COMMITTEE AGENDA TOPICS

I. Subject: **Disparity Study Update Report**
Action: The Committee will continue its discussion of the findings and recommendations of the Disparity Study Report, and if ready, make a recommendation to Council for consideration at their November 28th business meeting.

II. Subject: **Oakhurst Redevelopment Infrastructure Project**
Action: This item was referred to Committee at the October 10th Dinner Briefing. Staff will provide an overview of the project and provide options for City participation and seek Council feedback. No action is required at this time.

III. Subject: **Entrepreneurial Strategy Update**
Action: Staff will provide an update on activities surrounding the development of a policy to support entrepreneurism in Charlotte. No action is required.

IV. Subject: **Small Business Web Portal Six-Month Report**
Information only

V. Subject: **CRVA November Barometer Report**
Information only

COMMITTEE INFORMATION

Present: James Mitchell, Patrick Cannon, Jason Burgess, Andy Dulin and Patsy Kinsey
Time: 3:30p.m. – 5:00p.m.

ATTACHMENTS

1. Disparity Study Findings & Recommendations Presentation
2. Disparity Study Follow-up Report to November 1st ED Committee Meeting
3. Oakhurst Redevelopment Infrastructure Project Presentation
4. Web Portal Five Month Report
5. CRVA November Barometer Report

DISCUSSION HIGHLIGHTS

I. Subject: Disparity Study Update Report

Chairman James Mitchell:

Thanks everyone for coming to the Economic Development Committee meeting. We have a pretty busy agenda, at least three items that are going to create some discussion and two other items on the agenda that are just for information. Mr. Kimble, I will turn it over to you.

Kimble: Thank you Mr. Mitchell and members of the Committee. There are two items on the agenda today that will be more time consuming. The first is the Disparity Study Update then the Oakhurst Redevelopment Infrastructure Project which was referred recently with Committee. We want to also give you an update on the Entrepreneurial Strategy and the Small Business Web Portal Five-Month Report, which I think you will find very useful to you as you go out into the community. First, the Disparity Study is a continuation of the items that were referred. You had MGT come two meetings ago and dive down into the numbers. The last time you heard from the Advisory Committee, they came forward and made a presentation to you. We talked about some of the options that might be available to you to recommend to the Council; we are going to dive a little deeper into that today. Pat and Brad will lead you in that discussion now.

Richardson: Thank you Mr. Kimble. Mr. Chairman, let me just suggest an organization for our discussion for this afternoon. I thought we would first start with answers to your questions that seemed to work well the last time we were together. We will talk about answers to questions; we sent these out to you with the agenda but I will run through those with you. We want to come back and review the options that we presented last time we were here, two of which conformed with what Mr. Lofton's Disparity Study Advisory Committee lined up, and then if you are ready, we would like to see if you would like to make a recommendation for the full Council in two weeks. That is the set up for this discussion today and we will take any direction that you would like. First the answers to the questions that you asked; I want to refer you to the attachments that are with the agenda today. We answered about five questions from the last meeting. The first one is related to peer city review. Mr. Mitchell, you had asked us to layer on to these peer cities like Atlanta so we added Atlanta as well as Mecklenburg County and Charlotte-Mecklenburg Schools with regard to what kind of program they run, what form of government they have and whether or not they have Good Faith Efforts (GFE). That was a point that you wanted us to investigate whether some or any of the programs do not have GFE so we shared that information with you in this answer. The second answer that we provided at the bottom of that attachment is again related to that issue of GFE how they are employed in our community and in our program. We wanted to share with you at your request a number of contracts awarded that met the SBE goal, the number that were awarded that did not meet the SBE goal but were awarded by virtue of meeting the GFE, then the number of contracts that were rejected due to non-compliance with the program and GFE's so we wanted to share that with you as well. The third piece of information that we brought back to you is the idea of can the City establish goals for the professional services contract. Right now, we have goals for construction and architectural engineering sub-contracting. Professional services was your question and our answer was we do this periodically when it makes sense. We have listed four types of recent examples where we

had professional services contracts that had SBE goals with them so while we don't talk about that a lot, we do on a case by case basis where we find opportunity and availability to employ that practice.

Mitchell: Let me just do a follow-up Brad and staff. I guess on this one, I am confused sometimes. We see write-ups on agenda items and we had language in there, professional service sub-contracting opportunities not available according to our policy. Mayor Pro Tem brought it up saying why are we having a policy that doesn't allow professional services. So why do we differentiate between professional services sub-contract? Why can't we just say if there is a small business that has a professional service and allow them to participate? Can I get clarification?

Rosado: It really depends on the contract, and for a lot of the Engineering & Property Management where there are professional services opportunities for future unspecified work, they may not know at the time that they bid out the project. They just don't know what that work will be so it is difficult for someone to bid on a project and identify what subs they will use on a project when they do not know what that project will entail and what work will be involved. It's difficult for us to estimate and I think before I joined the City, they did try to establish goals and they found that they weren't accurate because it was difficult for them to identify. When we do know what the scope of work is and what sub opportunities are available, we will establish a goal.

Mitchell: To me, if we had to change the model on professional service, I think now that we have small business doing more accounting work as far as architectural work as well as financial service work. So when we have a small business that offers those services would they be allowed to participate?

Rosado: And they do but they may do that on a prime contractor level so the City may still list it directly with that SBE to do that type of work. But when we are talking about setting goals, our program is a sub-contacting program so there may not be a sub opportunity that can be pieced out.

Mitchell: So on a professional service level as a prime, no goals are set but on a sub-contractor level?

Rosado: Our policy specifically sets goals for sub-contracting and then we have informal goals that we establish for each department so there if there is a need for an accounting opportunity, they may directly go to an SBE and do that on the prime contractor level where the City is paying that contractor directly.

Mitchell: So professional services can participate as a prime through the City program?

Rosado: Yes.

Mitchell: Thank you for that clarification; it was confusing to me. Can you provide that language so that I can educate the public? I get a lot of phone calls from people that are not clear, so if we can just have that language in the policy that allows professional services to act as a prime, I think that will help me to educate some of the calls that I have been receiving.

Richardson: The fourth question that we answered from the last meeting will refer you to the next two attachments. You asked for a comparison of our MBE utilization to other local agencies. Slide number three that I am referencing here that is our answer to that question. This

was part of the Disparity Study information; it compares the City of Charlotte with Charlotte-Mecklenburg Schools, the County and CPCC.

Mitchell: Brad, can you add another one? We keep leaving out the Charlotte Housing Authority. Even during the MGT presentation, we kept leaving that out so we need to include the Housing Authority.

Richardson: MGT did not do an analysis on the Housing Authority as part of the Disparity Study.

Mitchell: I know on one presentation that Dr. Eagan gave, I asked why you did not include the Housing Authority and we thought there would be a recap. So can we include the Housing Authority in the recap?

Richardson: MGT did not complete that work after the Committee so let me go back and check with them on that.

Kinsey: Why would we include the Housing Authority and not the Housing Partnership or some of the others that we might have?

Mitchell: The only reason that I am asking about the Housing Authority to your point is that I know that they are a local entity and that they have tremendous numbers on participation. To Patsy's point, why are we not including the Housing Partnership or other financial partners that we have?

Kimble: The Housing Partnership is a not for profit organization where the Housing Authority is more of a governmental entity. You can put CRVA in here; they may have MWBE goals. I think we need to confine it more to the government entities.

Kinsey: I can understand that and I guess my point was where do we draw the line?

Richardson: I just conferred with Cindy White. We won't go back and ask MGT to do that since it may cost us more money. However, we think we should just go ask the Housing Authority about that so that's what we will do.

Mitchell: To my colleague's question on where do we draw the line and what I heard from you is it's the Federal government agency that we need to focus on.

Kimble: I think it's the governmental entities that we need to focus more on than not for profit or profit entities.

Kinsey: But you are not including CRVA?

Kimble: We can bring them to you.

Kinsey: I am not asking for it, but they are more of a governmental entity than the others. But no I am fine.

Richardson: The final piece of information you requested wasn't really an answer to a question, it was just information so we provided to you in the agenda on Friday the transcript of the meeting Dr. Eagan had with the Disparity Study Advisory Committee on October 11th ahead of the Committee meeting. That full transcript was sent to you last Friday for your reference. What I thought we would do next is just a reminder to refresh where we were and talk about the options. I color coded in the middle of slide three because they are significant and they are a point of concurrence or recommendations from the Disparity Study Advisory Committee. As we saw this shaping up, we saw four broad policy directions that you could take. One is to take no action at all, thank you very much for the Disparity Study it accomplished a goal, no further action required. The second one was explore revising the SBO Program to include all or a portion of MGT recommendations

from the Disparity Study. The Disparity Study Advisory Committee concurred with that. The third one was to explore the feasibility of adding a Minority Business Enterprise (MBE) component to the current SBO Program; we will talk about those in just a moment. The final and fourth recommendation, we figured this was an option maybe not the preferred one, but to replace
the current SBO Program with an MBE program. In that case, we would follow the State's rules for minority women owned business program rather than the current SBO Program.

Mitchell: There are two tracks that we can approach. This one is really addressing the disparity based on the result or to have a more legal slant to it, one that we could defend in court. I just want to make sure and ask the Committee what is the direction you are leaning. In my mind, we asked MGT to do a Disparity Study so how do we judge the disparity that exists? In a lot of these presentations with Dr. Eagan, we kept hearing we can't legally represent you in court so that leaves a lot of us saying the need to create a program that can stand up to a legal test. I don't think that they should be two separate programs; I think one should support the other. Is anyone else on the Committee seeing that besides me or is it just me?

Dulin: I'm pretty sure that of the four of us, three were already on Council when the swap happened about 2003 or 2004 because I came on in 2005. At the time, I remember thinking that was a gutsy call for Graham to make that deciding vote. To your question Mr. Chair, if this was an NFL and the coach threw the red flag, I don't know that I have seen overwhelming and compelling evidence to overturn the call.

Mitchell: Even though the Disparity Study came out and showed a disparity?

Dulin: Yes, but less of a disparity. It is climbing in all areas faster than in others. This is the most expensive book in the library; this is a $380,000 book I have here. So this book tells us, now I have not read the whole thing, but I have followed Dr. Eagan in it. I am not sure that I have seen overwhelming evidence to change the call but that is why we are here talking about it.

Cannon: Thank you Mr. Chair. The one thing that we cannot do is to ignore the obvious and the obvious is that disparity exists. Otherwise, you might as well be that monkey that you with his hands over his mouth, ears, and eyes. See nothing, hear nothing and speak of nothing even though it is obvious that it exists. Now I think we have to go further into the options of what has been presented to staff. I would like to before coming back and trying to render an opinion because I think your question may be answered the further we go through the presentation. So if we can do then in turn react it may make more sense and then in the presentation they may suggest and answer the questions about things that could be legally challenged. Whether it would uphold in court so if we could just yield and let them get to that piece we might get what we are looking for.

Richardson: What I am going to show you next I have not included slides on options one and four; I really thought we would spend some time in discussion about option two and three because they are where the Disparity Study Advisory Committee was. I just want to talk about this one first and have a place order for the discussion. This is a recommendation to revise the program and add all or a portion of those MGT recommendations. The Advisory Committee went through each of these; some we knew something about and

some we knew a little about and some we knew more about. If you recall, they said we could support these. We might support these with further research and we are not so sure about these we might need to have some compelling arguments for these. Things like mandatory joint ventures; we don't disagree but to go down this path, it would require us to spend several weeks understanding what each of these components are. The goal would be to close that disparity index gap through the use of recommended best practices under the current race and gender neutral program, so that is what this option speaks to. The third option that the Disparity Study Advisory Committee mentioned as well as one of yours is let's discuss how you might add MBE components to the current program. This is where we do need to look at things both from the effect of is it legal and will it survive a test in court; that is where we spent some time with our attorney and staff. You can see their recommendation on the board. It really has been the first time that we have discussed this in the Dinner Briefing. I think Mac was on the record saying we probably should examine having a third party take a look at MGT's findings and conclusions to support adding goals to the program should you decide to do that.

Mitchell: Has staff provided an estimate of how much it would cost or the legal firm to use?

Richardson: We do not know how much it would cost; we think it would be well within the Manager's authority. We don't have that number for you today; there are numerous consultants you could probably go and search from.

Mitchell: So the next step is for the legal staff to make a recommendation to us with the cost estimate? I just want to be fair to all my colleagues. One thing they don't want to do is to go get a legal team with some huge dollar amount associated with it. I think when we know how much it's going to cost and the legal firm that you would recommend.

Cannon: I am going to make the assumption that staff feels it is worth the City's salt to move forward with this consideration largely because you are making this recommendation. It that correct or incorrect? If you would speak to that, I would appreciate it.

Kimble: Yes, if this is the option that the Committee recommends and the Council selects, then we believe hiring a legal expert to review the findings needs to be part of that recommendation. That is if this is the recommendation that you want to make.

Kinsey: If we decide on the former recommendation, do we need to go forward with legal counsel?

White: With the former recommendation, you mean the one about the race and gender neutral alternative?

Kinsey: Yes.

White: We do not need to hire a legal expert to pursue this; we do need to hire a legal expert if we want to explore adding race and gender conscience measures. I think the justification for that would be we have a Disparity Study. Some disparity was found but that particular consultant did not believe that disparity justified a race and gender conscience measures. However, upon questioning by the Advisory Committee, he acknowledged that there are gray areas and there is room for another opinion. This is a highly specialized area of the law; there are people that go all over the country working on these studies and have a lot of experience. The Disparity Study Advisory Committee did raise some issues that you may find warrant further consideration. It is certainly possible that you could have two experts with the same set of facts who reach different conclusions.

Kinsey: Are you making that comment? Does that apply to the other one or does that apply to something that we have not discussed yet?

White: The comment that I made applies to this option; explore the feasibility of adding a Minority Business Enterprise (MBE) component to the SBO Program.

Kinsey: Two things, I have some experience working with this program and it was extremely difficult to work with before we started making some changes. I hope we don't go back and make it more difficult to work with, not only with minority or women, but everybody. It was a bear and was discouraging to work with frankly. The second thing is given the fact that I know a bunch of lawyers, I tend to think that we really need to take our lawyers advice on this and not step into something that might get us into trouble.

Cannon: This option is merely one that looks like maintain the current program that is intact, the SBO Program. Yet it comes back to look at the other component of considering minorities to be added to what is already there and makes it for the most part all inclusive.

White: I don't want to make it too complex right now while we are going down the road with these options and it does get a little complicated. But one of the things that staff would have to explore if you decide to go this route. First, we would explore the legal basis for doing that and that would mean hiring the expert to come in and look at the Disparity Study Advisory Committee point, look at the points that are raised and reach a legal conclusion. At the same time, because of the North Carolina State Statutes that governs MWBE's and because of the City's different programs, staff would need to look at how we could do what you just said. How could we incorporate race conscience goals into an SBE Program and still keep the SBE Program's effectiveness? What we will really need to look at is the extent to which we can do that with existing State legislation. Right now, we do not have statutory authority to just add the "M" to the "S" program if the "M" comes into play. The way it works right now, we would have to apply the MWBE program which would mean moving all the "S's" into the more unstructured and a little bit less rigid "M" format that is under the State statute. So staff when we say explore the feasibility, these are the kinds of questions that staff would have to look at. I think that would be something to perhaps warrant more discussion with the Disparity Study Advisory Committee in terms of looking at these options. You would basically be looking at having a program for "S's" and "M's" that complies with the State statutes which would mean changing our program. You would look at getting legislation to add "M's" to the "S" program. One possibility and I hesitate to even mention this because it would be very administratively difficult, but another possibility is a dual program. But we are extremely concerned about broaching that where contractors have to apply two sets of rules and the complexities of how that would work.

Cannon: I appreciate your careful word selection in this and on point comments as well. What I hoped that we might be able to consider is what Councilmember Kinsey has referenced. That is, we take one rock and try to get them all; how we will be able to account to where there is a disparity that exists out right and still maintain and not get rid of the SBO Program, which we have found to be a good working tool. So in as much as we can find a way to accomplish both, if we can, I think exploring the options doesn't hurt anything but a failure to even not consider it or move forward in that direction. I would not be showing

the proper leadership from where I sit not to do that kind of thing, so it would seem to me Mr. Chair that the option to just get rid of the SBO Program is not an option. But to ignore or leave out the potential of incorporating or reincorporating the MBE piece is something that we should not ignore but engage in that level of discussion. At least consider what we have before us today. I am not sure what is needed in the way of a motion or what else there is to talk about.

Mitchell: Let me go to consideration discussion; I just want to be diligent on this. If you go to page two on the handout at the bottom section for considerations, "will require further staff analysis of the following", I think it would be very helpful to have two categories. One is what we feel is legal discussion from these six bullet points. How much we control locally and how much will have to go to the State to weigh in on it. Then on page three, the second is to give us a ballpark figure on the cost to go outside and hire a legal expert to review the findings of MGT to counter an increased legal risk. I hope the Committee feels that we are not in position to make a recommendation on November 28th. Ron and staff, what we are saying is that we are looking at these two options to further discuss and get back further information from staff. If we are going to do it right this time, let's take our time and do it right. I don't think any of us are in a rush to get this done with the current Council.

Kinsey: I am not sure that we are ready to take it to Council just yet.

Cannon: I am not in any hurry.

Mitchell: We get the report out on November 28th so if you would like to make a comment; I think that would be fine. Andy said he is comfortable moving it forward; I have no problem saying we have one Councilmember that feels like maintaining the SBO Program with no changes. The majority of the Committee wants further discussion.

White: I should have a cost estimate by the end of the day. This is from back in 2002 when we had the other issues come up; we had hired an expert named Franklin Lee so he is familiar with the City. I did contact him and sent him the summary of the study and I also sent him the minutes of the meeting with the Disparity Study Advisory Committee. He told me that he thought he could give me some idea today; we just have not had an opportunity to talk yet.

Dulin: Is there any way you could call him while we are going over these other items?

White: Yes.

Mitchell: We still have these to discuss on page two.

Richardson: What we had hoped for today that if you are ready to make a recommendation to full Council, that we would take a really good bit of time and go through each of those six items. Much like we would do in concert; I think with Brandon's committee if they are still in charge to understand the implications. Which one is a legal requirement versus which one is not; we can work through that? It would take some time to start digging into this work. We weren't really ready to do that unless the Council directed us to start digging into each of these options. Does that make any sense?

Mitchell: So are you telling us to select from one of these considerations, options two or three?

Kinsey: Or both?

Richardson: What we were taking the liberty to do if you were ready and I am not sure that you are, if you needed us to say what you are asking us to do today, it would be this. If you wanted to form up something for November 28th, it would be to direct staff to explore those six options to make the program better and begin the exploration of how you might add minority goals to the current program.

Mitchell: I am sorry I did not make that clearer. Do you need a formal motion to direct staff?

Kimble: Do you want to wait for the answer that you might be able to get before you make this by the end of this meeting?

Mitchell: I just say bring it all back because if we get that answer today some of us will forget and then we bring it back and they say oh we shared that with you on November 15th. Can you get the answers and bring it all back when you bring everything else back to us?

Richardson: That would be for the meeting in January?

Mitchell: Right.

Dulin: This can go one of two ways. It can be ten hours and the guy says I can go over that in ten hours at $250.00 per hour, or he can say he is going to do this for $35,000. That is a whole different game.

Mitchell: I agree. Staff, if you can just get all the information and bring it all back to us in January.

Dulin: That makes sense.

Mitchell: Thank you staff.

Mumford: That is set up as if you were making a recommendation to the full Council?

Mitchell: Right.

Mumford: But what we have heard is that you all want us to continue to work and bring it back to the Committee.

Mitchell: Right.

Mumford: So that doesn't need a formal action to proceed up to Council?

Mitchell: I was just trying to make Mayor Pro Tem happy.

Cannon: I appreciate that.

II. Subject: Oakhurst Redevelopment Infrastructure Project

Mitchell: Mr. Kimble, will you introduce this item?

Kimble: This is an item that was presented to Council a couple of months ago. It is now coming back before the Committee with a couple of public/private partnership opportunities. Brad or Peter Zeiler will go over this with you and answer any questions you may have.

Mitchell: Peter, before you do this, I am going to request that the district representative join us at the table. This is going to be her going away gift, so Nancy Carter, please join us. I know you are going to have plenty of questions.

Zeiler: Good afternoon. You will recall when we first did this about six to eight weeks ago, we literally had about 13 seconds to do a 30-minute presentation and we ripped through it pretty quickly. So what we want to do is walk you through and make sure that you fully absorbed all of the information around this project. We will give a history of the project, what the improvements are going to be, what the proposed improvements are and how

this aligns with City policy both from economic development, land planning and transportation. We will talk about some of the estimated projects policy, what the potential options are for City participation and the next steps that we need to work through on this project. This is the site that is under consideration; it's the former Woonsocket Mills site located along Monroe Road. The Monroe Road site parallels Independence Boulevard in the area of the new Wal-Mart (map slide #2). You will notice that there is not a direct access to Wal-Mart from Monroe Road. Access to any of the retail on Independence Boulevard has to be through Eastway Drive or further down off of Sharon Amity Road over to Independence. This is the former Woonsocket Mill site; it is an 18-acre site Krug Development has purchased in phases from 2004 through 2008. This included a portion of land that was owned by CMS at Oakhurst Elementary School. Krug Development has completed Brownfield site work doing some remediation and site stabilization in March of 2007. In September of 2010, the entire site was rezoned from I-2 to Neighborhood Services (NS) designation. The project proposal and the project that was approved by Council through the rezoning process is 75,000 square feet of retail space. Of that, 25,000 to 35,000 square feet will be a grocery store; 220 apartment units, approximately $50,000,000 in development costs and between 200 and 225 new full-time and part-time jobs created in the retail and rental residential sites. It is estimated that this will generate about $440,000 per year in total new annual property taxes; $153,000 for City and $285,000 for the County. This is the site zoomed in a little closer (slide #7) showing the former Woonsocket Mill site and Monroe Road with Chippendale Road and Shade Valley. Here is Oakhurst Elementary; you will notice that this portion delineates the land that was purchased by Krug Development from CMS. Oakhurst Elementary closed at the end of the last school year and is now being used for office space by CMS. You will also notice that this is a former bus parking lot and some former staff parking. Richland Drive dead-ends into Monroe Road and is protected only by a gate that is currently closed. This is the project proposal (slide #8) showing the 220 residential units and the 75,000 square feet of retail including the grocery anchor. There is space for at least one drive through probably for a bank branch that would have an ATM with a drive through in it. There are storm management ponds ranged along the side where it can work with the topography.

Dulin: All the trees in the front site are newly planted. The back side of what we see is what is left, but it meets 15% requirement with the current plan for the tree ordinance?

Zeiler: Yes, I believe so. The infrastructure challenges are that Richland and Chippendale are staggered "T" intersections at Monroe Road and part of this creates an issue for retailers who prefer ease of access and safety with a four-way signalized intersection. Currently, Monroe Road doesn't meet the Urban Design Guideline standards. The proposed infrastructure improvement would realign Chippendale to create a four-way intersection. It would upgrade Chippendale to the Urban Design Guideline standard. Monroe Road would be widened to accommodate left hand turn lanes coming into Chippendale and to Richland. You would have bike lanes, planting strips and sidewalks on the project side of Monroe Road to meet Urban Design Guideline standards. This isn't a complete USDG sort of upgrade to both sides of Monroe Road; it is only on the side that is affected by the

project. We would also have a design that would preserve access to existing business and residences adjacent to the site. This was actually a whole lot of work that we had to go through with the North Carolina Department of Transportation (NCDOT). Monroe Road is a State road and we had to through many design iterations where they had talked about putting in a full length median for more than 800 feet along this area. That would have cut access to existing businesses.

Kinsey: I was wondering about that intersection.

Zeiler: We have gotten their blessings and gotten a signed letter from them that says we like this design that you have come up with, so that has been an 18-month delay for this project. This is a close up of what the improvements will be (slide #10). You can see the existing Chippendale Road shaded in the background with the development overlay. You can see how Chippendale will be realigned and see that Chippendale does go through and eliminate some of the parking. This is parking that we will have to discuss with CMS as to how we will make this whole. Part of Krug Development's purchase agreement required that they would replace this parking somehow. We have some options on how we will get through that. Here there is a new left turn lane that goes left up into Chippendale so folks can get access in through private streets and street ways. There is also a new left hand turn lane that turns down into Richland Drive and you have a new four-way signalized intersection. This is another view of that site (slides #11 & 12) that brings you in a little closer and shows you how that turn lanes work out. It also shows intermittent medians that allow left hand access into existing businesses and allows them to get left hand access out. This private road that goes into the development would be right turn in and right turn out only and we have a taper that starts back at Shade Valley that allows again for access into these buildings on the side. The original thought from NCDOT is that this median would have been continuous and would have extended to from Richland Avenue to approximately 150 feet past Shade Valley.

Burgess: I don't see any bike lanes.

Zeiler: The bike lanes are difficult to see with all the different layers that we have here but there would be a bike lane that goes from Shade Valley all the way through to Chippendale. It would also work along Monroe Road down to where the taper ends further back on Monroe. There would be bike lanes on Chippendale as well.

Carter: Are there two lanes going west still along the property or is it narrowed?

Zeiler: Yes, there are two lanes heading west. You can see the black line delineates with the new curb line roughly were the new curb lane would be so you have two lanes headed west, a turn lane going west, two lanes east and a turn lane going to the north. Then on Chippendale, you have one lane that can go through or to the right and one left turn lane only and one through lane coming out.

Carter: I don't see the bike lane.

Mitchell: I have two colleagues that missed the bike lanes so are there bike lanes on both sides?

Zeiler: You will have bike lanes on the north side of Monroe where we are doing the improvements. It will be an asymmetrical widening; these sidewalks and infrastructure on the opposite side from the project will stay as they are all the improvements that will happen by widening toward the project.

Mitchell: Bike lane is only on the north side?

Zeiler: Bike lane is on the north side of Monroe Road and on Chippendale Road. That also includes your typical sidewalks, planting strip and all the other elements that are needed to take this up to USDG guidelines. USDG standards that are in the Independence Boulevard Area Plan. This project advances a number of policies in the adopted Independence Boulevard Area Plan; including Transportation Priority T-5 is to align Chippendale and Richland Drive to improve traffic flow and safety. Land Use Recommendations LU-4 and LU-8 talk about creating pedestrian-oriented development district along specific nodes especially at Monroe and Chippendale. Richland Drive and Chippendale to Shade Valley should be a vertically integrated residential office and/or retail neighborhood node. The project lies within the Business Corridor Revitalization Plan geography; it is adjacent to a food desert that has been identified by UNC-Charlotte. The project will provide location opportunities for businesses displaced from NCDOT Independence Boulevard project. It also removes blight and provides employment opportunities advancing the goals of the Business Corridor Revitalization Program.

Mitchell: How much money is left in the Business Corridor Revitalization Program?

Zeiler: We have $14,000,000 in the fund right now, and we have including this, about $3,000,000 in projects that we are working on and hope to bring to you. So there is $14,000,000 and there is about $3,000,000 in the hopper that we are considering. The estimated construction cost for this is $1,500,000 to $1,900,000. This includes street and sidewalk design, Right-of-Way and construction costs and included an estimated cost of Oakhurst parking settlement. What we have conceptually floated with CMS, and they seem to be in agreement with is, they don't know where their parking is going to be needed right now. What we would do is provide them with an amount of money to cover the cost to build whatever parking is needed for meeting Code. By doing this, we are going to take them out of compliance with Code. We would find a number of parking spaces that brings them into Code using a base rate. What we are estimating right now would be about $6,000 per space for surface construction. We would pay them off with that amount so they could use that money put aside and reconfigure the parking that they need at the time. This would be instead of us trying to go in and try to reconstruct parking. Reconstruction and relocation of bus parking and teacher parking was a contractual obligation of Krug Development when they bought the parcel. They no longer need the bus parking and they no longer need the teacher parking, but they will need staff parking. So they are not sure where and when that plays out, but if we can find a number that is included in that $1,500,000 to $1,900,000 estimate.

Kinsey: The road is totally built on that property?

Zeiler: Yes, the road will be going through and completely taking out one existing teacher parking lot and taking out about 1/3 of the bus parking lot.

Kinsey: There are no buildings on that property?

Zeiler: No buildings.

Kinsey: Just the road improvement with no new building built on that property?

Zeiler: On the property (slide #11), you can see here in the background is the teacher parking lot and you can see the portion of the bus parking lot. You will see that there are at least two

new buildings going on the land that is going to be occupied by what is currently bus and teacher parking lots.

Kinsey: Why is the City buying the property then?

Zeiler: They have purchased the property already. Part of the infrastructure cost work that we are negotiating with Krug Development is for the cost of the relocation and then the cost of what it would have taken for the contractual obligation to replace this parking.

Kinsey: O.K.

Mitchell: Repeat that slowly to Patsy's point, what is the cost of paying CMS?

Zeiler: The cost right now we believe to be between $150,000 and $225,000. We are not sure of the specific cost because they haven't given us a specific number of parking spaces to replace. This land is already controlled and owned by Krug Development the parking is still there. CMS is still using it but as part of the original plan when it was still considered that this would be an operational school. Part of this development cost, as part of its infrastructure, was to take this parking and relocate it somewhere else on the site. Probably also do some reconfiguration of their playground as well. What we have discussed with CMS is instead of us taking on the obligation to do that in a different location, we would we do a quick estimate of how many new spaces they would need. Multiply that by a generic factor of what an average cost for surface parking is and allow them to take that money and let them build their new parking when and where they need it on the parcel instead of having us to design and engineer and go through that exercise.

Carter: I am concerned that the construction be allocated to this area. If we are paying for investment in this area, then I want these dollars to go to this school area. We have a ledger agreement with the County and its allocation of property as investments. I'm wondering if we could extend this detailed expressed amount for this site be placed on the ledger. It would be paid off in less expensive dollars.

Zeiler: We asked CMS representatives about that; apparently CMS is not part of the ledger balance between the County and the City for reasons going back to land that was donated for school and different portions of reverter clauses that are on a number of school parcels. At this point, CMS does not participate in the City/County Right- of-Way ledger balance.

Carter: Is there a way of restricting the use of the funds generated by this whole deal?

Zeiler: I am sure that we could try to work something out with CMS.

Mumford: Remember the need for the parking is for the administrative operations of the school so the school system will need to put that investment right back on the site to comply with the parking demands that they have today.

Carter: That site is not fully used.

Mumford: What we are suggesting is that there are Code requirements that will now be reduced because the road takes out parking. We want to get them back up to the Code requirement and there is a cost to do that. They really can't take that money and put it somewhere else because they would be out of compliance with parking requirements for that site. The bottom line is that we understand what you are saying and the school will say that the reimbursement amount will be put right back here to accommodate the need that you have. That message was made clear to CMS.

Carter: Even though there is marginal use of that building?

Mumford: Yes, we are in fact talking to them about uses of the building as well.

Dulin: When we cut that road in there and move Chippendale over, can we charge the School Board for tapping into it and cutting a road into their parking lot? Can the developer change the name of Chippendale once it crosses the road?

Zeiler: I don't know about renaming of the road, but we have a good working relationship with CMS so we will work through understanding what those curb cuts are.

Dulin: They are charging us full price for that land so I would ask you all to negotiate hard with them because are not going to give you anything unless you ask.

Zeiler: Understood. The challenge for this project is that it cannot realistically secure financing for road realignment without leases in place. At the lending environment, lenders what to see that there is going to be something in the background that is going to pay for a lease that is going to cover the note for borrowing money for the construction. The challenge is that they can't go out and realistically secure a lease without road realignment construction underway or completed so we get caught in a chicken and the egg routine where the road is not financeable because there are no leases and leases are not obtainable because there is no road in place. The idea is that the City would find a way to participate to finance the construction of the road to allow the leases to be secured and the project to be financed to be built out. There are a couple of potential ways that we could do that; one would be through our Synthetic Tax Increment Financing (TIF) policy. Per the Council policy, this would be a 45% TIF if it is a City only TIF. We are looking at a 23-year repayment to the City. The challenge for this is that it doesn't get us past the financing hurtle. This is a way to bring money back into the project at the back end but it doesn't get us over securing financing in 2011 and 2012 to actually do the road work to get the project going.

Mitchell: On the financing part, is that 45% of 50,000,000?

Zeiler: Yes that would be 45% of the $183,000 a year that the City would be getting in new taxes. Assuming that we have the $50,000,000 project that generates $440,000 per year in taxes with the City's share being around $153,000, a 45% TIF of that $153,000 would take 23 years of repayment to the City.

Mitchell: What is the gap?

Zeiler: The challenge is that a TIF mechanism like this doesn't provide a security or mechanism for the developer to secure a loan to do construction.

Mitchell: So he needs something to take to the bank as security?

Zeiler: A second option is for the City to design and construct the road realignment like we would on any other normal City street building protocols. We would use the Business Corridor Fund, which has a balance of $14,000,000 and leverages fund at approximately 25:1. Our goal for the Business Corridor fund is 10:1. The site is owned by Krug Development and they have recently financed other parcel and other projects to have this site free and clear. There is no debt, liens or other obligations that we know of on this property. Krug Development would like to move forward and have this project done within the next three years. Our challenge and the risk points for the City are that we go out and we spend some dollars to create this four-way intersection driving value into the property only to

have the developer say thank you very much for building this road. I am now going to flip this property to someone else and walk away and not do the project. The other risk is that we put the money in and the project sits there for years with the same developer that never pulls the trigger. So we look at a way that we can insulate ourselves from that risk, one is to place a lien on the property which could be collectable in the event of the sale of the property for profit instead of redevelopment. The developer could bring in partners and transfer the property to another partner while being a part of this project as a silent partner, so we don't want to have that happening to trigger some type of lien collection. We also don't want it flipped to a speculator. There could be a line of credit or bond collectable for non-development after three years. These are deal points that we have been thinking through and talking through with the developer. We would like to sit down with the developer and explore further to be sure that these things move forward. The other point is that both of these instruments could diminish as development occurs. You saw that there was residential redevelopment and there is retail redevelopment if the residential redevelopment occurs while we are still financing. It would only seem fair and sensible to diminish that bond or lien by some portion or amount because some portion has been completed.

Mitchell: What would be helpful to the Committee is to break down the cost. I see this in four phases; we have the intersection and road costs. We have $1,900,000 in sidewalks and 75,000 square foot retail cost and 220 apartments, so I see four different costs associated with this project and I don't want to walk away not knowing. How much are we looking at on these costs? How much if we have to make choices? What can the City actually live with to create this new energy over there? I think until we see the big picture and those costs, I am cautious to say we are going to do the retail in phase one because this is so big.

Zeiler: Let me be very clear about what the $1,500,000 to $1,900,000 buys. That buys the widening of Monroe Road that is required by NCDOT, so that is all the work from Shade Valley all the way down to a point about in the middle of Oakhurst Elementary. So that is all the widening that is the intermittent medians; that is the new lighting that includes the realigned Chippendale up to the curb including the bike lanes. This also includes the estimated amount for making CMS whole on the parking, so the $1,500,000 to $1,900,000 is one construction project that moves a road, widens Monroe Road and does that entire infrastructure work. Everything inside the project including the private roads, the retail, the residential and the $50,000,000 is the obligation of the developer. The only phase that the City would be taking on is this infrastructure work to set up these ads for redevelopment.

Mitchell: So we are just on the hook for $1,900,000?

Zeiler: $1,500,000 to $1,900,000.

Kinsey: That figure includes street and sidewalks design, Right-of-Way and constructions costs?

Zeiler: That sidewalk design and the Right-of-Way acquisition, and the construction costs. On Chippendale, we will have to do sidewalk construction basically where we are going to do sidewalk and curb and gutter and planting strip construction would be on public space along Chippendale and Monroe. The sidewalk, planting strip construction on Chippendale

and Monroe would be on the developer, so this is their development pad. They have to take that on this is our public realm around the school; this is what we take on. All of this design would be to the Urban Design Guideline standards.

Kinsey: So if we opt for taking this out of the Corridor Fund, the maximum amount that would come out would be the $1,900,000 from the $14,000,000?

Zeiler: We think it's going to be lower than that; the $1,900,000 is our dooms day number. We have $14,000,000 in that account. Currently, we have $3,000,000 in projects that are being discussed including this one, so we have no commitments. These are projects that have been brought to us for consideration and projects that staff is analyzing. Of that, $3,000,000, $1,500,000 to $1,900,000 is included in this.

Mumford: That is why the leverage ratio is so high because it's $1,900,000 instead of the $50,000,000. If not for this road infrastructure then the rest of that doesn't happen.

Mitchell: Now I understand what you are saying. We make the investment and we want to make sure our investment is part of a larger deal. When I saw $50,000,000, I had a whole different mindset but then you explained the $1,500,000 to $1,900,000, that's when I told Mayor Pro Tem to go ahead and write the check.

Carter: This is complimentary to what we are planning for Independence Boulevard and this is one of the crucial points that we have to look at. It's developing the backside off of Independence Boulevard; it's developing Monroe Road and Central Avenue and Albemarle Road. That to me is making this area healthy; it compliments what is being done and lifts up what is being done at Wal-Mart. What it is saying to the people on Independence Boulevard and to the neighbors is that you can do business; you can live and work in the area. It is worthy of investment; it also compliments the ULI Study on the streetcar in this area. They would both be complimentary and developmental. When you start talking about the streetcar, this is transit land to develop. We have demonstrated our capacity to developers this wonderful plan that mixes both. Thank you Mr. Chairman for the opportunity to speak. I am completely behind this project and have been since conception.

Zeiler: If the Committee thinks that this is a worthwhile project, we would like to begin spending some staff time with Neighborhood & Business Services and Engineering & Property Management (E&PM) to begin thinking and finalizing these cost estimates. Then we would be coming back to you hopefully with a joint RCA that approves an agreement between Krug Development and the City for the security instruments that we talked about as well as authorizing us to enter into a construction contract. The thought right now is that E&PM would do the design work on this so we would not have to come to Council for a contract and go through a bid process to secure a design firm to do this. We could just begin as soon as feasible with E&PM to begin moving us forward.

Mitchell: Do you need a motion on those steps?

Kimble: I think I want to understand what you are asking the Committee and Council to do right now is asking Engineering & Property Management to do the work on getting the costs locked down?

Mumford: This was not meant to bring to you for action so much today. If you wanted to tell us to proceed, we could take it to Council. It was really to give you further detail and explanation of the project and to introduce you to David Krug who has been in this area

developing for 40 years. He is an owner/developer. He has not just flown in here from another city so he is very committed to this. We have had great conversations with him. It was to help you better understand, and have us from your direction, get more detail and put it together concisely so that during the next discussion you can make a recommendation to the full Council.

Dulin: What can we do to not let this slip but to get moving and get behind it? We need a victory on Monroe Road and we need this thing moving.

Mitchell: I think we should move it forward.

Kimble: You are making a recommendation to Council for November 28th?

Mitchell: Right.

Mumford: To be clear, we probably will not have the deal points list in two weeks so it will be getting Council direction to proceed.

Kinsey: We don't need a motion do we?

Kimble: This has been referred to Committee.

Kinsey: But I didn't think you wanted to take it to Council on the 28th?

Mumford: We have given you this information so that you have more details. If it is your pleasure to take it to the full Council, we are fine with that. We didn't want to bring this to you in a manner that said you have to decide today to take it further.

Cannon: Mr. Chair, I would make a motion that we move this item forward for the November 28th Agenda for Council consideration to approve the Oakhurst Redevelopment Infrastructure Project and that there be a continued parallel track for staff to continue to work to provide any additional information that we may consider at the time of adoption.

Mitchell: Is there a second to the motion?

Dulin: Second.

Cannon: Now is that proper or should we add something to that or take away from?

Mumford: We probably need something that says give direction to the City Manager to fully develop this project. At some point, it has to come back to you all to approve a contract. What Peter was going through was the contract deal we will have to work through legal. What I am hearing is that you all are willing to proceed with this project so we word it in a way that allows this to proceed but we can't get you something to raise your hand and approval of.

Mitchell: I totally agree.

Kimble: I know that you want to move fast but you really have two choices. If you are ready to go to Council and you are ready make a recommendation or it's not ready but you want us to aggressively continue to pursue this project and the elements in this project specific and bring that back to the Committee. I think that is where we are. I don't know if this one is ready because the numbers are not all here yet, but you are asking us to continue this with an update to you and we need to go and lock down the numbers with CMS and we need to go and lock down the numbers on the final design.

Cannon: This is not even half baked, it's not done. Let me just retract and resend my motion and take it off the table. Let's go with the lateral of what the Deputy City Manager is recommending.

Kimble: We can appreciate your listening to the project presentation; your support is there conceptually and now it is up to us to bring the specifics back in.

Mitchell: Let me make a recommendation. I know we have three other items and we are about to lose three Committee Members. Can we put that these are time sensitive and put them on January 2012?

Richardson: Dan Roselli from Packard Place is in the room today. To move us forward from the last time, we talked about the City's Entrepreneurial Strategy. We will be glad to come back at another Committee meeting.

Mitchell: I am about to lose your audience so if you can come back.

Richardson: We are engaged with Dan Roselli, Paul Wetenhall and the others and look forward to the conversation. Please take the web portal information sheet with you. We will be giving that out to Council in the packet on Friday. We have good news on the web portal, and if you would like an update with more detail, we can provide that to you after the first of the year.

Mitchell: Two announcements before the meeting is adjourned. What time is the Siemens event tomorrow?

Richardson: It's at 11:00a.m. They are also going to provide lunch.

Mitchell: Committee, if you can make this also, there is an entrepreneurial conference at Johnson C. Smith University on Thursday at 11:00a.m.

Adjourned: 5:00p.m.

Economic Development Council Committee
November 15, 2011 at 3:30pm
Room 280

Committee Members: James Mitchell, Chair
Patrick Cannon, Vice Chair
Jason Burgess
Andy Dulin
Patsy Kinsey

Staff Resource: Ron Kimble, Deputy City Manager

AGENDA

I. DISPARITY STUDY UPDATE REPORT – 30 minutes
Staff: Brad Richardson & Nancy Rosado, Neighborhood & Business Services, Cindy White, City Attorney's Office
Action: The Committee will continue its discussion of the findings and recommendations of the Disparity Study Report, and if ready, make a recommendation to Council for consideration at their November 28th business meeting. **Attachments**

II. OAKHURST REDEVELOPMENT INFRASTRUCTURE PROJECT – 30 minutes
Staff: Peter Zeiler, Neighborhood & Business Services
Action: This item was referred to Committee at the October 10th Dinner Briefing. Staff will provide an overview of the project and provide options for City participation and seek Council feedback. No action is required at this time.

III. ENTREPRENEURIAL STRATEGY UPDATE – 10 minutes
Staff: Brad Richardson, Neighborhood & Business Services
Action: Staff will provide an update on activities surrounding the development of a policy to support entrepreneurism in Charlotte. No action is required.

IV. SMALL BUSINESS WEB PORTAL SIX-MONTH REPORT (Information Only)

V. CRVA NOVEMBER BAROMETER REPORT (Information Only – Attachment)

There are no meetings scheduled in December pending Committee assignments. The 2012 schedule will be sent out after assignments are complete.

Distribution: Mayor/City Council Curt Walton, City Manager Leadership Team Executive Team

CHARLOTTE.
NEIGHBORHOOD & BUSINESS SERVICES

Disparity Study
Findings & Recommendations

Economic Development Committee Meeting
November 15, 2011

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Agenda

- Answers to questions from November 1 Committee meeting
- Review of Committee options
- Discuss Committee recommendation for November 28 Council meeting

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Committee Options

1. Maintain SBO program with no changes
2. Explore revising the SBO program to include all or a portion of MGT recommendations*
3. Explore feasibility of adding a Minority Business Enterprise (MBE) component to the SBO program*
4. Replace SBO program with an MBE program

*recommended by Disparity Study Advisory Committee

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Committee Options

Revise SBO program to include all or a portion of MGT recommendations

Considerations

- Will require further staff analysis of the following:
  - Raising informal threshold for construction
  - Vendor rotation
  - Mandatory joint ventures on large construction projects
  - Adding goals in other categories
  - RFP provision requiring proposers to report prior M/WBE utilization and future strategy
  - Raising the personal net worth threshold

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Committee Options

Explore feasibility of adding a Minority Business Enterprise (MBE) component to the SBO program.

Considerations

- Staff recommends hiring a legal expert to review findings of MGT to counter an increased legal risk.

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Discuss Committee Recommendation

- For consideration & discussion:

  A. Direct staff to explore revising the SBO program to include all or a portion of the MGT recommendations.

  B. Direct staff to explore the feasibility of adding a Minority Business Enterprise (MBE) component to the SBO program, including retaining a disparity study consultant to review MGT's findings and recommendations.

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Follow-up to November 1, 2011
Economic Development Committee Meeting

Peer City Review

	Type of Program	Certification - PNW	City Form of Government	Have GFEs
Charlotte, NC	**SBO** (Small Business Opportunity)	$750,000 PNW (excluding individuals equity in his/her residence; individuals ownership interest in the applicant business enterprise; and retirement)	Council-Manager	√
Austin, TX	**MBE/WBE** (Minority/Women Business Enterprise)	$1,341,000 PNW	Council-Manager	√
Denver, CO	**S/M/W/DBE** (Small/Minority/Women and/or Disadvantaged Business Enterprise)	$1,320,000 PNW (excluding individuals equity in his/her residence and individuals ownership interest in the applicant business enterprise)	Mayor-Council	√
Indianapolis, IN	**DMWBD/VBE** (Department of Minority & Women Business Development)	No PNW mentioned	Mayor-Council	√
Richmond, VA	**Office of Minority Business Development**	No Certification Program	Mayor-Council	√
Atlanta, GA	**MBE/SBE** (Minority Business Enterprise/Small Business)	No PNW threshold	Mayor-Council	√
Mecklenburg County	**M/W/SBE** (Minority, Women, and Small Business Enterprise)	No Certification Program	Council-Manager	√
Charlotte Mecklenburg Schools	**M/W/SBE** (Minority, Women, and Small Business Enterprise)	No Certification Program	Council-Manager	√

City of Charlotte Contracts Awarded by GFEs

	# of Total Contracts with SBE Goal	# of Contracts Awarded by GFEs	# of Contracts Rejected due to SBO Noncompliance
FY 2012 *(as of 10/10/2011)*	21	1	1
FY 2011	85	5	2
FY 2010	70	5	2

SBE Goals on Professional Services Contracts

For professional services contracts, SBO Policy allows the City to either establish an up-front SBE goal or negotiate SBE participation after the proposal selection process. Over the past several years, for professional services contracts involving "unspecified" work, many Key Business Units have often chosen to negotiate SBE commitments after proposal selection. For these work order based contracts, which provide for future unspecified services that are work order assignments, it is difficult to establish accurate up-front SBE goals, since at the time of RFP release the specific scopes of work and subcontracting opportunities are unknown. Once the specific scopes are determined, though a SBE goal remains undefined, the prime contractor signs a letter of intent with each SBE on its project team to be utilized as required by the work orders assigned.

In cases where subcontracting scopes can be clearly defined, the SBO Office works with Key Business Units to establish an SBE Goal. Examples of these instances include:

- Utilities Hauling Services contract
- Rapid Response Environmental Services contract
- Small Business Web Portal Development contract
- MGT Disparity Study contract

MGT's Comparison of City's MBE Utilization to Other Local Agencies

See attached chart prepared by MGT, which compares the City's 2011 Disparity Study Minority Business Enterprise (MBE) utilization to other local agencies.

Disparity Study Advisory Committee Meeting with MGT of America, Inc.

See attached transcript of the Disparity Study Advisory Committee's meeting on October 11, 2011 with Dr. Vince Eagan and other MGT of America, Inc. representatives.

MBE UTILIZATION COMPARISON OF 2011 CHARLOTTE DISPARITY STUDY AND OTHER LOCAL AGENCIES

	Construction	A&E	Other Services	Goods
City of Charlotte FY 2006-10	9.19%	6.81%	7.46%	2.34%
Charlotte Mecklenburg Schools FY 2008	3.82%	11.09%	8.73%	0.43%
Mecklenburg County FY 2010	5.06%	1.43%	2.1%	0.18%
Central Piedmont Community College, FY 2010	0.44%	NA	4.61%	3.53%

As provided by the agencies. The format of other agency utilization reports did not allow for combining them across years in a comparable fashion to the Charlotte numbers

CHARLOTTE
NEIGHBORHOOD & BUSINESS SERVICES

Disparity Study Advisory Committee Minutes
October 11, 2011
2:00-3:00pm

Committee Member Attendees: Brandon Lofton - Committee Chair; Walter Baucom - Metrolina Native American Indian Association
City of Charlotte Staff Attendees: Nancy Rosado; Krystle Hampton; Brad Richardson; Justine Gazzola;
MGT of America, Inc. Attendees: Dr. Vince Eagan; Vernetta Mitchell; Hope Smith; Reggie Smith,

Rosado
The purpose of this meeting is to give the advisory committee members an opportunity to meet with MGT and ask questions.

Brandon
Thank you very much and Walter, feel free to be involved as I go on with my questions. I just want to make sure that I understand the full legal frame work - that there are 2 prongs to the test and one is you have to have a compelling interest and the second is narrowly tailored. Under the compelling interest you have to show you have a strong basis and evidence that gives a rise to the inference of discrimination and there are ways you can show that being statistical evidence plus anecdotal evidence; and in also I think in a real case they use the evidence of a drop in utilization following suspension of the MWBE program as another way to show that imprints of disparity. But when you get to the narrowly tailored part, at least from my reading of *Rowe,* my question for that test is whether or not in terms of exploring race neutral remedies, that you can show that you still have these disparities that persisted in spite of using race neutral remedies?

Dr. Vince Eagan
Well, I think that is one way of stating it and I see where you are going with that. You know we were stating it as race neutral has been implemented and didn't work. That is how we were looking at the task. The whole thing revolves around that. If someone came up to me and said you have done this study, you have shown these disparities, have you shown the SBO program didn't work? Well I could say, "Yes", it didn't work because there are still some disparities, but if I said as compared to the MWBE program, "Did it work?" then I don't have a very strong argument. That is really the problem. In addressing the disparities, were race neutral techniques less effective or equally effective as race and gender conscience techniques? So that is the problem. That is why I hesitate to agree with you on the way you formulated it. In terms of the application in this case if they said the SBO program failed to address the disparities you could kind of say that. Part of the problem here as well is that you know studies are based on availability. And pretty much across the board utilization went up. So the problem is what availability measure do you use? Yes, in using custom census which is a legally acceptable availability measure though it hasn't really been accepted in this circuit but in other circuits have

accepted it you define disparities. If you look at other measures you don't and that is part of the problem. For example, if you just took census as a measure of availability for subcontracting across the board that is some measure which is not really saying "Are you interested in working with the city or make some effort in working with the city?", just as a broad measure. For example, using that African Americans are only slightly underutilized under the SBO Program. The rate shows like 93, you know, so it's almost there. Actually women are widely over utilized using census measures. Now, if you use vendors like firms that are affirmatively registered with the city (NOISE) we are at (INAUDIBLE) availability percentages. It's going to be like 40 or 50 percent. But what is that really saying, to some extent the city is viewed as a welcoming place to try to get work because of the relative percentage of availability is much higher when you take into consideration if you are you interested in working with the city which the custom census does and the vendor availability does. I think the strongest evidence is the private sector evidence and they were problems in *Rowe* in connecting the agency to the private sector. The data wasn't there to do that but we didn't have that here and that is very strong evidence of finding utilization even when you focus on firms that do work with the city and work elsewhere. So there is evidence supporting taking efforts. The problem is, is the SBO Program less effective at addressing those problems than the race conscious methods and that is where I don't have an argument but if people come up with an argument, I'm more than happy to go with it. I didn't have one.

Reggie Smith
I think like you said in the presentation last week is that this is one of those unique situations where we actually can compare a previous (MWBE) program with the current SBO program. Most of the time there is a gap between the two. But this time we actually have results from the program as well as when there was no SBO program. So that gave us the comparison and when you compare the two, these are the results that we found.

Brandon Lofton
I guess I am wondering why that is the inquiry. If you satisfy the first part but we will just assume that for the sake of this discussion you show that there is a disparity you show that you have evidence that is racially based disparity and then the question is have you narrowly tailored your program, then the question is have you tried race neutral means to address this disparity. If you are showing that, and again 80% is the threshold, and you are at 43% and it has been at 43% after 5 years of using the program how is that legally insufficient to pass the strict scrutiny test and I guess in terms of comparing it to what used to be in place with the MWBE program I am wondering why that is relevant because all that does is show at the best case scenario that you can't ever do better than whatever you did in 2003. No matter what your continued disparities are. And then you can not ever expect better than what you did in 2003 no matter what the continuing disparities are. I don't think (I don't know because I am not on council) that they are talking about dismantling the SBO Program and instituting the old MWBE program but I guess the question is whether or not to add the race conscious goals to the current SBO Program. So why would we assume, us folks, why would we assume performance levels at the old 2003 levels and in a factual matter I guess the question about the comparison between now and then is can we, isn't it true that when we look at the 2003 numbers it included one year of a race neutral program and in that year we saw an 80 percent drop in utilization so doesn't that skew one of your 5 years as off by 80%, doesn't that skew our comparison point?

Dr. Vince Eagan
I think how you described the last one is a valid point in doing all the things that is another correction we should have made in this report which we can do. I looked at that, somebody indicated that to me and I looked at it and I took out the last year, I just did it for African Americans and sort of compared the

average per year between the two studies so then you are not dealing with the 5 years versus the 4 year period. And it came out almost identical. It was like 2.35 million versus 2.32 million if you just compared the averages per year for African American construction subcontractors. It is true and we noted that there is a tremendous drop when they ended the MWBE program, and so this is the same point that we made with the private sector. If you did nothing, it would just be horrendous. Some people are okay with that but my guess is that most people are not. If you took no effort it would be horrendous. I also think sort of some of the problem is in the case of the African American construction in particular we kind of have the worst of both worlds in the sense that the SBO program did the least for that group. You can come up and look at it a certain way maybe you went down a little bit. You kind of control for inflation, but I couldn't come up with an argument that it did significantly worse. Like I said if you took availability percentage from the last study, then the SBO program did get rid of disparity. The reason we still have disparity is that we have much higher availability numbers for using the custom census approach or to use vendors - you do have disparity, but if somebody came up and said what about their availability market place, availability last year than you don't. So the conclusion of this disparity is not as robust. If you look at different ways that is what happened in *Rowe* in the sense of however you looked at it, for African American and Native Americans you have this strong argument. Looking at it a lot of different ways, with women it was like well it is kind of good here and it is kind of ragged there so we are not feeling it, you know. Yes you have some arguments here. So if the City decided to ask for goals for specific groups, if they ask me to defend that, which they may not, (INAUDIBLE) report (INAUDIBLE) I would come out with an argument. I would use some of the arguments you've presented. But I think I would be in a weaker position you know, that is just what we are saying just from our stand point looking at it. There is sort of a practical thing to, which is just what I like about the SBO program is from what I have been told this may not be true they just don't take any "crap". So many MWBE programs because people are so scared of litigation even though it is symbolically there, when push comes to shove people just fold. You know somebody calls your bluff on it, they just fold. There really has not been outside the DBE program or DOT a case in this area, you know in like 10 years, because people don't want to spend the resources defending it. Some cases, the strongest case for adding race and gender conscious goals is for African Americans in construction subcontracting. You do have anecdotal for several measures of disparity, you do have statistical significant disparity, private sector is egregious. The two gaps is for one - the regression analysis and we looked at it in several different ways did not come out the way it did in *Rowe*. Now, is that the be all and end all, I don't know, but to me to subcontracting that is a little less important but *Rowe* seems to think it was important, but to me the SBO thing it just did as well. And the previous MBE program it seemed to do relatively as well as other MWBE programs, but it is really hard to make a comparison. That is a weaker argument to have the disparity study done the same way it is just kind of putting numbers together and it's just…that is a little more dubious. You know the point is in some of the MWBE programs they do really well but again tends to be more women because of Rodgers at the prime level…that kind of thing. And that is all thrown in there which can kind of distort the picture. Yes, there are arguments, but for me the SBO argument just makes it harder.

Brandon Lofton

In terms of comparison by comparing the SBO program to the old MWBE program – isn't the relevant comparison point the disparity index between the two not necessarily like the percentage of dollars used I guess for example, let's assume that African American subcontracting as a result of the MWBE program had 5% of construction subcontracting dollars and now they got 10%. Well, I guess according to my understanding of what this analysis is that we would then conclude that we are now more successful than we were back then, but if the availability number was 5% back then and it is now 20% than obviously the disparity indexes would show that the current program is not nearly as effective as

the old program was so (INAUDIBLE) do we actually compare the actual disparity program indexes between kind of what existed back then and what existed now. I guess the reason I am asking is because in my review of the 2003 study it seems like they reported over utilization for just about every category accept Asian Americans and women and now of course we are showing under utilization that is substantial and statistically significant. So trying to compare those two but we are doing a lot better than we were back then doesn't quite make sense to me and that respect and I am wondering what I am misunderstanding about that given the fact that obviously availability… I guess the changing factor is availability has changed.

Dr. Vince Eagan
Yes I don't think it is invalid to say should you compare those two. To me it is the whole story, you take extreme example, I have seen agencies like this where utilization was like 70% 'cause it's a predominately minority city and availability is 80%. Okay, they had disparity; it is really hard to say that they are really having a problem. You have to look at the picture as a whole. When I talked to AGC down there they said we want a program, we want set-asides for us, so you can see what we are getting here. So I don't think it is invalid one thing I said is if you did compare you said the availability was roughly the same between the two studies in percentage terms, the disparity was eliminated. So to me if you are saying availability, both availability and utilization went up, I would interpret that as a whole and that is a good picture but there is still a lot of things need to be done since you corrected all of these things more firms are interested in doing work but there is still more things to be done and could be done. But particularly if you say measured objective measure availability in the market place as a whole whether or not you are interested in government, you really don't have disparity. Then again, that makes the argument weaker. So I am willing to accept it based on where it was before there was not disparity but now there is disparity now that is in the plus column for a program. So I am not disputing it I am saying taking it all together and looking at every different aspect it is just a harder argument to defend.

Brandon Lofton
And I guess another aspect of that in terms of the SBO program, I think I was on the old study this year looking at the SBO program as an overall, and I think we found that non minority male contracting firms made up like 25% of all SBOs but got like 52% of all the contracting dollars. So you add that to the mix does that have any relevance in comparing average contracting under that program to the other MWBE groups?

Dr. Vince Eagan
Yes, I would say they are getting more benefits from the program, yes they are. Whites as opposed to the minorities are getting the bulk out of the program. Nonminority women and nonminority males they are getting the bulk of the benefits of the program. Yes, I agree with that and it is true that the district court sort of made the average return you get but we didn't have the average contract size but we had payment data for subs, but the average payment to firms was certainly lower and I don't think that is in the report but it is you can eyeball to see that it is lower for minorities and that is again another factor I would say in favor of race and gender conscious. At least at the district court level and the appeals court didn't seem to pay any attention to that.

Brandon Lofton
In terms of I guess going backward to the analysis and now going to the strong basis and the evidence to show inference of discrimination. Is there a…one thing I struggle with is this anecdotal evidence. Is there a threshold for anecdotal evidence, like how strong your anecdotal evidence needs to

be in order to give rise to I mean with the statistics obviously it's pretty cut and dry you know, you are 80% overload, you are not good and even before your analysis if you are above 80% you are counted nowhere with the anecdotal evidence. I guess it struck me that it depends on how strong your statistical evidence is and what other evidence you might bring in. But is there kind of a "floor" and are we in some category above that floor considering where the statistical evidence is? How does that play out?

Dr. Vince Eagan
Yeah and there is not really a lot of case law on that. In the *Concrete Works* case, we had a couple of people give some affidavits and testimonies and said they were treated horribly and that seemed to be enough. In *Rowe*, the only time I think I've seen this in any case is they seem to make a big deal out of 78% of African Americans complain and only 27% of women. To me 27% of women is a lot of people complaining. Yes but it was matched with the fact that they were also over utilized. They are saying, they are over utilized, not that many are complaining, so yes conceivably if there is 27% but you are underutilized, that would be enough certainly conceivably. So, I think the number of African Americans were clearly above 27%. They weren't way up there with the numbers in *Rowe*. They were above 27% saying it is informal network and primes are keeping us from getting work and we are being dropped. We are not being solicited; we are just not an SBO program that was consistent with the data we saw so it wasn't just people complaining. So again I would think there is enough for African Americans. None of the other groups are near the 27% percent. A lot of them are like in the 20 and 26-well you could say it's a gray area. It is enough. We say it is insufficient evidence. I prefer you say it is less than *Rowe*. That is what we said in the report it is less than *Rowe*. One of the slides is insufficient I prefer to say less than *Rowe*. That may or may not matter. There is not as much in just the interviews and public hearings cause I pushed Vernetta to go back and listen to all the tapes again because in another study we get , I am in the office this contractor has a 10 million dollar company, he had done all of his projects, great firm resume , and the agency he is dealing with; he could not get "squat" and he would show me his bids compared to other bids and the lower bid I got this great firm resume he said and they are not taking me and they would say the basic attitude of Primes is that they didn't want you to do anything that could be seen in pointed and that you could point to later and say I did that. They wanted you to do some temporary electrical work or some other stuff that nobody could see later but you could not point to something and say I built part of that and there it is. It is part of your resume. So he had really hard kind of stuff but we didn't get stuff like that here. Then maybe we didn't talk to the right people or the right people didn't show up to the seminars or the public hearing or that sort of thing, but we do get some evidence sometimes but we just didn't get that here.

Brandon Lofton
Just as a, along those lines, just as a pure legal matter cause I am not a litigator so I don't really know if assuming the anecdotal evidence is insufficient or you can use that word but let us assume that it was completely dead in the water in terms of just legal interpretation and case law and precedent and stuff if the supreme court in *Croson* said that that statistical disparity in and of itself is enough to show the inference of disparity, the best case scenario says you would comply with what the court circuit says but doesn't the *Croson* case still take precedence over what *Rowe* says in terms of the requirements for the anecdotal evidence?

Dr. Vince Eagan
"Yeah"

Brandon Lofton
OK

Dr. Vince Eagan
Yes, it just how it's going to be applied specifically how is the court going to yeah; I think a lower court would look more down. *Croson* was just so general you know, in terms of they were not reviewing a study. They were just reviewing some comments and some vague data Richmond had, so it does not provide a lot of guidance in terms of specifics to how you would evaluate a specific study. But yeah, I wouldn't disagree with the general point.

Brandon Lofton
I think those were all of my questions.

Reggie Smith
You had wonderful questions. I got a lot of good information from those questions.

MGT Staff – (Vernetta, Reggie, Dr. Vince Eagan)
Well thank you very much for those questions. You have been helpful.

Reggie Smith
Those are some other things we should have paid attention to.

Brandon Lofton
I appreciate you guys in all of your hard work and giving us some massive reading material to us.

Dr. Vince Eagan
Let me add something else, you know some people like Reggie, you know he gets nervous about being criticized. I actually do not mind about being attacked (laughing) from the left shall we say, I think the scrutiny of this and that says if they do not add race and gender conscious elements, that the utilization within that program is taken seriously. I think one of the reasons the SBO program has been more effective than elsewhere is a lot of small business programs nobody pays any attention to and don't care anything about it. That is really why it doesn't work there is no big constituency for it. People don't track the numbers by race and gender to know what is going on so nothing happens. So I think your concerns are helpful. I am thin-skinned like Reggie (laughing) but it is helpful for the hold process, the scrutiny. The other thing is that kind of along the same lines is at the end of the day if you have an MWBE program, a lot of those programs still have the issue that we are going to get all the work and notes. You know, it's not you need the SBO program because like *Rowe*, a lot of people don't realize but *Rowe* was a nonminority firm, WBE-graduated and came back and sued the program (laughing) which says a lot about some kind of WBEs. But the other thing we put in there a concern of from your organization of raising the informal threshold and that is something that the city controls and who they deal with. You have a lot more control over that then you do over Primes and what they do. If you have a program that you only have African Americans in it than you could sort of make sure that that would push the African American number up. Politically that is kind of a nightmare. North Carolina DOT's having that problem now they are taking groups - Native Americans are in and they took them out, you know, and even Primes get mad because it is a smaller pool for them to meet a goal.

Vernetta Mitchell
And then your other groups begin to decline.

Dr. Vince Eagan

And then sometimes they will sue the programs. A lot of these programs are sued by minority firms, who are not part of the program, which goes with the example, United Construction. So you can do that and that would raise the African Americans number up and kick everybody out but African Americans and you would have the strongest case. That is a risky way to go; sometimes you have to do that but it is risky. It is a whole lot of issues.

Brandon Lofton
I guess along those lines in using your *Rowe* example. I'm not accusing and saying that we have a *Rowe* here but in terms of just skewing the numbers like you just used Rodgers's Builders as an example , I assume they are pretty huge, is that skewed in the terms of finding the over utilization of women firms if you take Rodgers out? How is the average women owned business doing here compared to the others?

Dr. Vince Eagan
I wouldn't say we have done it in a lot of detail at the sub level; it is easier to do it at the prime levels. The prime levels are definitely widely skewed by a few firms. Asians is United, if you took that out of primes, you would get a totally different picture and women - there is more breath you know…

Vernetta Mitchell: You still have got 4 or 5 firms with women, yeah.

Dr. Vince Eagan
In areas as I understand we haven't delved in as close as we should, but they were down a lot because of some large firms and not pursuing city business like they used to. That is the sense that we got. So the prime numbers grew dramatically based on a handful of firms. We didn't make the prime itself, this is another thing about the SBO program, and the number of subs used went up. So it was more than 2 or 3 firms getting it because there are number across all groups generally went up, which is not good, in fact for any kind of program that you want to see planners. I have been thinking about it a lot of what additionally could you do so that the SBO program benefitted African American firms as much as some of these other groups, and all groups as much. Other ideas which we didn't talk about is sort of limiting the participation of some groups. I don't mean ethnically but the firm has gotten a whole lot of contracts in the SBO program and maybe some of them need to move on. The length of time, what amount did you get out of this, some people don't like to do that either. That cuts both ways. There are a lot of things that cut both ways. The easiest way is for a couple of groups is to say we have an MBE goal on top of the SBO program, that is certainly the easiest and most direct way and we have recommended that at times. We have just never faced the situation where we could make the comparison the way we did here and had the best SBO program we have run across. So those two things make it unique for us and you know people don't like to pay for studies if you don't show any problems. Which we are not saying you don't have any problems and people get annoyed when you say there are not problems, they find it annoying.

Brandon Lofton
Well I think, um, based on my work on previous…the overall SBO review process, I think in general there is support for the SBO program. People like the program and I think that it is doing a good job. What I heard is some people gain from the system and we are talking about recognition, we are trying to crack down on that but then also among African American folks in particular, the suspicion or the feeling that there definitely was a decline in the utilization so they very much were looking for the results that come out and the results that come out, they say yes you are right, but we still can't do anything about it and I think that it the kind of disconnect there, everyone has kind of been experiencing something, looking for

some validation from their experience, you get the validation and then the conclusion is - but you can't do anything about it. I think that is where the disconnect is.

Dr. Vince Eagan
I can see that. Another thing I think is different…African Americans had a much bigger share of the old MWBE program than they do now so it's not like they went down really as much as the SBO program went up and more went to other groups, getting primarily nonminority women. So…and it's not like we're saying that you shouldn't do anything about that, it's just can you do anything race conscious about that and such.

Reggie Smith
With these studies you never know what the numbers are going to show. You know you can have preconceived notions or you can hear about different business loans experiences but when we actually get in there and look at the numbers, we never know how they are going to fall out and this time it has been unique and the other thing, too, is keep talking about the anecdotal piece, if you don't have a strong, if you don't have the majority of the respondents talking about discrimination and things of that nature, it makes it very difficult for us to make a recommendation because you have to couple that with the statistical piece, and we have been seeing that throughout the country that you know business owners are not, they don't complain about discrimination as much as they used to. They don't say they are being discriminated against. They always say it is something else that is causing the under utilization. You need that piece to go with that statistical piece to be able to strongly recommend a program. We just didn't see that strong of a case.

Nancy Rosado
Brandon, do you and Walter feel that you have gotten answers when it comes to the study, specifically the previous 2003 study period because we didn't talk about that a lot, so I want to make sure you got clarity on that issue and you feel comfortable with the period that was covered? I know there were a lot of committee members that had questions about that.

Brandon Lofton
Yes, Dr. Eagan talked about that although if it's not too much trouble, I'd like to see how that fit. I know you said that you took that out of the analysis and it didn't change it much but if it's not too much of a problem, it might be helpful for the committee to see that since we know they did include the race neutral in here.

Nancy Rosado
Well, did it include it? I think the question was did it or didn't it?

Dr. Vince Eagan
Yeah, it did the last year.

Vernetta Mitchell
It did include 2002? I thought I went back and saw that it didn't.

Hope Smith
Yeah, it's the full calendar years too. So it's 1998 to….

Dr. Vince Eagan
But the last year…whatever the last year…the last year we remember was very low.

Nancy Rosado
So, it did include it.

Vernetta Mitchell
Yeah

Brandon Lofton
I guess send me the comparison without the 2002, if the Committee can see that, that might help us understand that comparison point better.

Vernetta Mitchell
Ummmm….I'm not sure if…Ummmm. Cause Hope we need to redo those analyses.

Dr. Vince Eagan
No, we don't have to redo…you just want to compare the utilization numbers. It's not that big of deal.

Hope Smith
Yeah. I can just cut it out.

Dr. Vince Eagan
And…but again, when I say it was close and saying that's not adjusting for inflation. So, again, if you adjust for inflation, the number would be a little different.

Dr. Vince Eagan (continued)
Because I just compared the raw numbers. Um, so I think you could say slice and do this and that and get a small drop it is just…is a 10% drop good enough, if you have to weigh it out? And then you still have the problem they are still using more firms - even more African American firms, not a whole lot more but a few more.

Brandon Lofton
But then isn't that…I think for me the big disconnect is that aspect to that comparison point. Saying it is using more firms doesn't quite mean anything to me if the availability has increased so much. You would expect them to use more firms if they are more available but if they are using still, the disparity index, which to me, is the key thing, is worse more now than it was then and significantly worse now than it was then, I'm not sure how we could say that it was more successful now than did.

Vernetta Mitchell
The Disparity index is driven by your availability.

Brandon Lofton
Right but again that is the point, if they are more available now than it should get higher percentage of utilization of larger number should be used because of the availability is going up. So it wouldn't make sense to assume now that 2003 levels of availability because what you are comparing the entire thing is governed by the statistical analysis is driven by this utilization versus availability and if you are going to

say that that is the correct analysis for us to evaluate whether or not you have discrimination then let's perform that analysis now and let's compare it to that analysis back then if you want to make a comparison over the effectiveness of the program. Cause that is the big name, that is the name of the game the disparity index is the big thing. I mean if you tell me that you receive a million dollars in 2003 but you received 10 million dollars now that doesn't really tell me anything if I don't know what the disparity index is. That is what really gives it context to understand what it means, because you point the comparison point aside you couldn't go to court and just say we just got this number and we think it is too small. You have to establish a disparity index. That is what the game is about, the disparity index. That is what I want, to see that comparison and see it without the 2002 numbers. But ultimately I think that analysis seems to be in a real case part of the first prong which is the inference of discrimination but not necessarily part of the second prong of the narrowly tailored part. It seemed like they were saying in the narrowly tailored part again, if you had a race neutral program in place, you still have these persistent disparities, then you met your obligation showing and you tried a race neutral alternative and it didn't work. And comparing it to CMS or the County or what 2003 doesn't really tell you much because it is different programs all together. Even 2003 program was a different program than what we would be talking about now. What we would be talking about now would be a presumably an SBO program with a goal, a couple of goals on top.

Dr. Vince Eagan
Well again as I said if I was defending the adding of the goals I would make the argument you just made. I would say what is the other side going to say is response to those arguments and there are a couple of things that I say is what does the whole picture say? The fact that the anecdotal, the availability of the anecdotal was less is suggesting that as you say yourself that people think that the SBO program is kind of working but not as well as we would like it to work and you raised utilization and availability at the same time that is a positive thing even if there is disparity. So you can say yes, I want the disparity ratio to trump ever y other fact but I just don't think a disparity ratio can trump every other fact.

Brandon Lofton
Isn't the full context that you had a MWBE program, you got rid of it. The year they got rid of it, they had an 80% drop. Then the city stepped in and put the SBO program in place and the SBO program in place has been successful and encouraging participation in small businesses and that success has benefited MWB E participants particularly since they make up about 70% of the available pool. But given the fact that they don't receive , I am going to do it the other way, the non minority males only make up 25% but receive over 52%, that raises a flag and if you look at the disparity index in where it is and how we have had this program in place for 5 years that raises a flag; and so if you are going to say do you have an inference of discrimination than you got the statistical data, you may not have the (turned the tap over here and it starts with 3 or 46 of that number of the index of what it is. I am not sure that why that doesn't tell the full story of what is going on and I am not sure why it is necessary or helpful at all to the compare to CMS and County and other places that are completely different landscapes. And so I am just, that is my overall understanding and at this point that is my impression of kind of where the full landscape lays out.

Dr. Vince Eagan
You know as we shared in the Council Meeting, we are not a law firm we are giving out attitude towards our experience and working in the area and so if another council who is working in this area feels like this is enough, that is how people look at it and that is fine. We are just talking; I guess I are just talking based on experience of doing expert witness work and what the kind of arguments are. Then essentially we interpret at the SBO program failed because SBO is really the presumption is, you have to do

something race neutral and you got it. You have to say, if the two things roughly do the same things you got to go with race neutral. That is the problem if they are doing roughly the same thing. Now here the SBO did from all the way you look at it the same or much better. Again, we might not be where we want to be but I couldn't, it did the same or much better so if it does the same or much better the presumption is you got to go SBO. That is the problem.

Brandon Lofton
I guess my question is where my misunderstanding, if you going to say I am not sure how we can say it is much better if the disparity indexes are so different, if it is over utilization back then and under utilization now, how can we say that the same or much better, it seems that the analysis here are just comparing percentage and dollars of utilization comparing the number of firms, takes the piece and really doesn't look at the full context which is well, what was the availability at the time and what is the percentage how does utilization compare to that availability. If you don't do that full of an analysis I am not sure how you can draw that conclusion that it is doing much better now than what is was doing back then and overall you know, I am just not sure why that is a part of this analysis. I saw where it was a part of the inference part but this part of the analysis if you have a disparity if it has been in existence and you tried to race neutral program, you apparently reached your ceiling review, you are not doing much better than 43% what is the argument that you can't do something now that will add raise conscious goals? Don't presume you will go back to what you did in 2003 because I don't think anybody would reinstitute a 2003 program that will add a goal to the current program so how can you assume, what is the evidence for saying that if you add a goal to the current program, it would be less effective than it is now in utilization?

Dr. Vince Eagan
It could conceivably be the combination of the two, yes, it could conceivably be. There could be some combination of the two that is more effective than the SBO alone. And like I said particularly, we regard the African Americans, for some of the other groups, again particularly women; they went up so high it is very hard to make the arguments. I am just saying the same thing if you look at the availability for and the availability in the market place the disparity conclusions are not as robust as you would like them to be. Both from looking availability different ways and looking at the regression analysis. Yes, there is some evidence of disparity but it is not as strong. Private sector evidence is actually better than the last study. More in line with *Rowe* but is showing the same pattern as such an infinite has more utilization when there is no program or efforts whatsoever. Which again, I think it is a strong argument but I think some of the courts don't like it , then they say how will they ever get rid of these things if you use the private sector argument. I think this was ultimate *Rowe's* problem. But like I say, I have no problem with the argument you are making, that is definitely one way of looking at it. If Charlotte's Council feels like they are bringing in outside counseling working in this area, and they feel like they think there is enough evidence or they think, well something needs to be done to supplement the study to make that argument stronger or whatever, don't have any problems. We are just sort of giving our response to the evidence based on our experience. I don't think your points are off the wall, outrages or misconstrued or whatever.

Nancy Rosado
Well unless anyone has anything else we are going to move down and getting ready for the ED committee meeting downstairs. Thank you.

CHARLOTTE
NEIGHBORHOOD & BUSINESS SERVICES

Oakhurst Redevelopment Infrastructure Project

Economic Development Committee
November 15, 2011

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CITY OF CHARLOTTE

Overview

- History of Project
- Proposed Infrastructure Improvements
- Policy Alignment
- Estimated Project Costs
- Potential options for City participation
- Next steps

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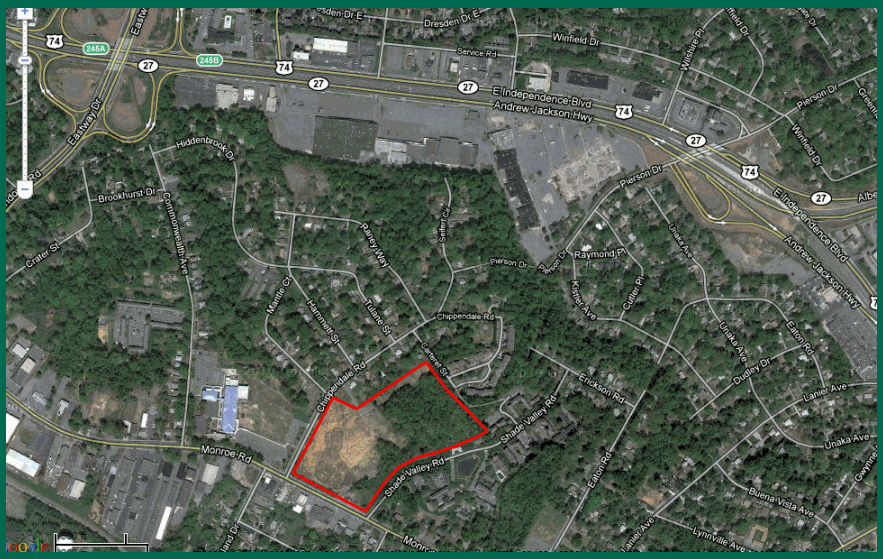
CITY OF CHARLOTTE

Project Site and History



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Project Site and History

- 18-acre former Woonsocket Mills site
- Krug Development purchase in phases from 2004 through 2008
- Purchase of a portion of CMS land at Oakhurst Elementary
- Brownfield site work complete in March 2007
- Rezoned from I-2 to NS in September 2010

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CITY OF CHARLOTTE

Project Proposal

- 75,000 square feet of retail
  - 25,000 to 35,000 square feet grocery
- 220 apartment units
- $50 million in development costs
- 200 – 225 jobs created
- Estimated $440,000 in new annual property taxes
  - $153,000 City
  - $285,000 County

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Project Proposal

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CITY OF CHARLOTTE

Project Proposal

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Infrastructure Challenges

- Richland and Chippendale are staggered "T" intersections at Monroe
- Retailers prefer ease of access and safety of a four way, signalized intersection
- Monroe does not meet Urban Design Guideline Standards

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Proposed Infrastructure Improvements

- Realign Chippendale to create four way intersection
- Upgrade Chippendale to Urban Design Guideline Standards
- Widen Monroe to accommodate turn lanes and islands
- Add bike lanes, planting strips and sidewalks on project side of Monroe to meet Urban Design Guideline Standards
- Preserve access to existing businesses and residences adjacent to project site

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Proposed Infrastructure Improvements

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Proposed Infrastructure Improvements

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Proposed Infrastructure Improvements

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Policy Alignment

Project advances Land Use and Transportation priorities as outlined in adopted Independence Boulevard Area Plan

Transportation Priority T-5

- Chippendale Road and Richland Drive should be aligned into single intersection at Monroe Road.
  - This project will improve traffic flow and safety on Monroe Road, and will enhance the potential for the parcel on the northeast corner of the intersection to develop into an active neighborhood node.

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Policy Alignment

Land Use Recommendation LU-4

- Monroe Road Nodes - A pedestrian-oriented development district should be created along these sections of Monroe Road.

Land Use Recommendation LU-8

- Richland Drive/Chippendale Road to Shade Valley Road - Vertically integrated residential, office, and/or retail development is preferred in this location to create a neighborhood node at Monroe, Richland and Chippendale Roads. Two or any combination of these uses is appropriate.

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Policy Alignment

- Project lies within Business Corridor Revitalization Plan geography
- Project is adjacent to a "food desert" as identified by UNC–Charlotte
- Project will provide locational opportunities for businesses displaced from NCDOT Independence Boulevard project
- Removes blight and provides employment opportunities

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Project Costs

- Estimated $1.5 million to $1.9 million
  - Includes street and sidewalk design, right of way and construction costs
  - Includes estimated cost of Oakhurst parking settlement
- Project cannot realistically secure financing for road realignment without leases in place
- Project cannot realistically secure leases without road realignment underway or completed

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Potential deal structures

- Synthetic Tax Increment Financing
  - 45% per policy
  - 23 year repayment if City only
  - Doesn't solve financing obstacles
- City design and construct road realignment
  - Follows normal City street building protocols
  - Source: Business Corridor Fund
    - $14 million balance
  - Leverages Fund at approximately 25:1 (goal is 10:1)

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Deal Points

- Site is owned by Krug Development and is free and clear of debt and other obligations
- Krug Development to move forward with development within three years
- Security options in amount of final construction costs:
  - Lien on property - collectable in event of sale of property for profit instead of development
  - Line of credit / bond – collectable in event of non-development after three years
  - Both instruments diminish as phases occur

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CITY OF CHARLOTTE

Future Steps

- Neighborhood & Business Services to finalize development agreement
- Engineering & Property Management staff to develop final design and cost estimates
- E&PM to solicit construction bid pricing
- ED Committee to review and recommend action on final development agreement
- Council to authorize entering in to development agreement and construction contract

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economic development committee
november, 15, 2011

Charlotte Business Resources.com

INFORMATION FROM A TO Z

FIRST FIVE MONTHS:
(may - october)

"We're receiving calls from businesses that found us on CharlotteBusinessResources.com. They not only learned how to connect with us, but they also learned about what we do and that we're the right resource to help them with their business needs. As a result the caller does not feel like they are being passed around from one organization to another and we can quickly start working on their business issue."

– George McAllister, Regional Director
Small Business & Technology Development Center

GOALS

Develop a reliable brand for business information.

Create a consolidated small business event calendar.

Increase referrals to Small Business Resource Partner websites.

KEY ACTIVITIES

Focused marketing dollars on search engine optimization.

Developed robust calendar of business events to drive site visits.

Concentrated marketing through Business License & Register of Deeds Office.

Created Public Service Announcement with broadcast on GOV Channel and CPCC tenevision (ongoing).

Article in Charlotte Observer – July 2011.

Placed 1/2 page ad in Charlotte Business Journal special insert – July 2011.

Launched monthly e-newsletter – August 2011.

Created posters with QR Code linking to PSA videos to go up at uptown kiosks – November 2011.

TOP CONTENT

1. Starting a Business
2. Licensing & Permitting
3. Calendar of Events
4. Financing a Business
5. Contracting

Scan to watch a 30 second video.

SITE PERFORMANCE:

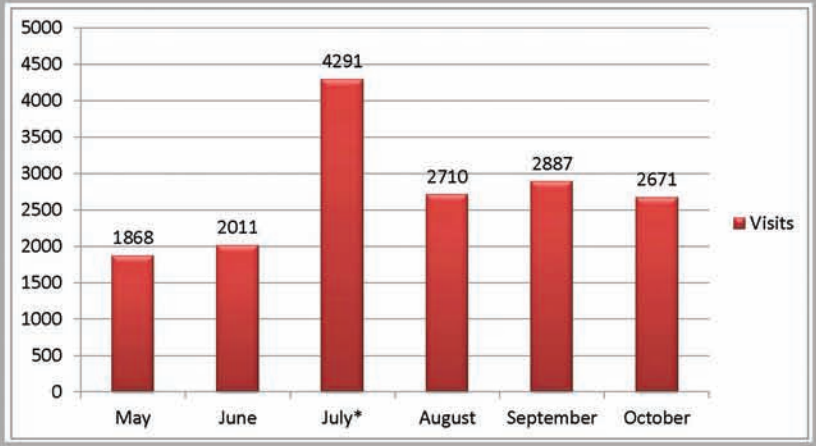
"I've been considering starting my own tile & flooring company. CharlotteBusinessResources.com helped me understand the resources that are available to help me begin making my dream a reality."

– Jean Castillo
Future Business Owner

OVERVIEW

Launch Date: May 16, 2011
Unique Visitors: 11,664
Returning Visitors: 4,831
Total Visits: 16,438
Total Page Views: 45,008
Average Page Views: 2.74
Average Time on Site: 3:05
Referrals to Partners: 721
Number of Events on Calendar: 219
Newsletter Subscribers: 994

MONTHLY SITE VISITS



*Spike in July site visits due to Charlotte Observer article.

NEXT SIX MONTHS:

GOALS

5,000 visits monthly
1,500 e-newsletter subscribers

KEY ACTIVITIES

Create & implement "Road Show" outreach to local business organizations.
Investigate social media options.
Explore adding video content.
Explore Phase II "How to Start a Business" wizard.

The Charlotte BAROMETER Report

An Official Publication of the Charlotte Regional Visitors Authority

NOVEMBER 2011

National & International Business & Convention

FACTORS UNDERLYING MEETING SITE SELECTION

METROPOLL XIV, a study of meeting planners and the meetings market in North America, contains details of meeting planners' preferences and perceptions of 40 destinations. According to their latest findings, the most important considerations in meeting site selection (% stating "very important") are: Convenient airline service (82%), Easy for delegates to get to (82%), Food & lodging costs (81%), Travel costs to location (78%), Good hotels (76%), Good value for the money (75%), Willing to make financial/other concessions (67%), Clean/attractive city (63%), Security/crime rate (59%), Number of hotel rooms available (54%), Good restaurants (52%) and Attractiveness of conference hotels (51%).

Meeting planner responses on the importance of various *information sources* in site selection found that (combined % stating "very important" and "somewhat important") Reputation/image of location topped the list with 99%, followed by: Past experience (97%), Attendee feedback (97%), Hotel chain/conference hotel site (92%), Destination web sites (87%), Hotel rating/user review sites (87%), Business contacts at location (78%) and Convention Center web sites (77%). Trade magazine articles were next with 62% of respondents stating that they were either "very" or "somewhat important".

Local Perspective

CHARLOTTE AREA LODGING – SEPTEMBER SMITH TRAVEL RESEARCH

Charlotte market **occupancy** was 62.5% in September, up 7.8% over September 2010. Year to date occupancy is 62.4% in Charlotte, up 7.2% over the same period last year. By comparison, year to date occupancy is up 4.6% in the US and NC and up 4.8% in the Top 25.

Room demand totaled 596,168 rooms sold in the Charlotte market during September, up 7.5% from September 2010. Year to date, total room demand is 5,456,271, up 7.8% from the same period last year. By comparison, year to date room demand is up 5.3% in the US, up 5.6% in NC and up 5.8% in the Top 25.

September **average daily rate** (ADR) was $82.70 in the Charlotte market, up 3.2% from September 2010. Year to date, average rate is $81.78, up 3.3% from the same period last year. By comparison, year to date average rate is up 3.6% in the US, 2.3% in NC and 4.6% in the Top 25.

Charlotte market **revenue per available room** (RevPAR) was $51.68 in September, up 11.3% over September 2010. Year to date, RevPAR is averaging $51.06 in the market, up 10.7% from the same period last year. By comparison, year to date RevPAR is up 8.3% in the US, 7% in NC and 9.6% in the Top 25.

Charlotte Lodging Trends, Records

- 21 straight months of occupancy increases (best since 2004/2005)
- 8 straight months of 60%+ occupancy (best since 10 straight in 2007)
- Most rooms sold in the market during the month of September (596,168 eclipses September 2007's 569,323)
- 23 straight months of room demand increases (all time high)

- 15 straight months of ADR improvements (best since 2007/2008)
- 20 straight months of RevPAR improvements (best run since 2006/2007)

MECKLENBURG COUNTY HOSPITALITY TAX COLLECTIONS-- FY12 THROUGH SEPTEMBER

Mecklenburg County **6% occupancy tax collections** total $6.4 million fiscal year to date, up 16% from the same period last year.

Mecklenburg County **2% NASCAR occupancy tax collections** total $2.1 million fiscal year to date, up 16% from the same period last year.

Mecklenburg County **1% prepared food & beverage tax collections** total 5.5 million fiscal year to date, up 14% from the same period last year.

National Leisure & Tourism

INTERNATIONAL VISITATION

International visitor arrivals to the United States are expected to grow by 5 to 6% annually during the next five years. **U.S. Department of Commerce's** fall travel and tourism forecast projects a record 64 million international travelers to spend $152 billion during their stays in 2011, an increase of 13% from 2010. Year-to-date, the travel and tourism trade surplus is up 31% from 2010, putting it on track to set a record trade surplus of $41 billion. Through July 2011, 35.2 million international visitors have flocked to the United States, up five percent compared to the same period in 2010.

Economy

THIRD QUARTER 2011 GROSS DOMESTIC PRODUCT

The **U. S. Bureau of Economic Analysis** reports that real gross domestic product -- the output of goods and services produced by labor and property located in the United States -- increased at an annual rate of 2.5% in the third quarter of 2011. The increase in real GDP in the third quarter primarily reflected positive contributions from personal consumption expenditures (PCE), nonresidential fixed investment, exports, and federal government spending that were partly offset by negative contributions from private inventory investment and state and local government spending. Imports, which are a subtraction in the calculation of GDP, increased.

Media

OCTOBER 2011 VOCUS

During October, **Vocus** identified 1,719 media mentions related to key search words. NASCAR Hall of Fame led the way with 52% of the mentions, followed by Democratic National Convention (41%). Charlotte Attractions, CRVA and Charlotte Convention Center all received 2% of the month's mentions. By media, 46% took place via Online, Consumer sites, followed by Online, News and Business sites (27%), Television Programs (9%), Newspapers (6%), and Cable/Satellite – Network/Station (2%). A total of 72% of October's media hits occurred outside the Charlotte Region.

Sources for this Publication

- **Mecklenburg County Tax Office**
- **METROPOLL**
- **Smith Travel Research**
- **The TAP Report**
- **Travel Smart News**
- **US Bureau of Economic Analysis**
- **US Department of Commerce**
- **US Department of Labor**
- **Visit Charlotte/CRVA**
- **Vocus**

Michael Applegate, CDME
Director of Research, CRVA
michael.applegate@crva.com

Inside This Report

- **Barometer Summary (p. 1&2)**
- **Hospitality Industry Statistical Report (p. 3)**
- **Definite Bookings (p. 4)**
- **Pace Report (p. 5)**
- **Charlotte Convention Center Tradeshow & Convention Booking Outlook (p. 6)**
- **Hospitality Industry Sales Activities (p. 7)**
- **Lost Business Report (p. 8)**
- **Occupancy Tax Collections (p. 9)**
- **Prepared F&B Tax Collections and The Economy (p. 10)**

HOSPITALITY INDUSTRY STATISTICAL REPORT
October 2011

Charlotte Market Lodging Production					
	Charlotte Market	**North Carolina**	**Competitive Set**	**United States**	**Top 25**
September 2011 Occupancy %	62.5	58.8	63.6	63.3	67.7
% Change	7.8	6.8	6.1	4.6	5.4
September 2011 ADR $	82.70	83.52	92.57	103.40	129.18
% Change	3.2	3.3	4.6	4.0	4.5
September 2011 RevPAR $	51.68	49.08	59.59	65.47	87.44
% Change	11.3	10.3	11.0	10.0	10.1
2011 YTD Occupancy %	62.4	57.2	61.9	61.6	67.9
% Change	7.2	4.6	5.4	4.6	4.8
2011 YTD ADR $	81.78	81.66	90.90	101.45	122.16
% Change	3.3	2.3	3.2	3.6	4.6
2011 YTD RevPAR $	51.06	46.73	56.67	62.54	82.96
% Change	10.7	7.0	8.8	8.3	9.6

Source: Smith Travel Research-Stats lag by one month

Comp Set includes: Tampa, Atlanta, Indianapolis, Baltimore, Minneapolis, St. Louis, Greensboro, Raleigh, Cincinnati, Columbus, Philadelphia, Pittsburgh and Nashville

Charlotte Douglas International Airport Aviation Production				
	Month of September	**% Chg from Sept. '10**	**2011 YTD**	**YTD % Chg from '10**
Passenger Enplanements	Unavailable	Unavailable	Unavailable	Unavailable
Passenger Deplanements	Unavailable	Unavailable	Unavailable	Unavailable

Source: Charlotte Douglas International Airport-Stats lag by one month

Visit Charlotte Definite Room Night Production				
	Month of October	**Change from October 2010**	**FY 2012 YTD**	**YTD Chg (%) from FY10**
Total Room Night Production	13,058	-4,917	120,131	44,340 (59%)
Visitor Economic Development ($)	6,681,432	-8,257,786	73,668,992	-9,785,708 (-12%)
Number of Definite Bookings	27	12	111	28 (34%)
Average Size of Definite Bookings	484	-714	1,082	169 (19%)
Total Attendance	22,678	-21,879	167,014	-21,647 (-11%)
Convention Center GSF Booked	1,680,000	1,280,000	11,440,000	5,100,000 (80%)

Visit Charlotte Lead Room Night Production				
	Month of October	**Change from October 2010**	**FY 2012 YTD**	**YTD Chg (%) from FY10**
Total Room Night Production	59,338	13,068	342,815	-26,394 (-7%)
Number of Lead Bookings	51	-5	239	29 (14%)
Average Size of Lead Bookings	1,163	337	1,434	-324 (18%)

Visit Charlotte Housing Bureau Production			
	Month of October	**FY 2012 YTD**	**YTD% Chg from FY10**
Total Reservations Produced	531	3,386	-6%
Total Room Nights Produced	1,461	9,479	-13%

Visit Charlotte Leisure Tourism Promotion & Production			
	Month of October	**FY 2012 YTD**	**YTD % Chg from FY10**
Advertising Impressions	18,854,742	35,421,415	N/A
www.charlottesgotalot.com Visitors (Google)	137,637	521,640	48%
Motor Coach Group Bookings (Passengers)	1,153	1,941	-8%

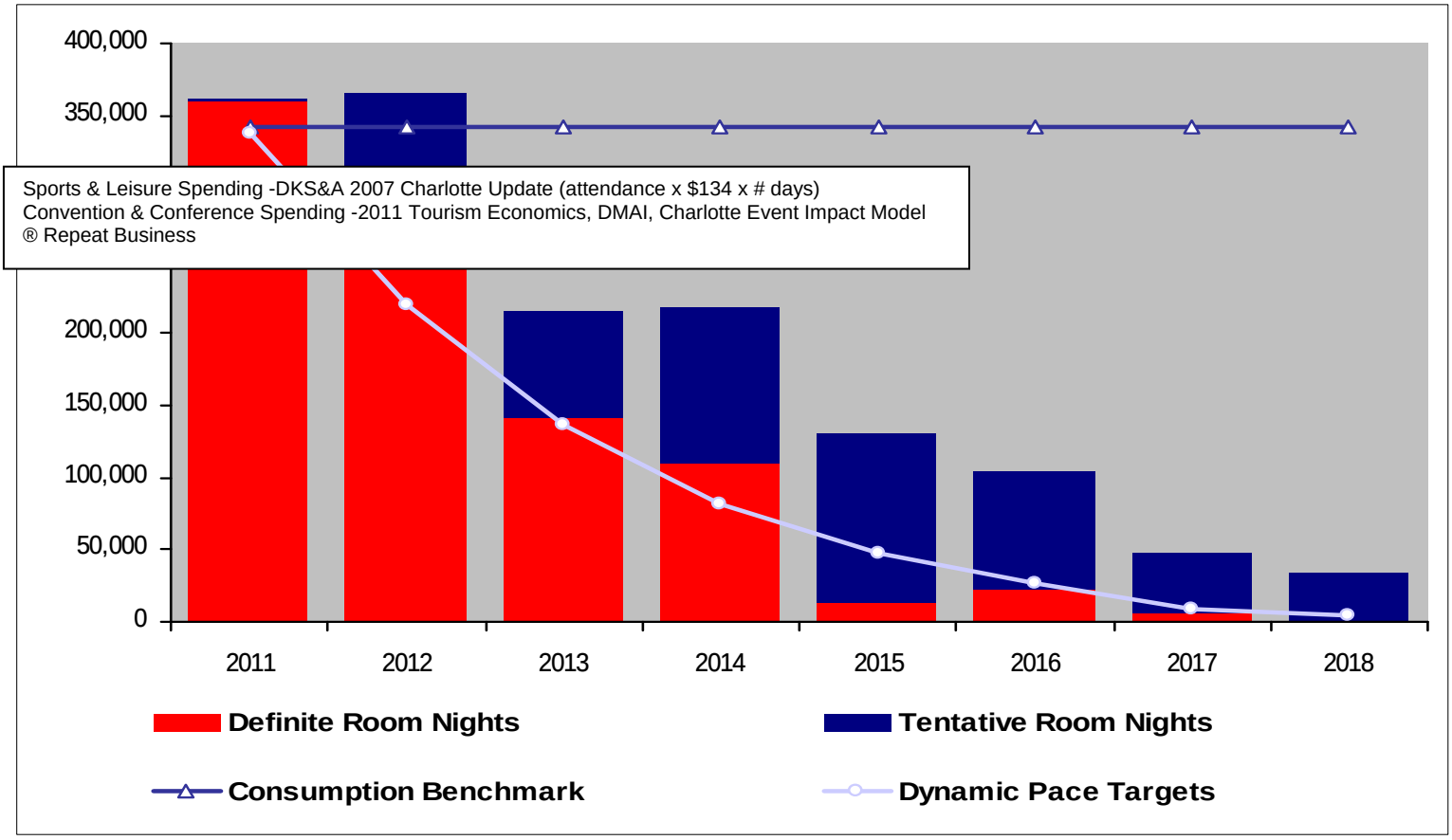
DEFINITE BOOKINGS
October 2011

Charlotte Convention Center							
Group Name	**Meeting Type**	**Event Date**	**Days**	**Exhibit Gross Sq Ft**	**Total Room Nights**	**Attend**	**Dir. Visitor Econ. Dev. ($)**
Wells Fargo Bank, NA ®	Meeting	Nov. '11	1	0	35	225	58,192
Seguro Group	Convention	May '12	2	0	100	200	96,937
Universal Spirit ®	Assembly	Jan. '12	2	1,680,000	8,033	18,000	4,824,000
Peform Better	Meeting	Oct. '12	2	0	182	200	79,900
Total				**1,680,000**	**8,350**	**18,625**	**5,059,029**

Conference Sales					
Group Name	**Event Date**	**Days**	**Total Room Nights**	**Attendance**	**Dir. Visitor Econ. Dev. ($)**
Theta Xi Fraternity	Oct. '11	2	24	13	4,129
Healthcare Information Mgmt. Systems Society	Oct. '11	1	5	100	21,205
ConvaTec	Oct. '11	5	95	20	11,266

Bojangles' Restaurants, Inc. ®	Oct. '11	2	90	80	25,410
Nuclear Energy Insider ®	Nov. '11	2	50	100	31,762
The Renaissance Education Group, Inc.	Jan. '12	2	139	60	19,332
North Carolina Nurses Association	Feb. '12	1	0	100	21,477
AME Zion ®	Feb. '12	3	1,108	1,000	449,208
Affinity Group, Inc.	Feb. '12	3	128	50	25,236
Charlotte Scrabble Club ®	Feb. '12	3	105	120	53,904
NC International Dyslexia Association	Mar. '12	2	125	100	32,219
NC Association of Nurse Anesthetists	Mar. '12	2	60	200	64,440
Association of American Medical Colleges	Apr. '12	3	80	40	17,969
LifeWay Christian Resources	May '12	1	260	100	21,477
ConvaTec	Jun. '12	2	113	30	9,665
Honeywell – Miller Wedding	Jun. '12	2	30	100	32,219
Sweat Family Reunion	Jul. '12	2	60	150	48,330
Renal Physicians Association	Sep. '12	1	27	65	13,961
Society of American Military Engineers	Oct. '12	3	93	100	44,921
South Eastern Assoc. for Clinical Microbiology	Nov. '12	3	250	175	78,612
National Defense Industrial Association ®	Feb. '13	3	650	300	136,671
Catholic Daughters of the Americas	Apr. '13	2	110	150	48,977
American Society of Civil Engineers	Oct. '13	3	1,106	900	410,013
Total			**4,708**	**4,053**	**1,622,403**
GRAND TOTAL			**13,058**	**22,678**	**6,681,432**

Eight Year Dynamic Room Night Pace Report
(As of 10/1/11) Trends Analysis Projections, LLC



Eight Year Dynamic Room Night Pace Report
(As of 10/1/11) Trends Analysis Projections, LLC

	2011	2012	2013	2014	2015	2016	2017	2018	Total
Charlotte Definite Room Nights	360,701	305,226	141,029	109,632	13,483	22,709	5,937	0	958,717
Pace Target	338,223	218,813	136,047	81,004	47,948	26,911	9,252	5,101	863,299
Pace Percentage	107%	139%	104%	135%	28%	84%	64%	0%	111%
Tentative Room Nights	436	61,082	73,267	107,511	116,724	80,669	41,790	33,513	514,992
Consumption Benchmark	342,749	342,749	342,749	342,749	342,749	342,749	342,749	342,749	2,741,992
Peer Set Pace Percentage	98%	103%	89%	86%	117%	105%	87%	139%	98%

Peer Set Data includes Charlotte, Baltimore, Louisville, Pittsburgh and Tampa

Charlotte Convention Center
Tradeshow & Convention Booking Outlook
(As of 11/2/11)

t
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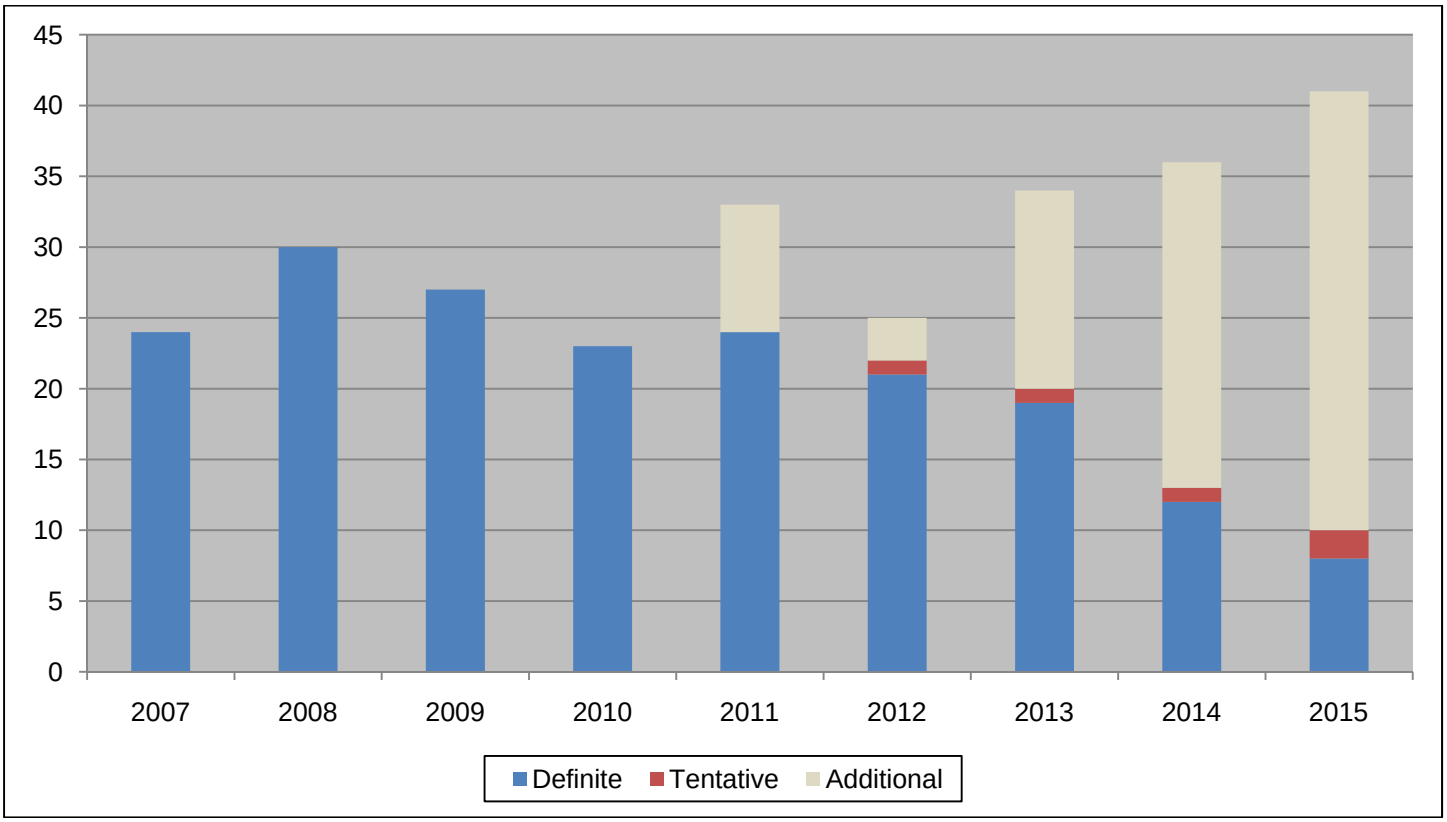


Charlotte Convention Center
Tradeshow & Convention Booking Outlook
(As of 11/2/11)

Fiscal Year	2007	2008	2009	2010	2011	2012	2013	2014	2015
Definite Bookings	24	30	27	23	24	19	20	12	8
Tentative Bookings	0	0	0	0	0	1	1	0	2
Subtotal	24	30	27	23	24	20	13	12	10
Definite Target	20	21	26	30	33	25*	34*	36*	41
Variance	4	9	1	-7	-9	-5	-17	-24	-31

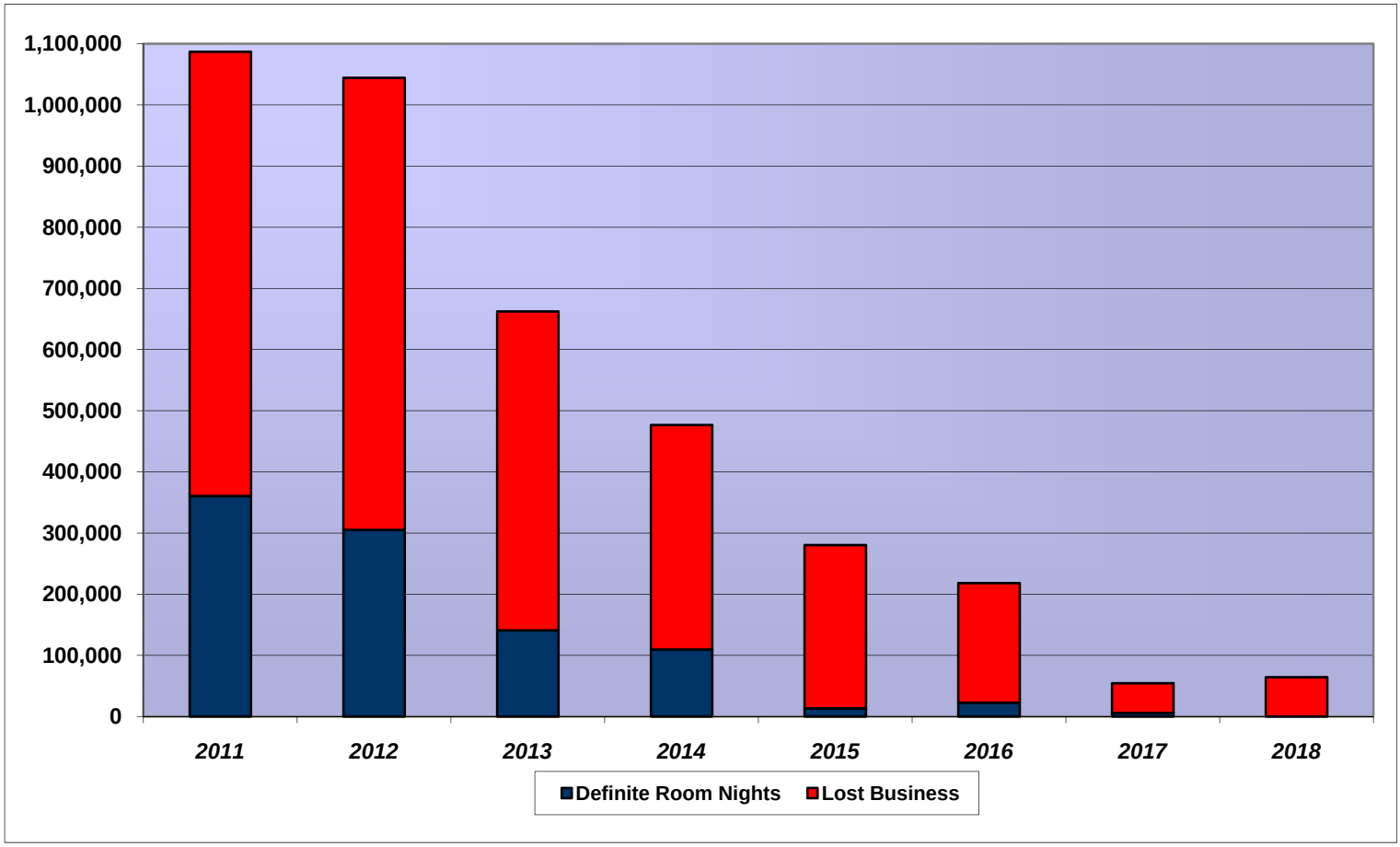
*new goal beginning FY11

HOSPITALITY INDUSTRY SALES ACTIVITIES
October 2011

Site Visits			
Group Name	**Venue**	**Total Room Nights**	**Total Attendance**
DEFINITES			
National Assoc. of Church Business Admin. (July 2013)	CCC	8,390	1,300
TENTATIVES			
USA Pentathlon (March 2012)	CCC	1,374	1,000
Independent Armored Car Operators Association (June 2013)	Hotel	383	110
Women of the Evangelical Lutheran Church in America (July 2014)	CCC	6,023	3,000

Trade Shows & Events (attended by staff)	
Event Name	**Location**
IMEX America	Las Vegas, NV
National Funeral Directors Association	Chicago, IL
TEAMS Conference	Las Vegas, NV

Visit Charlotte Pace vs. Demand Comparison – Lost Business (As of 10/1/11)Trends Analysis Projections, LLC



Visit Charlotte Pace vs. Demand Comparison – Lost Business (As of 10/1/11)Trends Analysis Projections, LLC

	2011	2012	2013	2014	2015	2016	2017	2018	Total
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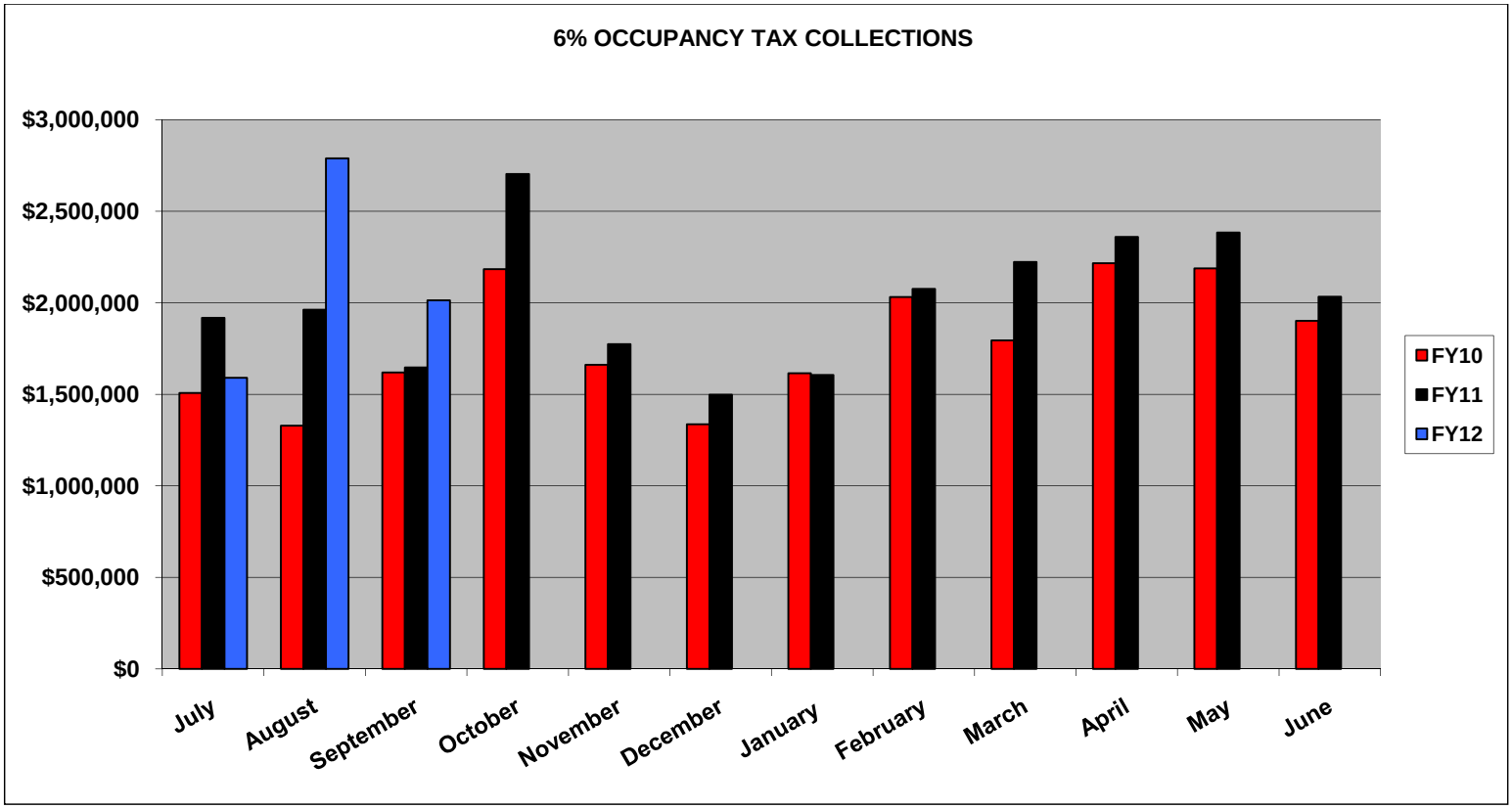
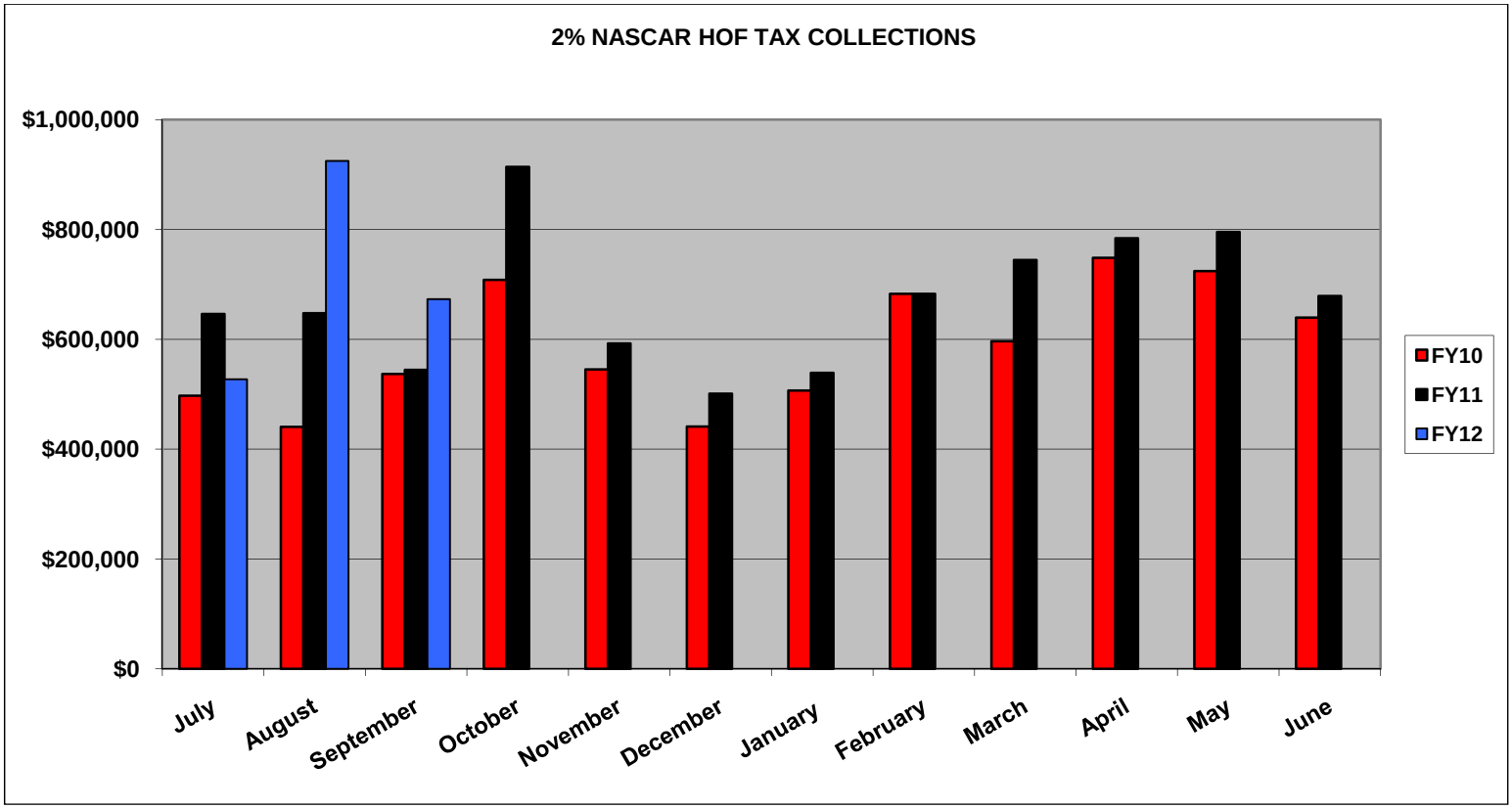
Pace Target	338,223	218,813	136,047	81,004	47,948	26,911	9,252	5,101	863,299
Pace Percentage	107%	139%	104%	135%	28%	84%	64%	0%	111%
Total Demand Room Nights	1,087,097	1,044,354	662,357	476,682	280,368	218,283	54,464	64,292	3,887,893
Lost Room Nights	726,392	739,128	521,328	367,050	266,885	195,574	48,527	64,292	2,929,176
Conversion Percentage	33%	29%	21%	23%	5%	10%	11%	0%	25%
Peer Set Conversion Percentage	27%	24%	21%	20%	24%	25%	19%	18%	24%

Peer Set Data includes Charlotte, Baltimore, Louisville, Pittsburgh and Tampa


6% OCCUPANCY TAX COLLECTIONS
$3,000,000
$2,500,000
$2,000,000
$1,500,000
$1,000,000
$500,000
$0
July
August
September
October
November
December
January
February
March
April
May
June
FY10
FY11
FY12


2% NASCAR HOF TAX COLLECTIONS
$1,000,000
$800,000
$600,000
$400,000
$200,000
$0
July
August
September
October
November
December
January
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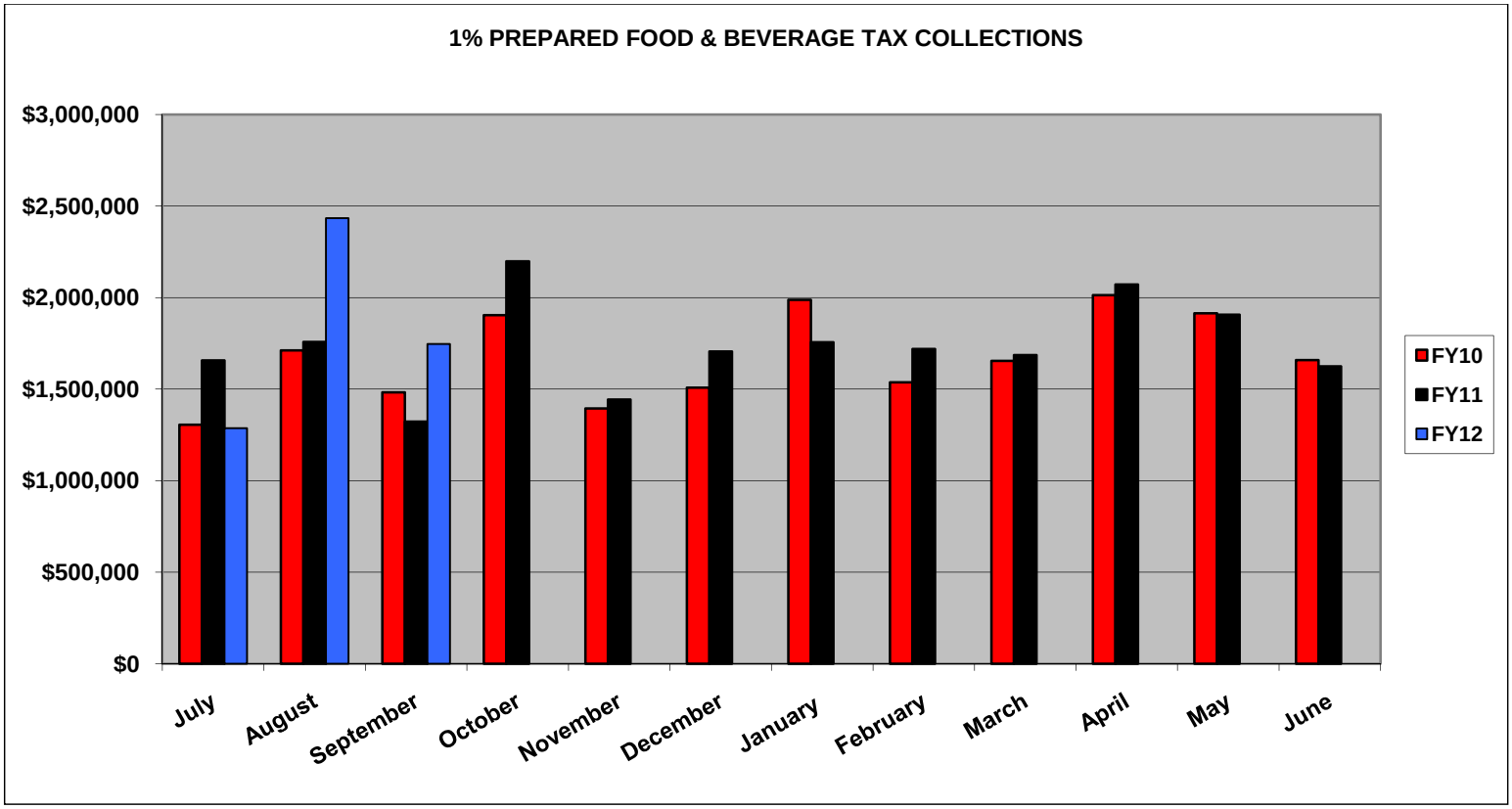
March
April
May
June
FY10
FY11
FY12



THE ECONOMY
September 2011

	2010	2011	% Change
Consumer Confidence Index	48.5	46.4	-4.3%
Consumer Price Index (CPI)	218.439	226.889	3.8%
Unemployment Rate			
- National	9.6%	9.1%	-5.2%
- State	10.0%	10.5%	5.0%
- Local	10.7%	10.7%	0.0%