

Approved 4/18/2011

Minutes of Monday, April 4, 2011  
REGULAR MEETING

The Union County Board of Commissioners met in a regular meeting on **Monday**, April 4, 2011, at 7:00 PM in the Commissioners' Board Room, First Floor, Union County Government Center, 500 North Main Street, Monroe, North Carolina. The following were

**PRESENT:** Jerry B. Simpson, Chairman; Todd Johnson, Vice Chairman; Commissioner Tracy Kuehler; Commissioner Kim Rogers; and Commissioner Jonathan Thomas

**ABSENT:** None

**ALSO PRESENT:** Cynthia A. Coto, County Manager; Wes Baker, Interim Assistant County Manager; Lynn G. West, Clerk to the Board; Jeff Crook, Senior Staff Attorney; H. Ligon Bundy, County Attorney; David Cannon, Finance Director; members of the press and interested citizens

**General Business:**

Chairman Simpson convened the regular meeting at approximately 7:10 p.m. and welcomed everyone present.

**1. Opening of Meeting**

- a. Invocation - Rev. Gary Underwood, Associate Pastor of Education and Administration, West Monroe Baptist Church, offered the invocation.
- b. Pledge of Allegiance: Chairman Simpson led the body in reciting the Pledge of Allegiance to the United States flag.

**2. Informal Comments**

Chairman Simpson reminded the speakers of the guidelines for informal comments. He recognized Brenda Williams as the first speaker.

Ms. Williams stated that she resides in Marshville, North Carolina, is a 25-year teacher who teaches Earth and Environmental Science at Forest Hills High School. She said that she went back to school and received her master's degree so she would be better prepared for her students and also because of the increase in pay. Ms. Williams said that she needs only 15 continuing education units (CEU's) to renew her teaching certification. She stated that she currently has 38 CEU's and her teaching license expires in 2013. She said that she uses her summers to attend as many science workshops as possible so that she can share the information that she learns from the workshops with her students. She stated that she writes grants in order to provide supplies for her classroom and uses technology everyday and is a Team 21 teacher. Ms. Williams said she has the opportunity to retire but has always said she would not retire as long as she loves what she is doing.

She stated that she has not received a salary increase in three years. She said that there are new teachers who began teaching and in their fourth year of teaching, which is the current year, continues to make the same salary as they made during their first year of teaching. Ms. Williams stated that there are teachers who have second and third jobs. She requested that the Board makes sure to fund the local schools.

Kim Hargett stated that she grew up in Wingate, North Carolina, and now resides in Marshville. She spoke in support of the school system. She said that the great American dream is that everybody is given a chance. Ms. Hargett said that public education is the foundation of giving everyone a chance. She stated that Union County has had a great tradition and there always has been support for public education. She said that she is proud of Union County, and it is a wonderful place to live. She stated that the consistent commitment to public education has resulted in the Union County Public Schools ranking in the top five school systems in the state which includes test scores, athletes, etc. She said that the employees of the Union County Public Schools gave in excess of \$151,000 to the United Way campaign last year. She stated that Union County schools is a system of high expectations.

Ms. Hargett said that what she is reading in the newspaper about the budget causes her concern. She stated that Union County Public Schools is currently slated to take the largest budget cut in the State of North Carolina.

In closing, Ms. Hargett expressed appreciation to the Board for its time and said that anything the Board could do in helping to fund the schools would be greatly appreciated.

The last speaker to address the Board during informal comments was Dawn Moretz. Ms. Moretz stated that she lives in Marshville and was speaking in support of full funding for the schools. She said that she wears many hats: a mom, a wife, a public school parent of a Forest Hills High School student, and is a voter. However, tonight she said she was speaking on

behalf of the Union County Association of Educators, which she is currently serving as the local president, and is representing the 500 members of the local organization.

Ms. Moretz said as the local president of the Union County Association of Educators that she also serves on the Union County Public Schools Budget Development Committee that is spearheaded by Dr. Ed Davis, Superintendent for Union County Public Schools. She said that over the past five months, that committee has met to determine the best way to use the monies afforded to the schools at the local and state levels. She stated that it is no surprise to discover that the schools run a lean and effective school system. She said that the Civitas Institute has rated the Union County Public Schools as having the most efficient central office in the entire State of North Carolina. She stated that the efficient use of funding, staff, and other resources has been the rule as opposed to the exception for the local school system. She said that it is for this reason that today's meeting of the Budget Development Committee was particularly painful.

Ms. Moretz said that the schools trimmed from its budget what others may consider to be the fat several years ago and reduced its budget by four percent last year. She stated that it is now at the point where the schools are not only cutting into the bone but also cutting into the marrow. She said that today's agenda for the Budget Development Committee included discussion about transportation, professional development, safety, and several other topics. She stated that the schools have reduced their budget to the point of where if they were to reduce the people who work in those positions or the programming that goes into that funding, they would be offering a disservice not only to the students but also to the local economy.

In closing, Ms. Moretz requested that the school system be rewarded for its efficiency and frugality. She said as Ms. Hargett mentioned earlier in the informal comments, Union County is among the highest achieving school systems in the state. She encouraged the Board to work with Dr. Davis and the School Board to reach an agreement for school funding that works best for the citizens of the County and especially the students.

### **3. Additions, Deletions and/or Adoption of Agenda**

Commissioner Kuehler requested the addition of an item to the Agenda for discussion of a resolution supporting House Bill 329, which is the equine bill.

Chairman Simpson stated that this item would be placed on the agenda as Item 7a.

With there being no other additions or deletions, Vice Chairman Johnson moved to adopt the Agenda as amended. The motion passed unanimously.

#### 4. Consent Agenda

Commissioner Thomas moved to approve the items on the Consent Agenda as presented. The motion passed unanimously.

- a. Contracts and Purchase Orders Over \$20,000: Authorized the County Manager to approve the following, pending legal review:
  1. Animal Services: Spay/Neuter Program Agreements: Faulkner's Animal Hospital, Waxhaw Animal Hospital, Indian Trail Animal Hospital, Brown Creek Animal Hospital, Central Providence Veterinary Hospital and Mercy Animal Hospital
  2. Sheriff's Office: Purchase Order to L-3 Communications Mobile-Vision, Inc. for the Purchase of Digital In-Car Video Systems for Installation in Law Enforcement Vehicles in the Amount of \$94,185
  3. Sheriff's Office: Purchase Order to West Chatham Warning Devices, Inc. for Blue Lights, Sirens, Etc. for Installation in Law Enforcement Vehicles in the Amount of \$22,277.40
- b. Tax Administrator's Department Monthly Reports for January 2011 and February 2011: Approved the Tax Administrator's Department Monthly Reports for January 2011 and February 2011
- c. Minutes: Approved minutes of the regular meeting of March 21, 2011
- d. "Take a Kid Fishing" Day: Approved free fishing for Union County children under 18 years of age and one sponsoring guardian participating in the "Take a Kid Fishing" Day Event on Saturday, April 30, 2011. All other fees remain in effect (entrance, boat launch, etc.) and will be collected.
- e. Workers' Compensation Settlement Agreement: Received report of settlement of a workers' compensation claim in the amount of \$150,000
- f. Correction to Minutes of August 6, 2010, Special Meeting Regarding Board of Elections' Purchase of Ballots to Clarify Action by Board: Authorized correction to the minutes of the August 6, 2010, special meeting to clarify action by the Board as follows:

Elections' Purchase of Ballots: ***Correction to minutes to read:*** Authorized the County Manager to approve the issuance of purchase orders in excess of \$20,000 in connection with the printing of election ballots.
- g. Public School Building Capital Fund Application: Authorized the Board Chairman to sign the current and future

application forms to request release of funds from the Public School Building Capital Fund (Lottery Distribution) and the Public School Building Capital Fund (ADM Fund)

- h. Budget Transfer Report for February 2011: Approved the Budget Transfer Report for February 2011
- i. Public Works: Purchase Order to Nix Purser & Associates for the Installation of Supervisory Control and Data Acquisition (SCADA) Technology in the Woodfern, Old Hickory and Community Park Wastewater Pumping Stations: Approved purchase as a sole source because standardization or compatibility is the overriding consideration

***Information Only/No Action Required:*** Included in the agenda package but with no action required was the Personnel Report for February 2011.

**New Business:**

**5. Child Abuse Prevention Month and Sexual Assault Awareness Month Proclamation - April 2011**

Alaka Ayers of United Family Services stated that she is an employee of the Children's Advocacy Center. She explained that she was making the presentation tonight because Pam Caskey was unable to attend the meeting.

She expressed appreciation to the Board for allowing her to make tonight's presentation. She stated that United Family Services is requesting support from the Board of Commissioners for a Proclamation proclaiming April as Child Abuse Prevention Month and Sexual Assault Awareness Month. Ms. Ayers read the requested proclamation into the record.

Commissioner Kuehler added that she serves on the Juvenile Crime Prevention Council and was at the United Family Services' facility several weeks ago and saw the beautiful Tree House mosiac. She complimented United Family Services on the work that has been done to the facility, and she said that it should serve as a model for other such agencies.

Commissioner Kuehler moved adoption of the April 2011 Child Abuse Prevention Month and Sexual Assault Awareness Month Proclamation. The motion passed unanimously.

**April 2011  
Child Abuse Prevention Month &  
Sexual Assault Awareness Month  
Proclamation**

**Whereas**, preventing child abuse and neglect, and sexual violence is a community problem affecting both the current and future quality of life of a community;

**Whereas**, Union County Department of Social Services accepted 1,811 reports of child abuse representing over 4,101 children in 2010;

**Whereas**, more than 1,000 victims and family members were served at United Family Services' through Victim and Clinical Services during 2010;

**Whereas**, 97% of the children served by the Tree House Children's Advocacy Center were sexually abused by a relative or other known person and 24% of the children served were sexually abused by other children in 2010;

**Whereas**, 73% of sexual assault victims were under the age of 18; 54% of children served were under the age of 13; 17% were under the age of 5;

**Whereas**, child abuse and neglect not only cause immediate harm to children, but are also proven to increase the likelihood of criminal behavior, substance abuse, health problems, and risky behavior thereby increasing the cost of community support services;

**Whereas**, all citizens should be protected from sexual and physical violence;

**Whereas**, United Family Services' Victim and Clinical Services programs succeed because of partnerships created among social service agencies, schools, faith communities, civic organizations, law enforcement agencies, and all members of Union County;

**Therefore**, the Union County Board of Commissioners does hereby proclaim **April** as **Child Abuse Prevention Month & Sexual Assault Awareness Month** and call upon all citizens, community agencies, faith groups, medical facilities, elected

leaders and businesses to increase their participation in efforts to support families, thereby preventing child abuse and sexual violence and strengthening the communities in which we live.

Adopted this 4<sup>th</sup> day of April, 2011.

## **6. Presbyterian Hospital-Matthews' Annual Report**

Chairman Simpson recognized Roland Bibeau, President of Presbyterian Hospital Matthews, to present the 2011 Annual Update.

Mr. Bibeau said that he thought this was the third year that Presbyterian has had the opportunity to present an annual update to the Board. He said his physician partner, Dr. Mark Collins, is still in the office seeing patients this evening.

He recognized several of Presbyterian's team members: Chief Operating Officer Sheila McNaughty; Senior Director of Support and Professional Services Kim Taylor; and Chief Nursing Officer Brenda Schooly from Presbyterian Hospital Matthews.

Mr. Bibeau gave a brief overview of Presbyterian Hospital Matthews. He shared that 30 to 35 percent of Presbyterian's inpatient care is from Union County. He said that they believe they are a strong partner and serve a large majority of the County through the hospital and physician practices in the County. He said that Presbyterian Matthews is a 114 bed acute care facility and estimated that in 18 to 24 months that it will be a 134 bed acute care facility. He stated that they were awarded an additional 20 beds by the State and Presbyterian is in the process of working with the Town of Matthews and Mecklenburg County on the zoning for that building.

He described the additions to Presbyterian Matthews service lines: expanded the cardiology program to include Interventional Cardiology, and it has the ability to perform angioplasties and stents for acute MI's, Bariatric Surgery, DaVinci (another word for robotic surgery) which is utilized by OBGYN physicians and urological procedures.

He reviewed a number of the hospital's support services and amenities which includes: inpatient hospitalists program; onsite urgent care, valet service, and charity care/community benefit.

Mr. Bibeau discussed what's new at Presbyterian Matthews which included the 20 acute care beds, an addition of a fifth floor, and expanded parking lot. He said that the fifth floor addition is currently in the design phase, but it is expected to

house an expanded intensive care unit. He stated that they are also planning to expand cancer services to the fifth floor. He said they are working with the Town of Matthews and Mecklenburg County to expand the parking footprint on the Matthews' campus. He stated that it is anticipated by the end of this month, they will have received approval for the parking expansion from both the Town of Matthews and Mecklenburg County and construction is expected to begin on the parking lot sometime early July.

He discussed the designations received by Presbyterian Hospital: Stroke Center Designation across the Presbyterian Healthcare facilities in the Greater Charlotte Market including Presbyterian Hospital Matthews; Chest Pain Accredited across the system including Presbyterian Hospital Matthews, and Magnet Designation; National Nursing Award and one of 17 healthcare systems designated as Magnet criteria. He stated that Presbyterian Healthcare has received other awards such as PRC (Professional Research Consultants); voted by the Charlotte Business Journal in 2010 as one of the top Five Best Places to Work in the Charlotte area; and Becker's Hospital Review named Presbyterian Hospital as one of the 50 best hospitals in America.

Mr. Bibeau shared some of the community partnerships in which Presbyterian is involved such as the Union County Public Schools; Monroe Aquatic and Fitness Center; Presbyterian Community Cruiser; and Congregational Health Ministry.

He discussed Presbyterian's Monroe Medical Plaza and showed a layout of the campus. He said they are in the process of determining the number of jobs this campus will bring to Union County. He reviewed some of the other initiatives that Presbyterian is currently working on in Union County which includes the Union County Public School Wellness Program, Community Care Cruiser, and the City of Monroe Employee Wellness Program.

He mentioned the Union County Athletic Trainer Program, which he said that Dr. Collins had planned to address tonight, but he was unable to attend this meeting.

Mr. Bibeau expressed appreciation to the Board for the opportunity to make this presentation and offered to answer any questions of the Board.

Commissioner Rogers said that she wanted to make sure that the public understands the amount of commitment, resources, etc. that Presbyterian puts into its partnership with the Union County Schools in trying to improve the students' health.

Mr. Bibeau acknowledged Dr. Eric Warner, who is the Medical Director for Presbyterian, and is board certified and trained in sports medicine. He said that Wingate University trains their athletic trainers.



## **7. Presentation by South Piedmont Community College (SPCC)**

Chairman Simpson recognized Dr. John McKay, President of South Piedmont Community College, to share information about the community college and its capital improvement needs. Dr. McKay recognized four of the college's trustees who were in the audience: Tom Crooke, current Vice Chair who will serve as the Chair of the Board of Trustees next year; Ken Collins, Dr. Chuck Palmer, and Richard Stone, who have served on the Board of Trustees since the community college was established in 1999. He also recognized Mr. John De Vitto, Vice President for Finance and Administration at the college.

Dr. McKay shared that North Carolina General Statute 115D-32 relates to local financial support of community colleges. He said that the County is responsible for providing adequate funds to meet the financial needs of the institution in the following areas: 1. Plant Fund and 2. Current Expenses. He explained that the Plant Fund is basically the same as the public schools. He said that the plant operation and maintenance includes all the maintenance, utilities, telephone services, and security. He stated that a few counties in the State provide additional funding to the community colleges for salary supplements and support personnel, but the majority of the counties do not provide these additional funds.

He reviewed enrollment statistics for the community college. He said that this fall a little more than 7,400 students were enrolled in all programs, and the Old Charlotte Highway Campus had an enrollment of 5,186 students. He stated the Old Charlotte Highway Campus has grown by 128 percent since 1999, and the enrollment at that campus has grown by 53 percent from 2006 to 2010 to a great extent due to the recession and the need for additional job training.

Dr. McKay reviewed the community college's enrollment by locations which showed that 70 percent of the students are enrolled at the Old Charlotte Highway Campus, and 30 percent of the students are enrolled in the various Anson County locations. In addition, he said that approximately 60 percent of the college's total students are from Union County; 25 percent of the students are from Anson County, and seven percent of the students are from Mecklenburg County. He noted that there are many more students from Union County who go to Mecklenburg County than come to Union County. He said that three percent of the students are from Stanly County; two percent from Richmond County, and three percent of the students are from other counties including South Carolina. He pointed out that 89 percent of the college's students reside in Union County and 11 percent of the students reside in Anson County.

Dr. McKay provided a brief history of the physical development of the community college. He stated that the college currently has 97 acres with 136,000 permanent square feet of space. He said it has 16,000 square feet in mobile units (14 total units - six located at the community college and eight units are located at high schools to serve the early college

program). He noted that through 2008, Union County had contributed approximately \$9.7 million in capital dollars to South Piedmont and the State had contributed \$5.7 million (from 2000 Statewide Bond Issue and one-half of that from legislation passed in 1999 that created South Piedmont Community College).

He gave a brief comparison of the square footage of South Piedmont Community College to that of Gaston College and Johnston Community College. He said that South Piedmont Community College has done several things to add and better utilize its space. He said that in 1999 the college had a partnership with the Union County Literacy Council, which ended and the Literacy Council moved downtown Monroe; the partnership with Union Smart Start Resource Center moved off campus and two classrooms were created from that space; nursing simulation lab is located at CMC-Union, etc. Dr. McKay stated that the college is continuing to look at other low cost or no cost operations, because the college is basically out of space to expand a great deal. He said they have just recently learned that there might be some possibilities for additional space in the same facility on Airport Road.

He discussed future facility plans of the college included in the Campus Master Plan. He said that Phase I, which was developed in 2008, is in the current County Capital Improvement Plan and consists of a multi-purpose facility (75,000 square feet) and a Manufacturing/Protective Services Building (35,000 square feet). Dr. McKay stated that he thought the general classroom building should be built next, because of the number of mobile units used by the community college and the fact that some of the manufacturing needs have been taken care of with the Advanced Machining Center on campus and the use of the square footage that the college has on Airport Road. He stated that he thought the general classroom building would flip positions with the Manufacturing/Protective Services Building as the next need and the costs would probably be about the same.

He showed a diagram of the front and rear elevations of the proposed three-story building. He stated that the project is ready to go to bid and is approved by state construction.

Dr. McKay stated that when the County purchased the additional 25 acres for the college in 2000, the seller wanted a higher price for the four acres that had frontage on the highway, and the County decided not to purchase those four acres. He said there have been some discussions over the years both with the County and with the owner's children about selling the four acres. He stated that the children have placed the four acres up for sale. He said that there is no immediate use of this property by the community college except for the fact that it is needed to keep some other use from being constructed on that property.

Dr. McKay discussed the appraised and asking price of \$639,000 for the four acres. He said that in 2009 the community

college foundation offered to put forth \$150,000 to help with the purchase of the land, and this information was presented to the County, but there has not been an opportunity to discuss it. He said that the \$150,000 is still available to help with the purchase of the land.

In closing, Dr. McKay requested that the Board approve for County staff to work with the community college to determine if a multi-year purchase can be worked out for the four acres with the South Piedmont Community College's Foundation paying \$150,000 for the first year. He stressed that there would be no money required from the County's FY 2011-2012 budget but the County would need to work out an additional two to three years of payments with the owner for the County to pay the remainder of the purchase price.

Commissioner Thomas complimented Dr. McKay and the staff of South Piedmont Community College for the wonderful job that they do. Dr. McKay responded that the college strives to meet the community college needs for the county. He explained that in North Carolina the community colleges provide a wide range of services.

Commissioner Rogers asked by what amount tuition has increased at South Piedmont Community College since 2008. Dr. McKay estimated that the increase has been approximately five to six percent per year. He said this year South Piedmont requested a \$10 increase in the State's budget proposal. He noted that South Piedmont remains the third lowest in tuition cost in the nation even with the \$10 increase. Commissioner Rogers asked if South Piedmont has received any increase in financial assistance from the State.

Dr. McKay said that the amount has increased because of the college's enrollment growth. He stated that this past year was one of the best years that community colleges have had, because this was the largest enrollment growth. He said that they are expecting reductions in funding this year.

Commissioner Kuehler asked if the community college offers any online courses. Dr. McKay responded that almost all of the community college's classes are offered online as well as in the traditional classroom. He said that many of the programs can be obtained online. He stated that partially due to space needs, all of the seated classes have some component for either web-enhanced or web-blended courses. He explained that there have been some issues with students not wanting to take online classes but having to take them because seated classes are not available. Dr. McKay stated that the current success rate on the online classes is running less than that of seated classes. He said that they are working to try and add support services this year.

Commissioner Kuehler asked if there was a difference in the cost of online classes and seated classes. Dr. McKay

responded that there is no difference in the prices to the students.

At approximately 8:25 p.m., the Chairman called for a short recess in the meeting. The Chairman reconvened the meeting at approximately 8:35 p.m.

#### **7a. Discussion on House Bill 329**

Commissioner Kuehler initiated the discussion regarding House Bill 329. She stated that she attended a community meeting last Thursday where Representative Craig Horn addressed some community members and talked about House Bill 329, which he has filed to expand the Equine exemption under the Building Code for North Carolina.

She gave a brief history of the bill stating that it was placed on the House's calendar for March 28 but it was postponed until tomorrow. She said she was unaware of any sister bill in the Senate at this time. She stated that Union County has made it very clear that it wants the reputation of being business friendly as well as mindful and supportive of agricultural activities. She said that equestrian centers are prevalent across the county and offer a multitude of services as well as they create economic development through the lessons and events that they offer. She stated that quite a few of these centers also hold private sector charitable events. She said that due to what she thought were unintended consequences of a bill that was passed in 2009, many of the equestrian centers in North Carolina could be jeopardized by having to adhere to the strict commercial building code, which is the reason for House Bill 329. She stated that she thought it would be appropriate for the Board to pass a resolution in support of the bill and Representative Horn's efforts to expand it.

She provided the Board with a copy of the proposed bill and moved to direct staff to draft a resolution in support of House Bill 329, and, if possible, to communicate that support to the County's legislative delegation as soon as possible due to the bill being calendared for hearing in the House tomorrow.

The motion passed by a unanimous vote.

Commissioner Thomas asked Jeff Crook, Senior Staff Attorney, if it were correct that if the bill passes, it would have no impact on the local ordinances. Mr. Crook responded said that was correct that the bill applies to the Building Code. He said that the County's land use ordinance and other ordinances would continue to apply.

Commissioner Kuehler said that as far as the commercial building code, this bill would exempt those centers from having to

meet those standards if they meet the criteria within the bill, and the County would not have to enforce the State statute here because the statute would change. Mr. Crook indicated that this was correct.

## **8. Acquisition of Property for Water Tank**

Chairman Simpson recognized Cindy Coto, County Manager, to explain this item. Mrs. Coto stated that during January or February, the Public Works Director brought forth a number of issues that relate to water and wastewater. She said that one of those issues related to water pressure problems that are occurring in the Weddington area and the need for a water tank site and facility in that area. She said that staff received direction from the Board to negotiate on contracts on several sites, and staff has been successful in its negotiations for one of the sites. She stated that staff is bringing information on the proposed site before the Board this evening for the Board to consider directing staff to proceed. She stated that Mr. Bundy, County Attorney, has had some additional conversations and she thought an understanding has been reached regarding the deal points.

Mr. Bundy shared the material terms of the contract as has been negotiated. He stated that this is a voluntary agreement to acquire property from private property owners and does not involve condemnation. He said that the property is located on Highway 16 in the Town of Weddington and consist of three contiguous tracts owned by members of a family as follows: 1) one tract owned by Laura Hefner containing 4.909 acres; 2) one tract owned by Margaret Hemby, who is the mother of Laura Hefner, containing 2.257 acres; and 3) one tract owned by Kenneth Hemby, who is the son of Margaret Hemby and brother of Laura Hefner, containing .735 acres. He explained that the tract owned by Mr. Hemby is a portion of a larger tract owned by him. Mr. Bundy said the combined acreage of the three tracts is 7.901 acres.

He pointed out that the proposed contract would require the County to obtain a current survey, and, therefore, the amount of acreage would be subject to determination of the new survey. Mr. Bundy said the purchase price for the property would be \$103,000 per acre. He stated that unless the acreage changes according to the new survey, the purchase price would be approximately \$793,803.

He explained that the property is located in the Town of Weddington, and the purpose of acquiring the property is to construct a water tank. He said that under the Town of Weddington's zoning ordinance, the County has to obtain a permit from the Town to locate a water tank on the property. He stated that the County's obligation to purchase the property is contingent upon the County's obtaining the permit from the Town of Weddington. He further stated that the County would be obligated to apply for the permit from the Town of Weddington at the County's own expense. He said that upon signing of the contract, the County would pay a \$20,000 deposit and would have 90 days in order to complete an environmental

investigation of the property to determine if there are any environmental problems. He said if environmental problems are found, the County would have the right to terminate the contract and receive a refund on its deposit. Mr. Bundy stated that if the environmental investigation reveals that there are no environmental problems and the County does not terminate the contract, the \$20,000 deposit would be retained by the owners. He said that if the sale is closed, the \$20,000 deposit would be applied against the purchase price.

He stated that the closing on the property would occur within 30 days of the permit being issued by the Town of Weddington, and if the Town denies the permit, the County would have the option of terminating the contract without any further obligation and the owner would have the right to retain the deposit. He said the request is for the Board to authorize the Manager to sign a contract containing these material terms.

Commissioner Rogers asked Ed Goscicki, Public Works Director, how long the County has been trying to site a water tower to provide service for the citizens of Weddington. Mr. Goscicki responded that the need for a tank was identified in the 2005 Master Plan indicating that the tank needed to be in service by 2010.

Commissioner Thomas asked Mr. Goscicki if the sale on the property is completed, what is the plan for construction of the water tank. Mr. Goscicki estimated that it would take approximately 18 months before the tank would actually be in service.

Commissioner Kuehler asked about the funding source for purchasing the properties. Mrs. Coto responded that the funding would come from the water and wastewater fund and not from the County's general fund.

Following the discussion, Chairman Simpson moved to authorize the Manager to approve an Agreement to purchase the proposed three contiguous tracts of land individually owned by: a) Kenneth Hemby; b) Laura Heffner; and c) Margaret Hemby located on Highway 16 in the Town of Weddington under the material terms as outlined by the County Attorney. The motion passed by a unanimous vote.

## **9. Litter Control**

Since Vice Chairman Johnson had requested this item be placed on the agenda tonight, Chairman Simpson recognized Vice Chairman Johnson for his comments.

Vice Chairman Johnson stated that since being seated as a Commissioner in December, he has received multiple calls on

different issues. He reported one of the two items he has received the most calls on was something he would have never expected and that subject was littering. He said he is concerned about littering in the County as are many citizens. He stated that littering has become a problem, and he would like for the fines for littering to be increased.

Vice Chairman Johnson said that he believed the County's current fine of \$50 is inadequate and antiquated. He stated that he wanted to see a tiered fine implemented as follows: First Offense \$250; Second Offense \$500; and Third Offense \$1,000. He asked for the Board's thoughts on this proposal. He said that he thought this increase in fines would serve as a deterrent to littering, which is offensive, and he thought the residents should take pride in the county and protect it by not littering.

Commissioner Kuehler agreed with Vice Chairman Johnson regarding littering. She noted that there are several points that she would request more guidance on. She stated that the proposed amendment to the County's ordinance addresses increasing the fees, but noted that what she had read was it would change the penalty from a criminal penalty to a civil penalty.

Jeff Crook, Senior Staff Attorney, clarified that the proposed increase in fines does not replace the criminal penalties in the County's current ordinance, but the increase for civil penalties would be an addition to the existing \$50 criminal penalty. He explained that he and Sheriff Cathey have had only brief discussions about how the ordinance would be enforced. He said that currently there is a litter officer in the Sheriff's Office. He said Sheriff Cathey has suggested that this officer carry a citation book and issue, at the same time that he pursues it from a criminal standpoint, a civil citation that the County could enforce in small claims court. Further, he said that there remain some internal processes to be worked out as far as how to enforce the civil penalties.

Commissioner Kuehler referred to Section 3 of the existing ordinance which addresses "Storage and Disposal" and said that this section appears to be addressing refuse solid waste on a person's own property. She questioned if this was policing how people treat their own property. She stated that she thought this was more of a Homeowners Association's issue.

Mr. Crook responded that Commissioner Kuehler was correct that the State Statutes do not apply to one's own property but noted that this was a 1981 County Ordinance, which does apply to the owner's property. He said that the only part that was added in the proposed amendment was the first paragraph under Section 1, and all other parts of Section 3 are currently in practice and have criminal penalties as enforcement mechanisms. He reiterated that this Ordinance is currently regulated by the County and has been since 1981.

Commissioner Kuehler said that she personally would not want to live beside someone who has decided to use their acreage

as their own landfill, so she understood the mindset behind it. She asked if staff thought the ordinance enforcement should remain with the Litter Control Officer in the Sheriff's Office.

Mr. Crook replied that he would be talking with Mr. Goscicki, the Public Works Director, about this matter on Tuesday morning. He pointed out that there are criminal violations under the state statues and also under the County's ordinances. He said the way he viewed it is as working somewhat in tandem with the current Litter Control Officer, and perhaps some staff, if the Public Works Director is able to identify staff that can help to enforce the civil penalties.

Commissioner Rogers stated that she supported this proposal in concept and reminded that this is something that the Board considered several years ago and talked with the Sheriff about. She said that there has always been a staffing issue on both sides. She stated that her concern was that the amendment would add work to the Public Works staff, the County Manager, or the Assistant Manager by authorizing them to sign the complaint, initiating the legal action, etc. She asked who had reviewed the proposed amendment to the Ordinance.

She asked Vice Chairman Johnson if he were asking for approval tonight of the concept to move forward, and to work out the matter, or was he requesting adoption of the Amendment to the Ordinance that was included in the agenda package. Vice Chairman Johnson stated his goal was to increase the fine from \$50 to \$250 for the first occurrence. Commissioner Rogers said she was absolutely in support of this proposal, but she wanted to ensure that discussions have taken place with all of the various parties to get everything into play. She suggested that staff present to the Board all implications of the Amendment as they relate to the Public Works staff, the Litter Control Officer, etc., as well as the mechanics of criminal and civil citations. She reiterated her support of the concept of the proposal but stressed that she wanted to see it come back before the Board with more details after these discussions have taken place with all parties.

Commissioner Kuehler asked about limits on the amounts for the criminal fines. Mr. Crook responded that the maximum criminal fine for a misdemeanor, which is a violation of the County ordinances, is \$50 unless the ordinance states otherwise. Further, he said that there is also a statute that applies to solid waste management that caps the fine at \$50. He noted that there is a second statute also applicable to solid waste that does not apply a cap on the fine. Mr. Crook said that pursuant to his discussions with Vice Chairman Johnson, he elected to keep it as simple as possible and to add the civil penalties in a graduated manner. He explained that it was the Board's pleasure as to whether or not to increase the criminal penalties as well.

Commissioner Rogers asked Vice Chairman Johnson if he had any interest in increasing the criminal penalties, as was mentioned by Mr. Crook. Vice Chairman Johnson said that he would definitely be interested in entertaining such increases.



Commissioner Rogers said that perhaps this could be another issue on which the staff could bring information to the Board at a later time.

Commissioner Thomas said that as far as his thoughts, if someone is caught littering, there should be teeth in the ordinance to impose the fines. He stated that he thought the graduated scale for the fines was a nice option, but he was all for putting teeth in the ordinance and perhaps set the fines for all offenses at \$1,000.

Commissioner Kuehler asked if there was a difference in littering on someone else's property and having trash on your own property. She said that what was being talked about was people dumping trash and that should be offensive to everyone.

Mr. Crook pointed out that what the County currently has is the 1981 ordinance and the civil penalties would apply to any violation of that ordinance, which would include allowing litter to accumulate on one's own property.

Commissioner Kuehler stated that she had somewhat of an issue with there being a regulation on someone's property versus dumping trash on the side of the road or in parks, etc. She said that she thought maybe these two matters could be treated differently.

Vice Chairman Johnson said in reference to Commissioner Thomas' comments, he was in support of maxing the fines out to \$1,000 initially but, at the same time, he could see graduating the fines a little the first time and meeting somewhat halfway the second time. He said that it would be fine with him if the Board wanted to delete the \$500 for the second offense, and use the \$250 for the first offense and increase it to \$1,000 thereafter. He stressed that he thought the ultimate goal here was to deter littering as much as possible and keep Union County sweet.

Following the discussion, Vice Chairman Johnson moved that the Board consider the adoption of an Amendment to the Solid Waste Management Ordinance to add civil penalties as follows:

First violation (within a three-year period)	\$ 250
Second Violation (within a three-year period)	\$ 500
Third and Subsequent Violations (within a three-year period)	\$1,000

Commissioner Rogers asked for clarification of whether the motion was to include the dollar amounts. She questioned if Vice Chairman Johnson would be willing to include in his motion to direct staff to bring a plan to the Board as the Commissioners have all stated.

Vice Chairman Johnson agreed to amend his motion to include directing staff to bring the requested information to the Board which addresses the various issues as has been stated by the Board tonight.

Mr. Crook asked for clarification of whether the motion was to adopt the Amendment to the Ordinance as included in the agenda package including the civil penalties. He pointed out that there was also a provision in the Amendment to clarify the littering provision itself.

Vice Chairman Johnson asked what the pleasure of the Board was regarding this matter. Commissioner Rogers said her understanding was that the motion was to look at the penalty tiers as stated by Vice Chairman Johnson and for staff to use the proposed Amendment included in the agenda package as a beginning point and to incorporate all of the various comments and concerns as has been addressed by the Commissioners tonight and then bring an official amendment to the Board to consider for adoption.

Mrs. Coto interjected that so many different comments have been made tonight with some being inconsistent that she was unsure if there was clear direction for her or Mr. Crook to amend the ordinance. Commissioner Rogers said that she was not aware of there having been anything conflicting in the comments. Mrs. Coto stated that there had been comments about personal property, general littering, and she was unsure if there was a general consensus as to whether to differentiate or treat them the same. She said that she certainly did not want to direct staff to develop an amendment and then when it is presented to the Board, it is not what the Board had intended. She stressed that was her only reason for trying to seek additional clarification of the motion.

Mr. Crook said that he might not have been clear in his earlier comments, but the provisions that have been in effect since 1981 do apply to one's own property. He explained that the Amendment only adds civil penalties to the existing criminal penalties. He said that he was glad to work with the Board in whatever manner it wants, but he agreed with the Manager that some clarity is needed.

Commissioner Kuehler stated her concern is that when times get tough, people might become creative, and they may be stacking trash or getting ready for a burn pile, and they cannot get rid of the refuse within the required seven-day period. She said that she thought if the Board is going to consider amending the Ordinance, that it should look at everything, and she would feel much better if there was a different set of standards for people's own property versus someone driving down the road and dumping a bag of garbage on someone else's property.

Mr. Crook said he wanted to assure that he understood and would be able to capture the Board's intent. He said the current ordinance would remain on the books unaltered, and perhaps what was being suggested was a new and different ordinance that would apply civil penalties to a new ordinance which is littering not on one's own property but along the roadside or in public, etc. Commissioner Kuehler agreed that this would be a good compromise so a property owner has to clean up his/her own property, but if he/she is littering on someone else's property or on public places where everyone is supposed to be able to enjoy, then the enhanced civil penalties would apply. She said that while she did not have an answer to this issue, she thought Mr. Crook's suggestion was a good one.

Vice Chairman Johnson said that he did not have a problem with what has been suggested. He explained that his intended goal was to increase the penalties for damaging other people's property as well as the public's common area where everyone enjoys.

Commissioner Thomas said that he thought all the Commissioners were singing from the same sheet of music but the tunes are a little different. He questioned the possibility of the Board considering the fines tonight with the idea that this item would be placed on the upcoming agenda to allow the Board members to look at it in its entirety and then come back with suggestions for staff in order to be clear on the changes and possible ways to improve.

Commissioner Rogers said she would be fine with Commissioner Thomas' suggestion and asked that Mrs. West provide the Board with a summary of tonight's comments regarding this item. She stated that she did not remember all of the comments that had been made tonight in regards to this matter, but she thought she was pretty much in agreement with everything that has been said. She stated that if Mrs. West could send the summary, then perhaps the Board could provide more direction to staff.

Chairman Simpson stated that there was a motion on the table along with a friendly amendment.

Commissioner Thomas said that he was willing to offer his suggestion as a friendly amendment if Vice Chairman Johnson would accept it. He restated the friendly amendment as follows: to accept the fines as stated and add this item to the upcoming agenda for further discussion.

Vice Chairman Johnson said he was good with the friendly amendment. He restated his motion as follows: to consider adoption of an amendment to the Solid Waste Management Ordinance to add civil penalties in the following amounts:

First Violation (within a three-year period)

\$ 250

Second Violation (within a three-year period)	\$ 500
Third and Subsequent Violations (within a three-year period)	\$1,000

He stated his motion further included adding this item to the April 18, 2011, regular meeting to address the other issues discussed tonight.

Mr. Crook stated that he wanted to make sure that he understood the motion correctly. He stated his understanding is that the Board was not taking any action regarding any ordinance tonight, but it is approving tentatively the schedule of fines, as stated by Vice Chairman Johnson, and the Board would discuss this matter again at the April 18, 2011, meeting.

Vice Chairman Johnson agreed that this was correct as stated by Mr. Crook.

The Chairman called for a vote on the motion, which passed unanimously.

#### **11. Announcement of Vacancies on Boards and Committees**

Chairman Simpson announced vacancies on the following Boards and Committees:

- a. Adult Care Home Community Advisory Committee
- b. Agricultural Advisory Board [One (1) Vacancy for an unexpired term ending June 2011 and two (2) Vacancies for terms ending June 2011]
- c. Juvenile Crime Prevention Council [One (1) vacancy for each of the following: a Substance Abuse Professional and two (2) Vacancies for persons under the Age of 18]
- d. Nursing Home Advisory Committee [Members cannot have a financial connection with or have an immediate family member in a nursing home]
- e. Parks and Recreation Advisory Committee [Vacancy for one member with a physical disability]
- f. Home and Community Care Block Grant Advisory Committee [three (3) vacancies for community representatives as of December 2010]
- g. Board of Health [one (1) vacancy for a Dentist]
- h. Planning Board [Five (5) vacancies which include one (1) regular member with an unexpired term ending April 20, 2011; one (1) term ending April 20, 2011; and two (2) unexpired terms ending April 20, 2012 and an alternate whose term expires April 20, 2011]
- i. Region F Aging Advisory Committee [(Two (2) Vacancies for Regular Members and One (1) Vacancy for an

Alternate Member with Terms Ending June 30, 2011)]

**12. Appointments to Boards and Committees**

a. Board of Health (One Veterinarian)

Commissioner Rogers moved to appoint Brenda D. Yercheck, DVM, to serve as the Veterinarian representative on the Board of Health. The motion passed unanimously.

b. Board of Adjustment [Two (2) Vacancies for Regular Members and One (1) Vacancy for an Alternate Member]

Vice Chairman Johnson nominated Darren Greene for reappointment as a regular member on the Board of Adjustment.

Commissioner Thomas nominated Mark Tilley for reappointment as an alternate member on the Board of Adjustment.

Commissioner Thomas nominated Louis Phillipi for appointment as a regular member on the Board of Adjustment.

Chairman Simpson called for the Board to vote on the nominations individually.

Darren Greene received five votes.

Louis Phillipi received three votes. Chairman Simpson, Vice Chairman Johnson, and Commissioner Thomas voted in favor of his nomination. Commissioners Rogers and Kuehler voted against his nomination.

Mark Tilley received five votes.

c. Nursing Home Advisory Committee

Commissioner Thomas said that while he had no direct conflict of interest in connection with the appointments to this committee, he works in this industry, and would request to be recused from voting on this item.

Chairman Simpson asked for a motion to recuse Commissioner Thomas from the vote on this item.

Vice Chairman Johnson moved to recuse Commissioner Thomas from the vote on this item. The motion passed by a vote of

four to zero. Chairman Simpson, Vice Chairman Johnson, Commissioner Kuehler, and Commissioner Rogers voted in favor of the motion. Commissioner Thomas did not vote.

Commissioner Thomas left the Board Room during the discussion and vote on this item.

Commissioner Rogers nominated Sarah Nash for reappointment and Carol W. Farley, and Paul Doan for appointment to serve on the Nursing Home Advisory Committee. The motion passed by a vote of four to zero. Chairman Simpson, Vice Chairman Johnson, Commissioner Kuehler, and Commissioner Rogers voted in favor of the motion. Commissioner Thomas was recused from the vote.

### **13. County Manager's Comments**

Commissioner Thomas rejoined the meeting at this time.

Cynthia A. Coto, County Manager, announced that the County had received official word that it has been awarded an EPA Grant in the amount of \$1.9 million for the eastside wastewater collection system improvements. She said that this project has been ongoing since 2005. She stated that her purpose this evening for mentioning this item was twofold: 1) to make the Board aware of the grant award; and 2) to recognize Mark Tye, Assistant Director over Wastewater and Solid Waste in Public Works. She stated that since 2005, Mr. Tye has almost single-handedly championed this grant and has been very dogmatic in working on it.

### **14. Commissioners' Comments**

Vice Chairman Johnson thanked everyone who attended tonight's meeting and also the speakers who addressed the Board during the Informal Comments portion of the meeting. He thanked the speakers for their hard work with the schools. He said, as a father of two children, ages three and five, he understood the hard work of the teachers, parents, and volunteers, and knew the importance of their work not only for the children but also for the community.

He encouraged citizens to apply for the vacancies on the Boards and Committees.

Commissioner Kuehler said, as she had mentioned earlier in the meeting, she attended a community meeting where Representative Craig Horn and Senator Tommy Tucker addressed the residents regarding some of the issues they are dealing with in the legislature. She said that there was a good attendance for the meeting. She said Representative Horn and

Senator Tucker talked about the budget challenges and she thought the meeting was very informative.

She shared that she had also attended the Union County Partnership for Progress Strategic Planning Session. She said there were a number of people from diverse areas of business such as CSX Railroad, local small business entrepreneurs, and people involved in agriculture who also attended the planning session. Commissioner Kuehler stated it was nice to see so many people with so many ideas about the direction we need to be headed in order to move out of the recession.

She reminded everyone of the very dangerous intersection where Beulah Church Road and Antioch Road intersect and urged motorists to use caution when traveling through the new traffic pattern with the four-way stop sign that has been erected by the Department of Transportation at this intersection.

Commissioner Thomas said that there are a number of things in government being reviewed carefully in regards to funding in connection with the budget. He encouraged citizens to be a part of this process and to take advantage of the opportunities where elected officials are making themselves available in the community. He offered that if citizens want the Commissioners to be available, he would certainly make himself available to listen and to better explain the County's current financial situation. He stated that he has said many times the pending cuts in the County's budget are not discretionary but are items where funding is not available as it was in the past.

Commissioner Thomas announced that on Thursday evening at 5:30 p.m., as the Fire Commissioner, he would be holding his first meeting with the Fire Commission. He encouraged the citizens to be a part of that meeting and to ask any questions they might have or to offer their guidance to the Fire Commission. He said he was looking forward to working with the fire community.

Commissioner Rogers had no comments.

With there being no further comments or discussion, at approximately 9:16 p.m., Commissioner Kuehler moved to adjourn the regular meeting. The motion passed unanimously.