States. Any legislation championed would be appropriate for the City to support.

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2011 State Legislative Agenda

Legislative Advocacy/Preservation of Authority

Category:	Fiscal
Title of Item:	Business Privilege License Tax
Position:	Preserve business privilege license tax
Statewide or Local Bill:	Potential Statewide Bill in Joint Legislative Committee
Responsible Staff Person(s):	Greg C. Gaskins, Finance, 704.336-5885

Background and History: Charlotte has had a Business Privilege License Tax since 1863, and it is levied on firms for the privilege of doing business within the City. This tax also gives the City the ability to track the number of businesses within its boundaries, which is an important tool in providing municipal services such as fire, police and roads to these firms and the customers they serve. It is one of two taxes the City can impose, but it is the only tax it can impose on non-property owners when they enter Charlotte to do business. This tax provided nearly $17 million to the City last year. This revenue source is a viable alternative to the property tax because it spreads the tax burden more equitably.

Current Need/Problem (including potential allies or detractors): The Joint Senate and House Finance Committee is examining revenue reform. They are going to consider the BPLT in their review. The tax can be reformed without eliminating it. Some cities do not have the upper amount capped, and some businesses claim it is hard for them to pay it because they do business in more than one location. Charlotte caps all taxes under its control at $10,000 and would treat all categories the same if allowed by the State.

Impact if Not Addressed/Adopted: If this tax was to be eliminated, it would be equivalent to a property tax increase of 2 ½ cents to replace it.

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2011 State Legislative Agenda

Legislative Advocacy/Preservation of Authority

Category:	Community Safety Citizen Engagement Fiscal Infrastructure
Title of Item:	Annexation
Position:	Retain annexation authority
Statewide or Local Bill:	Various Statewide bills intended to amend Article 4A Chapter 160A of the General Statutes to weaken annexation authority
Responsible Staff Person(s):	Ron Kimble, City Manager's Office, 704.336.4169 Mac McCarley, City Attorney's Office, 704.336.4112 Jonathan Wells, Planning, 704.336.4090

Background and History: The modern era of annexation legislation in North Carolina was enacted in 1959, allowing cities and towns across the state to expand their municipal boundaries and extend their services as the communities grew and expanded. In 1959 Charlotte consisted of 35 square miles, while today it encompasses 300 square miles. In this fashion, urbanized areas receive necessary services while cities can make sound urban growth possible, and residents and property owners in the urban area share both the benefits and responsibilities of urban life. Moreover, annexation has enabled Charlotte and other NC cities to avoid problems cities elsewhere have experienced and found impossible to resolve. Examples include small urban areas surrounded by vast suburban areas that do not participate financially in meeting the urban community's service needs, and where services are offered in an inefficient and inconsistent manner.

Current annexation statutes have rigorous and exacting requirements that must be met by municipalities in order to complete annexation. Charlotte takes these requirements very seriously and has for many years dedicated the resources necessary to meet or exceed its responsibilities under these statutes.

Current Need/Problem (including potential allies or detractors): There are reportedly a limited number of instances across the state where municipalities may not have fulfilled their responsibilities under the annexation statutes. This in turn has created interest in "reforming" annexation, although virtually all the legislative proposals made to date would significantly reduce or eliminate the ability to annex. The original 1959 annexation legislation has been modified a number of times since its enactment, and today it serves as a model across the nation of how annexation should be undertaken.

Charlotte staff has worked with the NC League of Municipalities and with the annexation legislative commission to craft potential statutory changes and proposals that will maintain or

enhance accountability and transparency in the annexation process while sustaining municipalities' ability to annex.

Impact if Not Addressed/Adopted: If annexation legislation is amended to make it more difficult or impossible to annex, urban areas like Charlotte will be in the tenuous position of providing municipal services and other urban benefits to residents and property owners of unincorporated areas without the ability to tax those recipients for those services. Furthermore, services such as fire protection, street maintenance and trash collection could be delivered in an inefficient and inconsistent manner within Spheres of Influence and particularly in unincorporated areas. Finally, the lack of viable annexation authority could decrease the ability to broadly and equitably distribute the cost of these urban services.

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2011 State Legislative Agenda

Legislative Opportunities

Category:	Community Safety
Title of Item:	Development of a Criminal Justice System Strategy for Funding and Efficiencies Tailored to Local Needs
Position:	Support additional funding for criminal justice system. Receive allocations based on proportion of state crime problem. Seek increased discretion on how funds are used locally.
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Chief Rodney Monroe, CMPD, 704.336.3879

Background and History: State funding for the criminal justice system is administered by the Administrative Office of the Courts. Its funding formula does not account for the unique needs of the state's urban areas. Consequently, funding has never kept pace with the population or the proportion of statewide crime in urban areas. As crime increased in Charlotte-Mecklenburg, both the City of Charlotte and Mecklenburg County began supplementing state funding to add personnel and equipment to the District Attorney's Office and Mecklenburg County Courts. The City currently funds two assistant district attorneys and three legal assistants for the District Attorney's Property Crimes Unit and five office assistants. In the past, the Charlotte-Mecklenburg Police Department has used some of its grant funding for additional assistant district attorney positions. The City believes that the State should take responsibility for adequate funding for the criminal justice system.

Current Need/Problem (including potential allies or detractors): The citizens of Charlotte have made it clear that they believe the criminal justice system, as currently funded, does not serve their interests. The District Attorney lacks the resources to prosecute the volume of cases that come into the system, and as a result, far too many cases are either dismissed or plea bargained to lesser charges. The courts move cases slowly, and there is not adequate jail/prison space for those offenders who do get active time. Probation/Parole Office has inadequate resources to handle the volume of offenders under its supervision. Many offenders reoffend with no consequences.

The information systems used by the district attorney and courts are inadequate and make very limited used of modern technology. For example, the case management system developed by the state is inadequate for the needs of a jurisdiction with the volume of cases handled by a major urban area. The case management system in Charlotte consists of file folders and paper clips. The information systems of the various components of the criminal justice system do not interface, making information sharing more difficult. The community is united in its desire for a more effective and efficient criminal justice system.

The situation in Charlotte is replicated throughout the state of North Carolina. For this reason, the North Carolina Metropolitan Mayor's Coalition included a similar statement of support for additional Criminal Justice System resources in their adopted 2011 Advocacy Agenda.

Impact if Not Addressed/Adopted: If the local criminal justice system does not receive funding commensurate with its share of population and crime, it will fall further behind in handling its case volume and bringing offenders to justice. It will make it much more difficult to take chronic offenders off the streets and to sustain the crime reductions that police and the community have fought to achieve.

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2011 State Legislative Agenda

Legislative Opportunities

Category:	Infrastructure
Title of Item:	North Carolina Mobility Fund
Position:	Support Additional Funding
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Carolyn Flowers, 704.336.3855 Danny Pleasant 704.336.3879

Background and History: The 2010 North Carolina General Assembly created the North Carolina Mobility Fund to provide funding for transportation projects of statewide and regional significance that relieve congestion and enhance mobility across all modes of transportation. Funding for these projects is provided outside of the strictures of the Equity Formula. The first project to be funded is Phase II of the Yadkin River Bridge project, the widening and improvement of I-85 north of the bridge. An annual transfer from the Highway Trust Fund in the amount of $39 million in FY 2011 rising to $58 million by FY 2014 is the only source of revenue for the Fund.

Current Need/Problem (including potential allies or detractors): According to the March 2010 report entitled "The Future of North Carolina's Transportation System", published by TRIP, a nonprofit organization that researches, evaluates and distributes economic and technical data on highway transportation issues, there is a $65 billion shortfall in funding required by 2030 to adequately plan, design, build and maintain the State's transportation system. The Mecklenburg Union MPO (MUMPO) 2035 Long Range Transportation Plan (LRTP) assumes that funding will be available for only 31% of the roadway projects nominated for the LRTP, leaving an unfunded gap of $6.3 Billion. The Mobility Fund is viewed as the appropriate vehicle to meet the unfunded demands facing North Carolina.

The North Carolina Metropolitan Mayor's Coalition included a statement of support for additional Mobility Fund resources in their 2011 Advocacy Agenda.

Impact if Not Addressed/Adopted: If not addressed, the purchasing power of existing transportation revenues will continue to erode and the gap in funds needed for state and local transportation projects will continue to grow.

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2011 State Legislative Agenda

Legislative Opportunities

Category:	Infrastructure
Title of Item:	New Long Term Revenue Sources for Roads and Transit
Position:	Explore alternative sources of revenue to supplement existing sources of revenue for roads and transit
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Carolyn Flowers, CATS, 704.336.3855 Danny Pleasant, CDOT, 704.336.3879

Background and History: Roads and Transit are funded by a variety of revenue sources from all three levels of government. The primary local source of revenue for Transit is the one-half percent local sales tax approved by Mecklenburg County voters in November 1998. The economic recession has resulted in a projected shortfall in local sales tax revenues of about $400 million over the next 10 years, which threatens the eventual build out of the 2030 Transit Corridor System Plan.

Federal and State motor fuel tax revenues are also diminishing. Motor vehicles are becoming more fuel efficient and the growth trend in vehicle miles traveled per person is flattening. Travel actually declined over the past two years in response to the weakened economy. Sales of motor fuels will continue to decline as hybrid and electric vehicles become a larger percentage of the vehicle fleet. These are positive trends from an environmental and congestion viewpoint, but declining fuel sales will hurt the ability to build, maintain and operate needed transportation infrastructure.

Current Need/Problem (including potential allies or detractors): Alternative funding sources will be needed over the long term. Options may include general sales taxes, increased vehicle registration fees, tolling, and ultimately some sort of vehicle miles traveled fee. All of these options have been studied. The North Carolina General Assembly will need to grapple with how the State and local governments will fund infrastructure both short and long term. Local governments, especially in fast growing urban areas, would benefit from more local option funding choices for both road and transit needs.

Two of the five corridors in the 2030 Transit Corridor System Plan, the Blue Line Light Rail Extension (BLE) and the Red Line Commuter Rail (Red Line) projects have advanced to various stages of preliminary engineering. The federal government has earmarked nearly $40 million in federal New Starts funding for the BLE which is matched by State New Starts program funds and the one-half percent sales tax. The one-half percent sales tax is now unable to sustain the advancement of the 2030 Transit Corridor System Plan.

At a statewide level through 2020, North Carolina has $54 billion in Road and Transit needs but only $10.5 billion in revenue to support those projects.

Impact if Not Addressed/Adopted: If the decline of federal, State and local revenues for transportation is allowed to progress unabated, many of the projects in the region's plans will continue to be delayed and even cancelled. The revenue generated by federal and state motor fuel tax will continue to diminish, and the gap in funds needed for state and local transportation projects will continue to grow. Projects such as the eventual widening of Independence Boulevard to I-485 will be delayed even further and State matching grants for Transit could be affected. The decline of the local Transit sales tax will force the Metropolitan Transit Commission to update the implementation schedule of the 2030 Transit Corridor System Plan by extending out the current schedules for build out of the BLE and Red Line, which will escalate project costs. This scenario will be repeated for other projects in the 2030 Transit Corridor System Plan. The inability to bring online the BLE and Red Line projects sooner will ultimately diminish the success of the LYNX Blue Line.

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2011 State Legislative Agenda

Legislative Watch List

Category:	Finance
Title of Item:	State Budget
Position:	Monitor State Budget for Revenue Diversions and Unfunded Service Responsibilities
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Ruffin Hall, Budget, 704.336.3403 Greg Gaskins, Finance, 704.336.5885

Background and History: The Governor and General Assembly will be addressing an estimated $3.6 billion General Fund revenue shortfall for FY 2012. The Governor is considering numerous ways to address the looming shortfall including across the board reductions of State agency budgets, privatizing the Alcoholic Beverage Control system, reorganizing state agencies and eliminating non-core functions and responsibilities. The General Assembly convenes January 26, 2011.

Current Need/Problem (including potential allies or detractors): Local governments throughout the State of North Carolina will be examining budgetary proposals for their potential impact upon local government revenues and services. The State has withheld during recessionary times "State Collected Local Revenues", most recently withholding $18.2 million in utility franchise taxes and other reimbursements in FY 2002. State Collected Local Revenues represent approximately 25% of the City's General Fund revenues. There have also been attempts to transfer service responsibilities to the City without the requisite revenues to administer such services. 2009 HB 881 and SB 1001 would have transferred state-maintained secondary roads to municipalities and changed Powell Bill language about state fund distribution from "shall distribute" to "may distribute." Fortunately, both of the bills were significantly amended prior to passage by deleting the offending sections.

Impact if Not Addressed/Adopted: The withholding of state collected local revenues and transfer of service responsibilities without the requisite revenue would hamper the City's ability to provide adequate services for the residents of Charlotte.

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2011 State Legislative Agenda

Legislative Watch List

Category:	Infrastructure
Title of Item:	Retention of State's Minimum 50% of Non Federal Match on Transit Projects (MTC Agenda)
Position:	Preserve the State's minimum 50% share of local transit projects
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Carolyn Flowers, CATS, 704.336.3855 Dee Pereira, CATS, 704.336.2166

Background and History: Under G.S. 136-44.20(b) the North Carolina Department of Transportation (NCDOT), upon approval of the North Carolina Board of Transportation is authorized to provide the matching share of federal public transportation assistance programs. NCDOT has traditionally provided 50% of the local share of projects that receive federal funds.

Current Need/Problem (including potential allies or detractors): The Charlotte Area Transit System (CATS) is working with NCDOT to secure a State Full Funding Grant Agreement (SFFGA) for the Blue Line Light Rail Extension. State statute authorizes NCDOT to enter into such an agreement after the federal Record of Decision is published by the Federal Transit Administration. The Record of Decision is expected to be published in August 2011.

The concern raised by CATS is that new opportunities recently provided by NCDOT for transit project matches from transit agencies will dilute the pool of funds for transit projects. The State has not identified a new source of revenue to satisfy such requests as the current annual apportionment from the General Assembly for New Starts programs appears to be inadequate for the growing program. Furthermore, the State previously appropriated $23 million annually for New Starts program matching funds.

Impact if Not Addressed/Adopted: These actions have the potential for impacting the current distribution/share of NCDOT's limited funding from the General Assembly. Any change in NCDOT's matching funds program and annual appropriation of funds could have a detrimental impact on funding and build out schedules of Charlotte's transit projects.

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2011 State Legislative Agenda

Legislative Watch List

Category:	Infrastructure
Title of Item:	State Participation in Non Federal Transit Projects (MTC Agenda)
Position:	Maximize State's Share of Non Federal Transit Projects
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Carolyn Flowers, CATS, 704.336.3855 Dee Pereira, CATS, 704.336.2166

Background and History: The North Carolina Department of Transportation (NCDOT) is authorized to participate in funding of fixed guideway projects not programmed with Federal funds. The Red Line Commuter Rail Project is such a project and is a key component of the Metropolitan Transit Commission's (MTC) 2030 Transit Corridor System Plan.

Current Need/Problem (including potential allies or detractors): The Charlotte Area Transit System (CATS) is working with NCDOT on the Red Line Commuter Rail Project. NCDOT has provided some funds for preliminary engineering and will be requested to pledge resources for construction. The project is estimated to cost $357 million. The Metropolitan Transit System has formed a Red Line Task Force to ensure a continuing focus upon the Red Line. Due to the relative scarcity of funding, NCDOT funding is crucial to the eventual construction of the project.

NCDOT plans to utilize its New Starts annual appropriation to provide its share for non-federal transit projects, such as the Red Line. Projects will compete for funds from the same pool as fixed guideway projects that are eligible for Federal funding, i.e. Charlotte's Blue Line Light Rail Extension.

Two major transit agencies in the State are currently completing Major Investment Studies for fixed guideway rail projects and will be applying for funding from the State's New Starts Program. This will potentially exhaust the resources currently available for both federally funded and non-federally funded fixed guideway projects. In order to meet future demands for New Starts funding, the State should consider a source of revenue for eligible projects; develop criteria and State share for participation; and appropriate funds.

Impact if Not Addressed/Adopted: If the issues stated above are not addressed, there may be insufficient matching funds for non-federal fixed guideway projects, which will also impact federally funded projects. This situation potentially impacts the advancement of the Red Line Commuter Rail Project.

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2011 State Legislative Agenda

Legislative Watch List

Category:	Infrastructure
Title of Item:	State Maintenance Assistance Program (MTC Agenda)
Position:	Revise State Maintenance Assistance Program formula to include all modes of transportation (including rail), and provide additional appropriations
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Carolyn Flowers, CATS, 704.336.3855 Dee Pereira, CATS, 704.336.2166

Background and History: In 1994, the General Assembly established the State Maintenance Assistance Program (SMAP) to assist urban, regional and small urban areas in funding the non-federal share of net operating costs associated with existing and new public transportation services operated by fixed route and regional transit systems. In 1996, the NC Board of Transportation approved a formula for allocation of State Maintenance Assistance to Urban, Small Urban and Regional Transit Systems. Currently, the Charlotte Area Transit System (CATS) does not receive any SMAP funding for rail transportation due to the formula only taking into account bus operations.

Current Need/Problem (including potential allies or detractors): CATS is working with NCDOT to change the formula to take into account rail operations. Rail operations account for approximately 19% of ridership and 5% of revenue service hours. Due to NCDOT staff interpretation of the program, approximately $800,000 of revenue is foregone each year.

The second issue to be addressed is that annual appropriations for SMAP have not increased in proportion to the growth of transit agencies in the State. In FY2010, the appropriation was 2% lower than prior year. If the State's goal is to assist transit system with meeting the growing mobility needs of the community, the General Assembly must consider increasing the annual appropriation for SMAP.

Impact if Not Addressed/Adopted: SMAP funding has accounted for almost 12% of CATS annual operating revenue and was expected to grow with the implementing and performance factors of rail transportation. As CATS continues to increase service to the community, if SMAP funding is not fairly distributed and does not keep pace with the growth, CATS will have to fund a larger portion of service costs with sales tax revenue, which will have long-term impacts on the build out of the 2030 Transit Corridor System Plan.

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2011 State Legislative Agenda

Legislative Watch List

Category:	Infrastructure
Title of Item:	Metropolitan Planning Organization Realignment
Position:	Monitor potential legislation affecting boundaries of the Mecklenburg Union Metropolitan Planning Organization
Statewide or Local Bill:	Statewide / Local
Responsible Staff Person(s):	Bob Cook, 704.336.8643

Background and History: The current boundaries of the Mecklenburg Union Metropolitan Planning Organization were established by memorandum of understanding in September 2003, which was the result of a process following the 2000 Decennial Census. North Carolina G.S. 136-200.2 requires such a review of boundaries after every decennial census in order maintain compliance with federal law.

Current Need/Problem (including potential allies or detractors): The 2010 census was recently completed and preliminary results will soon be released. This will initiate the process to reexamine metropolitan planning organization boundaries. The Centralina Council of Governments (CCOG) is examining alternative organizational / decision making structures that would potentially better position the greater Charlotte Bi-State Region to plan, develop and implement an effective regional multi-modal transportation system in light of the census and competing visions for how the federally mandated Metropolitan Planning Organization should be structured. The final report from CCOG should be released in late October 2010.

Impact if Not Addressed/Adopted: The General Assembly does not have a formal role in determining metropolitan planning boundaries as that rests with the Secretary of Transportation. Legislation may be introduced, however that benefits metropolitan planning organizations meeting select criteria.

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2011 State Legislative Agenda

Legislative Watch List

Category:	Infrastructure
Title of Item:	Underground Utilities Damage Prevention
Position:	Monitor potential legislation to ensure cost burdens and responsibilities are not inequitably shifted to local governments
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Phil Reiger, Transportation, 704.336.4896 Angela Lee, Utilities, 704.336.5911

Background and History: The Underground Damage Prevention Act (G.S. 87-100) was enacted by the North Carolina General Assembly in 1985. The Act sets forth the roles and responsibilities of property owners, utility owners and excavators with respect to preventing the damage of underground utilities. The Act requires excavators to notify utility owners having underground utilities of their intent to excavate.

Current Need/Problem (including potential allies or detractors): Industry groups are examining the Act with a view toward recommending changes to the Act to reflect similar laws around the nation and industry best practices. North Carolina's law is generally considered weak compared to other states. There also may be inconsistencies with the federal Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006. Similar laws around the country include features not present in North Carolina law including mandatory membership to the One Call Center (NC 811), the imposition of civil penalties and additional local or State enforcement responsibilities.

Impact if Not Addressed/Adopted: Any legislation considered will undoubtedly place an addition burden on local governments and may or may not include the revenues necessary to fulfill such new responsibilities.

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2011 State Legislative Agenda

Legislative Watch List

Category:	Infrastructure
Title of Item:	Water
Position:	Monitor legislation affecting interbasin transfers, water allocations, river basin modeling, settlement of the lawsuit with South Carolina and other related issues
Statewide or Local Bill:	Statewide and Local
Responsible Staff Person(s):	Barry Gullet, CMUD, 704.391.5073 Mike Boyd, 704.391.5110

Background and History: The 2010 General Assembly considered several water related legislative initiatives including river basin modeling (Sub HB 1743) and interbasin transfers (HB 1765). Due to its unique position straddling two river basins, geographic proximity to South Carolina and economic growth, the City of Charlotte is significantly impacted by most legislation in this area.

Current Need/Problem (including potential allies or detractors): The Department of Environment and Natural Resources (DENR) will be developing hydrologic models for each of the 17 major river basins in the State (HB 1743). Under HB 1743, these models will be used for planning purposes, but could eventually be used to regulate water withdrawals within each basin. Much of the work associated with the ongoing, Duke relicensing of its Catawba facilities focused on related issues, including the Comprehensive Relicensing Agreement (to which Charlotte is a party), modeling the Catawba and appropriate levels of water withdrawals and other uses. It is important that this work be recognized and relevant portions incorporated into any such model, regulations and water withdrawal allocations that may be eventually developed by DENR. HB 1765 shifted much of the costs for notice and public hearings related to environmental documents and Environmental Management Commission (EMC) rulings for interbasin transfers (IBT) from the EMC to the applicant (local water systems). The original version of HB 1765 would have allowed DENR to use injunctive relief to enforce IBT permit violations but this was removed because DENR already possesses sufficient authority to enforce IBT statutes and regulations.

Impact if Not Addressed/Adopted: The City of Charlotte has a great stake in these issues due to some very unique features revolving around geography and economic growth.

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2011 State Legislative Agenda

Legislative Watch List

Category:	Public Safety
Title of Item:	Broadband / 911 Issues
Position:	Monitor legislation affecting ability of Charlotte to provide public safety call taking and dispatching and implement broadband systems efficiently and effectively
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Chuck Robinson, Business Support, 704.432.3539 Chuck Adkins, CMPD, 704.353.1060

Background and History: The 2010 General Assembly enacted legislation reforming the 1998 911 statutes (HB 1691). The General Assembly also considered but failed to enact significant restrictions on how local governments could fund the purchase, construction, and maintenance of broadband systems using debt instruments (SB 1209).

Current Need/Problem (including potential allies or detractors): The City of Charlotte receives approximately $4.8 million annually from the State of North Carolina for the operation of its 911 center. HB 1691 expands the use of 911 funds for primary Public Safety Answering Points (PSAPs); authorizes the expenditure of up to 50% of the existing Emergency Telephone Fund balance as of July 1, 2010 for any public safety need; charges the 911 Board to revamp the 911 funding formula; reconstitutes the membership of the 911 Board to include additional public sector representation; requires the development of operating standards for PSAPs; charges the House Select Committee on the Use of 911 Funds to study direct funding of secondary PSAPs by the 911 Board; and clarifies that 911 funds can be shared with and spent by secondary PSAPs for allowable uses.

The City is the recipient of $16.7 million American Recovery and Reinvestment Act of 2009 grant for the development of a public safety broadband system that will enable public safety resources to respond more appropriately to police, fire and emergency medical situations. While the grant should cover the cost of the development of system, it is important that the State not place any restrictions on how local governments can finance the maintenance or enhancement of such systems. SB 1209 as originally introduced would have prevented local governments from issuing certificates of participation for such systems.

Impact if Not Addressed/Adopted: Comprehensive legislation covering these issues have the ability to create significant issues in how basic public safety services are provided.

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2011 State Legislative Agenda

Legislative Watch List

Category:	Public Safety
Title of Item:	Privatization of Local Alcoholic Beverage Control System
Position:	Monitor potential legislation to privatize the local alcoholic beverage control system
Statewide or Local Bill:	Statewide
Responsible Staff Person(s):	Deputy Chief Harold Medlock, Jr., CMPD, 704.432.0379

Background and History: The current local alcoholic beverage control (ABC) system was approved by the General Assembly in 1937. Counties were given the option of voting for whether alcohol and which types could be sold. Mecklenburg County voters approved the establishment of the local system in 1947.

Mecklenburg ABC Board members are appointed by the Board of County Commissioners. The stores are operated under the auspices of a Chief Executive Officer appointed by the Board. A portion of the profits are shared with Mecklenburg County and the City of Charlotte. The City receives approximately $1.8 million per year. Charlotte-Mecklenburg Police (CMPD) contracts with the local Board for 13 officers to conduct ABC investigations under the auspices of the Mecklenburg ABC Board. This contract was entered in response to documented public safety issues.

Current Need/Problem (including potential allies or detractors): The administration is examining whether the various ABC systems should be privatized. At least two other states are examining whether their control systems should similarly be privatized. In any deliberations of this idea, the State should consider:

- Continuing inspection and enforcement authority to CMPD as currently granted by Mecklenburg ABC Board and legislative authority provided in 1997-224;
- Granting local governments sufficient and final authority for approval of all permit applications;
- Granting local governments sufficient and final authority for zoning and subsequent approvals of all ABC locations;
- Continuing current revenue streams to recipients of profits including the City of Charlotte; and
- Ensuring appropriate small business opportunities.

Impact if Not Addressed/Adopted: Privatization of local control systems is a very complex undertaking. The local ABC systems are essentially political subdivisions of the State but provide revenue to other political subdivisions. Local Police Departments routinely contract with ABC Boards to provide ABC enforcement in the pursuit of the public health and safety.