

Approved 11/10/2010

Draft Minutes of the Regular Work Session  
of August 11, 2010

The Union County Board of Commissioners met in a regular work session on Wednesday, August 11, 2010, at 9:00 a.m. in the Personnel Training Room, Room 131, First Floor, Union County Government Center, 500 North Main Street, Monroe, North Carolina. The following were

PRESENT: Chairwoman Kim Rogers, Vice Chairwoman Tracy Kuehler, Commissioner Allan Baucom, Commissioner A. Parker Mills, Jr., and Commissioner Lanny Openshaw

ABSENT: None

ALSO PRESENT: Al Greene, County Manager, Lynn G. West, Clerk to the Board of Commissioners, Jeff Crook, Senior Staff Attorney, Keith Merritt, County Attorney, David Cannon, Finance Director, Brett Vines, Public Information Officer, members of the press, and interested citizens

At approximately 9:03 a.m., the Chairwoman convened the meeting and recognized Al Greene, County Manager, for comments.

**Presentation of Update Detention Center Population Projections:**

Mr. Greene stated that staff has an update today on the planning for the detention center expansion based on revised Average Daily Population (ADP) Projections. He recognized Barry Wyatt and his staff from General Services, Sheriff Eddie Cathey and his staff, Jim Metze of Little Diversified Architectural Consulting, Jim Kessler of HOK, and Bob Goble and Chris Monsma of Carter Goble Associates. He said that Carter Coble revised the population projections last spring, which are critical in terms of timing and the manner in which the detention capacity is expanded. He stated that Carter Goble provided a draft update and staff worked with Carter Goble to review the update. Mr. Greene said that the bottom line is that the original design that was pursued for detention capacity expansion works well with the population projections as revised. He stated that they offer the flexibility needed to move

forward in a cost-effective manner and to make decisions incrementally through the years as the jail population expands. He recognized Ben Bailey, Chief Deputy Sheriff, for comments.

Chief Deputy Bailey provided the Board with background on the project from 2004 until the present. Following his presentation, he introduced Chris Monsma with Carter Goble Associates.

Mr. Monsma provided an update on the Jail Needs Assessment Projections. He noted the following County Growth Trends:

- During the 2005/06 Needs Assessment Union County was one of the fastest growing counties in the United States.
- Between 2000 and 2009 Union County grew by 60.5 percent which was the 14<sup>th</sup> highest growth rate in the United States during that time.
- Extending back to 1994, Union County has added over 100,000 residents, a 106.3 percent growth rate.

He reviewed the following jail statistics and trends, as provided by the Sheriff's Office:

- Rated Capacity at the Union County Jail is currently 240 beds.
- Jail average daily population (ADP) grew from 119 in 1997 (baseline year for first study) to 241 in 2009 (last full year of data available)

Commissioner Mills asked if there were any future changes anticipated in the rating capacity.

Bob Goble of Carter Goble Associates responded that when the original program was completed it was done in accordance with the North Carolina Jail Standards. He stated that his firm was currently working throughout the State of North Carolina on other jail projects and is up-to-date on those standards, but it is not anticipated there will be any changes in those standards.

Mr. Monsoma continued with his presentation in connection with the jail statistics and trends:

- Jail admissions (ADM) grew from 4,138 in 1997 to 6,404 in 2009. He said that according to the data that they have received in 2010 that number will increase.
- Average length of stay (ALOS) increased from 10.5 days in 1997 to 13.7 days in 2009.

- The admissions in the jail dropped in the fall of 2008 but have spiked dramatically recently and the highest year on record for admissions was 2009.
- When the admissions spiked, the average length of stay increased from 10.5 days in 1997 to 13.7 days in 2009. He stated that the average length of stay is currently 14 days.

Mr. Monsoma stated that during the projection analysis, it was determined, after consultation with County staff, that the 2025 Comprehensive Plan would be used for the County's population projections and growth rate at 3.4 percent. He said that they averaged six statistical models to project the Average Daily Population to 2025, and the Average Daily Population for 2025 is projected at 443 and in 2020 it is projected to be 376.

He said in order to determine the jail bed needs, they added the Average Daily Population plus peaking and classification separations, and with that the jail bed needs for 2020 are 428 beds and 504 in 2025. He stated that the peaking factor is 8.7 percent from historic annual Average Daily Population peaks in Union County, and the classification separations factor is a practice standard of five percent.

Mr. Monsma noted that other factors included in the study were Criminal Process Assessment as follows:

- Pre-Trial Services Program started in October 2009, which is currently monitoring 20 defendants who have been in jail.
- Criminal Court Disposition Rate has been over 96 percent every year except 2001 and 90 percent is favorable.
- Used snapshot data from the jail to determine pre-trial inmates' length of stay, which showed that 65 percent of pretrial inmate cases were meeting American Bar Association's (ABA) standards.

Commissioner Openshaw asked if Mr. Monsma were saying that Union County's Court System was acting expeditiously. Mr. Monsma responded "yes" in terms of raw numbers, which means that the cases are going through although the third data point notes that to reduce the Court's processing time for pre-trial detainees to the American Bar Standards would help to reduce the jail's Average Daily Population.

Commissioner Openshaw questioned who would be involved with speeding up the processing time for pre-trial detainees. Sheriff Cathey responded that pre-trial is managed by the judges, and the judges and the pre-trial program recommend the person for pre-trial, and the Sheriff's Office conducts the background information and prepares certifications and presents this information to the

Judge to assign the inmate to pre-trial. He noted that there are currently 20 people on pre-trial who are managed by one person. He said that the jail population is constantly over 300 inmates. He stated they want to expand the pre-trial program slowly through the court system. He estimated that the pre-trial program could probably manage 30 to 35 inmates at one time.

Commissioner Openshaw asked if the additional judge would help with the timing of some of the considerations. Sheriff Cathey stated that he thought the additional judge would be a great help, but said that he thought it would probably increase the jail population. He said that he thought there were approximately 3,000 court cases behind in the system at this time. He stated that as the new judge begins working, those persons would move from release back into the jail.

He said that in September there were approximately 400 Driving While Impaired backlogged cases, and many of those will serve days in jail. He noted that one of the points that Mr. Monsma had mentioned was that the average length of stay has increased from 13 days to 14 days. He said that amounts to 286 inmates serving one extra day in jail.

There was discussion about the use of mobile units at the jail site. Sheriff Cathey stated that they have a mobile unit on site which is being used by some of his staff due to a lack of space in the Sheriff's Office. He explained that mobile units are not used for the inmates, because they are required to have secure facilities.

Mr. Greene pointed out that the majority of the costs associated with the jail expansion is not for bed space but is for the Sheriff's Office, central support functions, and intake processes, etc., that do not lend themselves well to modular units.

Mr. Monsma said that his firm was asked to compare what was presented in the 2005 report to the current situation. He made the following points:

- Average Daily Population projections for 2025 have been reduced by 173 from 646 to the new projection of 443.
- Pre-Trial Release program started October 2009 with 10 defendants successfully completing the program, one terminated, and 20 currently in the program.
- Time to dispose of criminal pre-trial cases by the Courts has increased with a higher percentage of pre-trial misdemeanants, felons and probation violators remaining in jail longer than the American Bar Association standards.

Bob Goble said that he wanted to reiterate a point that Mr. Monsma had made that they did go back to the Planning Department's projections, because they found that the State's data center projections and UNC-Charlotte's projections for future growth in the

County still show a substantially higher rate of growth. He stated that taking all of this information into consideration is the reason for the reduced projection outcome shown in the presentation as compared to the projection a few years ago. Mr. Goble said that this was not uncommon throughout the nation with jail populations being down in most of the country.

Mr. Goble reviewed the following conclusions:

- Union County will continue to grow, probably not as rapidly as during the last 10 years.
- The need for jail beds remains strong.
- Reducing the time for case processing in the Courts and expanding the pretrial release program could slow the rate of jail Average Daily Population growth.
- Revised recommended jail bed capacity planning targets are 428 beds for 2020 and 504 beds for 2005.

He said that as has been discussed, it would be possible to use the court system between the Judges and District Attorney perhaps to speed up the process somewhat. He explained that there are two sides to doing this. He said one side is if there is another Judge, there will be more people coming into the jail because there is the extra process and capability. Mr. Goble said that the process will move people through the system faster, but in a growth county such as Union County, the problem is that other criminal events come behind that group. He stated what is accomplished in the end is that while the process may work more quickly, the population behind bars could increase. He noted that the process could not work much quicker than it is currently with a 96 percent criminal court disposition rate being the recent average and 90 percent criminal court disposition rate being the lowest percentage rate in recent times. He said that whenever they see a court that has a 90 percent or better disposition rate each year, it is determined to be a pretty efficient court operation.

Commissioner Openshaw said that on one hand Mr. Goble had said that Union County is clearing up its backlog of criminal cases at the rate of 90 something percent, and on the other hand, Sheriff Cathey mentioned that there are still 4,000 cases remaining. Mr. Goble stated there are still some cases that are backlogged and will carry over from year to year.

Mr. Goble stated that enough beds need to be included so there is not a problem of being overcrowded. He said that Mr. Monsma had also mentioned the classification factor of five percent, which is the additional number of beds needed to separate male, female, pre-trial sentenced, violent, non-violent, mentally disturbed, etc.

He said that he thought there was a choice of using the year 2020 or 2025 as a target period for planning design of a jail expansion. He said that he would recommend for the Board's consideration that 2020 would be the closest year for planning the expansion, and if that is the case, the 428 bed target is the one to apply. However, he stated that if the Board looks at a 2025 target, then the number of beds would be 504.

Mr. Goble recognized Jim Kessler of Little/HOK for a presentation on the design of the project. Mr. Kessler reviewed the design of the existing facility and site. He noted that one of the key factors of the site was that it was built on fill and built up, because there is a flood plain from Ray's Fork Creek on the south side of the site. He said that the land in the back of the site drops off precipitously, and for those two reasons, the flood plain and the topography expanding out the back is a problem. Mr. Kessler stated another problem of expanding around the existing facility is the limitation of support facilities. He said that as had been mentioned in the earlier presentations, more than half of the space goes toward supporting those beds. He said that because of the configuration in the existing jail, it is very difficult to expand the inner core where intake, medical, and administration are located. He stated that in addition to the life of the existing facility, maintenance issues, and newer ideas on how to design facilities, it was concluded that they should probably consider not making the existing jail the center of the new plans but to look at using it as an auxiliary piece that would live out its life.

Mr. Kessler reviewed the design for the 648 beds based on the 2006 expansion. He said they looked at various options for the site including the new State storm water requirements, and toward the west where the land slopes seemed to be a natural place from the access road to put the storm water. He stated that the higher part of the site seemed to be the best place for the expansion. He said they had also looked at connecting the existing facility to the expansion, and because of the change in elevation and the expansion being higher than the existing facility, that a secured van could be used to transport inmates back and forth. He stated that rather than using the existing facility for 240 beds, which is now maxed out, it would take advantage of the number of small cells located in the facility, and for classification purposes, there are inmates that need to be housed individually.

He said that in order to expand to 600 beds, they have added two wings each with 224 beds in general housing. He pointed out that one of the advantages of building it new was that they were able to investigate a wide range of how to inexpensively house inmates and determine what the Sheriff is comfortable with managing. Mr. Kessler said they had come up with an innovative way of creating cells for four inmates. He stated that it would provide one door and one window for four inmates. He said that the other part of the expansion would be support space, a new vehicular sally port, and a warehouse to store food and equipment. He stated that there would be 56 single cells for intake housing, which are new people who are arrested that the Sheriff does not have a history of or understand their behavioral background. He said that there would also be an expanded Sheriff's Office, which operates on

three levels, and it will be the new public entry for visiting the jail. He stated that this would result in savings in terms of screening and security.

Mr. Kessler said with the new population projections, the focus had been on how to expand the jail, but noted that a good plan also has to be able to contract to respond to changing needs. He stated that what is being proposed is to hold off building the other 224 beds, but to keep all of the support space that can work into the future is good planning and provides for a very flexible facility.

He showed the proposed jail expansion which is one level, but the Sheriff's Office would be on three levels. He explained that the entry level would have screening and a lobby, as well as the Public Information Office for the Sheriff's Office. He stated that on the lower level, evidence, processing, and locker rooms and other support functions would be located. He pointed out that the upper level would house the criminal investigation division as well as the Sheriff's Office and administration. He said that a new Magistrate's Office would be located on the entry level so that the public would have access to that office.

Commissioner Mills asked if there had been discussions about the needs of the Magistrate's Office. Mr. Kessler responded that a series of workshops were held, and the Magistrates were invited and attended the workshops. He said that he thought the Magistrates were very pleased and amenities have been designed in the event there are emergencies and they are required to stay overnight. He stated that the facility is designed as a service to the public, and it will be simple for those members of the public who will use it. He said that the design uses new technology to save money with video visiting and video conferencing.

Mr. Kessler said that the existing intake area is extremely crowded now. He stated that a big open space has been programmed into the design for the intake area. He reviewed the remainder of the design including storage.

Chairwoman Rogers asked Sheriff Cathey if there was a specific direction that staff is requesting from the Board today. Sheriff Cathey responded that the purpose of today's presentation is to update the Board on what has already been paid for and what the plans are. He said they are not asking the Board to approve the project and break ground next week, but staff needs to move forward as far as it can.

Mr. Greene noted that staff has a recommended approach, and, if the Board agrees with that approach, no action is necessary from the Board today for staff to continue. He said that there are a number of issues that staff would have to come back to the Board about, including revisiting the contract and integrating the revised numbers into the capital plan. He stated that currently the funds are in place to continue on course and to get the facility designed and permitted as soon as possible. Further, he said there might be

some contractual issues that will need to be worked through and a little additional moneys for architectural services may be needed at some point in the process. He said that today what staff needs is an understanding of the status of the project and some indication that the Board is in agreement with the approach and that the Board wants staff to proceed.

Mr. Kessler reviewed the design for inmate housing. He said they had opted at this point to present the core design and at a later date, if a second 224 beds needed to be added, they believe it is feasible. He stated that it would be two full stories.

Commissioner Openshaw said that he did not understand the two story aspect, but he was not opposed to it. He stated that he had thought it was only to be a one-story facility.

Mr. Kessler said that the Sheriff, his staff, and the maintenance staff have provided a number of comments about what they would prefer to see in the new facility, and it is their intent to address everything that they can to make the facility a long-term plan for the County. He addressed Commissioner Openshaw's question regarding the facility being two-story. Commissioner Baucom questioned why the facility should stop at two stories and would the two stories be expandable upward. Mr. Kessler responded it was not expandable upward. He said that based on the population number, it seemed there would be adequate land and space not to go to the extra expense of an additional floor.

He stated that by using the square, straight linear design, support space can be added to cover the next 448 beds or a second option might be to demolish the law enforcement center in the back, keep the jail, leaving room for another footprint.

Commissioner Openshaw questioned how the design would handle core spaces. Mr. Kessler said that as housing is added, support is also added. He stated that the property storage is next to the food service, and the property storage might go into another space, allowing the food service to expand. He said that kitchens are very flexible, and the kitchen is sized for a normal operation. He stated that the key is to be able to add space and to add it in a secure way off the main corridor.

Mr. Kessler said that when the existing jail lives out its life, the system can add support and another housing unit, and the units could get higher and higher if that is the way the County is growing. He stated that they view it as a long-term plan with very little investment.



He stated that Barry Wyatt had asked them about the E-911 Communications Center and Emergency Operations Center when they were working on the design and if it might work to add a floor to the Sheriff's Office for the Communications Center. He stated that they had prepared a plan that includes a Communications Center.

Mr. Greene said that this is a concept at this time, and if the Board agrees with that concept, a lot more study will need to be done. He pointed out that the Communications Center cannot be expanded in its current location.

Commissioner Openshaw said that former Homeland Security Director Pat Beekman did not prefer the Communications Center to be located at the Sheriff's Office location on Presson Road.

Mr. Kessler introduced his partner, Jim Metze, to address the budget and schedule. Mr. Metze stated that in August 2007, a complete cost estimate, item by item, was completed which came to a project cost of \$58.6 million. He said that they had gone to the same cost consultant for upgraded costs. He stated that construction costs and labor costs are down. He stated that using the same plan as in 2007, the number in the current market is approximately \$47.9 million. He noted that by the County delaying the project might now benefit the County to get the same facility for a lot less money. However, he said that changing the bed count to 224, the cost of the project is now \$41.4 million. He said that this number includes an inflation projection over the next 18 months.

Commissioner Mills pointed out that for \$6.5 million more, the jail population could be doubled to the 448 beds. Mr. Metze said that he thought these numbers showed that the Board could take advantage of the reduced costs. He stated that he thought the prudent thing to do is to continue the planning and there will be a point in the schedule, when the estimate could be done again to determine if the economy is still on a down climb or if it is starting to rebound.

Chairwoman Rogers asked if the cost of \$6.5 million is accurate to add the additional 224. Mr. Metze responded that there is a cost of the economy and the overall project. He cited as an example if the County were to wait four years to add the additional 224 beds, it would be a much smaller project and there are costs that might make it a different costs because of the scale of that housing project expansion. He said the cost could be a little more because a stand-alone project would be smaller than the larger project.

Mr. Metze said they had also looked at the Communications Center project and putting the center on top would not really increase much of the site development cost. He stated that there were some good reasons why the County might want to consider including the Communications Center. He said that it appears that the cost would be approximately \$3.5 million to add the Communications Center.

He said that because the project has been stopped for almost three years, there have been changes in the building codes, and there are new departments within the Sheriff's Office and new procedures. He stated a period of time is needed to revisit the project before going into the construction documents, which he estimated to be a three-month period. He said when the project moves into construction documents, it is projected to take approximately five months. He stated they would be ready to come back to the Board with new cost estimates in early May. He said that the construction of the jail component is estimated to be a 24-month period before getting to substantial completion. He stated that changing the size of the project from 448 beds to 224 beds would not make a big difference in the schedule.

Sheriff Cathey said that when the existing jail was constructed, the Judge had said build a jail, and the facility was constructed. He stated that the plan was thrown together to build it, and he does not want to be in that same position again. He said that he thought the County was moving in the right direction. He stated that he hates to be before the Board for this project, but somewhere in the future, someone will have to say the jail will have to be expanded. He said that things are changing, and the overall operation of jails is changing.

Sheriff Cathey stated that he met with the County Manager, and he was not saying that the Communications Center needs to be at the Sheriff's Office location but he was saying it is a time to look at whether or not it needs to be at that location. He said he knew that Mr. Beekman did not want the center to be moved to that location because of the railroad track located nearby. Sheriff Cathey stated he was comfortable with Communications being located at the Sheriff's Office. He said that he has discussed with the County Manager at some point the Sheriff's Office could take over the operations of Communications.

Sheriff Cathey said that his office has changed a lot of programs and is doing things differently, but pointed out they have about reached their limit on innovative ways to house inmates. He said at some point, the County will have to look at it and decide to build a new facility. He stated that they are bringing in mobile classrooms, because the laws in North Carolina have changed regarding housing evidence.

Commissioner Baucom asked with expanding to the 448 beds, would there be any opportunity to generate additional revenues from the federal government or surrounding counties by housing inmates from other areas. The Sheriff stated that there are some surrounding counties that are taking inmates from other places and charging \$60 to \$80 per day. He said if the extra 224 beds were added, Union County could also do this as well as house federal inmates. He stated that the current jail is not built to federal standards, so federal inmates cannot be housed at the existing facility.

Mr. Greene stated that there are still funds in the architectural budget for this project. He said that the budget and contract need to be revisited. He stated that the Board would not need to make a decision today on funding, but the contract needs to be reviewed to make sure there is sufficient funding to go through bids. He questioned how far the process could go before a decision is made as to whether to go with 224 beds or 448 beds, and can the project be designed and bid so that decision can be made once the bids are received.

Mr. Metes responded that this could be done, but it would basically mean that there would be two sets of drawings. He said that it would give the flexibility of going to the bid date to see what the costs would be.

Chairwoman Rogers asked if any action is needed by the Board today. Mr. Greene stated not unless the Board wanted to direct staff not to proceed on the project. He said that staff knew the next steps and would bring further information to the Board at the appropriate points in time to continue the decision making.

Commissioner Baucom questioned if staff needed direction regarding the Communications Center. Mr. Greene said that he thought staff had the flexibility to study that issue in more detail than it has been studied up to this point and would bring the findings to the Board at a later time.

Barry Wyatt, General Services Director, asked if the Board could go ahead with the revisit to the design development of the project. He added that would give staff the flexibility to flesh out the E-911 piece and bring more definitive information for decisions.

Chairwoman Rogers thanked Sheriff Cathey for the detailed information and the great presentations from the consultants.

At approximately 11:00 a.m., Chairwoman Rogers called for a five-minute recess in the meeting.

Chairwoman Rogers reconvened the meeting at 11:10 a.m. and recognized Sheriff Cathey for the next presentation.

#### **Presentation from Sheriff Regarding Training Center Needs:**

Sheriff Cathey stated that property has been located for the possible use as a Training Center for the Sheriff's Office.

Chief Deputy Ben Bailey stated that several years ago, the Sheriff's Office received an appropriation for the purchase of property for a firing range. He said that the opportunity to acquire the property fell through, but this property has become available again. He pointed out that there are specific State requirements mandated for officers to qualify with a weapon. He said the current requirement is that the officers must qualify once a year, but it is anticipated that as the profession progresses, multiple sessions per year will be coming forth.

He explained that there are two components to firearms training in North Carolina, one is classroom instruction and the second requirement is for the firing range requirement. He said that the firing range requirements include daytime course requirements, night time course requirements, and combat courses. He stated that the combat courses are required for deputy sheriffs and not for police officers in North Carolina.

Chief Deputy Bailey stated that the Monroe Police Department has been wonderful to the Sheriff's Office and has allowed the Sheriff's deputies to use its firing range without charge since its construction over 25 years ago. He said that the Monroe Range Officers have always worked with the Sheriff's Office to afford as much access as possible to the firing range and to allow the Sheriff's Office to use their equipment without limitations. He stated that he could not say enough good comments about the Monroe Police Officers and the cooperation they have extended to the Sheriff's Office. However, he said that the problem is the number of agencies using the Monroe Police Department Range and the difficulty of booking range time on that facility. He stated that the Sheriff's Office's has maxed out its ability to utilize that facility for its needs, and it needs to have its own firing range.

He said that in the year 2010, the Sheriff's Office is scheduled to use the Monroe range 64 days, and of those 64 days, 24 of them are reserved for the Special Response Team Members (SRT), because of the shooting and marksman ballistic training requirements for those officers. He stated that leaves 40 days for the Sheriff's Office to complete in-service training requirements for all of its officers, and some of those days will be cancelled because of the weather.

Chief Deputy Bailey said that the original tract of land that the County had considered several years ago on Mills Harris Road for a shooting range works well. He stated that they had originally contracted with Clark Nexsen and Associates, a professional range builder, who evaluated the 161 acres on Mills Harris Road and determined that the property would be ideal for what the County wants to do. He said that the Sheriff's Office would very much like to consider pursuing the purchase of that property at this time.

He reviewed the advantages of this particular site:

1. Close proximity to the Sheriff's Office and jail
2. Multiple range capability (can accommodate more than one type of training on the range at the same time)
3. Address the Sheriff's Office's upcoming training needs
4. Property is large enough that the Sheriff's Office can incorporate a driving pad and other training elements
  - In Service driving training (eventual state requirement)
  - Physical training & Obstacle course (BLET, DOCC)
  - Pro-active driver training (hard surface and skid pad)
5. Space to address long-term needs for brick and mortar academy (BLET, DOCC and State Annual In-Service Training Mandates)

Chief Deputy Bailey stated that as law enforcement continues to grow in Union County, the need for a dedicated training facility also grows. He reviewed the options of how Clark Nexsen conceptually laid out the property, which included partially or fully baffled pistol ranges. He said these are 12-lane ranges, a 300-yard rifle course, a field house or a fire controlled house supervised operation of all three facilities at one time, a shoot house is incorporated on the site plan which is a 360 degree firing scenario (training scenario) that will simulate an officer going into a room and making decisions on whether or not to engage those targets, and a skid pad (driver training facility). He emphasized that the 161 acres would enable the Sheriff's Office to build a training facility that would address most of its in-service or ongoing training needs. He said that the plan also shows room on the property for a skeet range, an obstacle course required for basic law enforcement training, and room to construct a brick and mortar facility for classroom facilities in the future.

He stated that the money has been budgeted for the property, and approval is requested for the County Attorney to approach the property owner for this site.

Sheriff Cathey said that he wanted his office to contact all of the neighbors in that area which are very few and obtain their input to determine if they have any objections to a firing range being located on the property. He said all they were asking for now is approval to pursue purchasing the property, and he was not asking for the Board to approve the conceptual plan by Clark Nexsen. He stated that a firing range suits the area in which the proposed property is located. It was discussed that the adjoining property of approximately 600 acres is being used for agricultural purposes.

Commissioner Baucom moved to authorize the County Attorney to contact the owner to discuss the County's purchase of the property.

Keith Merritt, County Attorney, responded that this would need to be discussed in closed session. Chairwoman Rogers asked that the closed session be delayed until the end of the meeting because there are a number of people here on other matters.

**Consideration to Adopt an Ordinance Designating as a Historic Landmark Property Known as the Stallings United Methodist Former Sanctuary:**

Commissioner Openshaw moved adoption of an Ordinance Designating as a Historic Landmark Property Known as the Stallings United Methodist Former Sanctuary) (Item 3) and a Proclamation for the 26<sup>th</sup> day of August as "League of Women Voters Making Democracy Work Day" in Honor of the League of Women Voters' 90<sup>th</sup> Anniversary) (Item 4).

Commissioner Baucom suggested that the two items be separated with each having its own motion.

At Commissioner Baucom's suggestion, Commissioner Openshaw withdrew his motion.

Commissioner Openshaw moved to adopt an Ordinance Designating as a Historic Landmark Property Known as the Stallings United Methodist Former Sanctuary. The motion passed unanimously.

**AN ORDINANCE DESIGNATING AS A HISTORIC LANDMARK PROPERTY KNOWN AS THE STALLINGS UNITED METHODIST FORMER SANCTUARY**

WHEREAS, on November 3, 1992, the Union County Board of County Commissioners (hereinafter, the "Board") adopted a historic preservation ordinance entitled "Ordinance Creating Union County Historic Preservation Commission," and amended such ordinance on October 3, 2005 (hereinafter jointly referred to as the "Ordinance"); and

WHEREAS, on March 9, 2009, the Mayor of Stallings and Stallings Town Council resolved to support the request for local landmark designation of the Stallings United Methodist Church and to recommend to the Historic Society (the Union County Joint Historic Preservation Commission) that the Stallings United Methodist Church be considered for landmark designation; and

WHEREAS, on April 12, 2010, the Mayor of Stallings and Stallings Town Council resolved to authorize the Board to designate the Stallings United Methodist Church as a historic landmark pursuant to the aforementioned Ordinance; and

WHEREAS, the Ordinance provides for the designation of historic landmarks by the Board upon recommendation and findings by the Union County Historic Preservation Commission (hereinafter, the “Historic Preservation Commission” or “Commission”); and

WHEREAS, the Historic Preservation Commission has found the Stallings United Methodist Church building known as the “Stallings United Methodist Former Sanctuary” to be of special significance in terms of its historical, prehistorical, architectural or cultural importance and to possess integrity of design, setting, workmanship, materials, feeling and/or association; and

WHEREAS, the Historic Preservation Commission has recommended designation of the Stallings United Methodist Former Sanctuary as a historic landmark, and the Commission has otherwise complied with all applicable requirements of the Ordinance regarding establishment of a historic landmark; and

WHEREAS, the Stallings United Methodist Former Sanctuary is a good representative example of a twentieth-century Gothic Revival-style building with its gable roof, arched doors and windows, and recessed corner entrance/bell tower. In addition, the building’s deep roof overhang and knee braces display elements of the Craftsman style popular in 1920. One unique feature of the building is its two-story bell tower entrance which has a belfry instead of a steeple or crenelated tower, and which houses the building’s original bell. Other striking features of the brick veneered building include its massive stained glass windows, a high quality stained glass triptych, and bell tower entrance doors composed of full cut vertical tongue-and-groove boards; and

WHEREAS, the North Carolina Department of Cultural Resources, Division of Historical Resources, has advised that the aforementioned former sanctuary building built in 1920 possesses the requisite significance and integrity for landmark designation.

NOW, THEREFORE, BE IT ORDAINED by the Union County Board of Commissioners as follows:

1. In accordance with the requirements of the Ordinance, the Stallings United Methodist Former Sanctuary is hereby designated as a historic landmark. The Stallings United Methodist Former Sanctuary is located at 1115 Stallings Road, Stallings, North Carolina, 28104, on a tract of land described in a deed recorded in Book 49, Page 465, Union County

Registry. The Stallings United Methodist Former Sanctuary is owned by the Stallings United Methodist Church, acting through its trustees, and is held in trust for the Western NC Conference United Methodist Church. **For purposes of this designation, the “Stallings United Methodist Former Sanctuary” shall refer to: (i) the exterior of the building constructed in 1920 and formerly used as a sanctuary; (ii) the following interior feature of the building: the bell, which is located in the building’s bell tower; and (iii) that area around the building, including all existing structures within that area (e.g. the enclosed walkway attached to the left side of the building), with parameters as defined below:**

Front of building: 42 feet to the curb of Stallings Road from the front of the building

Left side of building: 16 feet from the left side of the building.

Right side of building: 20 feet from the right side of the building

Back of building: 20 feet from the back of the building.

Notwithstanding anything herein to the contrary, none of the buildings constructed after 1920 and prior to the date of this ordinance’s adoption, shall be included in this designation.

2. From and after the designation of the Stallings United Methodist Former Sanctuary as a historic landmark, no exterior portion of any building or other structure (including masonry walls, fences, light fixtures, steps and pavement, or other appurtenant features), nor any above-ground utility structure nor any type of outdoor advertising sign, nor any interior feature consented to by the owner(s) as part of the historic landmark, shall be erected, altered, restored, moved or demolished on such landmark until after an application for a certificate of appropriateness has been submitted to and approved by the Historic Preservation Commission. The waiting period specified in Chapter 160A, Article 19, Part 3C of the North Carolina General Statutes shall be observed prior to any demolition of the Stallings United Methodist Former Sanctuary.
3. Upon consent by the owner, the Historic Preservation Commission may post a suitable sign on the property comprising the Stallings United Methodist Former Sanctuary, indicating its designation as a historic landmark. If the owner(s) objects to such sign, the Commission may place the sign on a nearby right-of-way.



4. Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature of the Stallings United Methodist Former Sanctuary which does not involve a change in design, materials, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, or demolition of any such feature which the building inspector or similar official shall certify is required by the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making use of his property not prohibited by other statutes, ordinance, or regulations. Nothing in this ordinance shall be construed to prevent the maintenance or in the event of an emergency, the immediate restoration of any existing above-ground utility structure without approval by the Commission.
5. Upon adoption of this ordinance, the Historic Preservation Commission shall provide written notice of landmark status to the owner(s) and occupants of the Stallings United Methodist Former Sanctuary. The Commission shall also file a copy of this ordinance, and any subsequent amendments hereto, in the office of the Register of Deeds for Union County, requesting that the designated landmark be indexed according to the name of the owner(s) of the property in the grantee and grantor indexes in the Register of Deeds office. The Commission shall file a second copy of this ordinance, and any subsequent amendments hereto, with the Clerk to the Stallings Town Council for the purpose of public inspection at any reasonable time. The Commission shall provide a third copy of this ordinance, and any subsequent amendments hereto, to the Union County Building Inspections Department. Finally, the Historic Preservation Commission shall also provide notice of the designation of the Stallings United Methodist Former Sanctuary as a historic landmark to the Union County Tax Assessor's office.
6. This ordinance shall be effective upon adoption.

Adopted this the 11th day of August, 2010.

s/Kim Rogers  
Chairperson of the Union County Board of Commissioners

**Proclamation for 26<sup>th</sup> Day of August as "League of Women Voters Making Democracy Work Day" in Honor of the League of Women Voters 90<sup>th</sup> Anniversary:**

Chairwoman Rogers moved adoption of the 90<sup>th</sup> Anniversary League Proclamation proclaiming the 26<sup>th</sup> day of August 2010 as “LWV Making Democracy Work Day.” The motion passed unanimously.

### **90<sup>th</sup> ANNIVERSARY LEAGUE PROCLAMATION**

WHEREAS, League of Women Voters of Union County is *the* organization where hands-on work to safeguard democracy leads to civic improvement; and

WHEREAS, LWV is a nonpartisan political organization, that has fought since 1920 to improve our system of government and impact public policies through citizen education and advocacy; and

WHEREAS, Women’s Equality Day, August 26, marks the 90<sup>th</sup> anniversary of passage of the 19<sup>th</sup> amendment to the U.S. Constitution, which gave U.S. women full voting rights; and

WHEREAS, the League believes in representative government and in the individual liberties established in the United States Constitution; and

WHEREAS, the League, for 90 years, has held the public trust by respectfully bringing elected leaders and the public together through non-partisan, civil means and through thoughtfully advancing solutions; and

WHEREAS, Union County and its municipalities have benefited tremendously from the countless volunteer hours donated by League members over its 90-year history of enhancing our democracy.

NOW, THEREFORE, the Union County Board of Commissioners does hereby proclaim the 26<sup>th</sup> day of August, 2010 as “LWV Making Democracy Work Day” in honor of the League of Women Voters 90<sup>th</sup> anniversary and urge all residents of Union County to pay great tribute and respect to the League of Women Voters for all they do to make our community healthy, vibrant, and strong.

Adopted this the 11<sup>th</sup> day of August, 2010.

**Request from Citizens for a Healthy Environment for Adoption of Resolution:**

Chairwoman Rogers recognized Catherine Mitchell, Chair of Citizens for a Healthy Environment. Ms. Mitchell explained that Citizens for a Healthy Environment is an environmental group that was formed this spring which includes residents of Mecklenburg and Union Counties.

Ms. Mitchell expressed appreciation to the Board for allowing her to speak regarding this matter. She said that the group was requesting that the Board support the proposed Resolution asking the State Environmental Management Commission to adopt the new EPA rules on medical waste incineration by the end of 2012 as opposed to 2014. She explained the reason for the request is because of the health impact on neighborhoods both in Union County and Mecklenburg County that are directly impacted by this facility. She stated that the new EPA rules were passed in October 2009. She said that the residents of the communities who are impacted by the medical waste incinerators have been impacted for decades.

Ms. Mitchell said that one of the reasons that the group was formed in the spring is that the permit renewal of the medical waste incinerator BMWNC, Inc., operating in Matthews, NC, under Title V of the Clean Air Act came up for renewal, and the group asked that the new rule situation be reviewed before a new permit was issued. She stated that as a result of attending a hearing and having neighborhoods represented all around this facility, they met many people sharing stories of cancer clusters in those neighborhoods. Ms. Mitchell stressed that this is a public safety issue at this time.

She shared concerns of various neighborhoods located near the waste incinerator and provided statistics regarding the facility. Ms. Mitchell explained that the Citizens for a Healthy Environment have asked for and received from the State Environmental Management Commission a hearing, which will be held on September 7, 2010, during which time residents across the State can speak at the public hearing and request that the new rules be implemented early. She said that there is no good reason not to implement the new rules early, because the technology exists and is available. She said there is plenty of time for the facility to come into compliance.

Commissioner Openshaw asked Ms. Mitchell if resolutions had been received from the Towns of Stallings and Matthews or from Mecklenburg County. Ms. Mitchell responded that Mecklenburg County adopted a resolution in April of 2010, and the Town of Stallings has also adopted a resolution. She said that the Town of Matthews is in the process of adopting a resolution, and they believe

the Town of Pineville will also adopt a resolution. She stated that they intend to go to the State Representatives from both Union County and Mecklenburg County and ask them to send letters of support to the Environmental Management Commission.

Following Ms. Mitchell's presentation, Commissioner Mills moved adoption of a Resolution Requesting the Adoption of State Rules Requiring Early Implementation of Federal Standards for Hospital, Medical, and Infectious Waste Incinerators as recorded below. The motion passed unanimously.

A RESOLUTION REQUESTING THE ADOPTION OF STATE RULES  
REQUIRING EARLY IMPLEMENTATION OF FEDERAL STANDARDS FOR  
HOSPITAL, MEDICAL AND INFECTIOUS WASTE INCINERATORS

WHEREAS, on October 6, 2009 the United States Environmental Protection Agency ("USEPA") adopted federal regulations in 40 CFR 60 Subpart Ce, entitled "Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators" for existing medical waste incinerators ("new federal standards"); and

WHEREAS, the new federal standards establish lower emission rates and additional operating conditions than existing state and prior federal regulation; and

WHEREAS, the new federal standards require states to promulgate new state rules that will require existing medical waste incinerators to comply with the new federal standards no later than October 6, 2014 and to obtain USEPA approval of the new state rules within two years after October 6, 2009; and

WHEREAS, a public hearing was held in Mecklenburg County on February 11, 2010 for the "Title V" permit renewal for medical waste incinerator BMWNC, Inc. operating in Matthews, NC, with a public comment period extending to April 1, 2010; and

WHEREAS, concerned residents of nearby neighborhoods and communities unanimously expressed concern over continued dangerous emission levels from the BMWNC incinerator, with the potential for serious and sustained health impacts to their communities, and asked their local regulatory agency and local and state governments to intercede on their behalf; and

WHEREAS, the timing of this permit renewal is such that renewal will occur prior to implementation of the new USEPA rules by the North Carolina Environmental Management Commission; and

WHEREAS, public concerns regarding medical waste incineration have been recently expressed by other local governments, specifically Mecklenburg County, the Town of Matthews, the Town of Stallings, Orange County, Chatham County, the Town of Carrboro, the Town of Chapel Hill, the Town of Haw River, the City of Mebane, and the Town of Hillsborough; members of the public; parents with children; the elderly; and environmental groups; and

WHEREAS, the USEPA's action effectively provided notice that emission rates and other requirements would change; and

WHEREAS, a three-year advance notice period for compliance would be consistent with USEPA's approach in regulating existing affected sources under the Maximum Available Control Technology (MACT) program; and

WHEREAS, since the North Carolina Division of Air Quality has already initiated the rulemaking process to incorporate the new federal standards into the North Carolina rules, it would be more efficient for the State to adopt a statewide rule as required by USEPA and pursue statewide implementation of the new federal standards.

NOW, THEREFORE BE IT RESOLVED that the Union County Board of Commissioners respectfully requests that the N.C. Environmental Management Commission adopt State rules implementing the October 6, 2009 federal guidelines (40 CFE 60 subpart Ce Emission Guidelines and Compliance Times for Hospital/ Medical/ Infectious Waste Incinerators), with an effective compliance date for existing medical waste incinerators of no later than October 6, 2012 to include new operating conditions, completing modifications, beginning operations and demonstrating compliance by stack test by that date.

Section 2. This resolution shall become effective upon adoption.

Adopted this the 11<sup>th</sup> day of August, 2010.

ATTEST:

\_\_\_\_\_  
Lynn G. West, Clerk to the  
Board of Commissioners

\_\_\_\_\_  
Kim Rogers, Chairwoman

**Presentation Regarding Sewer Allocation:**

Lynda Paxton, Mayor of the Town of Stallings, reminded that in January 2010, she and Libby Long, Mayor of the Town of Fairview, attended the Board's meeting and requested that the Board work toward a more equitable sewer allocation policy for the municipalities. Mayor Paxton said that since that meeting, several mayors have worked on a proposal to present to the Board for its consideration.

Mayor Paxton presented a Power Point presentation. She stated the rationale for the proposals is as follows:

1. Water and sewer can no longer be treated as an Unlimited Resource
2. Municipalities probably make a lot of decisions without making those decisions consistent with their land use plan and their development goals.
3. The first come, first serve policy that the County has had for a number of years has led to a lot of growth that is inconsistent with the towns' and County's goals for development.

Mayor Paxton explained that the proposal is for the County to enter into a formal contract with the municipalities that will provide some long-term security and give the towns better planning ability. She stated that the goals of such a contract would be:

1. To secure an equitable portion of unallocated capacity from Monroe. She said that in an earlier meeting Commissioner Openshaw had indicated that there were approximately 600,000 gallons of unallocated sewer capacity from the Monroe plant. She said that the three towns (Mineral Springs, Fairview, and Stallings) that are in the proposed contract would like to secure some of that capacity with a binding agreement similar to the one the County has with Centex and the Town of Wingate.
2. Gain commitment from the Board to prioritize and expedite the CIP project for construction of the line from the Poplin Road Station to Monroe. She stated that this project is in the County's CIP and the towns would like for the Board to give some priority to that project.
3. Create additional capacity from the Catawba River Basin by freeing up capacity from Stallings in the interbasin transfer.
4. Influence future policy development so that policy will include allocations to municipalities according to some formula.

She stated that Stallings, Mineral Springs, and Fairview all want to participate in the contract, but they also want to build in flexibility for other towns to become a part of the contract if they choose to do so. Mayor Paxton said that they are proposing a \$10,000 binder fee to be paid by each town to secure the contract. She noted that the \$10,000 is an arbitrary figure and not based on

any analysis of costs. She said that in exchange for the contract, the towns promise that they would exercise responsible planning and accountability by limiting the use of that sewer capacity to commercial projects, mixed use projects with 1,000 square foot retail to each housing unit, and to senior housing that would have no impact on the schools.

Mayor Paxton explained that the County's responsibilities under the proposal would be as follows:

1. Compliance with the County's existing policy promising fair, rational, and lawful allocation of its limited wastewater treatment capacity.
2. Expedite construction of sewer pump lines from Poplin Road to Monroe
3. Reservation in the contract for 50,000 gallons of capacity per day for each of the participating towns. She stated the 50,000 gallon figure was calculated by dividing the 600,000 gallons of available sewer capacity by the 13 towns that do not have sewer.

Mayor Paxton stated that the proposed contract would include:

1. An initial period of two years with an option to renew for five-year periods.
2. Assignment or transfer of rights to another entity is prohibited. The contract can be amended to include the other municipalities, and it spells out that no one could be denied the right to participate if they agree to the terms of the contract.
3. If any of the towns that enter into the agreement want to terminate its agreement, the town will give a two-year notice.

She said that they had reviewed several models that they thought were positive in regards to sewer allocation and development practices. She stated that the Town of Knightdale evaluates projects that come before it on a points system, and the projects must meet some base criteria to be considered. She said that bonus points are added for job creations, etc.

Mayor Paxton also cited as an example Lancaster County. She said that she had talked with some of the people in that county who were very positive about how their practices have worked for approximately two years. She stated that one of the primary emphases of Lancaster County's policy is to avoid placing the costs of new development on the backs of existing customers. She noted that Lancaster's policy includes capacity fees rather than connection fees, and the capacity fee is based on the actual cost of treatment and maintenance of infrastructure for the system.

She expressed appreciation to Commissioner Openshaw for his input on this matter. She stated that all three of the town boards have reviewed the proposal and have given their unanimous support. She said that Mayor Rick Becker from Mineral Springs and Bill Thomas, Mayor Pro Tem of Fairview, were present to assist in answering any questions that the Board might have.

Mayor Paxton said that the Town of Stallings did not actually have a proposal on the table about a sports complex that it might be able to recruit at the time they first started talking about this proposal. She stated that it is a project that could add very significantly to the economic base for the county. She said that there are projects in the pipeline for which the towns cannot provide sewer.

Vice Chairwoman Kuehler asked if the information regarding Knightdale was given as an example of how the County could allocate its sewer or was Mayor Paxton talking about if the municipalities receive sewer, that the towns would be looking to develop policies similar to Knightdale or both. Mayor Paxton responded that she was talking about it more in terms of the towns developing a similar policy.

Chairwoman Rogers asked if Mayor Paxton was suggesting that the towns be viewed in the same way as Centex, etc. in regards to their receiving sewer allocation. Mayor Paxton responded that she thought they were asking to reserve some capacity, so the towns could engage in some plan and know that they can actually approve projects that could be built.

Commissioner Mills said that he understood what Mayor Paxton was proposing and what the towns were trying to do, but he thought the cart was being put before the horse. He stated that the Board met with Monroe approximately two years ago, and it was supposed to have been put on a fast track to work with Monroe on expanding the Monroe sewer plant. He said that he was not sure that the County could meet that commitment of 50,000 gallons per day to the municipalities, because he did not know how solid the numbers are. He said he thought something needs to be done with the towns, but he thought the Board first needs to move forward with Monroe to secure future capacity. He said he would want to know that the County has future capacity coming in before the current remaining capacity is allocated.

Mayor Paxton said that she thought the expansion of the Monroe plant has been very much on hold for a number of years. She stated that it realistically appears that the 600,000 gallons is all of the sewer capacity that will be available for any development in Union County in the near future, and that is why they feel it is so critical to have some commitment for the towns that want it. She clarified that the requested 50,000 gallon per day capacity is based on all 13 towns and not just the three towns.



Mayor Pro Tem Thomas confirmed that the Town of Fairview approved the proposal unanimously. He said that the Town was interested in getting sewer for its main square at Highway 218 and 601 for commercial development.

Rick Becker, Mayor of Mineral Springs, said that Commissioner Mills' comments were well taken, and one of the aspects of the proposal is that the exact amount of available capacity is not known. He stated that if there was a contract to be approved, there would have to be security from the City or it would have to be contingent upon the City making the capacity available. He said that in a sense, he sees this proposal as a pilot project that would give the three municipalities the opportunity to determine if the model would work. He stated that he thought the difference in the proposal is that the County would generally deal with an end user, and, in some cases, the towns would be serving as a broker. He said that he did not think Mineral Springs would be looking to give all the capacity to one entity, but it would like to broker the capacity to people who have projects ready to go that would meet the required criteria that would be good economic development both for the town and the County.

Mayor Becker stated that the \$10,000 proposed to be paid by the towns is basically a surety. He said that the towns are not asking to get free lines run to projects. He stated that the infrastructure will predominantly be supplied, unless it fits into a capital improvement program, by the individual entities and the end users.

Commissioner Baucom said that he thought he understood Mayor Becker to say that each entity would be responsible for running the lines. Mayor Becker responded not all the lines but some of the lines. He said that all of the entities have different needs. He stated that the towns were looking for the capacity, and then they would work, as has always been done, on getting the lines built.

Commissioner Openshaw asked if Mayor Becker has a list of potential users in Mineral Springs. Mayor Becker said that the fire department has its own separate entity, and capacity is not an issue, since it is a very low capacity user. He stated that the fire department needs a line. He said that there are two churches that are exceeding their septic capacities. He said that there are existing operations such as the Petro Express that would like to upgrade and expand. He noted that there is empty retail space where the owner cannot do anything with the property. He also pointed out that Harris Teeter owns 26 acres and is willing to build a phased mixed use development with retail, professional, and some small scale residential. Mayor Becker said that there are a number of potential end users.

Mayor Paxton added that there are several projects in the Town of Stallings such as an eye care center that is attempting to build a new office on Lawyers Road, and there is no sewer capacity, so it is trying to build with a septic tank. She stated that there are

two other projects that she thought were scaling back and modifying their projects and this would enable them to move forward. She said that one of those projects is an animal hospital, which would be a good facility for the Town, and it was allocated 2,400 gallons of capacity per day but needed 4,000 gallons. Mayor Paxton stated that they had tried to utilize some combination of septic and sewer, and they are moving forward with the project at this time. She said that the third project is the Grand Asian Market, which wants to include a restaurant in that facility. She said it has scaled back its project and will be trying to move ahead.

She stated that with regards to the downtown area, there are other infrastructure issues in that this whole part of the town operates on a sewer system with inceptor tanks, and the lines are very small. She said that this system does not work very well, and it is impossible to have any real commercial development in that part of town until that whole infrastructure system is replaced even though it is designated as the downtown. Mayor Paxton said that this is not in the County's capital improvement program at this time, but hopefully that can be addressed in the future.

Mayor Paxton said that they realize that the proposal that the towns have presented is something that the County's attorneys would have to work with closely. She stated that they are expecting the proposal to be revised several times, but they would ask that the Board consider it seriously and possibly place a timeline on when it might come back for approval after review by the attorneys.

Chairwoman Rogers said that what she thought was intriguing about the proposal is that as a County, it has been said that more economic development and commercial are needed. She stated that the towns have companies approaching the mayors and council people in the towns, so there is a little bit more of an intimate relationship for the towns than there might be on the County level. She said that by the towns considering something like this, it not only allows the towns to grow in the manner that its residents want them to grow but also probably allows the town to grow more quickly and efficiently than if these projects come through on a county level and with more guidance and planning. She stated from her perspective, she thought it was wonderful that these three towns have gotten together and found a common need.

Commissioner Openshaw expressed appreciation to the towns for bringing the proposal. He said that the approximately 600,000 gallons of capacity remaining in Monroe is a trade that was made by a previous Board of Commissioner for two million gallons of Catawba River Plant water owed to Monroe in 2014. He stated that approximately 600,000 gallons of capacity is not being used presently, and the County is paying for it. He said that he thought running the trunk lines are the responsibility of the County and have been the County's responsibility in the past. He stated that he liked the part of the proposal that keeps the costs from being placed on the backs of the consumers. He said that he did believe there should be a cost for municipalities that want to hold the capacity such as an option cost. He stated that one of the objections would be that staff has proposed having a sewer plant in the

Grassy Creek area, but the residents in that area have been vociferous about opposing these types of projects. He said that if a plant is constructed in that area, he would imagine that would be a five or maybe seven year process, and in the meantime, the 600,000 gallons of capacity in Monroe is not being used and running the line from the Poplin Road station, which is in the capital improvement program as an alternative to the other sewer plant, would include increasing the size of that pump station, and, in any event, it is very viable and does a number of things. He said that the reality is if the bypass does go in, this line would be in that vicinity, and, therefore, could conceivably service some of those interchanges. He stated that he viewed it as a potential for the line to be shared with Monroe, because Monroe's city limits are not far from some of those interchanges, and he would assume that it would annex out to that area. He said that he could see a lot of positives in the proposal, and he liked the idea of the towns having some sewer capacity if projects come to them. Commissioner Openshaw stated that the Board has been told for about a year that it would be hearing updated numbers on extra capacity at 12-Mile Creek, and hearing that information is something that would make the Board more comfortable to hear and also the efficacy of the eastern sewer plant in getting rid of much of the inflow and infiltration which may also play favorably in this equation.

He said that he wholeheartedly supported moving forward with reviewing the proposal as fast as possible. He said that he thought one of the key elements is that projects that can move as fast as possible are what are wanted that will commit to using the capacity.

Following the lengthy comments, Commissioner Openshaw moved to send the concept to the County's legal staff for review to determine if there are any legal impediments to the proposal. He said that he would like an answer to those questions in a couple of weeks.

There was discussion about whether the information should be sent to Public Works for review before being sent to legal.

At the request of the Chairwoman, Commissioner Openshaw restated his motion that this concept be referred to the legal staff to see if the County can legally work with the municipalities to provide sewer capacity to municipalities.

Mr. Greene commented that he thought staff knew what areas needed to be studied such as legal, logistical, cost issues, etc. He said that he appreciated what has been presented, but he thought he would be remiss in not saying that he did not believe the design of the sewer line could be done quickly.

Commissioner Openshaw responded that he expected it to be a two or three year project, but he said that he did think the County could enter into a contract with the municipalities to assure that they know that is what is being worked towards and they will have an assignment of capacity.

Commissioner Baucom questioned whether the legal staff was comfortable proceeding in this direction. Mr. Crook said that this is a very preliminary approach, and there are a number of discussions to take place internally as the Manager had mentioned such as financial and technical issues for Public Works to address. He stated that he could tell the Board there are a number of legal issues, so he could not suggest that just the legal review would open the door for the proposal. He said there are legal and technical issues tied together, and he thought that a holistic approach might be appropriate.

Chairwoman Rogers asked if by holistic approach, he was suggesting legal and Public Works review it at the same time. Mr. Crook acknowledged this was correct. Chairwoman Rogers asked Commissioner Openshaw if he had any objection to Mr. Crook's suggestion. Commissioner Openshaw indicated he had no objection to both legal and Public Works reviewing the concept.

Mayor Paxton asked Mr. Crook how he saw the proposal being different from the contracts with Centex and others in terms of reserving capacity. Mr. Crook assured that there are differences, and suggested if the Board would like to discuss the legal issues involved, it could be done in closed session.

Chairwoman Rogers restated the motion to send the concept to legal and Public Works for review. Commissioner Openshaw said that he was fine with the motion as restated by the Chairwoman.

The motion passed unanimously.

Commissioner Baucom asked if there was a timeline on bringing the findings to the Board in connection with the review. Chairwoman Rogers said that Commissioner Openshaw had requested that it be done as soon as possible.

**Voting Delegate for the North Carolina Association of County Commissioners' Annual Conference:**

Chairwoman Rogers asked if any of the Commissioners were planning to attend the conference. Commissioner Baucom said that he hoped that the Chairwoman and Vice Chairwoman would attend. Commissioner Openshaw said that from his experience in attending these conferences in the past, they were worthwhile.

There was no Commissioner who stated he or she planned to attend the conference. Chairwoman Rogers stated there was no action required on this item.

**Closed Session:**

At approximately 12:30 p.m., in open session, Chairwoman Rogers moved that the Board go into closed session for the following purposes:

1) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the amount of compensation and other material terms of an employment contract or proposed employment contract pursuant to G.S. § 143-318.11(a)(5).

2) to consult with an attorney in order to preserve the attorney-client privilege in accordance with G.S. 143-318.11(a)(3);

3) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease, in accordance with G.S. 143-318.11(a)(5) in connection with property owned by H & T, LLC located at 1320 Mills Harris Road, Wingate, NC, tax map number 02-202-008 and 02-205-006D, for the possible use as a Training Facility for the Union County Sheriff's Office.

The motion passed unanimously.

The Board members remained in the Personnel Training Room for the closed session.

At the conclusion of the discussion in closed session, at approximately 12:50 p.m., Vice Chair Kuehler moved that the Board go out of closed session. The motion passed unanimously.

At approximately 12:55 p.m., the Chairwoman reconvened the open session.

**Separation Agreement for County Manager:**

Vice Chairwoman Kuehler moved to approve the Agreement between Union County and Al Greene. The motion passed by a vote of three to two. Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted in favor of the motion. Commissioners Baucom and Mills voted against the motion.

Mr. Greene left the meeting at this time.

### **Naming and Appointment of Interim County Manager:**

Chairwoman Rogers opened the floor for nominations for Interim County Manager.

Commissioner Baucom asked if David Thompson of the North Carolina Association of County Commissioners had been contacted to find out about availability of someone to serve as Interim Manager. Chairwoman Rogers responded that she had not contacted Mr. Thompson.

Chairwoman Rogers said that when she had thought back about the people who have come before the Board, there was one particular name that kept coming back up to her. She said that particular individual has lived in Union County for more than 40 years and has come before the Board on numerous occasions, has always been very professional, very detailed, and has presented information that might not have always been popular with the Board but has done so in a professional manner.

At the conclusion of her comments, Chairwoman Rogers nominated Wes Baker, Internal Auditor, to serve as the Interim County Manager.

With there being no further nominations, the motion passed by a vote of three to two. Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted in favor of the motion. Commissioners Baucom and Mills voted against the motion.

At approximately 1:00 p.m., the Chairwoman called for a short break so that Mr. Baker could join the meeting.

The Chairwoman reconvened the meeting at approximately 1:05 p.m.

Mr. Baker joined the meeting. Chairwoman Rogers stated that Mr. Baker has always been knowledgeable and professional in his presentations to the Board. She welcomed him as the Interim County Manager.

**Recruitment Agency for the County Manager Search:**

Chairwoman Rogers stated that she had contacted quite a few recruitment agencies and documented her findings to the Board members over a week ago. Commissioner Baucom stated that he did not receive that information until yesterday. He said that he did not know where the information had been e-mailed. Chairwoman Rogers responded that she had sent the information to Commissioner Baucom's county e-mail. He stated that he did not open his county e-mails. Chairwoman Rogers noted that the County e-mail address is what is listed on his biographical information on the County's website.

Following further exchange of comments between Chairwoman Rogers and Commissioner Baucom, the Chairwoman ruled that Commissioner Baucom's comments were out of order.

Chairwoman Rogers moved to approve Colin Baenziger and Associates as the recruiting agency for the County Manager search and to instruct legal to work out a contract with that firm. She explained that Mr. Baenziger has been a county/city manager in the past and has recently conducted recruitments in North Carolina, Virginia, and Georgia. She said that he has spoken at a number of engagements about planning studies, fiscal impacts, and is a member of the International City/County Manager Association (ICMA). She stated that Mr. Baenziger's firm is the only firm that provided a two-year placement guarantee in that if the person leaves in the first year, the firm will repeat the search at no cost, and if the individual placed leaves in the second year of his/her employment, the firm will repeat the search at cost only. She said that the other firm would repeat the search at cost only for either the first or second year.

The Chairwoman stated that Mr. Baenziger's fee to conduct the County Manager search is a flat fee that would need to be negotiated, but she said he had indicated he thought the work could be performed for approximately \$21,500. She said that she thought the County's last search for a Manager had cost approximately \$25,000 and proposals received at that time were in the amounts of \$66,000, \$25,000, \$32,000, and \$29,000. She stated that the Baenziger firm's placements have been 100 percent on agreed upon schedule, and its standard timeframe from start to finish is 60 to 90 days. She shared that she had researched six firms including Mr. Baenziger's and had also spoken with Mark Watson, Personnel Director, at length about those firms. She said that Mr. Watson had provided her with information regarding the City of Charlotte's search for a Manager as well as information from the

County's last search for a County Manager, and he had no issues with Colin Baenziger and Associates. She said there is a motion on the floor and asked for discussion.

Commissioner Baucom directed his question to Keith Merritt, County Attorney, regarding the County's procurement policy and asked whether that policy is being followed in this situation. Commissioner Baucom requested that Mr. Merritt explain the procurement policy. Mr. Merritt responded that the procurement policy generally requires a request for proposals for services. He said that this is a requirement over and above what is required by statute, and the procurement policy is not a mandatory policy; it can be opted out of and not followed. He stated that, yes, it is a policy, but explained that there is language within the policy that because the RFQ process is not required by statute, it would allow the Board to not have to follow the policy if the Board decides it does not want to.

Chairwoman Rogers stated that in regards to the vacant Parks and Recreation Director's position, there had been a direct source to Waters Consulting, but said she was unsure if a Request for Proposals or Request for Qualifications had been done for the Chief Financial Officer's position and thought it had been a direct source to Waters as well.

Commissioner Baucom asked if Mr. Merritt was saying that any time that there is not requirement by statute, there could be an opting out of the County's procurement policy.

Mr. Merritt responded that the policy states that "in the event of a conflict between this policy and the General Statutes, the General Statutes control to the extent that the provisions of this policy exceed the requirements of applicable law", which he said the County's procurement policy does, because the statutes do not require a procurement policy for services and "such provisions shall be deemed advisory", so, in essence, it is an advisory policy but not a mandatory policy with respect to procurement of services. He reiterated that the Board does not have to follow the policy.

In response to a question by Commissioner Mills whether the procurement policy was a county policy, Mr. Merritt stated it is a County policy, and reiterated that by the terms of the policy, the procurement policy is in this situation "advisory", and the Board can choose to follow it or it can choose not to follow it. He said that it is within the control of the Board.

Chairwoman Rogers noted that a motion was on the table and asked if there was any further discussion.



Commissioner Openshaw pointed out with the last position that was mentioned, (Parks and Recreation Director), a recruitment firm was just hired without any consultation with the Board. Commissioner Mills questioned if this was correct and if there had been a Request for Proposals for that firm. Chairwoman Rogers responded “no” and that she believed, but was not 100 percent certain, that the recruitment for the Chief Financial Officer had been conducted in the same way.

Commissioner Mills said that he was not sure that this was correct, and he would like to confirm the answer with Mark Watson, Personnel Director. Chairwoman Rogers asked if this had a bearing on how Commissioner Mills would vote on this motion. Commissioner Mills responded “exactly” and reminded that Chairwoman Rogers has said all along that she was all about policy.

Mr. Watson joined the meeting and Chairwoman Rogers explained to him that there was a question whether there had been a Request for Proposals issued for the Parks and Recreation Director position. Mr. Watson responded that a Request for Proposals was solicited in 2007 for a County Manager search, and the results of that Request for Proposals have been used for recruitment of the Parks and Recreation Director, the Finance Director, and the Public Works Director. Chairwoman Rogers asked if a Request for Proposals had been issued specifically for the Parks and Recreation Director position. Mr. Watson responded “no” and explained that when a Request for Proposals is issued when soliciting for engineering services such as in Public Works, the engineering companies are qualified and then one firm is used for one project and another firm is used for another project, it is done all in one Request for Proposals and said this was the same concept. He confirmed that in the Request for Proposals that a request for qualifications was required. Mr. Watson stated that there were four firms that submitted proposals for the County Manager search in 2007.

Commissioner Mills asked, if, as far as his question had been in regards to the Parks and Recreation Director, was the County policy followed. Mr. Watson responded that it did follow the County policy as far he was aware, and he had spoken with Barry Wyatt, the County’s purchasing agent, and it was within policy. He reiterated that the current Request for Proposals was used.

Commissioner Mills questioned whether using a firm that has not been qualified was following policy or not. Mr. Watson stated that would be a question for the County’s attorneys.

Mr. Merritt repeated that in this case the procurement policy is an advisory policy, and the Board could choose to follow it or it could choose not to follow it.

Commissioner Openshaw said that Chairwoman Rogers had mentioned that she had spoken with Mr. Watson about the Colin Baenziger firm and asked if Mr. Watson would give his opinion on the firm. Mr. Watson said that he reviewed the Baenziger’s

website, and he became aware of that firm several years ago. He stated that he has seen that firm's name in some of his research and has looked into its background. He said that the firm seems to be a very reputable firm. He stated that its communications with different boards seem to be top notch. He said that is his opinion only from reading what he has seen online or through professional sources, but he has neither spoken with the firm's representatives directly nor with anyone who has used that firm's as a recruitment source. In response to a question by Commissioner Baucom, Mr. Watson confirmed that he had not interacted with the Baenziger firm.

Commissioner Mills asked if the County has a Request for Proposals or Request for Qualifications from the Baenziger firm. Mr. Watson responded that his office has never received a Request for Proposals or Request for Qualifications from that firm. He said that it has been approximately three years since he first became aware of the firm. He stated that this firm is expanding its operations, and commented that they appear to produce a quality product based on what he has seen.

Chairwoman Rogers stated that the Baenziger firm has received good references from its clients. Commissioner Mills asked if the Board goes through the vote on the motion, would it be violating County policy. Chairwoman Rogers said that it would not be violating County policy; it would be following State Statute.

Commissioner Mills stated that if the Board uses this firm, it would not be following County policy. He said right now there is a policy on the books that requires a Request for Proposals or Request for Qualifications through the Procurement Policy. He said that the Board either follows the County's policy or it does not follow it.

Vice Chairwoman Kuehler said that this same question has been answered by the County Attorney twice. She moved to call the question on the previous motion.

Commissioner Baucom commented that the Personnel Director has not interacted at all with that firm.

Chairwoman Rogers stated that a motion had been made to call the question, and she called for a vote on that motion. The motion failed by a vote of two to three. Chairwoman Rogers and Vice Chairwoman Kuehler voted in favor of the motion. Commissioners Baucom, Mills, and Openshaw voted against the motion.

The Chairwoman asked if there was any further discussion.

Commissioner Baucom stated that the Personnel Director has had no contact with the Baenziger firm and only knows what he has read about the firm on the website. Chairwoman Rogers interjected that she and Mr. Watson had a long conversation about the firm. Commissioner Baucom commented that the only knowledge that Mr. Watson had about the firm has either been read on the website or is hearsay. He said that he did not know why the Board would not follow the process. He stated that the reason that sometimes government seems to move slowly is because of process, and he said he did not know why there was a sudden urgency to bypass and circumvent what is County policy and not utilize the expertise of a department head.

Vice Chairwoman Kuehler asked if this discussion would be taking place if the Waters firm was going to be used because there has already been a Request for Proposals. She said that would not be the firm she would endorse using.

Commissioner Mills asked why not send a Request for Proposals to the Baenziger firm and have it come back and then follow the process that is in place. Chairwoman Rogers said that her motion was to have the legal team negotiate a contract with that firm, which would come back to the Board for consideration.

Commissioner Baucom stated it would not necessarily be a contract that would be brought to the Board; it would be seeking information on that firm, its qualifications. Chairwoman Rogers responded that she believed she had presented enough in the way of the firm's qualifications and if an agreement cannot be reached on the contract, then there is nothing else to say. She said that all of the companies have their qualifications and referrals on their websites. She stated that in her opinion, requests for proposals are an unnecessary step at this point in time. She said that the procurement policy is advisory in nature and is not required. She stated that the Board does not need to take 18 months to find a manager, and the County needs to get moving on this for many reasons, the least of which is stability within whatever stability can be found within County government. She said that her motion stands.

Commissioner Mills questioned why the Board is in such a hurry to move forward with the County Manager search without receiving a Request for Proposals or Request for Qualifications in accordance with the County's policy. Chairwoman Rogers said she had done her research and was satisfied with it. She stated that she had reviewed the qualifications received from the last County Manager search and knew that two of the firms were not firms that she would consider based on their past experience with Union County. The Chairwoman said this firm may not be on the list but that the Baenziger firm is very eager, very professional, and has excellent references.

Commissioner Mills stated that this firm might be the best ever but emphasized the process is not following the County's policy. He said if the majority of the Board wanted to vote to set the policy aside and not adhere to it, that would be fine.

Commissioner Baucom said that an elected official has generated all of the information in this matter, not a department head that is hired for the expertise. Chairwoman Rogers said that the Board had voted and knew that she was going to look at firms, and she had spoken with Mr. Watson, and this is within her professional background; this is what she did for living. Commissioner Baucom said there is a policy, and the Board can either vote to set the policy aside or follow the policy.

Chairwoman Rogers said there was no need to vote to set the policy aside, because it is only advisory. She asked Commissioner Openshaw if there were any comments he would like to make, since he had not voted in the affirmative to call the question on the previous motion.

Commissioner Openshaw said that he had wanted to give Commissioners Baucom and Mills the opportunity to put out a legitimate argument and what he has seen is more obstructionism, so he was not really concerned about it. He said to be fair he heard Mr. Watson say that he had been consulted about the Baenziger firm.

Mr. Watson acknowledged that he and the Chairwoman had discussed a number of firms. Commissioner Openshaw asked Mr. Watson if he would feel more comfortable making a telephone call or talking to a representative of that firm. Mr. Watson stated that there were some firms that he had objection to that he did not think would serve the Board well. He said that this particular firm appears to have a good reputation, and the gentleman seems to know what he is doing and seems to be on the ball and has a fairly high energy level about getting his work done.

Commissioner Openshaw asked if this firm was involved with the Charlotte manager search. Mr. Watson said it was not. He said that the Chairwoman had asked him for the names of recruiting firms that the County had done business with in the past and names of firms that do public sector recruitment. He stated that he had an article from *The Charlotte Observer* that he had saved that listed all the firms that bid through Charlotte's Request for Proposals process and the costs associated with that search. He said that he thought this information was relevant and that was why he had supplied the information to her.

Commissioner Openshaw asked Mr. Watson what he would gain from communicating with that firm or receiving a Request for Proposals that has not been picked up in the available information. Mr. Watson said that if it were him bringing the recommendation, he would not feel comfortable as a department head not having a document in his hands from that company outlining their qualifications and proposals. Commissioner Openshaw further asked what that document would show that could not be obtained online or from talking with the firm's representatives. Mr. Watson stated that it is a formal document and much of the

information might be the same, but he did not know how the information would differ because he has not seen the firm's Request for Qualifications.

Chairwoman Rogers said that Colin Baenziger was on the list of firms that Mr. Watson provided to her. She stated that she had already contacted the firm.

Commissioner Baucom stated that everything is being concluded based on what is on the Internet site, and that is assuming that everything is factual that is on the web.

Vice Chairwoman Kuehler said the point is if there is a Request for Proposals, they would reiterate the information that is contained on the company's website.

Commissioner Openshaw said that there is a motion on the table, and the Board has been told that the policy is advisory. He stated that with his having been through two of these searches in the past where the Board has talked with the firms and what Mr. Watson has said about his awareness of them, he did not really see that getting a Request for Qualifications would accomplish a whole lot. He said he was ready to move forward.

Chairwoman Rogers restated the motion as follows: to have the legal team to get in contact with the Colin Baenziger firm and try and work out a contract. The motion passed by a vote of three to two. Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted in favor of the motion. Commissioners Baucom and Mills voted against the motion.

Commissioner Mills left the meeting at approximately 1:20 p.m.

### **Waxhaw Emergency Department:**

Chairwoman Rogers said that the last item on the agenda was a proposed Resolution in connection with the Waxhaw Emergency Department.

At approximately 1:25 p.m., Commissioner Baucom requested that he be recused from voting for the remainder of the meeting.

Commissioner Openshaw moved to recuse Commissioner Baucom from voting for the remainder of the meeting. The motion passed by a vote of four to zero. Chairwoman Rogers, Vice Chairwoman Kuehler, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Baucom did not vote. [Commissioner Mills left the meeting at approximately 1:20 p.m. without having been recused, and in accordance with the Board's Rules of Procedure, his vote was counted in the affirmative.]

Mr. Merritt said that the proposed resolution regarding the Waxhaw Emergency Department was originally drafted by John Crill, Attorney at Law, and he had updated it. He stated that the proposed resolution had been reviewed by Jeff Crook, and in some way, all of the County's attorneys have had either input or review into the contents of the resolution. He noted that it is a draft for the Board's discussion and consideration.

Chairwoman Rogers asked if any of the Board members had questions regarding the draft resolution and reminded that if there were legal questions, the Board would need to go into closed session to consult with the attorneys. With there being no questions from the Board, Chairwoman Rogers requested that the Resolution be included on the agenda for the regular Board meeting for August 16, 2010, and that Mr. Crill be available for discussion at that time.

No action was taken on this item.

With there being no further discussion, at approximately 1:30 p.m., Vice Chairwoman Kuehler moved to adjourn the regular work session. The motion passed by a vote of four to zero. Chairwoman Rogers, Vice Chairwoman Kuehler, Commissioner Mills and Commissioner Openshaw voted in favor of the motion. [Commissioner Mills left the meeting at approximately 1:20 p.m. without having been recused, and in accordance with the Board's Rules of Procedure, his vote was counted in the affirmative.] Commissioner Baucom had been recused from the meeting at approximately 1:25 p.m. from voting for the remainder of the meeting.