CHARLOTTE.

CITY MANAGER'S OFFICE
M E M O R A N D U M

June 25, 2010

TO: Curt Walton, City Manager
Ron Kimble, Deputy City Manager

FROM: Dana Fenton, Intergovernmental Relations Manager

SUBJECT: **Week 6 State Legislative Update**

HOT TOPIC

The committee of conference appointed to resolve differences between the House and Senate budgets is apparently moving to a speedy conclusion such that leadership believes the budget will be passed before the July 1 fiscal year start.

One issue that has purportedly been resolved is the Mobility Fund. House budget passed June 4 included a modified version of the Mobility Fund proposed by the Governor while the Senate budget passed May 18 did not. House proposal includes funding from Highway Trust Fund transfers to widen I-85 north of the Yadkin River Bridge while the Governor's proposal included both transfers and fee increases to fund the Yadkin River Bridge replacement, more interstate maintenance and supplemental Powell Bill funds. Mobility Funds would not be subject to the Equity Formula, which is good for Charlotte, as Equity Formula funding tends to minimize the amount of transportation funding needed for high growth areas. The Senate is now conceding that the Mobility Fund should be included in the budget.

Both House and Senate budgets count on the federal government extending the enhanced Federal Medicaid Assistance Program (FMAP) match for an additional six months which would provide $490 million for North Carolina in FY 2011. At this point, the Congress has not approved the FMAP extension. Nationwide 26 states have adopted budgets that count on the extension being granted. If the Congress does not appropriate the funds, then the State will have to make deeper reductions to its budget that will likely have consequences upon local governments. House and Senate conferees are working on a plan to reduce the General Fund budget by this amount in the event the Congress does not appropriate the funds.

DEVELOPING ISSUES

- Broadband (SB 1209 – Hoyle, HB 1840)

Senate passed substitute version of the broadband bill introduced by Senator Hoyle. The substitute calls for a study of how local governments may compete with private telecommunications providers in the provision of cable television and internet services to businesses and residents. The substitute places a moratorium on local governments using debt not requiring a vote of the public to finance the purchase, maintenance and repair of a "communication system" that enable cable television and Internet service to be provided to residents and businesses. The definition of a "communication system" has been written to exclude internal governmental networks similar to what the City of Charlotte is envisioning for the proposed public safety broadband system. There are several exemptions from the moratorium for those localities that have already started to develop or have been operating such systems, and those that need the funding in order to match federal grants. The moratorium will be in place while the Revenue Laws Study Committee examines the issue and until a bill passed during the 2011 session becomes effective or if a bill is not enacted the adjournment of the 2011 session. Referred to House Ways and Means/Broadband Connectivity. On June 23, Senate Rules and Operations amended HB 1840 to reflect SB 1209 in order to have a second vehicle ready in the event the House rejects the proposed moratorium as private telecommunications providers found House members are generally not supportive of a moratorium.

- Towing from Private Lots (SB 1136 – Rucho / HB 1866 - Earle)

Senate passed substitute version of SB 1136 that includes language requested by the City of Charlotte to make clear that this legislation will not preempt the ability of local governments to maintain towing ordinances, including rates that towers can charge. As introduced by Senator Rucho SB 1136 strengthens regulation of towing from private lots in certain localities, including Charlotte, and added Mecklenburg County to the list of localities covered by the statute. Bill was introduced in reaction to a vehicle parked without permission in a private lot in Huntersville that was subsequently towed to the towers lot in Shelby. Due to the distance, the owner was unable to pick up the vehicle for a considerable amount of time. Bill would require signs to display name and phone number of towing company, prevent transport of vehicle more than 15 miles away from place of removal and limit fees charged to those that are "reasonable." SB 1136 has been referred to House Local Government II. Hearing has not yet been scheduled.

- 911 (HB 1691 - Bryant)

Both House Public Utilities Committee and House Finance reported substitute version of legislation making substantial changes to the 911 system governing how funds received from the State for the receipt of emergency calls may be used and their distribution methods. The expanded uses of funds for dispatch uses will be beneficial to the City. However another provision reverting from a statutory based per capita method of distribution to a formula developed by the 911 Board would insert a level of uncertainty into the annual budgeting process. The City receives approximately $4.8 million per year from the fund. Amendment requested by the City requiring 911 Board to report to the General Assembly within 45 days of changes to the formula, which is designed to continue General Assembly interest in this issue in the future was included in the version that was reported out of committee. Passed House.

- Interbasin Transfers (SB 1169 - Clodfelter / HB 1765 - Gibson)

Bills introduced by Senator Clodfelter and Representative Gibson of Anson County at the request of the Environmental Resource Commission to authorize the Department of Environment and Natural Resources to use injunctive relief to ensure compliance with Interbasin Transfer laws will be amended to remove the proposed injunctive relief. It became apparent while meeting with staff from the City of Charlotte and Union County that DENR already possesses sufficient authority to enforce IBT statutes. Thus the section of the bills calling for a "clarification" of existing law has been amended out of the bills. Substitute version of HB 1765 reported out of House Environment and Natural Resources and re-referred to House Finance.

- River Basin Modeling (SB 1170 - Clodfelter / HB 1763 - Gibson)

Legislation calling on Department of Environment and Natural Resources to develop single hydrologic model for each of the river basins in the State, including the Catawba River. This model would eventually govern withdrawal limits from each basin. City staff is working with other stakeholders, including the bill sponsors to ensure that the efforts expended to develop a Catawba River Basin model are recognized in the legislation. SB 1170 was on Senate Agriculture June 24 agenda but was pulled from agenda at last minute.

- ABC Reform (SB 1112 - Vaughan / HB 1717 – M. Lucas)

Companion bills were introduced to reform local Alcoholic Beverage Control system. The issues for the City are ensuring current streams of revenue from such activities, and enforcement activities by CMPD continue. Mecklenburg ABC Board has local legislation (S.L. 1997-224) authorizing Board to enter contractual arrangements for additional law enforcement services, which is purportedly not impacted by these bills; amendment has been drawn up for Senate sponsor to request in upcoming committee meeting to clarify this understanding. HB 1717 was reported favorably out of House ABC and House State Government/State Personnel and passed House. HB 1717 will be heard Tuesday June 29 in Senate Judiciary II.

- Sales Tax on Accommodations (SB 1185 – Hartsell / HB 1828 – Luebke)

Companion bills introduced to clarify that the sales tax on hotel accommodations is based on the sales price paid by the consumer regardless of whether it is paid to the hotel or to a third party. Third party providers such as Hotel.Com charge and remit sales taxes on the amount the third party pays for rooms instead of the amount the consumer pays for rooms resulting in lower revenues remitted to local governments. The issue for the City is that it would receive additional revenue if this legislation is enacted. This issue may be addressed through the state budget.

- Internet Sweepstakes Café (HB 80, SB 1407 – Boseman / HB 2030 – K. Alexander)

Senate passed substitute HB 80 to ban all Internet Sweepstakes Cafes, a move supported by the League of Municipalities. Legislation to preempt all local ordinances related to internet sweepstakes cafes and place control of such under the State Lottery Commission (SB 1407) and to regulate cafes (HB 2030) were introduced but have not been heard and have not been scheduled. House reportedly would prefer to study the issue further and consider legislation in 2011 session.

- Eminent Domain (HB 1659 – Stam)

Legislation introduced to amend the State Constitution to ban the use of eminent domain for economic development for general economic development purposes, even though state statute already forbids such use. Referred to House Judiciary II.

- Governmental Ethics Reform (HB 961 – Glazier)

Senate committee passed substitute version of ethics legislation to more comprehensively address ethic reform. Bill was calendared for floor vote on June 23 but was pulled and re-referred to Senate Judiciary II. Apparently section on new fees to fund public campaigns became issue after these were referred to as new "taxes". Sections in bill impact local governments including amendment to Personnel Privacy Act requiring local governments to provide date and time of <u>each</u> increase and decrease in salary and promotion, demotion, transfer, suspension, separation, or other change in position classification <u>instead of the most recent</u>, and allows for mediation of public records disputes through the courts prior to lawsuits being filed.

LEGISLATIVE AGENDA

- Business Privilege License Tax

At this point in time, legislation has not been filed impacting the City's ability to collect the Business Privilege License Tax. While it has been reported that some members would desire to address this issue in the short session, there is a greater desire to adopt a state budget before the end of June and adjourn shortly thereafter while addressing this and other tax issues in 2011.

- Annexation

2009 HB 524, which was passed by the House on July 23, 2009 and sent to the Senate, was re-referred by the Senate from Senate Finance to Senate Rules and Operations.

- Retention of State's Minimum 50% of Non Federal match on Transit Projects

No action taken on this issue.

- State Participation in Non-Federal Transit Projects

No action taken on this issue.

- State Maintenance Funding on Rail Transit Projects

No action taken on this issue.

- Charlotte Firefighters Retirement System (HB 1934 – M. Alexander / SB 1336 (Graham)

City requested legislation, HB 1934 reported favorably out of both House Local Government I and House Pensions and Retirement, and passed House on June 10. HB 1934 reported from Senate Pensions on Wednesday, June 16, and passed Senate on June 17. HB 1934 signed by Governor June 21.

- Law Enforcement Officers Emergency Fund (HB 1935 – M. Alexander / SB 1402 – Graham)

City requested legislation, HB 1935 (M. Alexander) reported favorably out of House Local Government I and House Pensions and Retirement, and passed House on June 10. HB 1935 reported from Senate Pensions on Wednesday, June 16, and passed Senate on June 17. HB 1935 signed by Governor June 21.