

TOWN OF WAYNESVILLE, NC

Board of Aldermen – Regular Meeting

Town Hall, 9 South Main Street, Waynesville, NC 28786

Date: **September 10, 2013** Time: **7:00 p.m.**

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(828) 452-2491*

townclerk@townofwaynesville.org

A. CALL TO ORDER - Mayor Gavin Brown

1. Welcome/Calendar/Announcements
2. Proclamation in Remembrance of the Events of 9/11/2001
3. Adoption of Minutes

Motion: *To approve the minutes of August 27, 2013 (regular session), as presented [or as corrected].*

B. NEW BUSINESS

(Reports only; no action requested at this time)

4. Surplus Property Disposition Report – Purchasing Supervisor Julie Grasty
5. Review of 2013 Legislation enacted by NC General Assembly – Town Manager Marcy Onieal

C. COMMUNICATIONS FROM STAFF

6. Town Manager – Marcy Onieal
 - Lake Junaluska Merger Update
 - Street Performer Ordinance Update
 - Skateboard Park Update
 - Recreation Master Plan/Tennis Court/Restroom Updates
 - Leadership Haywood
 - MPA Intern
 - Town Clerk Hiring Update
 - Schedule Checks Sep 17/24 Meetings
 - Potential Cell Tower –Dutch Fisher Park

TOWN OF WAYNESVILLE – REGULAR SESSION AGENDA

August 27, 2013

- 2 -

12. Town Attorney – Woody Griffin

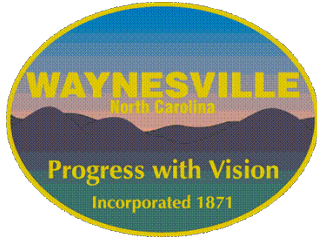
E. COMMUNICATIONS FROM MAYOR & BOARD OF ALDERMEN

F. CALL ON THE AUDIENCE

G. ADJOURN

ACTION ITEMS ANTICIPATED AT UPCOMING REGULAR MEETINGS:

- Approval of Deed Transfer-Property Conversion for U4412 Howell Mill Road Project
- Consideration of Property Purchase
- Disposition of Surplus Property
- Adoption of Boards & Commissions Manual
- Award of IT Services Contract
- N. Main Street Corridor Plan (PH)



TOWN OF WAYNESVILLE

PO Box 100
16 South Main Street
Waynesville, NC 28786
Phone (828) 452-2491 • Fax (828) 456-2000
www.townofwaynesville.org

CALENDAR September 10, 2013

Fri, Sep 6 5:30 PM Downtown Minipark Corner of Depot & Main	"Wildflowers of the Smokies" by Grace Cathey Dedication Ceremony & Reception for Public Art Piece Waynesville Public Art Commission
Fri, Sep 6 6:00 – 9:00 PM Downtown	Art After Dark, Gallery Stroll Haywood County Arts Council
Tue, Sep 10 7:00 PM Town Hall Board Room	Board of Aldermen, Regular Meeting (<i>Town Manager absent due to ICMA conference</i>)
Wed, Sep 11 10:30AM – 1:30PM Courthouse Lawn	9/11 Prayers of Remembrance Haywood County Courthouse Lawn
Sat, Sep 14 6:00 PM 1 st Methodist Church Gym Haywood St., Waynesville	Haywood County Emergency Responders Annual Dinner and Recognition
Tue, Sep 17 5:30 PM/5:00 PM (Dinner avail) Location TBA	Fall Board Retreat/Mgr Evaluation
Sa-Sa, Sep 21-Oct 5	NCDOT Annual Litter Sweep (Volunteers needed) 1-800-331-5864
Tue, Sep 24 7:00 PM Town Hall Board Room	Board of Aldermen, Regular Meeting
Wed, Sep 25	GroWNC Final Report Presentation Land of Sky Board & French Broad MPO
Fri, Oct 4 6:00 – 9:00 PM Downtown	Art After Dark, Gallery Stroll Haywood County Arts Council
Tue, Oct 8 7:00 PM Town Hall Board Room	Board of Aldermen, Regular Meeting
Wed, Oct 9 6:00 PM Asheville Ballroom & Dance Ctr	Land-of-Sky Regional Council Member Governments Annual Report

Thu, Oct 10 5:30 – 8:00 PM Regional High Tech Center/HCC 85 Freedlander Drive	OPT-IN Workshop for Haywood County Elected Officials Southwestern Commission Regional Visioning Workshop
Su-Tu, Oct 13-15 Hickory Metro Convention Ctr	NCLM Annual Conference Hickory, NC
Tue, Oct 22 7:00 PM Town Hall Board Room	Board of Aldermen, Regular Meeting
Mon, Oct 28 5:30-Dinner/6:00-Meeting Municipal Bldg-Old Board Rm	Haywood County Council of Governments Waynesville Hosting
Fri, Nov 1 6:00 – 9:00 PM Downtown	Art After Dark, Gallery Stroll Haywood County Arts Council
Tue, Nov 12 7:00 PM Town Hall Board Room	Board of Aldermen, Regular Meeting
We-Sa, Nov 13-16	National League of Cities Annual Congress of Cities Seattle, WA
Tue, Nov 26 7:00 PM Town Hall Board Room	Board of Aldermen, Regular Meeting
Fri, Dec 6 6:00 – 9:00 PM Downtown	Art After Dark, Gallery Stroll Haywood County Arts Council
Tue, Dec 10 7:00 PM Town Hall Board Room	Board of Aldermen, Regular Meeting
Tu-We, Dec 24-25	Christmas Holiday Offices Closed

BOARD/STAFF OUT-OF-OFFICE SCHEDULE

Fr, Sep 6	Assistant Town Manager	Vacation
Mo-Fr, Sep 9-13	Alderman Greeley	Out-of-Town
We, Sep 10	Town Manager	Leadership Haywood Moonshadow Challenge Course, Whittier, NC
Tu, Sep 24	Alderman Roberson	Out-of-Town
Su-Su, Sep 22-25	Town Manager	ICMA Annual Conference Boston, MA
We-Th, Oct 2-10	Alderman Freeman	Out-of-Town
Th-Mo, Nov 7-11	Assistant Town Manager	Vacation
We-Fr, Nov 15-17	Assistant Town Manager	NCLGISA Annual Conference Pinehurst, NC
Su-Su, Dec 29-Jan 5	Town Manager	Vacation

PROCLAMATION

IN REMEMBRANCE OF THE EVENTS OF SEPTEMBER 11, 2001

WHEREAS, on September 11, 2001, terrorists attacked America, causing great loss of innocent life and tremendous damage on American soil; and

WHEREAS, the events of that day instantly transformed the lives of Americans, through personal loss and a sense of individual and national vulnerability; and

WHEREAS, many first responders and civilians tirelessly and courageously participated in dangerous rescue and recovery efforts, risking or forfeiting their lives for the safety of others; and

WHEREAS, we pay tribute to the selfless heroes and innocent victims of September 11, 2001, and reaffirm the spirit of patriotism, service and unity that we felt in the days and months that followed; and

WHEREAS, Wednesday, September 11, 2013 will be the 12th anniversary of the 9/11 tragedy;

WHEREAS, events occurring around the World today make it clear that similar events may happen again;

NOW, THEREFORE, the Town of Waynesville Board of Aldermen, do unanimously hereby proclaim a

“Moment of Remembrance”

on September 11, 2013 in the Town of Waynesville, NC and urge our citizens to dedicate September 11 of each year as a day to mourn, reflect, remember and honor the victims and innocent lives lost as a result of the events of September 11, 2001 and pay tribute to the brave men and women who serve in our nation’s military that were called upon to leave their families and risk their lives to fight and defend America.

This the 10th day of September, 2013.

TOWN OF WAYNESVILLE

Gavin A. Brown, Mayor

MINUTES OF THE TOWN OF WAYNESVILLE BOARD OF ALDERMEN
REGULAR MEETING
August 27, 2013

THE WAYNESVILLE BOARD OF ALDERMEN held a regular meeting on Tuesday, August 27, 2013 at 7:00 p.m. in the board room of Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Mayor Brown called the meeting to order at 7:00 p.m. with the following members present:

Mayor Gavin Brown
Alderman Gary Caldwell
Alderman Julia Freeman
Alderman Wells Greeley
Alderman LeRoy Roberson

The following staff members were present:

Marcy Onieal, Town Manager
Woodrow Griffin, Town Attorney
Alison Melnikova, Assistant Town Manager
Eddie Ward, Deputy Clerk
Eddie Caldwell, Finance Director
Rhett Langston, Parks and Recreation Director
Julie Grasty, Purchasing Supervisor

Representing the media:

Mary Ann Enloe, the Mountaineer

1. Welcome /Calendar/Announcements

Mayor Brown welcomed everyone and referred everyone to the calendar of events received in the agenda packets. Some highlights brought to the Board's attention by Manager Onieal were the Fall Board Retreat and manager evaluation scheduled for 5:00 Tuesday, September 17, the Haywood County Emergency Responders annual dinner and recognition program on September 24, the NCDOT Annual Litter Sweep September 21st – October 5th and the OPT – In work shop for Haywood County elected officials at the Regional High Tech Center on October 10.

2. Adoption of Minutes

Alderman Caldwell made a motion, seconded by Alderman Greeley to approve the minutes of the August 13, 2013 meeting as presented. The motion passed unanimously.

B. NEW BUSINESS

3. Request by Tuscola Jr. ROTC for program funding in FY13-14

Representatives from the Tuscola High School Air Force Junior ROTC came before the Board to ask for FY13-14 program funding. First Lt. Stefan Emsheimer, Command Chief, Master Sergeant Adam Williams, Tech Sergeant Samuel Moore, and Tech Sergeant McKayla Warren explained that when the sequester was put into effect, it became difficult to offer all the educational and life experiences unique to the AFJROTC program. The funding from the Town will enable the ROTC to send care packages for deployed troops, help with local food drives and food pantries, and sponsor a Veterans Day luncheon, all programs coordinated by the AFJROTC members.

A motion was made by Alderman Caldwell, seconded by Alderman Greeley to approve FY13-14 program funding in the amount of \$1500.00 for Tuscola Air Force Jr. ROTC, as requested. The motion passed unanimously.

4. Multijurisdictional Memorandum of Understanding with Haywood County for Public Safety Information Technology (IT) Support Services

Manager Onieal said that for the last several years, the Town Police Department has received IT support from the Haywood County Information Technology Department at no charge. With this support the Town has been able to avoid the cost of hiring a full time technician and still have access to the depth of knowledge available from the County IT staff, but that Town projects have understandably been low priority for county staff. The need for additional IT support in the Police Department has now reached a level where Haywood County has requested the Town to provide payment for the service and in return the Town will receive the service of a new dedicated/shared public safety IT technician position. This position is funded by the County but the employee's hours and costs are to be shared among the County, Town of Waynesville, and Maggie Valley. Waynesville will receive no less than 6 hours of onsite technical work each week, as well as twenty-four hour support. This service will still be needed and will not conflict or duplicate service to be provided by the Town's new IT support vendor, when the Town-wide contract is issued later this fall.

A motion was made by Alderman Freeman, seconded by Alderman Caldwell, to approve the Memorandum of Understanding with Haywood County IT Support Services and the Town of Maggie Valley as presented. The motion passed unanimously.

5. Updates to the Town's Purchasing Policy

Manager Onieal said that Waynesville operates with a central purchasing system, and this allows for efficient and strategic use of a variety of purchasing methods. Some significant revisions were made to the policy in 2011, and revisions of the policy being presented now include buying environmentally responsible (green) goods and services, and the threshold for capital purchases is being raised from \$1500.00 to \$5000.00.

Julie Grasty, Purchasing Supervisor, stated every employee who has a town issued credit card must sign the internal agreement annually. Also, a section on the purchase of vehicles and other rolling stock has been added to clearly outline departmental and purchasing department responsibilities.

A motion was made by Alderman Greeley, seconded by Alderman Roberson, to adopt the revised Purchasing Policy as presented. The motion passed unanimously.

6. Recreation Master Plan/Tennis Court/Restroom Updates & Proposal

Manager Onieal noted that since the Recreation Center restroom project had been stalled for design and budgetary reasons, Parks and Recreation Director Rhett Langston had been working with the Recreation Commission to look at what will be best for the long term outlook for the Parks and Recreation. In addition, said there had been numerous requests from the public to resurface existing and build additional tennis courts. Given the changing circumstances surrounding the expressed needs, condition and use of park property since she arrived, she proposed that the Town engage in a Parks Master Planning process rather than addressing each request piecemeal without a plan. She asked Mr. Langston to report on recent Commission discussions regarding various staff proposals to address immediate needs.

Mr. Langston said that the Commission voted unanimously to pursue a plan to authorize the expenditure of up to \$130,000.00 in FY 13-14 for three items, the first being a pre-fab restroom for general public use. Much like an RV, the restrooms will be fully functional with fresh running water, power, and winterization and mobile capability. These restrooms may also be used at street festivals in the downtown area or other areas in which permanent restrooms may not be adequate or functional.

The second proposal calls for resurfacing six existing tennis courts, which should give the courts an additional 5-6 years of playable life until a Master Plan can be completed and implemented.

Finally, the Recreation Department is asking for approval to hire an outside consultant to develop a Master Development Plan for all the Town's parks and other Town-owned property suitable for recreation purposes, and to identify any unmet or potential needs for recreational programming in the future. The Town's facilities were included in a county-wide comprehensive recreation plan developed by Haywood County in 2006, with the plan was to be reviewed in 5 years. That has not taken place and many of the projects included in the plan have not been funded, so the Town is in need of review, updating, and coordinating its own plans regardless of what has been done in other jurisdictions.

A motion was made by Alderman Greeley, seconded by Alderman Caldwell, to authorize the expenditure of up to \$130,000.00 in FY13-14 for: 1) the development of a Recreation Master Plan, 2) resurfacing of six existing tennis courts and 3) purchase of an ADA-accessible mobile restroom unit; and to authorize staff to proceed with hiring an outside consultant to develop the recreation master plan. The motion passed unanimously.

C. **UNFINISHED BUSINESS**

7. Public Hearing to Consider Amendments to Section 14 of the Code of Ordinances, to provide for the permitting of Street Performances on Public Property

Manager Onieal said the Town has received multiple requests from both performers and the general public to allow street performers to play for tips without being in violation of the town's panhandler ordinance. Town Staff has developed an ordinance that would allow street performers to be permitted to perform on public properties (sidewalks and grounds of public facilities) provided certain conditions are met. The new ordinance will allow performances in designated areas for donations. The ordinance requires a payment of a \$25.00 privilege fee, criminal background check, photo ID, and a set

of rules expressly outlining what is and is not allowed. Downtown Waynesville Association was consulted and is supportive in the development of the ordinance.

Attorney Woodrow Griffin opened the Public Hearing and asked if anyone had any comments on the issue.

Bill Ierna, Waynesville, NC

Mr. Ierna stated he had been performing music for many years and has played in many cities. He is very anxious to start playing music on the street and wants to start immediately.

Larry Martin, 349 Avery Patrick Lane, Waynesville, NC

Mr. Martin said he is very glad the Town has decided to allow street performers on public property, but he disagrees with the requirements that have to be met such as background checks, and the \$25.00 fee for permitting. Mr. Martin feels the Town should follow Asheville's direction which requires no fee or background check.

Chris Ashburn, Waynesville, NC

Mr. Ashburn said he is very appreciative of the Town allowing street performers. He loves music and it is a major part of his life.

Michael (Barney) Pilgrim 95 Strollers Lane, Waynesville, NC

Mr. Pilgrim says he has been a musician all his life and has worked as a street performer. Mr. Pilgrim has read the ordinance 08-13 addressing street performers and he agrees with it completely. He wanted to thank the manager and staff for drafting the ordinance and is very excited about bringing music to Waynesville's streets.

Attorney Griffin closed the Public Hearing.

A motion was made by Alderman Greeley, seconded by Alderman Freeman to adopt amendments to Section 14 of the Code of Ordinances to provide for the permitting of street performers on public property as presented. The motion passed unanimously. (0-08-13)

8. FY13-14 Budget Amendment

Manager Onieal asked Finance Director Eddie Caldwell to present the amendments to the 2013-2014 Budget Ordinance and amendment to the Financial Operating Plan for the Internal Service Funds.

Mr. Caldwell stated the General Fund's total net revenue decrease (\$684,820) will equal the General Fund's total net appropriation decrease (\$684,820). Mr. Caldwell also said the fund balance will decrease by \$196,120.00 and \$239,220.00 once the Lake Junaluska Assembly annexation appropriations are removed, and user changes to the Garage Fund will drop (\$39,510) once Lake Junaluska's Assembly's annexation appropriations are removed.

Ms. Onieal noted that all proposed revenues and expenditures directly related to Junaluska annexation had been removed from the budget, and that in light of the State Legislature having largely left municipal revenues intact for FY13-14, that the budget still includes funding for: 1) IT Support

Services contract (approx. \$200,000); 2) approx. \$140,000 in employee development initiatives, including approximately \$40,000 for a new wellness program; 3) conversion of one part-time clerical position to full-time; and 4) assigned vehicle program in the police department (no budgetary impact in FY13-14).

A motion was made by Alderman Freeman, seconded by Alderman Roberson to adopt the FY13-14 Budget Amendment as presented. (O-09-13 and O-10-13) The motion passed unanimously.

9. Resolution honoring Ellis Hankins upon his retirement as Executive Director of the NC League of Municipalities.

It was consensus of the Board that Mayor Brown will sign the resolution honoring Ellis Hankins upon his retirement as Executive Director of the NC League of Municipalities.

10. Appointment of voting delegate to NCLM Annual Conference October 13-15, 2013

A motion was made by Alderman Greeley, seconded by Alderman Caldwell to appoint Mayor Gavin Brown as voting delegate, and Town Manager Marcy Onieal as alternate voting delegate, to the NCLM Annual Conference October 13-15, 2013. The motion passed unanimously.

COMMUNICATIONS FOR STAFF

11. Town Manager – Marcy Onieal

- Employee/Departmental Recognitions

Manager Onieal recognized Deputy Town Clerk Eddie Ward for obtaining the NC Municipal Clerk Certification and Don Elliott as Service Operator of the year. The Town water department has been recognized as one of the 49 utilities for outstanding water systems for the Division of Water Resources.

- Gross Receipts

Manager Onieal said Tax Collector James Robertson, has been working with many businesses in Town and about 85% of budgeted revenue has been collected, which is in line with collection rates in previous years. She indicated that staff had received complaints from only 2 business owners out of nearly 700 total businesses about the switch from flat fee to gross receipts, noting that one complaint was simply a misunderstanding about how the fee had been applied. She commended the Finance staff for good research and very accurate predictions on how the new fee would impact local businesses. She indicated that more detailed reports would be forthcoming during the year and that the board could certainly look at the exemption threshold during the budget process next spring if minor adjustments to fees are needed to avoid any undue burden on a particular class/size of business.

E. COMMUNICATIONS FROM MAYOR AND BOARD OF ALDERMEN

No comments.

F. **CALL ON AUDIENCE**

No comments.

G. **ADJOURN**

With no other business, Alderman Caldwell made a motion seconded by Alderman Greeley to adjourn at 8:30 p.m. The motion passed unanimously.

ATTEST

Gavin Brown, Mayor

Marcia Onieal, Town Manager

Eddie Ward, Deputy Town Clerk

**TOWN OF WAYNESVILLE BOARD OF ALDERMEN
FOR BOARD INFORMATION
Meeting Date: September 10, 2013**

SUBJECT: FY13-14 Property Surplus Disposition Report

AGENDA INFORMATION:

Agenda Location: New Business
Item Number: B-4
Department: Finance/Administrative Services
Contact: Julie Grasty, Purchasing Supervisor
Presenter: Marcy Onieal, Town Manager

BRIEF SUMMARY: By ordinance (O-09-09), and pursuant to NC General Statute §160A-266(c), the Town Manager is authorized to dispose of any surplus personal property owned by the Town of Waynesville that:

- a) is no longer necessary for the conduct of public business
- b) is valued at less than \$30,000
- c) sound management principles and financial interests indicate that disposal is in the best interest of the town

The manager must seek to dispose of property by any means reasonable to yield the highest attainable sale price in money or other consideration, and must report such disposal to the Town Board on a regular basis. Surplus assets of the Town are routinely sold by the Purchasing Supervisor through the on-line auction site GovDeals. Attached is the report of surplus asset sales for FY2013 (ending 6/30/13)

MOTION FOR CONSIDERATION: N/A

FUNDING SOURCE/IMPACT: \$87,893.26 proceeds received in FY12-13 for surplus assets sold out of 4 Funds (General, Water, Electric, Garage)

ATTACHMENTS:

- FY12-13 Report of Assets Sold
- Ordinance # O-09-09

MANAGER'S COMMENTS AND RECOMMENDATIONS: Report only; no action required.

Town of Waynesville

Report of Assets Sold

FYE 2013

Date	Department	Asset #	Description	Sold Amount
<u>GENERAL FUND</u>				
Various	Streets		Fall Mulch Sale	\$ 7,545.00
11/8/2012	Police	978	2002 Chevrolet Malibu-6468	\$ 2,615.00
2/1/2013	Streets		Sale of Scrap Materials	\$ 1,152.00
2/1/2013	Streets		Sale of Scrap Materials	\$ 412.00
2/14/2013	Fire		1979 Ford F-250 Custom-4526	\$ 8,010.00
2/18/2013	Police	Seizure	1986 GMC C/K 3500 Regular Cab-3194	\$ 1,332.00
3/7/2013			Sale of Scrap Materials	\$ 376.00
3/12/2013	Finance	1004	HP Laserjet 4600	
	Finance	1157	Konica bizhub 3510	
	Fire	1358	Konica Biz-hub 200	
	Development Services	1273	Canon ImageRunner 3035	
	Recreation	1561	Konica bizhub c360	\$ 14,777.00
3/19/2013	Powell Bill	827/1501	1996 Ford New Holland Tractor/Alamo Mower	\$ 15,106.00
3/19/2013			Sale of Scrap Materials	\$ 84.00
4/15/2013	Streets		Spring Mulch Sale	\$ 2,450.00
5/20/2013	Recreation	1094	Trailer and Finish Mower	\$ 400.00
			Total Assets Sold General Fund	\$ 54,259.00
Date	Department	Asset #	Description	Sold Amount
<u>Water Fund</u>				
7/16/2012	Water Maintenance		Sale of Scrap Materials	\$ 547.50
10/18/2012	Water Maintenance		Sale of Scrap Materials	\$ 702.40
11/8/2012	Water Maintenance	313	2000 Ford F-150 -8023	\$ 2,030.00
2/26/2013	Water Maintenance		Sale of Water Meters	\$ 9,872.06
5/20/2013	Water Maintenance		Sale of Scrap Materials	\$ 1,105.60
			Total Assets Sold Water Fund	\$ 14,257.56
<u>Sewer Fund</u>				
			Total Assets Sold Sewer Fund	\$ -
<u>Electric Fund</u>				
7/19/2012	Electric Department		Sale of Scrap Materials	\$ 740.00
8/13/2012	Electric Department		Sale of Scrap Materials	\$ 336.00
12/14/2012	Electric Department		Sale of Scrap Materials	\$ 644.00
1/25/2013	Electric Department	50	1993 GMC Bucket Truck - 4971	\$ 16,000.00
4/15/2013	Electric Department		Sale of Scrap Materials	\$ 231.80
4/26/2013	Electric Department		Sale of Scrap Materials	\$ 216.00
6/18/2013	Electric Department		Sale of Scrap Materials	\$ 618.20
			Total Assets Sold Electric Fund	\$ 18,786.00
<u>Garage Fund</u>				
8/30/2012	Garage		Sale of Used Oil	\$ 54.60
10/8/2012	Garage	33	Snap-on Diagnostic Scanner	\$ 405.00
10/25/2012	Garage		Sale of Used Oil	\$ 58.90
3/15/2013	Garage		Sale of Used Oil	\$ 72.20
			Total Assets Sold Garage Fund	\$ 590.70

ORDINANCE NO. 9-09

**AN ORDINANCE PRESCRIBING PROCEDURES FOR
DISPOSING OF PERSONAL PROPERTY
VALUED AT LESS THAN \$30,000**

BE IT ORDAINED by the Board of Aldermen of the Town of Waynesville:

Section 1. The Town Manager is hereby authorized to dispose of any surplus personal property owned by the Town of Waynesville whenever he or she determines, in his or her discretion, that:

- (a) the item or group of items has a fair market value of less than thirty thousand dollars (\$30,000.00);
- (b) the property is no longer necessary for the conduct of public business; and
- (c) sound property management principles and financial considerations indicate that the interests of the Town of Waynesville would best be served by disposing of the property.

Personal property that in the judgment of the Town Manager, meets these three criteria is referred to in this ordinance as surplus property.

Section 2. The Town Manager may dispose of any such surplus personal property by any means which he or she judges reasonably calculated to yield the highest attainable sale price in money or other consideration and to accomplish the disposal efficiently and economically, including but not limited to the methods of sale provided in Article 12 of N.C. General Statutes Chapter 160A. Such sale may be public or private, and with or without notice and minimum waiting period.

Section 3. The surplus property shall be sold to the party who tenders the highest offer, or exchanged for any property or services useful to the Town of Waynesville if greater value may be obtained in that manner, and the Town Manager is hereby authorized to execute and deliver any applicable title documents. If no offers are received within a reasonable time, the Town Manager may retain the property for the Town, obtain any equitable salvage value available, or cause it to be disposed of as waste material. No surplus property may be donated to any individual or organization except by resolution of the Board of Aldermen.

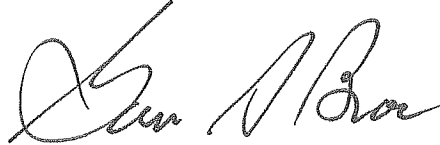
Section 4. The Town Manager shall keep a record of all property sold under authority of this Ordinance and that record shall generally describe the property sold or exchanged, to whom it was sold, or with whom exchanged, and the amount of money or other consideration received for each sale or exchange, and such report shall be delivered to the Town Board on a quarterly basis.

Section 5. This Ordinance is enacted pursuant to the provisions of N.C. General Statute 160A-266(c).

Section 6. This Ordinance shall become effective upon adoption.

Adopted this 14th day of July, 2009.

TOWN OF WAYNESVILLE



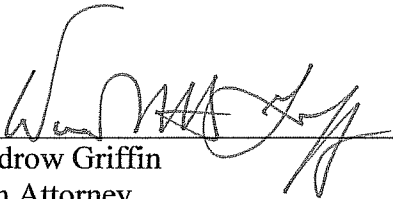
Gavin A. Brown
Mayor

ATTEST:



Phyllis R. McClure
Town Clerk

APPROVED AS TO FORM:



Woodrow Griffin
Town Attorney



Local Government Legislative Update Webinar

Agenda

**Thursday, August 29
10:00 a.m. - 12:30 p.m.**

10:00	Welcome and overview Aimee Wall
10:10	Public health Jill Moore
10:20	Mental health Mark Botts
10:30	Social services Aimee Wall
10:40	Q&A
10:50	Elections; Public employment Bob Joyce
11:20	Q&A
11:25	Environment Richard Whisnant
11:50	Q&A
12:00	Community planning and development Rich Ducker
12:20	Q&A and wrap-up
12:30	Program concludes

Local Government Legislative Update Webinar

Agenda

**Thursday, September 5
10:00 a.m. - 12:30 p.m.**

- | | |
|--------------|---|
| 10:00 | Welcome and overview
Aimee Wall |
| 10:10 | Local government overview; Utilities; School funding
Frayda Bluestein, Kara Millonzi, and Jeff Hughes |
| 10:50 | Q&A |
| 11:00 | Purchasing and contracting; Emergency management; Ethics
Norma Houston |
| 11:25 | Q&A |
| 11:30 | Animal control
Aimee Wall |
| 11:40 | Criminal law
Jeff Welty |
| 11:50 | Q&A |
| 12:00 | Economic development
Tyler Mulligan |
| 12:10 | Property and privilege license taxes
Chris McLaughlin |
| 12:20 | Q&A and wrap-up |
| 12:30 | Program concludes |

Legislative Update Webinar

Part 1 | August 29, 2013

Public health

Mental health

Social
services

Elections;
Public
employment

Environment

Community
planning
and
development



Local Government Legislative Update



Jill Moore
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Public Health



Mark Botts
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Mental Health



Aimee Wall
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Social Services



Bob Joyce
joyce@sog.unc.edu
Elections; Public Employment



Richard Whisnant
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Environment



Rich Ducker
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Planning and development

Materials



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News Alert

Aug 1, 2013:

Subscribers only: Please see the [Announcements page](#) for a document containing a list of the 2013 session laws, bills pending with the governor as of this date, and all bill summaries associated with each.

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Legislative Summaries

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2013 Legislative Summaries

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-more coming soon-

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Ch	Bill #	Bill short title	Last Action	L.A. date	Com. Track	View
H	392	WARRANT STATUS/DRUG SCREEN PUBLIC ASSIST (NEW).	Vetoed 08/15/2013 (House Action)	Aug 15 2013	3 Remove Bill Tracking	Summaries
H	399	AMEND LAWS PERTAINING TO DHHS.-AB	Ch. SL 2013-378 (House Action)	Jul 29 2013	1 Remove Bill Tracking	Summaries
S	626	RECODIFY ANIMAL SHELTER LAW.	Ch. SL 2013-377 (Senate Action)	Jul 29 2013	3 Remove Bill Tracking	Summaries
S	140	FINANCIAL EXPLOITATION OF OLDER ADULTS.	Ch. SL 2013-337 (Senate Action)	Jul 23 2013	1 Remove Bill Tracking	Summaries
H	326	FOSTER CARE CHILDREN'S BILL OF RIGHTS.	Ch. SL 2013-326 (House Action)	Jul 23 2013	1 Remove Bill Tracking	Summaries
H	543	GUARDIANSHIP ROLES OF MHDDSA PROVIDERS (NEW).	Ch. SL 2013-258 (House Action)	Jul 10 2013	1 Remove Bill Tracking	Summaries
H	325	COURTS/PROCEDURE AND	Ch. SL 2013-325 (House Action)	Jun 20 2013	2 Remove Bill Tracking	Summaries

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Bill Categories (with depth)

- Agriculture
- Alcoholic Beverage Control
- Animals
- Banking and Finance
- Business and Commerce
- Consumer Protection
- Corporation and Partnerships
- Insurance
- Occupational Licensing

Statutes/Counties

- GS 47B
- GS 47C
- GS 47D
- GS 47E
- GS 47F
- GS 47G
- GS 47H
- GS 47I
- GS 48

Within these summary dates:

From date: -Year -Month -Day

To date: -Year -Month -Day

GA Session

2013-2014 Session

Bill long title

Summary text

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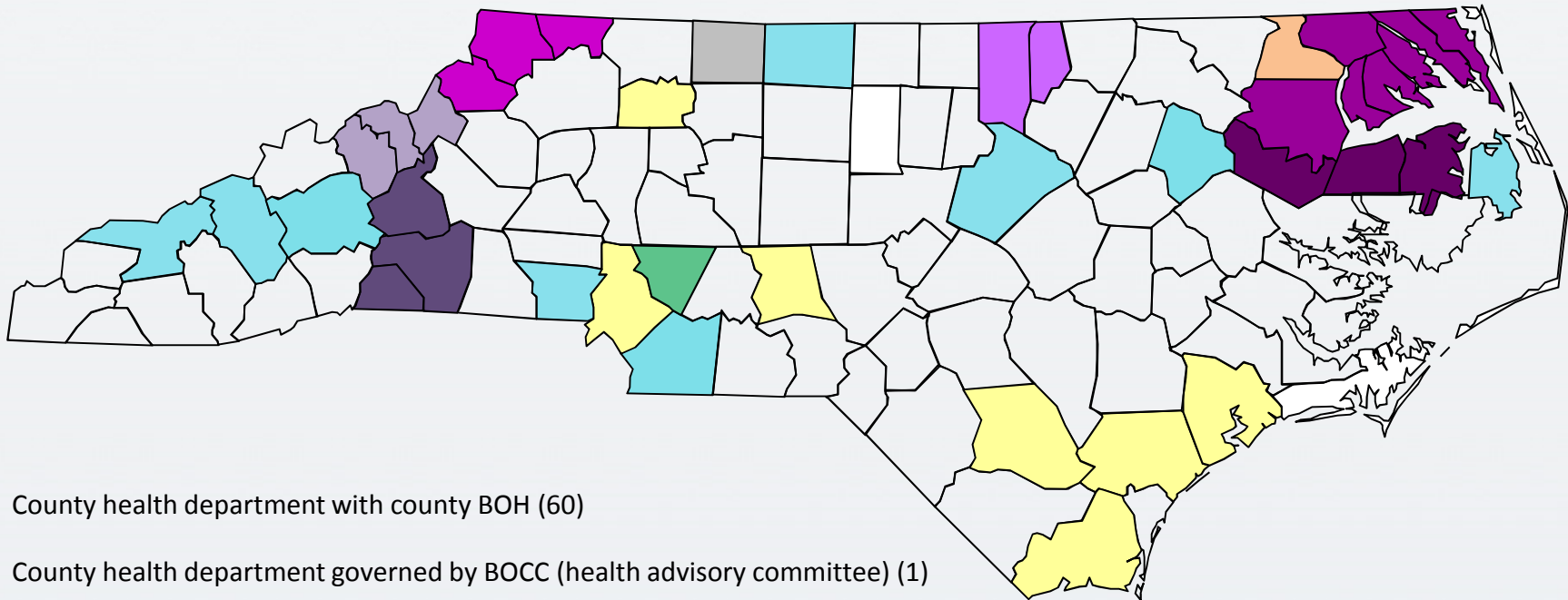


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PUBLIC HEALTH

Types of Public Health Agencies and Boards in NC – August 2013



Local Ordinances on Health Issues

- S.L. 2013-309 (H 683): Commonsense Consumption Act
 - No city or county ordinances limiting soft drink portion sizes
- S.L. 2013-413 (H 74): Regulatory Reform
 - §10.2: Limits on local environmental ordinances apply to solid waste, public drinking water supplies, on-site wastewater, asbestos, lead

Environmental health: Food & lodging

Permit fee increases – S.L. 2013-360 (S 402)

- Most food establishments: Annual fee increased from \$75 to \$120 – local health department keeps \$70
- Temporary/limited food establishments: Fee remains \$75, goes to local health department

Exceptions to food sanitation laws – S.L. 2013-413 (H 74)

- Some private clubs with ABC permits
- Bed & breakfast homes

Carbon monoxide detectors – S.L. 2013-413 (H 74)

- Must be installed in enclosed spaces with fossil-fuel burning appliances; local health

Environmental health: Wells

- Private well permits – S.L. 2013-413 (H 74)
 - Local health department must act on application for permit to construct or repair a well within 30 days
 - New statewide rules must address wells within 1000 feet of known contamination source, including notice to permit applicant about the source and any known risks associated with it
- Private well water education – S.L. 2013-122 (H 396)
 - Local health department must educate citizens about well water testing and minimum drinking water standards

Smoking Regulation

E-cigarettes

- SL 2013-165 (S 530): No e-cigarette sales to minors

Outdoor smoking

- SL 2013-413 (H 74): Requires new administrative rules to clarify what constitutes an “enclosed area” under the statewide law banning smoking in restaurants and bars

Other legislation of note

Abortion law changes

- No abortion coverage in local government health insurance – S.L. 2013-366 (S 353)

Controlled Substances

- Good Samaritan/Naloxone: Measures to prevent & mitigate overdose – S.L. 2013-23 (S 20)
- Controlled Substances Reporting system: More providers required to report, local law enforcement to have access – S.L. 2013-153 (S222)

Preterm birth education

- School health curriculum must address risk factors for preterm birth – S.L. 2013-307 (S 132)

Eugenics compensation

- \$10 million allocated to compensate victims of eugenics program – S.L. 2013-360 (S 402)

Affordable Care Act

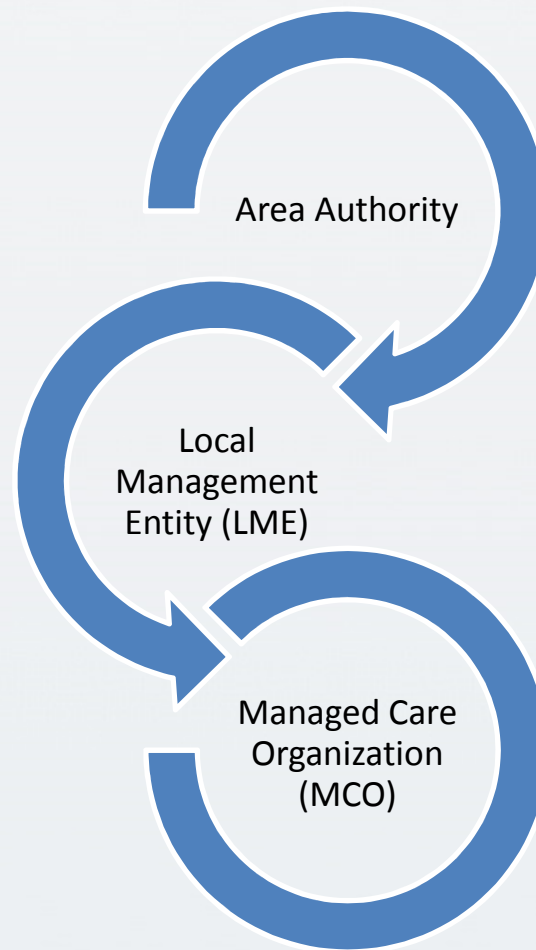
- No Medicaid expansion, no state health benefits exchange – S.L. 2013-5 (S 4)



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MENTAL HEALTH

Terminology



Background

- S.L. 2011-264 = By July 2013, all LMEs must implement the “1915(b)/(c) Managed Care Waiver”
- Waiver = federal government “waives” certain Medicaid rules so NC can implement a “managed care” system for delivering services
- LMEs are designated to perform managed care functions—to manage the quality and cost of care

S.L. 2013-85 (S 208)

(LME/MCO)

=

A local management
entity that is under
contract with NC DHHS
to operate the
Medicaid Waiver
program

2013 Legislative Themes

1. Operations – Enhances state monitoring
2. Organization – Diminishes county role
3. Governance – Diminishes county role and (possibly) enhances professional role

Action Alert: Counties must appoint a county commissioner advisory board



MONITORING OPERATIONS

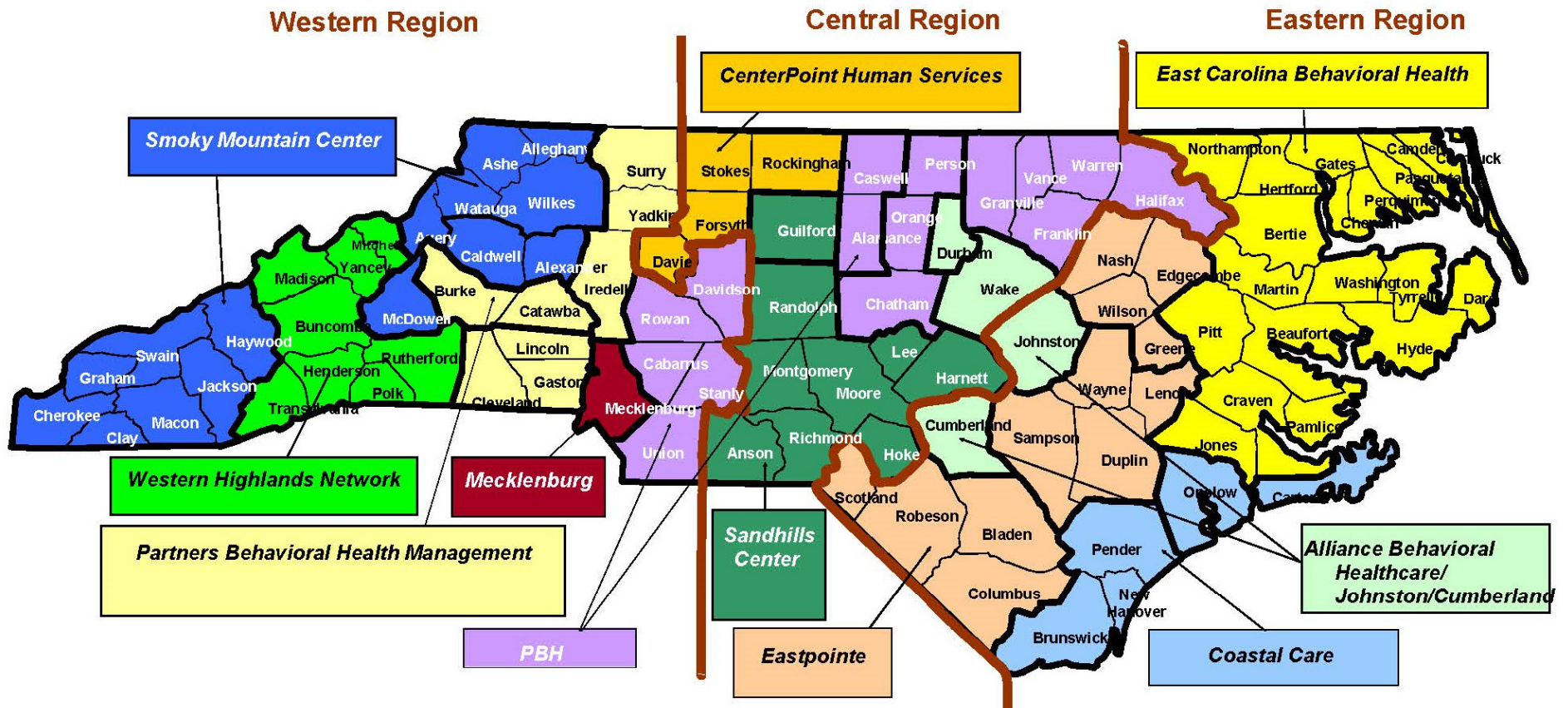
Background

- If an LME operating the Waiver fails to meet performance expectations, DHHS must reassign its Waiver (managed care) functions to another LME

S.L. 2012-151 (S 191)

- Performance expectations = largely governed by a contract between each LME and DHHS

Local Management Entity - Managed Care Organizations (LME-MCOs) and their Member Counties on January 1, 2013



Operational Compliance

S.L. 2013-85 (S 208)

Every six months, DHHS must certify LME/MCOs

- Adequate provision against risk of insolvency
- Timely provider payments
- Adequate exchange of information (billing, payment, and other transaction data) with DHHS and providers

If LME/MCO Fails

- Notify the LME/MCO and BOCs
- Reassign managed care responsibilities to another LME/MCO and oversee the transfer of operations
- Transfer fund balance and guarantee operational reserves if fund balance < 15%
- Dissolve the non-compliant LME/MCO



ORGANIZATION

Organizational Options—Once Upon a Time

Counties
could
choose

- Area authority
 - Multicounty area authority
 - Single-county area authority
- County program
 - Multicounty program
 - Single county program
- Consolidated human services agency

Organizational Options Now

Establish
agency

- Area authority
 - Multicounty area authority
 - ~~• Single county area authority~~
- ~~• County program~~
 - ~~• Multicounty program~~
 - ~~• Single county program~~
- ~~• Consolidated human services agency~~

2013 Legislative Changes

- Counties may not consolidate MH/DD/SA functions into a consolidated human services agency
- Counties must provide MH/DD/SA services through an area authority only
- A county may withdraw from one AA and join another
- The area board (previously, the participating BOCs) decide whether to add new counties to the area

S.L. 2013-85 (S 208), S.L. 2013-378 (H 399)



GOVERNANCE

Appoint the Governing Board

- The boards of county commissioners within the area shall appoint members
- The counties must approve a plan for their LME that describes the board composition, appointments, and selection process.

G.S. 122C-115.2(b)(2) and -117(8)



Appoint the Governing Board

- “New” Requirements—G.S. 122C-118.1
 - 11-21 voting members
 - **11 prescribed categories of representation**
 - 2 prescribed non-voting members
- Compliance Date—October 1, 2013

Appoint the Governing Board

- 3-year term
- Staggered terms initially



— Compliance Date—October 1, 2013

S.L. 2013-85 (S 208)

- An area authority with 1.25 million population may opt out of compositional requirements by
 - each member county adopting a resolution
 - obtaining approval of the DHHS Secretary

S.L. 2013-378 (H 399)—Exemption

Does not apply to an area authority that, before Oct. 1, 2013, has been approved or directed to

- dissolve, or
- add counties from the dissolving area authority

Requirements apply within 30 days of the realignment or by April 1, 2014, whichever is sooner

County Commissioner Advisory Board

- Meet on a regular basis to advise the area authority on the delivery of services
- One commissioner from each county designated by the county's BOC
- Each BOC determines the manner of designation and the term and conditions of service for its designee

S.L. 2013-85 (S 208)

The Future . . . ?

DHHS shall submit a detailed plan for significant reforms to the State's Medicaid Program . . . that shall [unite] physical and behavioral health care.

- March 17, 2014
- S.L. 2013-360 (S 402), Section 12H.1.



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SOCIAL SERVICES

Overview

Child Welfare

- Many changes
- Summaries available online

Adult Services

- Financial exploitation
- Guardianship
- Budget

Public Assistance

- Criminal history
- Drug screening/testing

Financial Exploitation

S.L. 2013-337 (S 140)

- Expands scope of criminal FE statute
 - Any older adult (65+)
 - DSS Director duties still limited to disabled adults
- Increases access to information from financial institutions
 - Mandatory reporting
 - DSS or LE may subpoena records; must notify customer of subpoena or obtain order for delayed notice
- Authorizes freezing assets (S.L. 2013-203; H 891)

Adult Guardianship

S.L. 2013-258 (H 543)

- Changes related to guardians who also provide MH/DD/SA services
- Requires a legislative committee to study the impact of mental health reform on public guardianship services.
 - Findings and recommendations due 5/9/2014

Budget

S.L. 2013-360 (S 402)

- Supplemental short-term assistance to group homes
- State-Special Assistance pilot
- Medicaid reform
- SSBG funds for guardianship

Public Assistance

H 392

Veto

Executive
Order
#21

Veto
override?

Public Assistance (H 392)

- Criminal history – Work First/SNAP applicants
 - DSS must notify all applicants that information may be disclosed if arrest warrant outstanding
 - DSS may do criminal history checks
 - Shall ...“to the extent permitted by allocated county and State resources”
 - Does not require fingerprinting
 - Fleeing felons and probation or parole violators must not be provided with Work First or SNAP benefits
 - Does not affect other household members

Public Assistance (H 392)

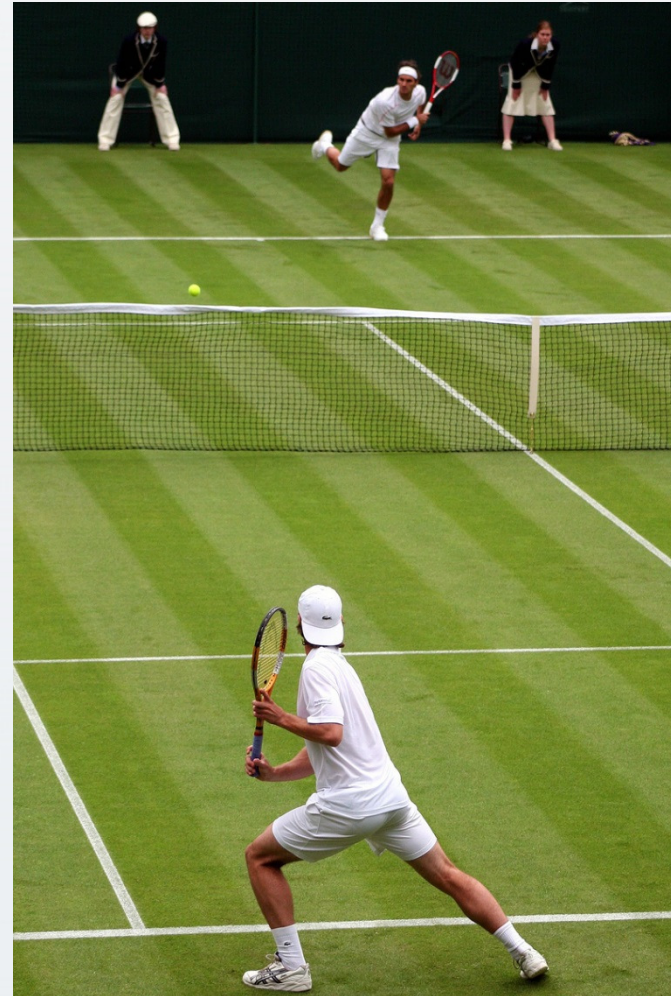
- Drug screening/testing Work First applicants
 - If reasonable suspicion that uses illegal drugs, must test
 - Criteria for reasonable suspicion
 - If positive test, barred from Work First benefits for one year unless client receives treatment and retests as negative
 - Client pays for re-test (reimbursed if negative)

Public Assistance (E.O. #21)

- DHHS must ensure that county DSSs, to the extent allowed by federal or State law, check the criminal history of applicants to Work First or SNAP
- Does not require fingerprinting
- Fleeing felons and probation or parole violators must not be provided with Work First or SNAP benefits
 - Does not affect other household members
- Study disclosure of information

Veto Override?

- Stay tuned...



Questions?



Evaluation: https://unc.qualtrics.com/SE/?SID=SV_26xHcqym3lyRhOd





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ELECTIONS

Six Biggest 2013 Elections Changes

- End of pre-clearance (not a legislative change)
- Photo ID at polls
- End of same-day register and vote
- Shortening of the early voting period
- End of straight-ticket voting
- Mail-in absentee ballot request changes

End of Pre-clearance

- Voting Rights Act of 1965
 - Section 2
 - Section 5

End of Pre-clearance

- Shelby County v. Holder
- Section 5 is dead
- But Section 2 is still very much alive
 - Old Section 2 court orders still must be followed
 - Two ways pre-clearance could come back
 - By Congressional action
 - In a particular case

Photo ID at the Polls

- Starting with elections in 2016

Photo ID at the Polls

- NC Drivers license
- NC DMV ID card
- Passport
- US military ID card
- Veterans Administration ID card
- Tribal enrollment card
- Non-NC drivers license if recent move

Photo ID at the Polls

- ID must be unexpired
- Unless you are 70 and it was unexpired when you turned 70

Photo ID at the Polls

- If turned away for lack of photo ID, you may vote a provisional ballot and show photo ID later
- State will issue DMV photo IDs for free

Photo ID at the Polls

- Not required for mail-in absentee voting

End of Same-Day Register and Vote

- Early voting is absentee voting
- That means the ballots are not counted until election day
- The ballot is retrievable
- So it was possible to allow voters to apply to register to vote and to cast their ballot at the early voting site—there was time to check

Shortening of Early Voting Period

- Was, third Thursday before election to Saturday before election
- Beginning 2014, second Thursday before election to Saturday before election
- But number of hours are to be the same

End of Straight-Ticket Voting

- Democrats split off the Presidential race
- Now Republicans have ended the practice altogether

Mail-in Absentee Ballot Changes

- Use of pre-printed form cuts one step in process
- Process can now work like this:
 - Candidate or party sends form
 - Voter signs the form and mails it in
 - County elections board sends application and ballots
 - Voter (with witnesses) fills them out and returns

Mail-in Absentee Ballot Changes

- Simplification of the request process plus absence of a photo ID requirement is expected to increase the number of mail-in absentee ballot applications

Other 2013 Elections Changes

- Public financing of judicial and three executive branch races ended
- Pre-registration of 16- and 17-year olds ended
- More observers
- More people eligible to challenge voters
- Presidential preference primary moved earlier
- Out-of-precinct provisional voting ended
- End of DREs by 2018?



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PUBLIC EMPLOYMENT

Public Employment Law

- Two big changes
 - State and certain county employees under the State Personnel Act
 - Teachers under the Teacher Tenure Act

Questions?



Evaluation: https://unc.qualtrics.com/SE/?SID=SV_26xHcqym3lyRhOd





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ENVIRONMENT

Overview

- Big year, many bills, some new ideas
- Process changes most profound? We'll have to wait and see
- Scope of this presentation
- Outline of this presentation
 1. General interest to local government
 2. Particular environmental law changes
 3. State process changes with likely local impacts

Of General Interest to Local Government

- S.L. 2013-413 (H 74) (hereinafter §)
- One year moratorium on local environmental ordinances (§10.2)
 - Background
 - Interpretation and advice
- Local review of engineering work (§58)
 - Background
 - Interpretation and advice

Water

- Jordan Rules delayed again (S.L. 2013-395; S 515)
- Stormwater permit reform (S.L. 2013-82; H 480)
- Various H 74 provisions
 - Pervious by statute (§51): wooden slatted decks, swimming pools and graveled areas
 - Free the impervious parking lots (§54)
 - Farm ponds excluded from buffers (§52)
 - Time limit on permit challenges (§53)
 - Loosen dredge and fill notice (§55)

Water II

- Wetlands – scattered provisions; major definitional change not passed
- Interbasin transfers tweaked (S.L. 2013-388; S 341)
- Public water system expired withdrawal rates (§56)
- Forced permit transfers (S.L. 2013-121; H 279)
- More H 74 provisions
 - Reclaimed water setbacks loosened (§22)
 - Local sed. & erosion enforcement (§33)
 - Low-flow wastewater (§34)
 - Speedy well permits (§35)

Waste and Land I: Landfills

- Local solid waste plans now reports, not tied to waste reduction (S.L. 2013-409; H 321)
- The landfill bill: Reduces technical siting and operational requirements. Pushes studies of alts including waste to energy facilities (§59.1)
- C&D landfill inside the 2007 game lands buffer (S.L. 2013-25; S 24)
- Special rules for demolition waste of energy facilities (S.L. 2013-55; H 706)

Waste and Land I: Landfills

- Extended duration landfill permits count as operating permits (§48)
- Solid waste collection gear only has to be “leak resistant,” not “leak proof”(§59.2)
- Limited local regulation of storage, retention and use of non-hazardous materials (§50)
- Reduced environmental justice impacts analysis (§59)
- Added “cause” as a factor in setting DENR solid waste penalties (§49)

Waste and Land II: Contamination

- Limited State and Community College (did include local government in earlier draft) purchase of contaminated property, requiring approval of Council of State (§40)
- Compliance boundaries for contaminated property = property boundary (§46)
- Clarified which petroleum USTs don't need secondary containment until 2020 (§36)

Waste and Land III: Special Areas

- Easier permitting for terminal groins (S.L. 2013-384; S 151)
- Amended minor CAMA permit notice requirements (no newspaper) (§30)
- Repealed the Mountain Resources Planning Act, G.S. Ch. 153B (§43)
- Extended state protection for endangered finfish, marine mammals and migratory birds (§37)
- Enhanced process for seizure of venomous snakes and other reptiles (§37)
- Gave WRC temporary rule authority for rules on manner of take (§39)

Waste and Land IV: Fracking

- Accelerated authorization (S.L. 2013-365; S 76)
- Changes in the rulemaking process

Air

- Required more CO monitors in hotels (§39)
- Repealed enhanced air emission standards for post-2008 heavy diesel vehicles (§25)
- DENR to study counties that require car emissions I&M need to keep doing so (§26)
- Optional (was required) for EMC to regulate complex air pollution sources) (§27)
- Allowed some open burning with no air quality permit (§28)
- Extends the term of non-title V air quality permits from 5 to 8 years and clarifies the right of third parties to challenge them, but only within 30 days after they are issued (§29)

Important State Process Changes

- DENR structure
 - Personnel: fewer, more political
 - Bureaucracy: no DWQ, merged into DWR
 - Commissions: purged and replaced
- Rulemaking: rule sunset, starting with water and wetlands rules.

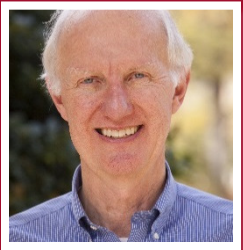


Questions?



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COMMUNITY PLANNING AND DEVELOPMENT

Acts Adopted by the General Assembly Concerning Planning and Development

■ Already adopted

- S.L. 2013-118 (H 120): Building Inspections and Code Updates
- S.L. 2013-266 (H 276): Board of Adjustment and the Zoning Administrator
- S.L. 2013-183 (H 817): State Highway Funding Allocations Revised
- S.L. 2013-245 (H 785): NCDOT Participation In Driveway Improvements
- S.L. 2013-137 (H 684): NCDOT Standards on Highway Curves
- S.L. 2013-266 (H 192): Sidewalk Dining within NCDOT Right-of-Way
- S.L. 2013-185 (H 664): Telecommunications Towers and Federal Law
- S.L. 2013-347 (S 505): Zoning Bona-Fide Farm Exemption Expanded
- S.L. 2013-413 (H 74):
 - State/Local Regulation of Outdoor Advertising Signs
 - Zoning Violations after Termination of Nonconforming Use

Building Inspections and Code Updates

S.L. 2013-118 (H 120)

- Unless Building Code Council gives prior approval, prohibits LG from requiring regular building code inspections of single-family residences in addition to those required by state code
- Exempts inspections “upon unforeseen or unique circumstances that require immediate action”



Effective July 1

Building Inspections and Code Updates

S.L. 2013-118 (H 120)

- Directs Building Code Council to revise the Residential Code only every **six years** beginning in January 2019.
- Directs Council semiannually to publish all appeal decisions and formal opinions in the N.C. Register and post them on its website



Effective July 1

Board of Adjustment and the Zoning Administrator

S.L. 2013-266 (H 276)

- Zoning Interpretations
 - ZA must provide written notice when making binding interpretation
 - Landowner may provide constructive notice of decision by posting sign for 10 days



Effective October 1

Board of Adjustment and Zoning Enforcement

S.L. 2013-266 (H 276)

- Appeals
 - Appeals of ZA decisions filed with city/county clerk
 - Appeals must be taken w/i 30 days of receipt of decision
 - ZA must provide copies of documents to BOA and affected parties
 - ZA whose decision is appealed must appear as witness



Effective October 1

Board of Adjustment and Zoning Enforcement

S.L. 2013-266 (H 276)

- Quasi-Judicial Zoning Hearings
 - LG must provide **mailed** and **posted** notice
 - Newspaper notice **not required** unless local ordinance so provides
 - BOA must **continue hearing** if new issues presented that would be prejudicial



Effective October 1

Board of Adjustment and Zoning Enforcement

S.L. 2013-266 (H 276)

■ Variances

- Removes requirement that variance may not be granted unless **no reasonable use** of property w/o variance
- Provides that applicant may qualify for variance even though applicant purchased property knowing of its limitations



Effective October 1

Board of Adjustment and Zoning Enforcement

S.L. 2013-266 (H 276)

- Board Decisions
 - **Appeals** of ZA decisions and **special and conditional use permits** granted upon **majority** vote of board membership
 - LG must provide **written decision** reflecting standards and contested tests **signed by chair, filed with clerk, and delivered to parties**



Effective October 1

State Highway Funding Allocations Revised

S.L. 2013-183 (H 817)

- “Strategic Prioritization Funding Plan for Transportation Investments” supersedes Mobility Act
- Establishes three funding categories: statewide, regional, and division-level
- Expands role of Turnpike Authority
- Allows Powell Bill funds to be spent on greenways; bike, pedestrian, greenway funds may be spent outside street right-of-way



Effective July 1

NCDOT Participation in Driveway Improvements

S.L. 2013-245 (H 785)

- Establishes pilot program allowing NCDOT to share the costs of “**oversized**” transportation improvements in connection with NCDOT driveway permits



Effective July 1

NCDOT Driveway Standards on Highway Curves

S.L. 2013-137 (H 684)

- Directs NCDOT to change certain standards for the spacing of driveway on “curvy” sections of state roads.



Effective July 1

Sidewalk Dining within NCDOT Right-of-Way

S.L. 2013-266 (H 192)



Effective July 13

Sidewalk Dining within NCDOT Right-of-Way

S.L. 2013-266 (H 192)

- NCDOT rules have not allowed sidewalk dining within right-of-way of state highways
- H 192 allows NCDOT to permit LGs to adopt an ordinance concerning sidewalk dining activities:
 - Within NCDOT right-of-way and
 - Within local government zoning jurisdiction
- Applicable standards:
 - At least 5 feet of sidewalk must remain clear for pedestrians
 - Furniture must be at least 6 feet from travel lane
 - Adjacent roadway speed limit no greater than 45 mph

Telecommunication Towers and Federal Law

S.L. 2013-185 (H 664)

- LGs must approve requests for **minor modifications** to existing wireless tower or base station within 45 days
- Minor modifications include
 - Adding no more than 10% to the tower height or one additional antenna
 - Adding no more than 20 feet or the width of the support structure
 - Adding no more than 2,500 sq. ft. to existing equipment compound



Effective October 1

Telecommunication Towers and Federal Law

S.L. 2013-185 (H 664)

- Action to approve or deny **collocation** requests must be made within **45 days** or application deemed approved
- Application and related fees for collocation and minor modifications may not exceed **\$1,000.**
- Fees may not include consultant **contingency fees or travel costs**



Effective October 1

Zoning Bona Fide Farm Exemption Expanded

S.L. 2013-347 (S 505)

- Sec. 22(a) expands the bona-fide farm zoning exemption to include agricultural activity associated with a farm “and **any other farm** owned or leased to or from others by the bona fide farm operator, **no matter where located.**”
- Also extends exemption to grain storage facilities



Effective July 23

State/Local Regulation of Outdoor Advertising Signs — S.L. 2013-413 (H 74)

- Sec. 9(a) allows NCDOT to allow billboard owners to remove vegetation in ROW along entrance and exit ramps along federal-aid highways
- Sec. 9(b) prohibits LG from prohibiting repair or reconstruction of NCDOT-permitted signs so long as square footage of surface area not increased



Zoning Violations After Termination of Nonconforming Use — S.L. 2013-413 (H 74)

- Sections 5(a) and 5(b) provide that if a nonconforming use is terminated, a zoning enforcement action against a violator must be brought within 10 years after the termination.
- Makes exception for imminent hazard



Acts Adopted by the General Assembly Concerning Planning and Development

■ Acts of lesser importance

- S.L. 2013-59 (H 254): Notice to Military Base Commander Concerning Development Changes
- S.L. 2013-206 (H 433): Building Height Limit around Military Bases
- S.L. 2013-151 (S 211): Notice of Chronic Violators of Nuisance Ordinances
- S.L. 2013-314 (H 614): Agricultural or Forestry Operations as Nuisances
- S.L. 2013-413 (H 74): Transportation Impact Mitigation Ordinances
- S.L. 2013-413 (H 74): Zoning Differentiation among Greek Houses
- S.L. 2013-265 (S 638): Farm Buildings and the State Building Code
- S.L. 2013-386 (S 315): Forced Extension of Water Lines/Annexation

Bills Eligible for Further Consideration in 2014

- Bills that have passed one chamber of the General Assembly
 - H 150 Zoning and Residential Design Controls
 - H 625 Zoning to Permit Temporary Family Health-Care Structures
 - H 632 Study of Proposed Property Owners Protection Act
 - S 105 Clarify Political Sign Regulation by Cities

Questions?



Evaluation: https://unc.qualtrics.com/SE/?SID=SV_26xHcqym3lyRhOd



Evaluation

Please take a moment to complete our short evaluation. Your feedback is invaluable.

Evaluation:

https://unc.qualtrics.com/SE/?SID=SV_26xHcqym3IyRhOd









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**LOCAL
GOVERNMENT
OVERVIEW**

Observations About 2013 Session

- Legislative power and authority over local government structure and powers is evident
- Transition from local acts as a courtesy to local government to...
- Policy priorities for governing majority implemented through mandates and limitations on local governments
- Several legal challenges pending

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Challenges to Local Acts

Introducing two new terms this session:

TRO (temporary restraining order)

PI (preliminary injunction)

Really? Doesn't the legislature have absolute authority over local governments?

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Constitutional Limitations

- Limitations on Local Acts
 - Certain subjects prohibited (Article II, sec. 24)
 - General laws regarding airports (Article V, sec. 13)
- Due Process
 - Arbitrary and capricious standard
- Taking of property without compensation
 - Open question as to transfer of property from one public entity to another public entity

New Limitations on Local Government Authority (partial list)



No local government ordinance may prohibit the sale of soft drinks above a particular size. (S.L. 2013-309; H 683)

New Limitations on Local Government Authority



Limitation on authority to provide abortion coverage (subject to some exceptions) for local government employee insurance plans. (S.L. 2013-366; S 353)

New Limitations on Local Government Authority



Temporary ban on local government purchase or use of unmanned aircraft unless approved by State CIO. (S.L. 2013 360, Sec. 7.16(e); S 402)



New Limitations on Local Government Authority



No ordinance regulating trees may be enforced on land owned or operated by a public airport authority. (S.L. 2013- 331; H 646)



New Authority Granted



New authority for cities to enforce regulations on public trust areas. (S.L. 2013-384; S 151)



New Authority Granted



New authority for State DOT/local government agreements for sidewalk restaurants on state roads within the local government's zoning jurisdictions. G.S. 136-27.4 (S.L. 2013-266, H 192)



Annexation

- Deannexation and annexation by local act continues; in some cases over the objection of the local government
- New general law requires release of tax obligation if deannexed property was within the city for less than 6 months or if no tax notice has been sent. (S.L. 2013-19; S 97)



Public Records

- List of concealed carry and pistol permit holders and information collected to process application are confidential. Can be made available to law enforcement agencies. G.S. 14-415.17(c), 14-405(b) (S.L. 2013-369; H 937)
- Records of sales maintained by dealers are confidential, but must be made available upon request to state and local law enforcement agencies. G.S. 14-406 (a) (S.L. 2013-369; H 937)



Public Records

- Proprietary computer code written by and for the use of state or local government is not a public record. G.S. 132-1.1(g) (S.L. 2013-96; H 125)
- Criminal investigation or intelligence records maintained by a campus police agency that is affiliated with a private, nonprofit institution of higher education are not public records; but public has access to the same set of records as for public law enforcement agencies. G.S. 74G-5.1 (S.L. 2013-97; H 142)

Questions?



Evaluation: https://unc.qualtrics.com/SF/?SID=SV_54PmCGSmqvgF6a9



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LOCAL GOVERNMENT FINANCE

Local Government Finance

1. Changes to Public School Building Capital Fund
2. Changes to Dispute Resolution Process
3. Changes to Newer Special Assessment Authority
4. New General Obligation Bond Referendum Requirement
5. Expanded LGC Authority
6. Repeal of State Franchise Taxes (2014)
7. Changes to Powell Bill Allocation
8. Temporary Extension of Transitional Hold Harmless Payments



Public School Building Capital Fund (PSBCF)

- Corporate income tax
- Lottery Proceeds

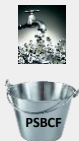


- Statutory allocation (formally) repealed (S.L. 2013-316)
- Statutory allocation (formally) repealed (S.L. 2013-360)



Public School Building Capital Fund (PSBCF)

- State Budget



- \$100 million appropriated to PSBCF in State Budget for 2013-14 and 2014-15.

- Allocated among counties based on ADM
- Must be spent on public school capital outlay or debt service for public school capital outlay



Dispute Resolution Process

- G.S. 115C-431:
 - “If the board of education determines that the amount of money appropriated to the local current expense fund, or the capital outlay fund, or both, by the board of county commissioners is not sufficient to support a system of free public schools” the local school board may initiate dispute resolution process
- Joint meetings between boards
- Mediation
- Litigation

Dispute Resolution Process (S.L. 2013-141; H 765)

- Judge or jury must determine amount of money “legally necessary from all sources” and amount of money “legally necessary from the board of county commissioners”
- Factors:
 - Educational goals and policies of State and local board of education
 - Financial resources of the county and local board of education
 - Fiscal policies of the board of county commissioners and the local board of education

Special Assessments for Critical Infrastructure (S.L. 2013-371; S 103)

- Extends sunset to July 1, 2015
- Clarifies petition requirement
- Allows local government to set assessment adjustments based on change of use of property

Special Assessment Petition Requirement

- Majority of owners of real property who also represent at least 66 percent of value of real property to be assessed
- Counting owners
 - 1 owner = 1 vote
 - 3 owners = 1/3 vote each
- Counting property value
 - 1 owner = full value of property
 - 3 owners = each represent 1/3 value of property

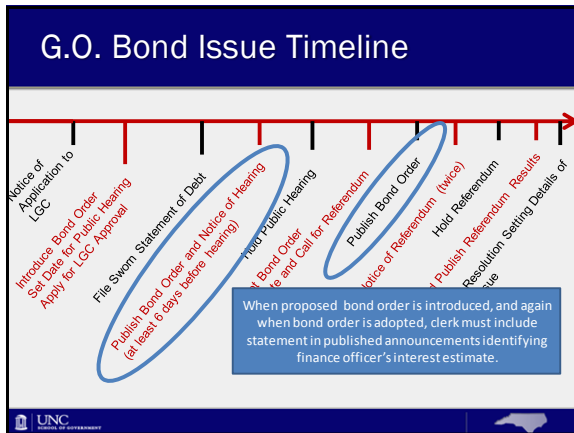


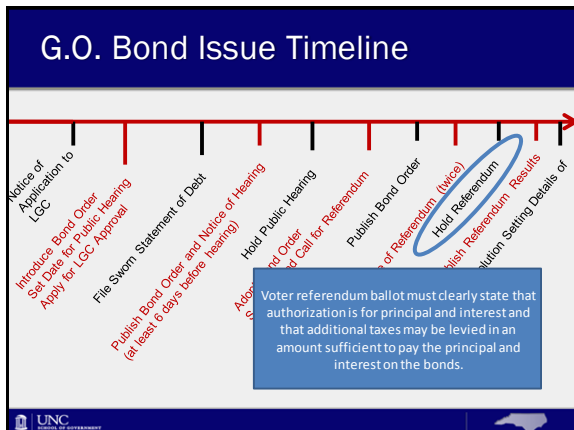
General Obligation Bond Referendum (S.L. 2013-200; H 248)

- When issuing G.O. bonds, unit must include statement of about bond interest in bond order, notices of bond order, and bond referendum

G.O. Bond Issue Timeline







Expanded LGC Authority (S.L. 2013-150; S 207)

- Authorizes LGC to impound books and records and assume full control of a water and/or sewer enterprise if for 3 consecutive fiscal years the audited financial statements show any of the following:
 - Enterprise system experienced negative working capital
 - Enterprise system experienced a quick ratio of less than 1.0; or
 - The unit experienced a net loss of revenue from operations in the enterprise system using modified accrual budgetary basis of accounting
- LGC also must find that financial stability threatened and that unit has failed to make corrective changes after receiving notice and warning from LGC

UNC SYSTEM OF GOVERNMENT

Expanded LGC Authority (S.L. 2013-150; S 207)

- Authorizes LGC to impound books and full control of a water and/or sewer enterprise system for two consecutive fiscal years the audited financial statements reflect any of the following:
 - Enterprise system experienced negative working capital
 - Enterprise system experienced a quick ratio of less than 1.0; or
 - The unit experienced operations in the enterprise system on a basis of accounting
- LGC also must be threatened and that unit has failed to make corrective changes after receiving notice and warning from LGC

Working Capital = current assets, such as cash, inventory, and accounts receivable, less current liabilities

Quick Ratio of Less than 1.0:
Ratio of liquid assets, cash and receivables, to current liabilities < 1.0

Repeal of State Franchise Taxes in 2014 (S.L. 2013-316; H 998)

- Electric and natural gas franchise tax repealed effective July 1, 2014
 - Electric and natural gas included in sales tax base
- Distributions of electric and natural gas tax revenue to municipalities repealed effective July 1, 2014
 - Hold harmless payments to municipalities based in part on repealed distributions and in part on comparative ad valorem tax levies

Powell Bill Changes (S.L. 2013-183; H 817)

- Transportation bill changes Powell Bill allocation to municipalities to 10.4 percent of net amount generated by gas tax
- Authorizes municipalities to use some or all of its allocation to match federal grants for independent bicycle and pedestrian improvement projects within the unit's limits or within the area of any metropolitan planning organization or rural transportation planning organization

Transitional Hold Harmless Extension (S.L. 2013-360; S 402)

- 1-year extension of the transitional hold harmless payment (which expired in August 2012).
 - Payment will be made on or before September 15
 - Payment will be 50 percent of amount calculated under statutory formula (G.S. 105-521)

Questions?



Evaluation: https://unc.qualtrics.com/SF/?SID=SV_54PmCGSmqygF6a9



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UTILITY/
ENVIRONMENTAL
FINANCE

Overview

- Water and sewer infrastructure funding
- Watershed protection/land conservation funding
- Solid waste funding
- Local government energy finance
- Local government water/sewer finance authority



Water and Sewer Infrastructure Funding : Budget Bill(s)

- Appropriations Act
 - SL 2013-360 (S 402)
- Modifications to Appropriations Act
 - SL 2013-363 (H 112)



State and Federal Water and Sewer Funding “BEFORE”

- US Environmental Protection Agency/NC Department of Environment and Natural Resources State Revolving Loan Funds (SRF)
 - Division of Water Resources (Water)
 - Division of Water Quality (Wastewater/clean water)
- HUD CDBG Infrastructure
 - Department of Commerce
- NC Rural Center
- Clean Water Management Trust Fund
- State Water Infrastructure Committee (SWIC)



State and Federal Water and Sewer Funding "AFTER"

- US Environmental Protection Agency/NC Department of Environment and Natural Resources State Revolving Loan Funds (SRF)
 - New Division: State Water Infrastructure Authority (SWIA)
 - Now includes HUD CDBG Infrastructure Programs
- HUD CDBG Infrastructure **
 - ~~Department of Commerce~~
 - State Water Infrastructure Authority (SWIA)
- * ~~NC Rural Center~~
- * ~~Clean Water Management Trust Fund~~ (removed water and sewer funding)
- * ~~State Water Infrastructure Committee (SWIC)~~ (planning and coordination moved to SWIA)



Land Conservation Finance

Before

- Clean Water Management Trust Fund -- non-recurring
- National Heritage Fund
- Deed stamp-- earmarked
- Tax Credit

After

- Clean Water Management Trust Fund -- recurring (budget)
- * ~~National Heritage Fund~~ (merged into Clean Water Management Trust Fund (Budget))
- * ~~Deed stamp earmarked~~
- * ~~Tax Credit~~ (Tax reform bill)



Solid Waste Finance

- Changes in State Solid Waste Funding Allocations
 - Disposal tax
 - White good tax
 - Tire tax
 - Solid Waste Trust Fund



Local Government Energy Finance

- Guaranteed energy savings contract modified
- Maintains ability to do PACE

Water Finance and Rate Authority

- S.L. 2013-106 (H 710)
 - Expedited rate adjustments for pass through costs
- S.L. 2013-107 (H788) Water/Sewer Authority/Rate Flexibility
 - Clarifies ability to charge to store and protect water (underground)
- S.L. 2013-150 (SB 207) Maintain Water and Sewer Fiscal Health
 - Allows for LGC control for chronically (3 years) poor financial performing utility

Water Finance and Rate Authority

- S.L. 2013-65 (H 252)
 - Use of revenues by Asheville for non water projects
- S.L. 2013-50 (H 488)
 - Transfers Asheville water utility assets to Buncombe County Metropolitan Sewerage District
- S.L. 2013-401 (H 857)
 - Allows for innovative public private partnerships and construction
- S.L. 2013-386 (S 315)
 - Requires Durham to extend water and sewer service to development

Questions?



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PURCHASING AND CONTRACTING

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Purchasing and Contracting



1. Construction Contracting Changes



2. Contracting Limitations



3. Local Preferences



1. Construction Contracting

■ New Construction Delivery Methods

(S.L. 2013-401; H 857)

1. Design-Build (DB)
2. Design-Build Bridging (DBB)
3. Public-Private Partnership (P3)

- Hire using the QBS process
- P/P bonds required



→ Mini-Brooks Act local government exemption limited to *less than \$50,000* (justification for exemption not required)



1. Construction Contracting (cont.)

■ Energy Savings Contracting

(S.L. 2013-396; S 547)

- State Energy Office must prequalify ESCOs
- Proposals reviewed by "qualified reviewer"
- Evaluation and award process similar to QBS
 - cannot solicit costs in RFQ
 - can only negotiate cost with highest ranked qualified provider
- State Energy Office review required prior to contract award
- ESCO must conduct annual reconciliation using verified methodologies



2. Contracting Limitations

Regulatory Reform Act of 2013

(S.L. 2013-413; H 74)

- Cannot impose employment-related restrictions on bidders if the city/county cannot impose those restrictions on all private employers (ex: living wage)

Public Contracts/Project Labor

(S.L. 2013-267; H 110)

- Cannot require/prohibit/discriminate against contractors based on labor union agreements
- Cannot condition grants/tax incentives based on labor union agreements



2. Contracting Limitations (cont.)

Reclaim NC Act (S.L. 2013-418; H 786)

- Prohibits state and local governments from contracting with contractors who do not comply with E-Verify requirements
- Also applies to contractor's *subcontractors*
- Scope: ALL state agency, city, and county contracts; all formal purchase and construction/repair contracts



3. Local Preferences

None Were Enacted:



- Bld. Contracts/Local Business Participation (S 19) *Pending in Senate*
- Public Contracts/Local Business Preference (S 232) *Pending in Senate*
- Local Contracts/Local Bidder Preference (H 284) *Pending in House*
- NC First (H 728) *Pending in House*



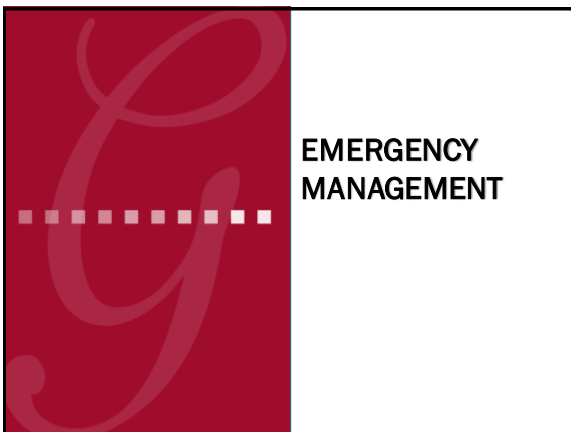


Ethics

- RPO/MPO Ethics Requirements (S.L. 2013-156; S 411)
 1. TCC and TAC members *not* under State Ethics Act
 2. *Only* TAC members have new ethics requirements:
 - 1) Avoid conflict of interests (financial benefit)
 - 2) Disclose potential conflicts and refrain from action
 - 3) Disclose economic interests
 - 4) Disclose real estate interests
 - 5) Cannot benefit financially from confidential information

  State ethics training no longer required!

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Emergency Management



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Emergency Management

- Misuse of 911 System Penalty Increase (S.L. 2013-286; H 345)
 - Increases penalty for misusing 911 system to Class 1 misdemeanor
- Suspend Truck Inspections (S.L. 2013-230; S 377)
 - Governor may suspend weight inspections of agribusiness trucks in emergency areas
- Emergency Management Changes (S.L. 2013-415; H 15)
 - DPS report by Oct. 1st on use of inmates for disaster clean-up and mitigation

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Bill Number	Bill Title	Last Action	L.A. Date	Status	View
H. 352	REPEAL OF THE UNC CONSTITUTIONAL PROVISION	Vote of 2013 (House Action)	Aug 22, 2013	Tracking	Summary
H. 284	AMENDMENT TO THE UNC CONSTITUTION	Vote of 2013 (House Action)	Aug 22, 2013	Tracking	Summary
H. 324	REPEAL OF THE UNC CONSTITUTIONAL PROVISION	Vote of 2013 (House Action)	Aug 22, 2013	Tracking	Summary
H. 348	REPEAL OF THE UNC CONSTITUTIONAL PROVISION	Vote of 2013 (House Action)	Aug 22, 2013	Tracking	Summary
H. 349	REPEAL OF THE UNC CONSTITUTIONAL PROVISION	Vote of 2013 (House Action)	Aug 22, 2013	Tracking	Summary
H. 350	REPEAL OF THE UNC CONSTITUTIONAL PROVISION	Vote of 2013 (House Action)	Aug 22, 2013	Tracking	Summary
H. 351	REPEAL OF THE UNC CONSTITUTIONAL PROVISION	Vote of 2013 (House Action)	Aug 22, 2013	Tracking	Summary

My Bills

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ANIMAL CONTROL

Topics

- Shelters
- Spay/Neuter funding
- Animals in vehicles
- Venomous reptiles
- Commercial dog breeders

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Shelters – Oversight

S.L. 2013-377 (S 626)

Existing	New
<ul style="list-style-type: none"> • Facilities and enclosures • Sanitation • Euthanasia • Veterinary care • Transportation • Records 	<ul style="list-style-type: none"> • Minimum holding periods • Public inspection • Availability for adoption • Disposition of animals • Additional records



Shelters – New Requirements

S.L. 2013-377 (S 626)

- Disposition
 - Surrendered animals and animals impounded for rabies violations may no longer be sold to approved research institutions
- New documentation
 - Biting history of surrendered dog (last 10 days)
 - Identification of person receiving an animal
- Microchip scanning
 - Must scan (impounded for rabies violations)



Spay/Neuter Funding

S.L. 2013-377 (S 626)

- Program to reimburse cities and counties for spay/neuter procedure for dogs and cats owned by low-income individuals
- New cap on reimbursement amounts
 - ≤ 150% of average reimbursement/prior year
- Proportionality requirement for distribution of funds



Animals in Vehicles

S.L. 2013-377 (S 626)

- Not a new crime (was in H 612)
- Probable cause to believe conditions likely to cause suffering, injury, or death
- Must try to locate owner
- If owner not found, may enter vehicle "by any reasonable means"



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Venomous Reptiles

S.L. 2013-377 (S 626)

- Existing crime
 - Must house venomous reptiles in sturdy enclosures and notify law enforcement of escape. G.S. 14-417.
- Existing authority to investigate and seize. G.S. 14-419.
 - NEW requirement that law enforcement and/or animal control *consult with* the Zoo/Museum reps before seizing, unless immediate risk to public safety



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Commercial Dog Breeders

H 930

- Passed the House; pending in the Senate
- Would establish new criminal cruelty law
 - 10 or more female dogs > 6 months; capable of breeding; kept primarily for purpose of breeding
 - Imposes standards for conditions/care
 - Class 3 misdemeanor for first violation; Class 1 for subsequent violations
 - Does not apply to dogs kept for hunting, sporting, field trials, or show

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CRIMINAL LAW

Overview of the Long Session

- Repeal of the Racial Justice Act
- Focus on human trafficking
- Omnibus gun bill
 - S.L. 2013-369

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Gun Bill: Concealed Carry

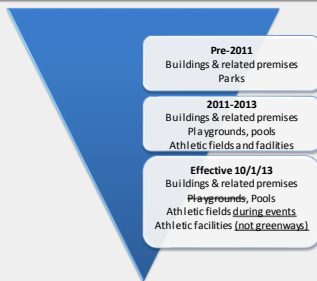
- Concealed carry permit holders may
 - Carry in bars
 - Carry at parades
 - Bring guns on school grounds if locked in vehicle

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Gun Bill: Permit Procedures

- Handgun purchase permits
 - Act faster
 - Provide more detail for denials
 - No costs beyond \$5.00 fee
 - New procedure for revoking
- Purchase and concealed carry permits
 - Not public records

Gun Bill: Local Authority to Regulate Concealed Carry



Changes to G.S. 14-415.23 Over Time

Gun Bill: Increased Penalties for Gun Crimes

- Sentencing enhancement for felonies committed with guns
- Armed habitual felon

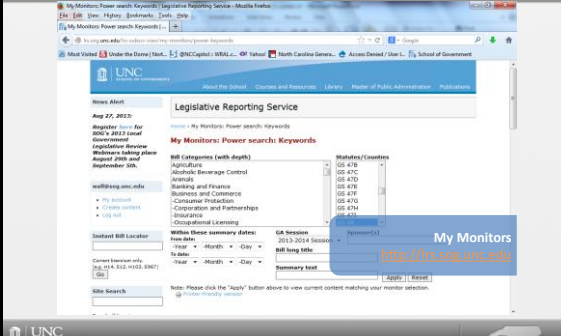
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ECONOMIC AND COMMUNITY DEVELOPMENT

Summary

- Changes in State and Regional Economic Development Entities
- CDBG Allocations Emphasize Infrastructure and Economic Development
- New Rural Economic Development Division
- State Business Recruitment Incentives Retained
- Property Tax Deferral to Encourage Preservation of Sites for Industry

State & Regional Economic Development Organizations

- Public-private partnership authorized in budget
 - “the Secretary of the Department of Commerce may reorganize positions and related operational costs within the Department to establish a public private partnership”
 - SB 127 not enacted
- State support of regional economic development organizations to end



S.L. 2013-360 (S 402)

New CDBG Allocations

	OLD FY 12-13	NEW FY 12-13	FY 13-14	FY 14-15
Administration	4,000,000	1,375,000	1,375,000	1,375,000
Economic Development	7,000,000	10,625,000	10,737,500	10,737,500
Infrastructure	20,300,000	30,500,000	30,837,500	30,837,500
Scattered Site Housing	7,200,000	0	0	0
Small Biz/ Entrepreneurship	2,500,000	0	0	0
NC Catalyst	4,500,000	0	0	0

New Rural Economic Development Division at Commerce

- Administers loans and grants to local govts, priority for Tier 1 and Tier 2 counties
 - critical water and wastewater
 - infrastructure for job-creating facilities
 - Building reuse in 65 most distressed counties
 - Expand rural health care facilities, with priority for communities with populations under 5,000
- Required: 5% cash match from local sources which "may not be derived from other State or federal grant funds."
- \$11 M (FY 13-14); \$13 M (FY 14-15)



S.L. 2013-360 (S 402)

New Rural Infrastructure Authority

- 15 political appointees from Tier 1 and Tier 2 counties
- Makes funding decisions for:
 - New grants and loans created for REDD
 - Industrial Development Fund Utility Account
 - CDBG in Economic Development category



S.L. 2013-363 (H 112)

Discretionary Incentive Programs

- Existing business recruitment incentives retained:
 - One North Carolina Fund
 - Job Development Investment Grants (JDIG)



S.L. 2013-360 (S 402)

Site Infrastructure Land

- Property tax deferral for designated economic development sites
 - More than 100 contiguous acres of farmland
 - Zoned for office or industrial
 - Shovel ready (no buildings)
- Deferral results in tax as if still farmland



S.L. 2013-130 (H 439)



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PROPERTY AND PRIVILEGE LICENSE TAXES

Local Privilege License Taxes



Local Privilege License Taxes

- Avoided elimination as part of state tax reform
 - 2 of 3 plans would have killed/minimized PLTs
 - Final plan only tweaked local PLTs
- GA to study PLTs again in 2014 session
- Safe for now, but . . .

Property Taxes

- New tax deferral for economic development sites
 - Aimed at PUV farmland that could be developed into industrial or office parks
 - 100+ acres, zoned industrial/office, no buildings or building permit
 - Defer taxes on infrastructure improvements as if the property were still PUV farmland

S.L. 2013-130 (H 439)

Property Taxes

- Mecklenburg County reappraisal bill
 - Intended to correct perceived errors in 2011 reval
 - Permits retroactive changes in tax values
 - Could apply to other counties but unlikely

S.L. 2013-362 (S 159)

Property Taxes

- “Tax & Tag Together” program launches 9/1/13
 - Pay RMV property taxes & registration fees to DMV
 - Eliminates 3-month lag in RMV tax bills
 - One-time windfall of extra 3 months of RMV taxes



Questions?



Evaluation: https://unc.qualtrics.com/SE/?SID=SV_54PmCGSmqyqF6a9



Evaluation

Please take a moment to complete our short evaluation. Your feedback is invaluable.

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