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WEEK IN REVIEW:

Mon (Aug 8)	Tues (Aug 9)	Wed (Aug 10)	Thurs (Aug 11)	Fri (Aug 12)

CALENDAR DETAILS:

August and September calendars are attached. (scroll down the page for attachment)

INFORMATION:

FAA Shutdown Impact on Airport

Staff Resource: Jerry Orr, Aviation, 704-359-4000, tjorr@charlotteairport.com

Last week, the FAA sent out a news release regarding “stop work orders” to various construction and technology contractors for critical modernization projects at airports around the country. This release was issued after Congress failed to pass an FAA bill. The release triggered some media questions in regards to what projects may be on hold at CLT. The impact on CLT is minimal.

CLT has a number of FAA funded projects that are underway. The construction of those projects is funded with local Airport funds that are reimbursed by the FAA upon completion. The only impact will be in a delay in reimbursement.

The FAA also issued a “stop work order” on the Runway Status Lights Project. This is a FAA funded and managed project that involves the installation of a new navigational aid. This is being installed at a number of airports, including CLT. There is no fully operation system in the country at this time. The installation at CLT is in the very early stages. That has stopped for now. This project is due to be completed and commissioned in 2013. The stoppage of this project does not impact CLT’s current runway lighting or operations. The work stoppage order of this project will not result in loss of revenue to CLT.

Other CLT construction projects that are underway, including baggage renovations and expansion of the eastside of the terminal, are funded through other sources and are not FAA related projects, therefore are not impacted by the FAA “stop work orders”.

Today the Senate passed legislation temporarily restoring full funding to the FAA, ending the two-week partial shutdown of FAA operations.

Federal Legislative Update

Staff Resource: Dana Fenton, City Manager’s Office, 704-336-2009, dfenton@charlottenc.gov

The US Congress approved and the President signed into law S. 365, otherwise known as the Budget Control Act of 2011, on August 2, 2011. Due to the enormity of the issues addressed in S. 365, the US Congress was focused largely upon this one issue over the last several weeks. Issues important to the City of Charlotte such as security funding for the Democratic National Convention, funding for the New Starts program (Blue Line Extension), and reauthorization of the Surface Transportation program will be considered after the August recess.

Attached you will find a summary of the Budget Control Act of 2011 as prepared by Holland & Knight, the City's federal legislative consultants. Holland & Knight's Charlotte team members Rich Gold, Lisa Tofil and Jeff Boothe will be in Charlotte on Monday, September 12, to brief the Government Affairs Committee and City Council on federal legislative issues, including how the Budget Control Act of 2011 will impact federal expenditures in federal FY 2012 and beyond.

(scroll down the page for attachment)

North Carolina General Assembly Studies Act of 2011

Staff Resource: Dana Fenton, City Manager's Office, 704-336-2009, dfenton@charlottenc.gov

Every year, the North Carolina General Assembly enacts legislation authorizing studies of various issues. HB 773 also known as "The Studies Act of 2011" proposes a series of studies that will be undertaken by joint committees and State of North Carolina agencies. These efforts range from searching for efficiencies in processes and procedures to studies of major shifts in policies and funding. While HB 773 has not yet been enacted into law, it could be done the week of September 12. Attached below is a summary of the bill with a list of studies that could have a local impact.

(scroll down the page for attachment)

Fiscal Year 2011 Audit Summary

Staff Resource: Greg McDowell, Internal Audit, 704-336-8085, gmcdowell@charlottenc.gov

Attached is the Fiscal Year 2011 Audit Summary prepared by the Internal Audit division of the City Manager's Office. Internal Audit staff completed a number of performance audits during fiscal year 2011. A significant effort was made to continue procurement-related audits, and to review CATS light rail construction contracts. Auditors initiated a review of the City's ERP implementation process at its current stage, and will continue to monitor progress in the coming year. Internal Audit continues to support the City's efforts to properly report and manage American Recovery and Reinvestment Act (ARRA), or Stimulus Act funds.

(scroll down the page for attachment)

ATTACHMENTS:

City Council Follow-Up Report:

(scroll down the page for attachments)

Contents include:

-Storm Water Issues

June 30 Restructuring Government Committee Summary
(scroll down the page for attachments)

August

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
	1	2	3 12:00p mtg cancelled Housing & Neighborhood Development Committee, Room 280	4	5	6
7	8	9	10	11 3:30p mtg cancelled Economic Development Committee, Room 280	12	13
14	15	16	17	18	19	20
21	22 12:00p Restructuring Government Committee, Room 280 2:00p Transportation & Planning Committee, Room 280 3:45p Environment Committee, Room 280 5:00p Council Business Meeting 6:30p Citizens' Forum	23	24 5:30p MTC Meeting, Room 267	25	26	27
28	29	30	31			

2011

September

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
				1	2	3
4	5 HOLIDAY LABOR DAY	6 11:30a Business Investment Grant Tour 5:00p mtg cancelled Council Workshop 7:30p mtg cancelled Citizens' Forum	7 12:00p Housing & Neighborhood Development Committee, Room 280	8 3:30p Economic Development Committee, Room 280	9	10
11	12 12:00p Governmental Affairs Committee, Room 280 3:30p Transportation & Planning Committee, Room 280 5:00p Council Business Meeting	13	14	15 7:00a NLC/Siemens Sustainable Infrastructure Tour; Ritz Carlton, 201 East Trade Street	16	17
18	19 5:00p Zoning Meeting	20	21 12:00p Community Safety Committee, Room 280	22 12:00p Restructuring Government Committee, Room 280 2:00p mtg cancelled Transportation & Planning Committee, Room 280 3:30p Economic Development Committee, Room 280	23	24
25	26 3:45p Environment Committee, Room 280 5:00p Council Business Meeting 6:30p Citizens' Forum	27	28 5:30p MTC Meeting, Room 267	29	30	

2011

EYES ON WASHINGTON

August 2, 2011

In This Issue:

- **Last Minute Debt Deal Reached**
- **House and Senate Adjourn for August Recess**

Last Minute Debt Deal Reached

News finally circulated late Sunday of a confirmed deal, titled the "Budget Control Act of 2011" (S.365), signed off by the White House and congressional leadership. The House, taking up the bill on August 1, voted in approval (269-161). The Senate passed the legislation today (74-26). Under the Budget Control Act of 2011, the current \$14.3 trillion federal spending ceiling would be increased by \$2.1 trillion to \$2.4 trillion. A sum in this range would allow the United States to continue paying its bills beyond the 2012 presidential election. Elements of the deal outlined below are not all new with many items being gleaned from earlier draft bills.

Debt Ceiling Increase

Upon presidential signage of the bill, the debt limit would be increased by \$900 billion immediately. Of the first \$900 billion increase, \$500 billion would be subject to a congressional resolution of disapproval, which would need two-thirds majority vote in both chambers to override a presidential veto. This is an example of the few checks and balances on power that are built into the bill.

Debt Ceiling Increase – Take Two

A second increase of between \$1.2 trillion and \$1.5 trillion on the debt ceiling would be available at the president's request. The size of the second increase would be determined by efforts of a new joint congressional committee and Congress to cut back the debt. If the joint committee, already nicknamed the "super committee," has recommended and Congress has enacted \$1.5 trillion in additional savings for fiscal years 2012 through 2021 by early 2012, the second increase in the debt limit would be \$1.5 trillion. If the joint committee recommends and Congress enacts savings of less than \$1.5 trillion, or if no additional savings are enacted, the second debt limit increase would be \$1.2 trillion. The second debt limit increase could also be overturned by a congressional resolution of disapproval if it garnered enough support in votes to avoid a presidential veto.

Another scenario of the debt limit increasing by \$1.5 trillion is if a constitutional amendment requiring a balanced federal budget is sent to the



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states for ratification. The Budget Control Act of 2011 requires both the House and the Senate to vote on a proposed balanced-budget amendment to the Constitution by the end of the year. Support from two-thirds of both chambers would be required for the amendment to pass and then be sent to states. The balanced budget amendment is one of the provisions strongly supported by conservative Republicans in the House.

First Phase of Spending Cuts

The debt ceiling increases are coupled with deep spending cuts in an effort to significantly reduce the nation's deficit. An immediate reduction in the deficit would be achieved by placing statutory caps on discretionary appropriations, including security spending, for fiscal years 2012 through 2021. The savings would amount to over \$917 billion over 10 years, [according to the Congressional Budget Office \(CBO\)](#), when compared with spending levels estimated in January 2011.

Although cuts would be significant, the discretionary spending cap for fiscal year 2012 would be \$1.043 trillion, which is actually about \$24 billion more than the amount set by the House-adopted budget resolution ([H Con Res 34](#)) on April 15, 2011. This would provide more money to be allocated to spending bills that were targeted for deep cuts, such as the House Labor-HHS-Education bill and House Transportation-HUD bill. The Senate, having stalled on most of their spending bills until after the August recess, is expected to use the \$24 billion to help support many of its spending bill proposals as well.

For both fiscal years 2012 and 2013, a "firewall" would be placed between defense and non-defense spending, protecting domestic program spending from being reallocated to plus-up security spending numbers. The caps for fiscal year 2014 through fiscal year 2021 would not segregate security and non-security spending.

If lawmakers do not adhere to the discretionary appropriations caps, a process for imposing across-the-board, automatic spending cuts from discretionary accounts would take effect after Congress adjourns for the year.

Second Phase of Spending Cuts

As mentioned above, a "super committee" would be created to recommend specific ways to reduce the deficit by an additional \$1.5 trillion by 2021. This joint congressional committee, including three Democrats and three Republicans from each chamber, with co-chairmen named by the House speaker and Senate majority leader, was part of earlier plans from both parties.

It is likely that the joint congressional committee would examine entitlement cuts as a means for achieving the deficit reduction goals. However, which entitlement programs may be targeted and to what degree is not yet known.

The Budget Control Act of 2011 does not include any immediate increases in revenue. It is important to note that the joint deficit reduction committee is expected to at least consider options to increase revenues, as well as decide what to do with the Bush-era tax cuts, which were extended through 2012 in legislation that passed last December. Revenue increases, if considered, would likely entail reductions in "tax expenditures," defined by the 1974 Budget Act as "Revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability." Sometimes referred to by detractors as "loopholes," tax expenditures for corporations run the gamut from credits for wind energy facilities to the Section 199 deduction for domestic production activity to accelerated depreciation. For individual taxpayers, tax expenditures include the mortgage interest deduction, the earned income credit and the deduction for state and local income taxes. Holland & Knight will closely monitor the efforts of the joint deficit reduction committee and report on tax expenditures that may be considered for reduction. Take time now to discuss with your Holland & Knight representative what tax benefits are important to your company as the time may come to play defense to protect those interests.

The committee would be required to report its recommendations by November 23, and the House and Senate would be required to act by December 23. The entire federal budget would presumably be on the table – including entitlement cuts and revenue increases.

Should the enacted recommendations from the joint committee not produce at least \$1.2 trillion in savings, a process for automatic spending cuts would be triggered to achieve the desired savings and spread spending cuts equally across nine fiscal years.

Any sequester would be equal to the portion of the \$1.2 trillion savings target that was not achieved. The first automatic cuts would take effect January 2, 2013, and would fall equally on defense and non-defense accounts, including both discretionary spending and some entitlement spending.

Programs targeting low-income individuals and families would largely be exempt from the sequester. Medicare cuts would be restricted to no more than 2 percent of the program's outlays, and would only affect payments to providers, not beneficiaries. It is unclear what other entitlement spending might be subject to a sequester.

House and Senate Adjourn for August Recess

The House and Senate have both adjourned for the August recess leaving several items on the table unresolved. Congress failed to extend the Federal Aviation Administration (FAA) Reauthorization, which expired on July 23, 2011. With fiscal year 2011 ending September 30, Congress is left to shuttle all fiscal year 2012 spending bills through conference in the two-and-a-half weeks they are scheduled to be in session in September. This tight timeframe makes a stopgap spending bill likely to allow Congress more time to settle fiscal year 2012 spending bills, possibly in the shape of an omnibus spending package.

As deficit reduction continues to be at the top of congressional priorities, contact your local Holland & Knight representative if you have any questions. We will be closely monitoring the budgetary environment as the Budget Control Act of 2011 is implemented.

About Our Public Policy & Regulation Practice

Holland & Knight's Public Policy & Regulation Group uses its in-depth understanding of governmental operations and political perspectives to help advance our clients' strategic objectives and solve problems. As advocates for our clients, we are committed to helping shape public policy decisions through careful, strategic positioning combined with a deep understanding of our clients' evolving needs. Our team offers depth, diversity and a bipartisan approach that adapts well to changes in the political climate.

About Holland & Knight

Holland & Knight is a global law firm with more than 1,000 lawyers in 18 U.S. offices as well as Abu Dhabi, Beijing and Mexico City. Holland & Knight is among the nation's largest law firms, providing representation in litigation, business, real estate and governmental law. Interdisciplinary practice groups and industry-based teams provide clients with access to attorneys throughout the firm, regardless of location.

Information contained in this alert is for the general education and knowledge of our readers. It is not designed to be, and should not be used as, the sole source of information when analyzing and resolving a legal problem. Moreover, the laws of each jurisdiction are different and are constantly changing. If you have specific questions regarding a particular fact situation, we urge you to consult competent legal counsel.

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2011-2012 North Carolina General Assembly
2011 HB 773
Studies Act of 2011

General Issues

Alcoholic Beverage Control: The State's involvement in the distribution and sale of liquor is a core government function of State and local government. It will examine the possibilities and impacts of ABC privatization as well as compare the North Carolina system with other similarly situated states that have either privatized or studied the privatization of their systems.

Workers' Compensation: Issues related to the North Carolina's Workers' Compensation Act including whether there is a need for a benefit adjustment for permanent bodily injury.

Human Relations Commission and Civil Rights Division: Examines whether there is a duplication of duties and services the agencies provide.

Property Owners Protection Action (HB 652): Establishment of a property owners' protection act that would award attorney fees to a property owner in an action challenging land-use regulations and prohibiting enforcement of penalties against property for an act not actually committed by the property owner.

Admission Ticket Reform (HB 308): Reformation of the process for ticketing, selling and re-selling admission tickets. The study was the basis of 2011's House Bill 308 which was opposed by the Charlotte Regional Visitors Authority.

Property Tax Valuation Process (HB 796): May include the current exemption and deferral programs that affect property tax liability, the use of true value as a standard for valuation, current bases for altering determined property tax values and differences that exists between county procedures that affect property taxation.

Tax Modernization (HB 248): Includes a review of the existing State tax code to determine whether the existing tax system will be sufficient to keep pace with the operating and infrastructure needs of an effective and efficient public sector. The study will also examine whether current income tax rates are negatively impacting the State's competitive position and whether the tax base should be broadened. It will also evaluate the return on investment of the State's economic incentives and recommend a financing strategy to meet the realities of the present day economy.

Tax Reform (HB 902): Studies the State tax system to identify potential methods for eliminating the State income tax while enacting other taxes and tax systems that fairly distribute the tax burden and generate sufficient revenue.

Retirement and Health Benefits (SB 687): Studies retirement and health benefits for teachers and State employees. The commission may examine issues related to:

- necessary changes in benefit and health plans to reflect the changing demographics
- a need to establish a normal retirement age when health and retirement benefits are to begin
- whether retirement plans should have a defined contribution component

- whether current benefits plans allow for the recruitment and retaining of the best teachers and employees
- the relationship between the State Health Plan, the Teachers' and the State Employees' Retirement System and the Disability Income Plan.

Public-Private Partnerships (SB 278): Appropriate authority for state, local and regional governments to engage in public-private partnerships for public capital projects through a regulatory framework.

Global Engagement (HB 23): Effort to promote economic growth to stimulate job creation in the global economy by studying:

- The State's current international activity in business, State government and education sectors
- Barriers to international trade that may be addressed by legislation
- Ways to increase coordination, synchronization and intercommunication between the State and local governments
- Incentives designed to encourage small business to export goods and services
- Methods for positioning the State as a portal to North America for international trade
- Means to increase foreign direct investment in North Carolina.

Extraterritorial Jurisdiction (HB 281): Examine issues or matters which impact the exercise of extraterritorial jurisdiction by cities and the resulting impact on counties, property owners and residents. The study will look at current state ETJ laws and issues addressed by House Bill 281, which calls for a study to eliminate extraterritorial planning jurisdiction regardless of whether countywide zoning is in effect and would allow residents of the ETJ to vote in and run for municipal office.

Tort Reform (HB 732): Studies the need to for reform of laws governing tort claims, focusing specifics such as adoption of comparative negligence in lieu of contributory negligence and the economic impact of any total reform proposals,

Public Safety

Methamphetamine Labs (HB 825): Study of the proliferation of meth labs in North Carolina as well as the health dangers and hazards to children who are exposed to them.

Justice and Public Safety (HB 273/SB 218): Joint Legislative Oversight Committee on Justice and Public Safety will examine issues related to reintegration of offenders following incarceration by looking at barriers faced by them in terms of accessing jobs, housing, education and services and determine best practices to reduce recidivism. The committee will also review current expunction procedures, methods for increasing efficient and outcomes in the pretrial release program and study the SBI, its crime laboratory and other operations of the NC Attorney General's Office.

Environmental/Planning

Third-Party Sale of Electricity (HB 906): Feasibility and the desirability of authorizing sales of electricity by any third party that owns or operates the equipment of a renewable energy facility with two megawatts or less capacity when the facility is located on a customer's property.

HOA foreclosures (HB 183): Studies the issue of property foreclosures by homeowners associations for unpaid assessments liens based on unpaid dues or related fees and charges. It will examine alternatives to foreclosures as well as impacts related to property foreclosures.

Consolidated Environmental Commission (SB 428): Studies the desirability and feasibility of consolidating the State's environmental policy-making, rule-making and quasi-judicial functions into a comprehensive full-time environmental commission, similar to the North Carolina Utilities Commission.

Water and Sewer Service Providers (SB 564/HB 708): Looks at statutory models for establishing, operating and financing certain organizations that provide water and sewer services in the North Carolina.

Clean up of Industrial Properties (HB 45): Examines the cost of assessing and remediating inactive hazardous substance or waste disposal sites for which there is no financially viable responsible party.

Allocation of Surface Water Resources: Looks at allocation of surface water resources and their availability and maintenance in the North Carolina, including the relationship between sufficient, reliable water supply resources and economic development.

Reclaimed Water (SB 606): DENR's division of Water Quality will study issues regarding the use of reclaimed water, the current permitting requirements for wastewater discharge and reclaimed water and possible revisions to the permitting system to accommodate and encourage the safe and beneficial use of reclaimed water.

Oil and Gas Exploration (SB 615): DENR will study the issue of oil and gas exploration in North Carolina, focusing methods of exploration/extraction, the presence of oil/gas reserves in the state, environmental impacts, and the generation of revenue (taxes, fees, bonds and etc.) associated with these endeavors.

Directional/Horizontal Drilling and Hydraulic Fracturing (HB 242): DENR will study the use of directional and horizontal drilling and hydraulic fracturing for oil and gas exploration. The study will focus on their impacts to infrastructure (roads, pipelines), other potential effects (environmental, economic and social), administrative costs for oversight and any relevant consumer protection and legal issues.

Emissions of Toxic Air Pollutants: DENR will study the implementation of State and federal rules related to emissions from toxic air pollutants. The study will hone in on identification of permitted sources of toxic air in North Carolina, comparison of federal and state toxic air programs and additional pollution controls and operating conditions.

Energy Independence (HB704/HB 585): Focuses on the possible use of compressed natural gas, liquid propane and biofuels as fuel sources for vehicles and studies the development of natural gas, oil, wind, solar and other energy sources capable of energy production for North Carolina to become self reliant.

Transportation

Underground Damage Protection: Reviews the effectiveness of current provisions in preventing third-party damage to underground utility facilities by addressing definition clarity, effective preventive penalties and implementation of a statewide damage prevention training program for underground

facility operators and excavators. Study will also include examining consistency with recently enacted legislation.

Federal and Local Funding for Mass Transit: Studies issues related to the utilization of federal and local funding sources for local mass transit projects and elimination of State funding for such purposes.

Passenger Rail Fair Subsidy (HB 865): Studies whether to eliminate the passenger rail fare subsidy. The committee may consider House Bill 865, which would require NCDOT to arrange with the National Railroad Passenger Corporation (AMTRAK) to raise fares by an average of \$11 per ticket on State-subsidized passenger trains.

Life Cycle Cost Analysis: Examines when the NCDOT shall implement revised policies on life-cycle cost analysis, including material cost indexing, open bidding for alternative pavement designs for all TIP projects that exceed \$500K in pavement costs and the 30-year design periods and 45-year analysis periods based upon actual historic schedules and costs.

Transportation Process and Funding (HB 811): Assesses NCDOT's road construction processes from inception to project completion including design and engineering, median placement process and maintenance and repair projects to determine if any cost savings can be achieved.

Pavement Design: NCDOT will study the development of pavement design and construction standards specific to secondary roads, local roads and municipal streets, which shall be applicable to both rigid (concrete) and flexible (asphalt) pavement types.

**CITY OF CHARLOTTE
CITY MANAGER'S OFFICE – INTERNAL AUDIT DIVISION**

MEMORANDUM

To: W. Curtis Walton, Jr., City Manager

July 21, 2011

From: Greg McDowell, City Auditor

Re: Fiscal Year 2011 Audit Summary

The Internal Audit Division has completed a number of performance audits during fiscal year 2011. A significant effort was made to continue procurement-related audits, and to review CATS light rail construction contracts. Auditors initiated a review of the City's ERP implementation process at its current stage, and will continue to monitor progress in the coming year. Internal Audit continues to support the City's efforts to properly report and manage American Recovery and Reinvestment Act (ARRA), or Stimulus Act funds.

At fiscal year-end, audits in progress include procurement audit follow-ups, focusing on a follow-up of Utilities, along with its contracting procedures; business taxes collected by the County for the City, and a follow-up to several past CATS audits, including a review of recommended recoveries from CATS' contractors.

SUMMARY OF PERFORMANCE AUDITS COMPLETED

Seventy-seven percent of Internal Audit staff project time was used to complete thirteen non-competition audits; while twenty-three percent of staff time was allocated to Managed Competition, as follows:

- Procurement Follow-Up: Second BSS Procurement Follow-Up (September 2010); P-Card (March 2011)
- CATS: Neighboring Concepts (August 2010); Bus Imprest (October 2010)
- ARRA: Stimulus Reporting in FY10 (October 2010); E&PM Projects (June 2011)
- Utilities Billing (September 2010)
- Write-Offs: ParkIt (December 2010)
- Annexation: Private Solid Waste Companies Economic Losses (October 2010); Volunteer Fire Departments' Debt Payouts (November 2010)
- Police: Vice Imprest (February 2011); Spay Neuter Clinic Rate Review (June 2011)
- Pre-ERP Implementation Review at Scope and Requirements Stage (June 2011)
- Managed Competition: completed twelve quarterly audits and two budget reviews

PROCUREMENT FOLLOW-UP

Second BSS Procurement Follow-Up (September 2010): The Purchase Order Processing Follow-up audit report issued in December 2007 identified a number of procurements which could have required formal efforts. The first follow-up audit report for the

Business Support Services (BSS) KBU was issued in December 2008. The review identified several vendors to which BSS made excessive direct payments without documentation of a competitive purchasing process. We performed this second follow-up to determine whether BSS had addressed the issues raised previously.

BSS' actions subsequent to the issuance of the first follow-up report have increased the KBU's adherence to the City-wide Procurement Policy. Specific to the findings noted in the previous report for BSS-EMD, the division has increased its efforts to eliminate unsupported direct payments and continues to make improvements to its operational and procurement processes.

In this follow-up review, auditors noted that procurements with six BSS-EMD or BSS-IT vendors (about 14% of those tested) lacked proper approval, and in some instances, did not have contracts supported by an appropriate solicitation process.

Auditors also noted that 23 BSS-EMD contracts expired without a renewal in place. In recent months, 13 of those renewals were fully executed and BSS continues to obtain the necessary information to execute the remaining ones. We noted that expenditures related to these contracts did not exceed the Council-approved term, and BSS-PSD plans to use recently acquired technology to improve contract monitoring. BSS provided satisfactory responses to our recommendations.

Update: In addition to its responses received prior to report issuance, BSS subsequently responded to the City Manager's office. BSS detailed a number of process improvements designed to improve procurement practices and adherence to City policies. Recently, BSS provided an update of its actions. BSS-PSD has performed numerous competitive solicitations for its own divisions and scheduled more for the coming year. Monitoring has improved through use of the Contracts Digital Archive, and BSS asserts that all Key Business Units will benefit from its improved planning process implemented in 2011. Internal Audit is satisfied with this response.

City-wide P-card Compliance (March 2011): As part of a procurement audit completed in June 2010, improper usage of P-cards by a limited number of individuals to circumvent City procurement procedures was noted (i.e., using P-cards following the exhaustion of a purchase order limit). Subsequently the City Manager directed that single transaction limits for all cardholders would be set no higher than \$5,000, and further noted that an internal audit review might recommend additional lowering of this amount.

Auditors reviewed P-card transactions from the period July 2009 through November 2010, and completed financial and comparative analyses of P-card transactions City-wide and by KBU for FY 2010 and the six months ended December 2010.

Conclusion: Overall, we found that the majority of transactions tested were in material compliance with the City's policies. However, the audit noted frequent instances of noncompliance with purchasing and documentation requirements, indicating a weak

control environment. Such an audit cannot conclusively determine that no misuse of City P-cards has occurred, and the weaknesses noted make it even more difficult to conclude that purchases under the P-card program were made in accordance with City policies. However, no material misuses were apparent. An asset verification review would be necessary to further substantiate the appropriate usage of P-cards.

Summary Findings and Recommendations: Compliance with P-card procedures is the responsibility of each employee who signs a P-card Program Employee Agreement. In addition, each KBE is responsible for establishing a KBU P-card Program and assigning monitoring responsibilities to a KBU Program Manager. Finally, BSS' P-card Program Administrator provides city-wide oversight and guidance to the KBUs. However, this multi-layered approach did not work effectively to prevent the occurrence of many violations during the 18-month audit period ended December 2010. The violations have been brought to the attention of both BSS and the appropriate KBUs to allow each to take corrective actions.

Auditors found numerous transactions which were deficient in some respect. Those deficiencies, which violated the City P-card procedures and in some instances warranted disciplinary action, include split transactions, missing documentation, and off-contract purchases, i.e., purchasing from an existing contractor without obtaining the contract prices, or purchasing from an alternate retailer when the City had an existing contract for the exact item or similar one.

We recommended that BSS' P-Card Administrator have more detailed authority, take aggressive actions to correct procedural errors, conduct regular audits and enforce established procedures. In addition, KBEs and KBU Program Managers should re-examine their commitment of resources necessary to comply with established procedures. Monitoring by Program Managers within several KBUs has been inadequate. In many instances, KBU Program Managers require further training to more effectively conduct their required oversight. Policy changes, training and oversight by KBU Program Managers are all necessary to ensure that cardholders comply with City procurement policies, including the requirement to obtain best value for P-card purchases.

Finally, we recommended that the single transaction limit for all cardholders be reduced to \$2,500, at least until administrative improvements are made. Since 99% of transactions have been less than \$2,500, there should be only limited needs for a cardholder or two within each KBU to be authorized a higher dollar transaction threshold. Those instances should be limited to KBUs which establish a six- to twelve-month history of effective P-card Program management, and additional scrutiny (by the P-card Administrator) should be given to such cardholders' activities.

BSS' Response: BSS concurs with Internal Audit's findings and is in the process of reviewing the P-card Procedure Manual for necessary updates and modifications. This will include giving the BSS Program Administrator the appropriate authority to implement improvements in the program that should help ensure more KBU accountability. BSS will also provide additional training to KBU program managers,

supervisors, accountants, and cardholders. In addition, the P-card Procedures Manual will be updated to reflect the need for adherence to basic procurement practices and existing guidance. Lastly, BSS concurs with Internal Audit's recommendation that the single transaction limit for all cardholders should be \$2,500.

Update: In April, BSS implemented the recommended reduction to the single transaction limit. On July 1, 2011, BSS issued a revised P-Card Manual with significant modifications to provide improved guidance. Several online training modules are being developed and will be available in September, in addition to new and refresher cardholder training which is already available.

CATS-RELATED

CATS-Neighboring Concepts (August 2010): Auditors completed a review of payments made by CATS to Neighboring Concepts from May 2003 through October 2005. For the period audited, Neighboring Concepts submitted 73 project-related invoices to Parsons totaling \$1,809,412. We reviewed direct labor charges of \$398,593 and overhead and fees of \$866,196. The audit did not include a review of other direct costs which totaled \$544,623 and had been addressed separately. We proposed disallowing \$443,141 or about 35% of the direct labor, overhead, and fees previously paid by CATS.

While a significant repayment from Neighboring Concepts is required, our audit did not find any purposeful misrepresentation of costs by the firm. In retrospect, both CATS and Parsons should have recognized Neighboring Concepts' lack of previous experience with Federal contracting, which requires specific costing methodologies prescribed by the Federal Acquisition Regulations (FAR). During our audit, Neighboring Concepts was cooperative and forthcoming, and appeared to take steps to obtain accounting and technical support to better position itself for future contracting which is covered by the FAR.

After meeting with Neighboring Concepts in March 2010 to discuss the first draft of our report, audit staff met and reviewed our calculations in detail with Neighboring Concepts staff. Following the receipt of additional information, we provided an updated draft in mid-August, which proposed disallowing about 5% less than the original report.

Update: CATS requested a refund in October 2010 and has discussed a repayment plan with Neighboring Concepts' principal over the past several months. N.C.'s initial proposal was not accepted by CATS. Negotiations continue.

CATS Bus Operations Division Imprest FY10 (October 2010): The purpose of this audit was to determine whether the City has reimbursed the bus operations management company accurately and the funds have been disbursed properly. The City's outside auditor, Cherry, Bekaert & Holland, L.L.P. (CB&H), performs agreed-upon procedures related to the Bus Operations Division (BOD) that cover the inventory of buses, bus parts and payroll. The work performed by Internal Audit is provided to CB&H auditors for their review.

New controls for deposits and maintenance payroll have been developed in response to the audit report for FY09, and as a result of the implementation of the controls over the maintenance payroll, adequate segregation of duties has been achieved. However, during FY10, TMC was not fully compliant with its written policies and procedures for the weekly deposits and has recommitted to following them.

Continuous monitoring of the imprest account is necessary to ensure there are adequate funds to cover the outstanding checks. Even though procedural changes were made in FY08 to avoid this risk, negative bank balances continued to be an issue in FY10.

In FY10, TMC did not follow the guidelines set forth by the federal and state revenue agencies to determine the amount that should be levied for employees whose wages have been garnished. In response to the FY10 audit, TMC is now requiring the employees to obtain a payroll deduction agreement from the IRS for the federal levies, and they are following the state guidelines for all new orders.

TMC agreed with Internal Audit's recommendations and has developed satisfactory plans to address each issue.

AMERICAN RECOVERY AND REINVESTMENT ACT

Stimulus (ARRA) Reporting FY10 (October 2010): Internal Audit has completed a review of the Stimulus 1512 reporting for FY2010. The reporting represents four quarters of intensive efforts by the Economic Stimulus Team and Project Managers, which have been led by the City Manager's EST Coordinator. The three main findings are:

1. Financial reports for direct grants have been accurate following minor adjustments throughout the year.
2. Financial information for sub-recipient grants required minor corrections.
3. The grant monitoring process should be improved.

While reports have required adjustments, the Stimulus reports are accurate and complete. However, the amount of awards has doubled in the last quarter and actual expenditures are increasing quickly. As of June 30, 2010, the City had been awarded approximately \$60 million in direct and indirect grants. As of September 30, 2010, the amount of grants increased to over \$123 million.

The doubling of awards will mean increased demand on City staff. KBEs should ensure that resources are made available to improve review and monitoring. Thorough GEAC reconciliations will be especially important as grant transactions become more complex. To comply with ARRA guidelines and continue a high level of accuracy requires significant staff resources.

Internal Audit is planning targeted audits of specific ARRA grants. While the report focuses primarily on 1512 reporting, future audits will review the internal controls in place for grant compliance.

In summary, City staff members have been producing high quality results in order to meet the requirements of Federal and State regulations. However, additional efforts will be required to maintain this quality (and in some cases, make needed improvements) in order to meet the expectations of the American Recovery and Reinvestment Act of 2009.

Update: As part of the improved grant monitoring process improvements, Internal Audit recommended that all grants with subrecipients have a written policy detailing the monitoring process. Program Managers subsequently completed and forwarded those policies to the Economic Stimulus Team Coordinator.

ARRA (Stimulus) Projects – Muddy Creek, Wilora Lake and Revolution Park (June 2011): This report addressed three grants managed by E&PM which received American Recovery and Reinvestment Act of 2009 (ARRA) funds:

- Muddy Creek Watershed Restoration,
- Wilora Lake Rehabilitation, and
- Revolution Park Water ReUse projects.

The audit report focused on the projects from inception through December 31, 2010. The purpose of the audit was to evaluate internal controls, compliance with ARRA requirements and the accuracy of ARRA reporting. Overall, internal controls at the general contractor level were in place as:

- Project costs were reported accurately.
- Procurement procedures were followed.
- Monitoring was satisfactory.

However, greater controls are needed at the sub-contractor and vendor level. While not as significant as the controls in place at the general contractor level, ARRA reporting requirements are stringent and should be improved on future ARRA projects. The report addressed issues related to debarment, verifying compliance with the Buy American requirement, ensuring sub-contractors are in the City's Vendor Registration system, and monitoring payrolls.

The report was distributed to members of the Economic Stimulus Team, which has effectively led the City's ARRA efforts. Project managers working on current projects were asked to review the report and contact Internal Audit if there are any issues from this report which impact them. Additional project audits may be conducted in the future, and all projects are subject to review by state and Federal authorities.

UTILITIES BILLING

Utilities Billing (September 2010): Audit staff sought to answer the following questions as part of the City Manager requested review of billing operations:

- Are high-level controls and processes sufficient to assure water bills are computed accurately?
- Are high bills a recent phenomenon, are they widespread or concentrated, and do they correlate to other factors?
- What upgrades to the City's Utility database have been completed to address billing issues and equipment malfunction?

We issued our final report at the end of September and the Audit recommendations were included in CMU's presentation to Council in early October. Our summary results follow.

While high-level controls and processes are sufficient to assure water bills are computed accurately for the majority of monthly billings, several known variables related to the collection of data cause a small percentage of bills to be inaccurate. In addition, some data correlations require further study to understand the causes of these problems. We recommended the collection of additional data which will facilitate such study and CMU agreed to include the recommended steps as part of its overall Quality Assurance program.

We also found that high water usage billings have occurred over the past ten years, following a similar pattern. That is, one-third to one-half of residential customers have experienced at least one water usage spike in a typical three-year period. However, we noted that the majority of customers with high bills, or high water usage, do not contact the City to question their bills. With GIS analysts' mapping assistance, we found that usage spikes occur widespread throughout the county.

Finally, we noted that database upgrades since 2007 allow greater analysis capabilities than in the past. However, an additional control was recommended to ensure the reliability of the data. Also, a large number of billing exceptions are identified using current methodology and we recommended that the potential exceptions be prioritized in order to focus on the most significant ones. CMU agreed with our recommendations and has detailed its plans to address the audit issues.

Update: CMU developed a 40 point plan, which included three recommendations detailed in the audit report. The plan was presented to Council and continues to receive a high level of staff attention. In June 2011, CMU provided an updated response to the audit report, which included the following information:

- The audit noted that the date of ERT (Electronic Radio Transmission devices) retirement was not available, making it difficult to conduct inventories and track equipment. CMU reports that it has developed a more refined inventory control process. Also, CMU operations staff will conduct inventory audits on a regular basis.

- The audit recommended the addition of a batch control over downloaded meter reading data. CMU has completed this reporting mechanism.
- Because of the large number of account exceptions, the audit recommended the development of a prioritization method to help ensure the most egregious exceptions are addressed earlier. CMU reports that improved criteria and new workflow has been implemented over high bill inspections.

WRITE-OFFS

Park-It Account Write-Offs (December 2010): The purpose of the audit was to review a write-off request by CDOT and Finance relating to delinquent, unpaid parking citations issued by Park It during fiscal years 2005 and 2006. These unpaid accounts have passed the three year statute of limitations. Based on our audit, we are recommending that the accounts be written off. We reviewed supporting documents for reasonableness and performed an analytical review. We also determined that available collection methods are being effectively employed, including debt set-off (\$246,664 of tax refunds have been intercepted since 2005, offsetting unpaid parking citations), collection agency, and vehicle booting. Citations and related late fees billed in fiscal years 2005 and 2006 totaled \$3,101,217, of which \$2,287,614 were paid. The citations recommended for write-off total \$813,603.81, which includes \$199,435 in late fees. We noted that the collection rate of 74% during the period audited is comparable with previous audit results of 76% (2004) and 73% (2002-03).

ANNEXATION

Private SWS Companies Economic Losses re. June 30, 2011 Annexation (October 2010): Internal Audit reviewed the impact statements submitted by five private solid waste services companies currently providing services in those areas proposed for annexation on June 30, 2011. The purpose of our audits was to determine the amount of the economic loss payment that is due to each eligible company under State statutes. Our audits recommended economic loss payments to each company for their lost revenues in one or more of the three annexation areas. The payments – totaling \$179,078.75 – are to be transmitted to the private waste haulers within 30 days after the June 30, 2011, effective date of the proposed annexation.

Volunteer Fire Departments' Debt Payouts (November 2010): Internal Audit has completed its audits of the impact statements submitted by three volunteer fire departments whose districts would be impacted by the proposed annexation to be effective June 30, 2011. The purpose of our audits was to determine the statutorily required contract payment or debt payout to each volunteer fire department currently providing services to a proposed annexation area. None of the three departments requested a contract option. The total of the payouts is \$155,063 and would be payable by the City within 30 days after the proposed annexation effective date.

POLICE

Vice Imprest 2010 (February 2011): It has been the CMPD's practice for many years to request an audit of its Vice Imprest Fund prior to obtaining replenishment. During calendar year 2010, Internal Audit conducted five such reviews. Overall, we are satisfied with the level of controls in place related to the Police Department's Vice Imprest Fund. We recommend that Vice continue to monitor advances closely. The procedures instituted by the Vice and Narcotics Division have helped to ensure that most advances are returned within the time limits, and we are satisfied that the open cash advances are adequately controlled.

Spay Neuter Clinic Rate Review (June 2011): During negotiations between CMPD and the Humane Society of Charlotte (HSC), Internal Audit was asked to review data submitted by the HSC supporting its spay/neuter rates proposed to take effect July 1, 2011. Auditors reviewed HSC's documentation, along with survey information compiled by CMPD's Animal Care and Control Division.

In our June report, we concluded that HSC's calculations were accurate and its projections were reasonable. In addition, the survey results were confirmed on a sample basis and found to support the reasonableness of the proposed rates.

INFORMATION TECHNOLOGY

Pre-ERP Implementation Review at Scope and Requirements Stage (June 2011): The purpose of the audit was to review the scope and requirements phase of the Enterprise Resource Planning (ERP) program. Our review was conducted during the period February through June 2011, and recognized that some issues raised are already being addressed by the Office of the Chief Information Officer.

We concluded that the effort to develop a new ERP program has started well and is equipped with qualified people and good planning tools as of June 2011. The ERP program aligns with the City priority for "One Business." Significantly, the ERP program integrates the required elements to implement successful project management. Although poised for success (through alignment and project management), the required changes leading up to an ERP implementation are so critical, a number of steps are recommended to help ensure fulfillment of the plan. Audit recommendations are organized into three sections:

- Greater definition of "transformation" should be communicated,
- The ERP schedule should address the time and effort for people to process change, and
- Acceptance of the (Program Charter) levels of decision making needs greater transparency.

Update: The report was issued at month-end. Due to the report length, and to give the OCIO the opportunity to fully consider the issues we raised, we asked that a written response be prepared by mid-August.

MANAGED COMPETITION AUDITS

Internal Audit staff completed twelve quarterly or semi-annual audits of Solid Waste Services, Water Locates, Vest Water Treatment Plant, Irwin Wastewater Treatment Plant, and the Wastewater Optimization Plants (“WWO” – McAlpine, McDowell, Mallard and Sugar Creek), plus two optimization budget reviews. Vest and Irwin were final audits, with no extensions planned. The Locates contract was cancelled due to non-performance caused by the economic downturn and the state of the local economy. WWO also concluded, effective at calendar year-end. Specifically:

- *Solid Waste Services (Optimized North and South Districts; Competed East District):* Fiscal year-end 6/30/10 audits were completed for each of the districts and the optimized budget for the reorganized SWS operations was developed and reviewed at the beginning of the FY 2011 operating period. While gainsharing has ceased, the PCAC-approved plan includes periodic auditing for at least one year of operations under the new operating model. Three quarterly audits of consolidated operations were issued in the second half of FY11.
- *Charlotte Mecklenburg Utilities:* Four quarterly audits were completed for four separate contracts. Vest, Irwin and Locates each received their final audits. While Vest and Irwin each had completed their five-year MOUs, Internal Audit recommended (CMU and the City Manager agreed) that Water Locates should be terminated following its completion of a second year under its MOU. Locates operations had stabilized, but no recovery from a first year deficit could be projected. The fourth entity, a combined Wastewater Operations (WWO), has completed its third year of operations and required significant audit attention, due to its size (nearly \$20M) and complexity. Following issuance of a semi-annual audit for the period ended December 31, the WWO competition contract was ended.

FOLLOW-UP (Selected audits from FY09 and FY10 are summarized in this section.)

CATS CONSTRUCTION

FWA Direct Labor, Overhead and Fees (January 2009): This audit focused on the direct labor, overhead, and fee charges billed by The FWA Group (FWA), one of Parsons Transportation Group’s (Parsons) subcontractors for the South and Northeast Corridor Light Rail Transit System projects.

For the audit period May 2004 through October 2005, FWA submitted 24 project-related invoices to Parsons totaling \$1,318,899. We reviewed direct labor charges of \$422,543 and overhead and fees of \$271,253. We proposed disallowing \$50,676 in questioned costs, or 7% of direct labor, overhead, and fee charges reviewed. We discussed our findings with FWA management, who did not agree with our conclusions. It is possible that FWA will supply additional documentation to support some of these charges after CATS addresses our report findings with them.

Update: CATS met with FWA, and subsequently requested a refund by letter in December 2010. FWA responded in January 2011, concluding that several aspects of the audit were incorrect. Internal Audit confirmed to CATS its opinion that the disallowance was appropriate; however, CATS informed us in June that it had agreed with FWA's position. Internal Audit will review that decision-making process as a part of a scheduled follow-up to several past audits (see Audits In Progress, below).

Odell Direct Labor, Overhead and Fees through October 2005 (January 2010): This audit focused on the direct labor, overhead, and fee charges billed by Odell Associates Inc. (Odell), one of Parsons Transportation Group's (Parsons) subcontractors for the South and Northeast Corridor Light Rail Transit System projects. The period audited was May 2003 through October 2005.

For the period audited, Odell submitted 69 project-related invoices to Parsons totaling \$2,256,550. We reviewed direct labor charges of \$524,968 and overhead and fees of \$1,209,387. The audit did not include a review of other direct costs which totaled \$522,194 and were addressed separately. During its initial review of invoices presented by Parsons, CATS disallowed and deducted direct labor, overhead, and fee charges of \$82,503. We agreed with those deductions and propose disallowing an additional \$181,819 or about 10% of the direct labor, overhead, and fees. This amount is net of a \$101,963 credit which was issued by Odell in September 2005 to reflect a reduction in the provisional overhead rate. It is possible that Odell will supply additional documentation to support some of these charges after CATS addresses our report findings with them.

Update: CATS requested a refund in February 2010. In April, Odell's CPA requested documentation supporting the proposed disallowances. Internal Audit provided the requested information to CATS in September 2010 and CATS forwarded audit workpapers to Odell's accounting firm Greer & Walker in January 2011. A second copy of workpapers was provided in March. Negotiations continue.

STV FY07 ODC Billings (April 2010): This audit addresses the other direct costs (ODCs) portion of STV North Carolina, Inc.'s (STV) billings related to the South Corridor Light Rail from July 1, 2006 through June 30, 2007.

Auditors reviewed \$2.6 million in ODC expenses, or about 34% of STV's approximately \$7.5 million in billings. We proposed disallowing \$93,067 in questioned costs. The largest category of questioned costs (totaling \$71,864) was Charges Without Support. It is possible that STV will supply additional documentation to support some of these charges after CATS addresses our report findings with them. We are also recommending that CATS review an additional \$228,271 for propriety. These charges were for administrative support provided by STV, but the documentation supplied was insufficient to determine the specific work completed. It is important for CATS' Finance staff to

identify unallowable costs prior to payment and to actively pursue reimbursement of questioned costs identified during the audits.

Update: CATS requested a refund of \$93,067 in August 2010. CATS also requested supporting documentation for \$228,271 in administrative charges. In January 2011, STV requested audit workpapers, which were provided in February. No further discussion of the \$93,067 refund request has occurred. CATS informed us in June that it had determined that the administrative charges (\$228,271) were justified. Internal Audit will review that decision-making process as a part of a scheduled follow-up to several past audits (see below).

PROPERTY TAXES

Property Taxes Received Via County (December 2009): We reviewed Mecklenburg County's property tax processing control environment, along with the accuracy and timeliness of wire transfers for collections received by the City from the County. In addition, we reviewed the City-County "Restated Consolidated Shared Programs Joint Undertaking Agreement" (Agreement) entered into July 1, 2001, for adherence to key provisions. We reviewed processing before and after the County implemented new property tax software in July 2008. The audit conclusion follows:

The City relies on the County to collect and transfer the City's share of property taxes. While it is cost-effective and practical to combine City and County property tax collections, the City needs to take additional steps to ensure that its interests are protected. The Consolidated Shared Programs Joint Undertaking Agreement should be amended to address issues identified during this audit. County Finance's responses have addressed most of the concerns raised in our report. However, the City needs to impress upon the County its interests in having a post-implementation review related to the new tax software conducted promptly, along with a commitment to timely transfer the City's portion of taxes in accordance with the Joint Undertaking Agreement.

Update: The County retained the Accounting/Consulting firm KPMG, which conducted a Post-Implementation Review during the latter part of calendar year 2010. A final report was prepared and shared with the City. In June 2011, the County shared an update addressing KPMG-identified risks and the County's responses. In addition, County Finance provided the following information in response to City Internal Audit questions:

- The County will continue to reconcile exception items at least annually. (The County had provided a reconciliation at the end of fiscal year 2010, which indicated that improved lockbox processing and quicker resolution of refund items was keeping balances lower.)
- The County Internal Audit Department plans to audit the County Tax Office in FY2012. (The County Internal Auditors had reviewed internal controls

over cash processing in 2008, following a defalcation. Due to numerous process changes, we had recommended a follow-up effort to address controls.)

SIGNIFICANT AUDITS IN PROGRESS @ June 30, 2011

- Procurement Audit Follow-Up – We are continuing our review of Procurement throughout the City. In mid-March 2011, we initiated a follow-up to the CMU review reported in July 2009. The CMU audit also includes a review of contracting procedures. Fieldwork was scheduled to conclude in June; however, our audit has progressed more slowly than planned, and a few additional areas for review have been identified. We expect to conclude our fieldwork in late July or early August, with a draft report to be prepared for discussion with CMU later in August.
- Business Taxes – These taxes include Prepared Food and Beverage; Occupancy; Privilege License; Vehicle Rental; and other business taxes collected by the County for the City. Included in our audit was a comparison of independent databases to the County tax listings. That step produced exceptions which are being evaluated.

During the audit, the County's tax office questioned the City Auditor's rights to access certain County tax records. Subsequently, the City Attorney's office provided an opinion that City internal auditors may access detailed records for taxes levied by the City (BPLT, vehicle rental, heavy equipment rental), but not the taxes levied by the County (Occupancy, Prepared Food & Beverage). For the latter we are revising our audit approach to comply with the legal opinion.

- CATS Follow-up Recommendations – We have issued several audit reports over the past few years which have not received adequate attention from CATS. After discussing this with CATS management, we have begun drafting a summary of past audit recommendations, including recommended recoveries which have not been addressed timely. We will also include key recommendations from the KPMG audit conducted under Internal Audit and issued in June 2009.

In preliminary discussions, CATS has noted its numerous attempts to resolve audit issues. Delays result when contractors dispute the audit findings. CATS also noted its lack of staffing resources dedicated to collections. Proactively, CATS has incorporated the issue of FAR requirements, educating vendors, and invoice review procedures into planning of support activities for the Blue Line Extension. In addition, CATS has sought further advice and direction from the Federal Transit Administration in regard to resolving several of the outstanding issues.

- CATS contractor STV-Other Direct Costs (ODCs) – We have completed the invoice review of the ODCs portion of STV North Carolina Inc.'s (STV) billings from July 1, 2007 through January 30, 2009, related to the South Corridor Light Rail Line. Inquiries were sent to STV in early April and a response received in early July is

under review. Also, STV requested Internal Audit's workpapers related to a previously issued audit report. Regarding the \$194,115 previously disallowed FY06 ODC charges, STV has provided additional documentation which supports the majority of the charges. We will review this with CATS in the coming month.

glm



CHARLOTTE

**City Council
Follow-Up Report**

August 5, 2011

July 25 – Citizens Forum

Storm Water Issues

*Staff Resource: Jennifer Smith, Engineering & Property Management, 704-336-7924,
jasmith@charlottenc.gov*

During the Citizens Forum, Ms. Rena Blake of 4109 Broadview Drive raised the issue of flooding in her backyard caused by clogged drains. City Council requested that Storm Water staff follow up with Ms. Blake and discuss her options for resolving the flooding issue.

According to staff in the Storm Water division of Engineering & Property Management, the storm water runoff that affects Ms. Blake's property originates from adjacent property along the back property line of Ms. Blake's property. The ground behind this property is at an approximate slope of more than 10% and is covered with large trees and heavy ground cover. The steep slope and natural debris accumulation related to this wooded and unmaintained area seriously compromises the ability of the runoff to enter the existing storm drainage system that runs near the property line between 4101 and 4109 Broadview Drive. There are no sanitary sewer issues associated with this problem.

Joe Talbot, the investigator for all Storm Water Services (STW) Requests for Service, Brian McMahan, STW Drainage Specialist and Bill Pruitt, STW Maintenance Program Manager have spoken with Ms. Blake several times, including a phone conversation as recent as April 27, 2011, and have consistently explained the practices STW follows to prioritize work.

Ms. Blake's request for service has been investigated and prioritized high priority request for service. Brian McMahan, the Drainage Specialist assigned to this work request, is currently working on other high priority requests received before Ms. Blake's. Mr. McMahan anticipates design to begin within the next 6 weeks and construction to begin several weeks thereafter. Staff has communicated their work procedures with Ms. Blake and will continue to correspond with her up to and through construction.

City staff will ensure that Ms. Blake also receives this information.

Restructuring Government Committee
Thursday, June 30, 2011
1:00 – 2:30 p.m.
Charlotte-Mecklenburg Government Center
Room 280

Committee Members: Warren Cooksey, Chair
Patrick Cannon, Vice Chair
Patsy Kinsey
James Mitchell
Warren Turner

Staff Resource: Eric D. Campbell

AGENDA

I. Boards and Commissions with Autonomous Authority

Staff Resource: Stephanie Kelly

The Committee and staff will continue to discuss and review Boards and Commissions appointed by City Council with autonomous authority to act. No decisions are requested at this meeting.

Attachment: 1. Intermediate Appeal of Quasi-Judicial Decisions to City Council memo.doc
2. Criteria Recommendations.doc

Next Meeting: Thursday, September 22 at noon in Room 280

Distribution: Mayor & City Council Curt Walton, City Manager Leadership Team
Mac McCarley Stephanie Kelly Jeanne Peek



OFFICE OF THE CITY ATTORNEY
Memorandum

TO: Restructuring Government Committee

FROM: S. Mujeeb Shah-Khan, Senior Assistant City Attorney
Varsha D. Gadani, City Attorney's Office Intern

DATE: June 24, 2011

RE: Creation of an Intermediate Appeal of Quasi-Judicial Decisions to City Council

During the May 26, 2011 meeting of the Committee, the City Attorney's Office was asked to look at what would be required to create an intermediate appeal of quasi-judicial decisions of City Boards and Commissions to the City Council. For all of the Boards and Commissions involved, further appeals from the Council would go the Mecklenburg County Superior Court.

Civil Service Board

Section 4.61 of the City Charter establishes the Civil Service Board. Currently, an officer or firefighter may appeal the chief of the department's decision to terminate, suspend, or demote them to the Civil Service Board. After the Civil Service Board decides their case, the officer or firefighter may appeal to Superior Court by appealing within 10 days of the date of the Civil Service Board's order.

As the City Charter can only be changed by the General Assembly, the General Assembly would have to approve any change to the Charter to give officers and firefighters a right of appeal to the Council from the Civil Service Board. If the Mayor and Council wish to change the City Charter to provide this appeal, the earliest the General Assembly could consider a change would be in 2012. It is possible that changes would need to wait until the 2013 session.

Development Review Board

Section 20-10 of the City Code establishes the Development Review Board ("DRB"). Appeals of the DRB to Superior Court must be filed within 30 days after the DRB's written decisions are either received by the parties or filed with the City's planning director.

In order to add a right of appeal to the City Council from DRB decisions, the Council would need to amend Section 20-10 of the City Code.

Housing Appeals Board

Section 11-38 of the City Code and North Carolina General Statutes § 160A-446 require that appeals of Housing Appeals Board's decisions must be started within 15 days of the Housing Appeals Board's written decision.

To add an appeal to City Council, the City would need to ask for the General Assembly to amend G.S. § 160A-446. The Council could amend Section 11-38 of the City Code on its own, but for the appeal to take place, the General Assembly must change state law first.

Passenger Vehicle for Hire Board

Section 22-183 of the City Code says that appeals from the Passenger Vehicle for Hire Board's ("PVH Board) decisions are by Superior Court and must be filed within 30 days of the date of the PVH Board's decision.

A change to the appeal process would require the City Council to amend Section 22-183 of the City Code.

Planning Commission: Zoning Committee

Section 20-97 of the City Code requires that appeals from the planning commission go to the Superior Court and must be filed within 30 days after the Zoning Committee's decision is either received by all parties or filed in the office of the City's planning director.

To create an appeal to City Council, the Council would need to amend Section 20-97 to add the new appeal.

Zoning Board of Adjustment

Under Section 5.113 of the City's Zoning Ordinance, appeals from Zoning Board of Adjustment ("ZBA") decisions must be filed with Superior Court within 30 days after the date of the written decision is received by all parties or filed with the Planning Commission.

The right to appeal ZBA decisions comes from State law. In order to add an appeal to the City Council, the City would need to ask the General Assembly to amend State law to allow the new appeal. If the General Assembly approves such a change, then the City Council would need to amend the City's Zoning Ordinance to allow the new appeal.

Conclusion

In all but three cases, any change to allow an appeal to the City Council would require approval of the General Assembly, which may be a significant effort. If the Mayor and Council chose to pursue this path and were successful, the Mayor and Council would have to spend significant amounts of time hearing the new appeals during their meetings, as it would be considered arbitrary and capricious to select some matters for appeal and not allow other appeals to go forward. This could result in Council's decisions being challenged.

If you have any questions concerning this issue, please do not hesitate to contact either one of us. Mujeeb can be reached by phone at 704/336-5803 and by email to mshah-khan@charlottenc.gov; and Varsha can be reached by phone at 704/432-4837 and by email to vgadani@charlottenc.gov.

Boards with Final Authority – Recommendations for Criteria

Board/Committee	Justification	Criteria for Applicants
Civil Service Board	N/A	N/A
Development Review Board	Hears and decides applications for alternative compliance as prescribed in City Code Ch. 20.	Board was established by Council 12/20/10. Each position on this 9 member board has a specific occupational requirement.
Housing Appeals	Hears appeals arising from the Minimum Housing code, and recently (since it was promulgated), the Non Residential Building Code. It would be good to have more technical expertise, as it relates to the NRBC	<ul style="list-style-type: none"> -Employment or experience in the commercial real estate industry - Employment or experience in commercial construction -A licensed, or experienced professional in either of the above (civil, structural, or architecture, etc.)
Passenger Vehicle for Hire	<p>Someone who is familiar with transportation issues in Charlotte. This person would be familiar with issues that PVH regularly deals with such as parking, taxicabs, taxi stands, etc.</p> <p>Having someone with a background in criminal and/or traffic law would be helpful in the appeal process.</p> <p>Currently, 4 of the 11 board member positions must have no financial interest or business affiliation with the PVH or hospitality industry.</p>	<ul style="list-style-type: none"> - A representative from CDOT - A background or experience in criminal and/or traffic law - More at-large board members – someone who does not derive income from the PVH process- not from the taxi/black car industry as either owners or drivers and not part of the hospitality side. - the PVH Manager would like to be able to give some input prior to their appointment

Boards with Final Authority – Recommendations for Criteria

<p>Zoning Committee</p>	<p>One of two subcommittees of the 14-member Planning Commission; Planning Commission Chairperson works with other Commissioners and staff to appoint and rotate Planning Commission members to the Zoning Committee.</p>	<ul style="list-style-type: none"> - Prior experience on an advisory board and/or committee - Represents the diversity, i.e., race, gender, professional expertise, etc. of the community - General knowledge and understanding of Urban Planning - Ability to make time commitments
<p>Zoning Board of Adjustment</p>	<p>Familiarity with land use regulation is helpful, but not necessarily a real estate background.</p> <p>While professional backgrounds are helpful many times they do create interest conflicts. Legal background seems to be the most helpful.</p>	<ul style="list-style-type: none"> -Ability to listen to a variety of opinions. -Ability to get along with and work well with a diverse group of people. -Ability to be objective and open-minded. - Ability to weigh data in a case objectively. -Background or experience in how regulated land activities are performed, monitored and addressed.