

Minutes of the Regular Meeting
of the Union County Board of Commissioners
Monday, August 16, 2010

The Union County Board of Commissioners met in a regular meeting on Monday, August 16, 2010, at 7:00 p.m. in the Commissioners' Board Room, first floor, Union County Courthouse, 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: Wes Baker, Interim County Manager; Lynn G. West, Clerk to the Board of Commissioners; Jeff Crook, Senior Staff Attorney; David Cannon, Finance Director; members of the press, and interested citizens

OPENING OF MEETING:

At approximately 7:00 p.m., the Chairwoman called the meeting to order and welcomed everyone.

- a. ***Invocation:*** Vice Chairwoman Kuehler offered the invocation.
- b. ***Pledge of Allegiance:*** Chairwoman Rogers led the body and audience in reciting the Pledge of Allegiance to the United States flag.

Chairwoman Rogers welcomed Wes Baker who was appointed Interim County Manager and David Cannon, Finance Director, who is attending his first official meeting tonight.

- c. ***Featured Community Benefit Organization: HealthQuest of Union County***

Chairwoman Rogers introduced Ms. Heather Horne, Executive Director of HealthQuest of Union County, to briefly describe the organization and its programs.

Mrs. Horne thanked the Board for allowing her to address the Board tonight and for its past and continued support of this organization. She said that HealthQuest is one of the best resources and non-profits that exist today. She also said it provides a very important and top-quality medication assistance program to the people in this county and people from a few surrounding areas. Mrs. Horne said that like other non-profit service organizations the economic downturn that has been experienced in the last several years has increased the demand for its services while at the same time decreasing contributions and funds available. Mrs. Horne assured that they were handling the demand and are currently serving just over a thousand clients each month and stated that just over 95 percent of these clients live in Union County. She said that last year the organization dispensed 42,843 prescriptions with a retail value in excess of \$5.3 million dollars. Mrs. Horne said that they dispense up to six prescriptions per client with the average receiving 4.2 medications each month. She further reported that the organization provides only maintenance medications for chronic conditions like heart disease, high cholesterol, diabetes, depression and others. She said that it does not dispense narcotics or controlled substances. She said the medications are free to the clients; however, a \$15 monthly administrative fee is charged to help cover the costs of the services provided. She said that CMC-Union is a big supporter of the organization not only with an annual contribution but it also provides professional volunteers and client referrals. She described the eligibility criteria: the clients must be without any prescription insurance, without financial means to afford the medications, and a household income at or below 200 percent of the federal poverty level. Mrs. Horne assured that this organization works very closely with DSS and other local referral agencies to best meet the needs of the underinsured in this county. She said that while it might be thought that the typical clients would be senior citizens on fixed incomes, and there are a lot of those individuals, the majority of the clients are between the ages 25 and 55 who are currently employed without insurance or recently unemployed without insurance coverage or means to get prescriptions. She said that she had seen a large increase in diabetic clients recently and assured that HealthQuest does supply their testing strips and supplies to monitor their conditions.

Mrs. Horne said that during the last few years, in order to meet budget, the staff has been reduced to part-time and HealthQuest utilizes a lot more volunteers. She said she was proud to report that HealthQuest is still providing the same top quality level of service and still upholding its mission to improve the health of the community by assisting those who cannot afford prescription drugs.

She said that for every \$1 contributed to its budget, HealthQuest is able to provide \$11.46 back into prescription medications to its clients. She further reported that the NC Association of Free Clinics recently told HealthQuest that it was stunned at the numbers that it reported for last year, and its volumes had surpassed MedAssist for Mecklenburg County as the number one dispenser of

maintenance medications in North Carolinas. She assured that the County had invested its dollars very wisely in its contribution to HealthQuest and thanked the Board again for the County's participation.

In response to a question from Commissioner Openshaw, Mrs. Horne said that 200 percent of the federal poverty level for a family of four would be \$3,675 monthly.

Mrs. Horne provided information as to HealthQuest's fiscal address, website, and all contact information.

INFORMAL COMMENTS:

The Chairwoman explained the next item and stated the rules to be followed during informal comments.

The first speaker was Cindy Cole who identified herself as a Registered Nurse and Executive Director of Community Health Services of Union County. She explained that Community Health Services has believed for over 20 years in its mission of being an affordable healthcare solution and has long-since been a healthcare resource offering out-reach services to the indigent and the uninsured population of Union County. Ms. Cole said that Community Health Services has continued to expand into new areas of Union County and now has 14 locations where the greatest health disparities lie. She said that education and intervention are the absolute keys to assuring that its clients get and remain healthy, informed, and productive in society. Mrs. Cole stated that if its clients' illnesses remain untreated not only is the County's emergency department overrun with complications, which could have been avoided with education, but also the citizens cannot function in their work places, which increases the unemployment rate and further decreases the County's economy. Mrs. Cole said that over the past six years CHS has made a significant impact and an incredible difference in the lives of nearly 25,000 Union County residents and has performed over 75,000 services such as diabetes education, emergency prescription assistance, insulin, flu shots to local residents and provided the education and intervention that are key to quality healthcare. She said that this organization wanted to do more about this growing problem, so it is. Mrs. Cole said that Community Health Services will be expanding its services this month to include a free, in-house physician-based clinic for uninsured diabetic patients. She said these clinics will be manned by an all-volunteer staff of local physicians, physician assistants, nurse practitioners, other healthcare professionals and students. She said this project requires medical supplies, diabetic medications, insulin, glucose meters and strips, which all cost a great deal to provide to these patients at no cost to the patients. She said in order to be able to raise these funds, Community Health is going to host its first annual "old fashion" barn dance on Saturday, August 28, at Union County Shrine Club on Phifer Street in Monroe from 6:00 – 11:00 p.m. She said tickets are \$20, which will include all

entertainment and a barbecue dinner. She invited the Commissioners and the citizens of Union County to attend the fund raisers to support this free clinic.

Todd Elmore gave his address as 320 Billy Howey Road, Wesley Chapel. He said his house is directly adjacent to the Wesley Chapel Volunteer Fire Department and reported that he had an unobstructed view of the fire department. Mr. Elmore said that he is present to speak on behalf of the fire department. He said if his voice sounds a little frustrated it's because he has been speaking on behalf of the fire department through the entire Wesley Chapel approval process. Mr. Elmore said that the neighbors, the ones he has spoken to, are totally in favor of the fire department and stated that these citizens have been waiting a long time for a new fire department. He said in preparation of tonight's meeting, he went over to the fire station with his daughter and to be able to walk through the fire department, he had to stand sideways and walk between the fire trucks. He said he admired the firemen for putting up with these conditions for so many years. He said the big ladder truck, which is needed in Wesley Chapel and in Union County, has about a two-inch clearance. Mr. Elmore said that tonight he wished the Commissioners would put aside any hidden political agendas and get to the business of approving the fire department's request. He explained that through his current employment he had been able to travel and represent the United States in three foreign countries in the past few months—Kosovo, Afghanistan and Haiti. He said one of the disturbing things that he has found in all three countries is the lack of infrastructure which is fire and police services. Mr. Elmore said he knew Union County was a long way from that situation but stressed that Union County should not go down the bumpy road of not supporting its fire and police services.

Ms. Rhonda McFarland gave her address at 2751 Gusty Lane, Monroe. Ms. McFarland said she was a proud employee of CMC-Union and also a concerned citizen of Union County. She said she registered to speak tonight about the CMC-Waxhaw facility, which in her opinion is long overdue for approval by the Board of County Commissioners. She said there is a tremendous need for emergency medical services in western Union County as residents currently have to travel at least 13.8 miles to CMC-Union or 18 miles to Pineville or 20 miles to Matthews for emergency services. She noted that these are long distances to travel in an emergency situation when every second can count. She said that even the trip to CMC-Union, which is the closest emergency room, at 13.8 miles takes over 20 minutes to drive. She said it is her understanding that CMC Waxhaw will add 70 new jobs with a payroll of over \$3.4 million and will make a profit for CMC-Union so that those profits can continue to be reinvested into the community.

Ms. McFarland said that she continues to read of the successes of CMC-Steele Creek, which is a sister facility of CMC-Waxhaw, and stated that she hoped that some day soon those great stories will be written about CMC-Waxhaw. She said it is amazing the impact that CMC-Steele Creek has on that community and the number of lives it appears to have saved since its opening last November. She said that as an employee of CMC-Union she is asked frequently about the free-standing ER project and understands

that over 1400 residents have signed up their support of the CMC-Waxhaw project. She asked the Board to give her neighbors and the other residents of western Union County what they want and even more importantly what they need—lifesaving emergency services. Ms. McFarland emphasized that this Board of Commissioners could give the green light to one of the top employers of Union County to reinvest millions into providing more accessible and needed emergency care while creating jobs. She asked the Board to please approve tonight the CMC-Waxhaw project.

Missy Baker gave her address as 7012 Brett Drive, Monroe, and stated that she too is an employee of CMC-Union. She spoke in support of CMC-Waxhaw and stated that she cannot understand why the Board of Commissioners will not approve this project to enhance emergency services in western Union County. She noted that CHS's history of management of CMC Union over the last fifteen years has significantly improved healthcare in Union County. Ms. Baker reported that CHS has had a terrific track record of operating CMC-Union. She reminded that previous Boards of Commissioners had trusted CHS and local CMC management to do the right thing for this community and CMC-Union has been developed into an award winning hospital. She said she knew that if the Board will allow CMC-Waxhaw to open that the Commissioners will look back in several years and realize that it was the best decision that was made while he/she served as a commissioner. She explained that there is nothing better that a Board of Commissioners can give a community than emergency health care services because it will save lives. Ms. Baker said this facility will provide around-the-clock services in the high-quality fashion that CMC-Union has provided for many years. She said that as an emergency room nurse that she knows that time saved results in lives saved and cited examples. She said the Waxhaw project will help CMC-Union fulfill its mission which includes to continually improve quality and accessibility of its services. She assured the hospital has been a wise investor of its own money while providing millions of dollars to the county for other needs. Ms. Baker said that all that is being requested is that the Board grants its permission for the hospital to use its own funds to provide this service to the residents of western Union County.

Joe Tolan of 5800 Deal Road addressed his opinion that nothing is taking place as it relates to the illegally placed fill dirt at the Wesley Chapel Weddington Athletic Association property in the west fork branch of Twelve Mile Creek. He reviewed the history of this matter and stated that on the 25th of May the Board released a joint press release with the Town of Weddington that no anticipated action would be taken to interfere with the park's upcoming season. He announced the season is over or it soon will be over. He said on July 1st County representatives that met with affected property owners whose eastern property line is the western property line of the park. Mr. Tolan said they were brought up-to-date on the status of activities at that time and were told that within a week or two these representatives would be meeting with representatives of the athletic association. Mr. Tolan reported that to-date the property owners have heard nothing as it relates to this meeting. He also reminded that last October, the County and Weddington hired US Infrastructures and over \$36,000 have been paid to them with an equal amount paid by Weddington. He said this business analyzed

25 different scenarios of correcting the action of the park and found that only two of them would meet the no-rise certifications. Mr. Tolan reminded that the County had employed Ernie Abbott of FEMA Law and Associates, again with Weddington, to look into the Optimist Park Floodway matter. He said the original authorization was for \$20,000 and that he noticed that an additional \$10,000 was requested tonight to be split 50-50 with Weddington. Mr. Tolan said that over the years numerous dates have been set for action that would be taken to remove the fill but nothing has taken place. He requested to know when this action is going to happen and encouraged it to be taken soon.

Dennis Phillips gave his address as 1252 Dilworth Crescent Road, Charlotte, NC, and stated that he is present to make a request as it relates to the agenda. He said late last Friday he was sent an email from Keith Merritt, Attorney for the Board of Commissioners, stating that there was a proposed resolution of the Commission that would possibly be acted upon tonight. He said his request is that under Old Business – 7B that prior to any action being taken on a resolution that the Board would hear the presentation of CMC-Waxhaw.

Jim King gave his address as 3514 Waxhaw-Marvin Road and stated that he was going to address ethics. He quoted from G.S. 153A-49 – Code of Ordinances which states that the County may adopt and issue a code of its own ordinances which then becomes law. He then addressed Section 24 of the Union County Land Use Plan and read from it as it relates to election of officers. He reported that a Chairman was elected in May when the new members were seated per the County's ordinance. Yet, he noted that in June another election of officers was held and a different person was elected Chair. He said the Planning Director and Land Use Administrator were present and neither made a comment. Mr. King read a quote from the newspaper of June 6th from the County Commissioners' Board Chairwoman which said that "she and the Board of County Commissioners will stay out of the argument. It's not for me as Commissioner to come and tell them that you guys did wrong." He said she was also quoted as saying that majority rules and she will accept recommendations of the Planning Board based on majority vote.

Mr. King said that he talked with three professors at the School of Government, the Institute of Government in Chapel Hill. He quoted them as saying "it was up to the Board of County Commissioners to amend the procedure, if and when it chooses. The Planning Board does not have the power to change a County Ordinance. The person chosen as Chair at the first meeting in which duly appointed members are seated serves as Chair for the ensuing year." He said the statement goes on to say that the person elected in May is the legitimate Chair of the Union County Planning Board. Mr. King said he was reading an article from the newspaper written by a guest columnist in which it states that each County Commissioner is responsible for his or her own actions or in this case lack of action. He said that the people who are supposed to enforce the Union County Land Use Ordinance have not stepped forward. Yet, he pointed out that the County has spent perhaps hundreds of thousands of dollars challenging Pinky Marsh and the APFO and the

reason stated, as he read it, was to uphold and enforce the Union County Land Use Ordinance. He said he guessed it was selective enforcement.

He said that his final point was the last statement in the Oath of Office sworn to by each County Commissioner.

ADDITIONS, DELETIONS AND/OR ADOPTION OF THE AGENDA:

The Chairwoman stated the next item and requested to remove Item 17-Discussion of Health Benefits for Commissioners- from the Regular Agenda. Vice Chairwoman Kuehler asked to remove Item 15 – Discussion of Legal and Ethical Concerns- from the Agenda.

Commissioner Baucom noted as a point of order on Agenda Item 15 that it went from old business to new business, and it should be listed under old business. He further requested that this item be included on the agenda of the next board meeting. He requested that Consent Agenda Item 8 – Recommendation by Parks and Recreation Advisory Committee Regarding Fee Proposal for Tournaments - be transferred to the regular agenda.

Commissioner Openshaw requested to transfer the following items from the Consent Agenda to the Regular Agenda:

1. Contracts and Purchase Orders Over \$20,000
 - b. Item 1b – Task Order No. 5F with CDM for Engineering Services for East Side Sewer System Improvements in the Amount of \$38,021
 - c. Item 1c – Task Order No. 14 with CDM for Engineering Services for Replacement of the Tallwood Estates Wastewater Treatment Plan (WWTP)

The Chairwoman called for a vote on the first request to remove Item 17 from the Agenda. The motion passed unanimously.

The Chairwoman called for a vote on the request to remove Item 15 from the Agenda. The motion passed four to one. Commissioner Baucom voted against the motion.

She next announced that there is a request to move Consent Agenda Item 8 - Recommendation by Parks and Recreation Advisory Committee regarding Fee Proposals for Tournaments – to the regular agenda. The motion passed unanimously.

Chairwoman Rogers next stated that there is a request to move Consent Agenda Item 1 b from the consent agenda to the regular agenda. The motion passed unanimously.

Chairwoman Rogers next stated that there is a request to remove Consent Agenda Item 1 c from the consent agenda and to add it to the regular agenda. The motion passed unanimously.

Motion was made by Vice Chairwoman Kuehler to adopt the agenda as amended. The motion passed by a vote of four to one. Commissioner Baucom voted against the motion.

The Chairwoman announced that Consent Item 8 will be moved to 5A on the regular agenda, Consent Item 1b will be moved to 5B, and Consent Item 1c will be moved to Item 5C and the original Item 5 would become 5d.

Commissioner Mills requested that Item 5 on the regular agenda be 5A and the other items transferred from the Consent Agenda be labeled 5b, 5c, and 5d. He explained that Wesley Chapel had been on the agenda for the last few meetings and this item has been delayed and noted that at one meeting the representatives had to stay past 12:15 a.m.

By acclamation, the Board agreed with his recommendation.

CONSENT AGENDA:

Motion was made by Commissioner Openshaw that the items listed on the Consent Agenda be approved as amended. The motion passed unanimously.

Contracts and Purchase Orders Over \$20,000

- a.) District Attorney Contract:*** Authorized the Interim County Manager to execute agreement for an Assistant District Attorney with John Snyder, III, District Attorney, Prosecutorial District 20B and the North Carolina Administrative Office of the Courts, pending legal review.
- b.) Task Order No. 5F*** with CDM for Engineering Services for East Side Sewer System Improvements in the amount of \$38,021 [moved to Regular Agenda at the request of Commissioner Openshaw]

c.) **Task Order No. 14** with CDM for Engineering Services for Replacement of the Tallwood Estates Wastewater Treatment Plant (WWTP) [moved to Regular Agenda at the request of Commissioner Openshaw]

Health Department Codes and Associated fees: Approved Health Department Codes and Fees as adopted by the Board of Health at its August meeting.

CODE	DESCRIPTION	FEE
90713	Polio (IPV)	\$ 26.00
90714	TD Adult	22.00
90698	Pentacil (Dtap, IPV, Hib)	86.00
90716	Varicella	92.00
90633	Hep A	33.00
90744	Hep B (Pediatric)	25.10
90648	ACT/Hib	27.00
90700	Dtap	24.00
90680	Roto Virus	80.00
90670	Prevnar	124.00
56501	Destruction lesion/vulva	105.00
57061	Destruction wart/female	95.00
54065	Destruction wart/male - Cryo	175.00
57065	Destruction wart/female – Cryo	155.00
99240	MCHAT (Autism screen)	10.00

Corrected Refunds January 2010: Approved a January 2010 refund in the amount of \$191.36 that was listed as a Waxhaw Fire Tax Late Listing Penalty and should have been listed as Waxhaw Fire Tax in the minutes of February 15, 2010.

Second Motor Vehicle Billing: Second Motor Vehicle billing in the total amount of \$1,073,461.04

Agenda and Meeting Management System: Approved Budget Amendment #5 – Central Administration – to increase Capital Expenditures by \$154,676 and increase Fund Balance Appropriated by the same amount for the Sire Technology agenda, minutes, and audio/video system.

BUDGET AMENDMENT

BUDGET Central Administration REQUESTED BY David Cannon
 FISCAL YEAR FY2011 DATE August 16, 2010

INCREASE

DECREASE

Description

Description

Capital Expenditures 154,676

Fund Balance Appropriated 154,676

Explanation: Appropriate General Fund fund balance for the Sire Technology agenda, minutes and audio/video system.

DATE _____

APPROVED BY _____
 Bd of Comm/County Manager
 Lynn West/Clerk to the Board

Total	<u>154,676</u>	Total	<u>154,676</u>
Prepared By	<u>aar</u>		
Posted By	<u> </u>		
Date	<u> </u>	Number	<u>5</u>

Request from United Way for County Assistance with Solid Waste Tipping Fees for Day of Caring Event (August 28, 2010):
 Authorized transfer from General Fund to Enterprise Fund for Solid Waste Fees associated with Day of Caring Event not to exceed \$2,000.

Amendment to FEMA Law and Associates Agreement: Authorized Interim County Manager to approve amendments to (i) FEMA Law & Associates engagement agreement, and (ii) Weddington Interlocal agreement to increase total expenditures from \$20,000 to \$30,000.

Workers Compensation Settlement Agreement: Authorized the Interim County Manager to approve settlement agreement of a workers compensation claim in the amount of \$40,000.

Recommendation by Parks and Recreation Advisory Committee Regarding Fee Proposal for Tournaments: [Moved to Regular Agenda at request of Commissioner Baucom]

Public Works Department – Circle Drive and Younts Road Water Main Extension: Accepted bids, awarded contract to the lowest bidder, C&W Utilities, in the amount of \$345,095.53, and authorized the Interim County Manager to approve an agreement with C&W Utilities, subject to legal review.

Eight bids were received on July 15, 2010:

<u>Contractor</u>	<u>Total Bid Amount</u>
C&W Utilities	\$345,095.53
RF Shinn Contractors	\$360,478.30
State Utility Contractors	\$371,756.13
Dellinger, Inc.	\$402,014.56

Dawn Development	\$434,016.18
Payne, McGinn & Cummins	\$472,957.84
Blythe <u>D</u> evelopment	\$633,583.70
Propst Construction	\$642,222.80

Included in the Agenda Package with No Action Required: Personnel Report for July 2010 and Department of Inspection’s Monthly Report for July 2010.

WESLEY CHAPEL FIRE & RESCUE REQUEST FOR SEWER ALLOCATION:

The Chairwoman recognized Wes Baker, Interim County Manager, who reminded that at a recent meeting the staff was requested to obtain a current cost estimate of this project. He said that since that time the bids have been received and the information is available. He said the low bid was in the amount of \$3.842 million and the department is in the process of seeking financing for this project. He said that in order to pay for the financing, the department is actually making the final payments for the leases of two fire trucks that it owns. Mr. Baker said the payments would be in the amount of approximately \$360,000. Mr. Baker said the Finance Director ran some depreciation and amortization schedules on the financing and reported that it appears to be very doable.

The Public Works Director noted that there is additional sewer allocation needed for Wesley Chapel Fire Department’s proposed new building of 340 gallons per day (gpd) over the amount that it now has allocated to it. He recommended that the additional amount be allocated from the amount designated for the Public Works Operations Center. He pointed out that there are no funds available for the proposed Operations Center and probably will not for several years so it is believed that the amount could be taken from that project without causing any problems.

Vice Chairwoman Kuehler noted the department currently has an allocation of 360 gpd, and it is requesting an additional 340 gpd. Mr. Goscicki agreed. The Vice Chairwoman next asked what could that number service. Mr. Goscicki responded that he did not have that information off the top of his head but he knew the amount needed was 720 gpd and the amount of capacity required was calculated based on the square footage, restrooms, and other support area. He said this amount was based on the criteria of the State Department of Environment and Natural Resources. The Public Works Director emphasized that the State has very specific criteria for capacity for different types of facilities with fire stations being one.

The Vice Chairwoman next asked if the Public Works Director knew the requirement for capacity for Hemby Bridge, Waxhaw or other departments on the sewage system.

Mr. Goscicki responded that he did not.

Commissioner Mills moved to approve the request and adopt the amendment to the Sewer Allocation Policy. The Chairwoman restated the motion and asked for comments.

Commissioner Openshaw stated that he lives within the Wesley Chapel Fire District and is opposed to the motion. He said he was glad to support the needs of the firemen but he is not glad to support the wants of the firemen. Commissioner Openshaw said that he was more than glad to go beyond what is deemed the appropriate size but is not willing to go three times that size. He said that during this economic time when jobs are being eliminated and it is difficult for people to hold onto their homes, he could not support a list of wants. He further explained his decision was based on Dr. Jenaway who did the fire study for the county and said he had discussed the proposed size of the building with him. He agreed that there was no doubt a new department was needed but that Dr. Jenaway said that the 17,000 square foot Wesley Chapel Station on New Town Road should have been only 6,000 to 8,000 square feet. He said that he asked Vice Chairwoman Kuehler, as Fire Commissioner, to talk with Dr. Jenaway to make sure he had understood his statement correctly.

Commissioner Openshaw said that he would be glad to talk about downsizing the facility but would not support the facility which would be the largest in the County.

Commissioner Baucom restated that the discussion was for an additional 340 gpd of sewer capacity and the financial impact to the County is zero. He stated that fire safety aspect would be priceless. Commissioner Baucom assured that he would be supporting the motion.

Commissioner Mills agreed with Commissioner Baucom and noted that the question before the Board was to vote on the request for additional sewer capacity and that no where in the Board's job description does it state that the Commissioners are architectural designers for fire departments. He stressed that there is an elected body of the citizens of Wesley Chapel that has reviewed this. He said he thanked God for the volunteers who perform their jobs in harsh situations and that he supports the additional sewer capacity appropriation to the department.

Vice Chairwoman Kuehler confirmed that she had talked with Dr. Jenaway about this issue. She agreed the issue is sewer capacity which is as valuable a commodity as this county has, and it should not be allocated lightly. She said she receives daily emails from people who are stuck in this policy or who are not in the policy and are requesting an allocation of sewer capacity. She asked if the department built the 6,000 to 8,000 square foot building, which is the square footage that Dr. Jenaway said is needed, would the additional sewer capacity be required. The Vice Chairwoman said she had never said that the Wesley Chapel Volunteer Fire Department did not need a new building but thought the department should be of a size that would fit within the sewer allocation policy and within the fire study that the County spent \$76,000 on.

Chairwoman Rogers said she is on the fence on this item in that she recognizes the need and has the utmost respect for the volunteers for the fire departments and what they do, but expressed that she is struggling with the decisions she makes here because it will be coming to the taxpayers. She said that the fire tax rates and fire fees had to be increased in the last budget and the County is still paying approximately \$350,000 in subsidies. She said if the people want to pay more taxes, she will do it, but she is not sure that they really want to pay additional taxes. The Chairwoman said that Dr. Jenaway met with all the fire chiefs and the Fire Commission are pretty much in agreement with the concept of the study and the draft plan does not call for a department of the proposed size. She recommended that the Board delay action until after Dr. Jenaway returns and meets with Wesley Chapel's representatives.

Commissioner Mills said that he had reviewed the fire study, and he did not think that when discussion of the study was started in 2006 that it included instruction to decide the size a department is needed to be. He said the citizens of that area are supportive of the new building, and it is not the Board of Commissioners' responsibility to decide the size of the building. He again reiterated the vote is only on the sewer allocation not the size of the structure to be built.

The Chairwoman called for a vote and the motion failed by a vote of two to three. Commissioners Baucom and Mills voted for the motion and Chairwoman Rogers, Vice Chairwoman Kuehler and Commissioner Openshaw voted against the motion.

RECOMMENDATION BY PARKS AND RECREATION ADVISORY COMMITTEE REGARDING FEE PROPOSAL FOR TOURNAMENT:

The Chairwoman recognized Commissioner Baucom who had asked that this item be transferred to the regular agenda. Commissioner Baucom explained that he had received several calls from people concerning this issue. He said he was not aware the County was charging for someone to walk or for someone to park to walk. He said he thought what had been approved were fees for

tournaments and revenue generating projects and pointed out that there are lots of people who are concerned about it. He asked Mr. Whitley, Interim Director of Parks and Recreation, to update him on the status.

Mr. Whitley stated that this procedure started along with the marketing plan for Jesse Helms Park. He said there was concern in November about it not being used. He said when the Parks and Recreation Advisory Committee met and discussed the marketing plan it was concluded that all three parks should be treated the same. For example, he explained that at Cane Creek Park if a neighbor walks into the Park, they pay the same fee as if they drive into the Park to walk: they pay a fee regardless of whether it is only to walk a trail or other activities. So, he said this fact was taken into consideration as part of a marketing plan when it was presented for the Jesse Helms Park. He explained that as far as the Fred Kirby Park there is very limited parking space. He noted that it has only 72 parking places and if there are three ballgames taking place at the same time, there is not sufficient parking. Mr. Whitley said it is hard to regulate but the staff likes to monitor who is supposed to be in the park and in reality when the gates are closed there is not supposed to be anyone in the park. He said there is a nice walking trail there, which people use, but the goal is really created with three things in mind: The first is to assure that the parks have a safe environment and to be able to monitor who is in the park. He said that is why the staff and the Parks and Recreation Board want an entrance fee and the cars properly marked. He said it is sometimes required for staff to stay past the closing of the park because people have left their cars in the lot. Mr. Whitley stressed that action is not good for the taxpayers or for the employees who would like to get home on time. He said secondly the department wants to assure that those who are supposed to be parking in the lot have adequate parking places. Mr. Whitley said that “no parking signs” have been placed along the side of Faith Church Road because people were parking on the side of the road when the park was closed and going inside the park. He noted that the fields at Fred Kirby Park have to be managed for the fields to stay in good shape. He said this policy gives the staff some leverage to say to them that they are not supposed to be on the field. He agreed the policy has something to do with revenue but it has more to do with safety and proper use of that park.

Commissioner Baucom stated that he thought the majority of complaints that he had received had been relative to Fred Kirby Park and have been from walkers and people who have been using the park for a long time. He said he had been reminded that it was a donated park, very local, and very much a neighborhood park and now the residents feel distressed to be paying to park to walk for exercise. He said he did not know how he would say it should be treated but that he would like to see a differential between someone exercising and walking the trails than someone who is using the fields and creating a need for upkeep.

He moved that this item be sent back to the Parks and Recreation Advisory Committee to again look at this issue.

Commissioner Openshaw said that he serves on the Parks and Recreation Advisory Committee and there was a special meeting last Tuesday night, and it was a good meeting. He commented that he had a problem with people having to pay to walk into what is basically a neighborhood park abutting Lake Park. However, he said, staff prepared a document that suggested that the people who currently rent the park obtain a pass, a sticker that can be placed on their dashboard that gives them free access to the park. He said a motion was made to approve the recommendation presented to the Board of Commissioners tonight and to re-address the issue in July of 2011. Commissioner Openshaw said that what he would change is that the issue should be considered and dealt with prior to July. He noted that the recommendation presented was by a unanimous vote of the Parks and Recreation Advisory Committee with his having not voted. Commissioner Openshaw said he would be fine with sending it back for that particular provision but other than that he would say he would like to see the recommendation approved to give free passes to the program participants, which Commissioner Baucom accepted as a friendly amendment to his motion.

Chairwoman Rogers repeated the motion as amended: to send the recommendation as presented tonight back to the Parks and Recreation Advisory Committee to give further consideration to the issues. The motion passed unanimously.

Commissioner Mills interjected that the Lions Club had contacted him because there is a softball team in the County whose players are blind and the Lions Club had wanted help with obtaining fields on which to play and also sought some financial assistance. He asked if the Parks and Recreation Advisory Committee had looked at that request.

Mr. Whitley said that it has been approved to designate a field to them at no cost but due to the short-time frame and because some of their participants are from out of State, the Lions Club wanted to delay the tournament until the spring. He said the Lions Club is to contact Parks and Recreation in January.

Commissioner Openshaw said that another point made last week at the Parks and Recreation Advisory Committee's meeting was the conflict when people come in from other areas and are not aware of the entrance and parking fees. He said that another factor that he would like to see considered is when players are coming from other areas to play tournaments and are not aware of the fees, should the County offer them the hospitality of a free admission for those tournament games.

At the request of the Chairwoman, Commissioner Baucom restated his motion to send the proposed charges back to the Parks and Recreation Advisory Committee with the exception of the season pass, the hospitality pass for tournament players, and walkers at Lake Park.

The Chairwoman asked the attorney if there should be another vote since there had been some additions since the passage of the original motion.

The Attorney explained the Commissioners could vote to reconsider or it could consider a motion to approve the sections that were not included in the original motion, but thought a motion to reconsider might be the clearest action.

Motion was made by Commissioner Mills to reconsider the action taken previously on Commissioner Baucom's motion. The motion to reconsider passed unanimously.

At the request of the Chairwoman, the Clerk restated the motion as previously made by Commissioner Baucom: The motion is to send the recommendation of proposed charges back to the Parks and Recreation Advisory Committee with the exception of the Season's pass, the hospitality pass for tournament players and for walkers. The motion passed unanimously.

EAST SIDE SEWER SYSTEM IMPROVEMENTS – TASK ORDER 5F WITH CDM (Moved from Consent Agenda):

The Chairwoman recognized Commissioner Openshaw who asked Ed Goscicki, Director of Public Works, to explain the item. Mr. Goscicki stated that the department and engineers are moving forward with the East Side Wastewater Improvement Project, where they are moving forward with the design of two new pump stations and 3,800 linear feet of pipe line to make full use of the County's capacity in the Monroe wastewater treatment plant and also to alleviate the sanitary sewer overflows that have occurred during periods of high rain. He said that this is also the project that the Board authorized staff to proceed with the grant application from EPA for \$1.9 million. He stated that this project is in the design phase, and a few issues have come up during the design, one of which is that EPA required an environmental survey for endangered species. He said that the State, who administers the grant program for EPA, is requiring additional criteria to have more detail on the design. Mr. Goscicki stated that NCDENR came back and requested an actual profile of what the pipe is going to look like underground, where it is going to be, and the location of all 38,550 linear feet. He said there is now approximately seven miles of pipe line that these profiles have to be drawn for and that is the cost of adding this additional detail. The engineering fee which is to add the additional detail in the design is \$38,021 with that funding available.

In response to a question from Commissioner Openshaw, Mr. Goscicki assured that this action did not lock the County into completing the project but authorizes the engineer to complete the design. He said the Board of County Commissioners would still need to approve any award of construction.

Commissioner Openshaw moved to approve Exhibit A - Task Order 5F to an agreement with Camp Dresser and McKee for additional work on the re-design associated with the East Side Sewer System Force Main in the amount of \$38,021. The motion was passed unanimously.

ENGINEERING SERVICE: TASK ORDER #14 WITH CDM FOR THE DESIGN TO REPLACE TALLWOOD ESTATES WASTEWATER TREATMENT PLANT (Moved from Consent Agenda):

The Chair recognized Commissioner Openshaw who had requested this item be moved to the regular agenda.

Commissioner Openshaw stated that he had previously mentioned the package plant at the Tallwood/Fairview region and asked if the County could direct the Public Works Director to go back to the State to determine if it would increase the discharge capacity at that site.

Mr. Goscicki responded that he could make the request but it would be a several months' process to request speculative limits. He said something that his department did not go to the State about but did look at was the ability to expand the plant in the future. He said that his department had not made a request to the State to ask for any speculative limits.

Commissioner Baucom asked if the County approves the plant would it lose its ability to obtain any additional discharge at this plant.

Mr. Goscicki responded that he would not say the County had lost any leverage because the State would look at this project as a water quality issue and they will look at the receiving stream and whether or not the receiving stream is impaired or not impaired, what the water quality is, what modeling would be required to determine what the increase discharge would do. The State would make a technical review based on that determination.

Commissioner Baucom said he wanted to help the citizens and wondered if this would be an opportunity to capture additional discharge capacity from the State. He asked if the State wants the County to take over the operation of this plant.

Mr. Goscicki responded that the County currently owns and operates the plant. He explained the purpose of this project is to replace the existing capacity with a new plant that will be modular in nature. Mr. Goscicki noted that the existing plant was a steel construction and is 20 plus years old and is rusting badly. He reported this project has been on the CIP for a number of years for

replacement. He said that his department actually went through some significant value engineering in the last year to study this because the price per gallon for the smaller plant is expensive. He said they hired a different engineering firm to perform a quick value engineering analysis and came up with an alternative construction method compared to what CDM had originally recommended, which will result in a savings of roughly \$300,000. Mr. Goscicki reiterated that this is a modular design and what is being built is two parallel streams and a third one could be added in the future but the need for that has not been identified at this time but he does recognize that another modular unit could be added in the future.

Commissioner Openshaw said he was glad to hear that the plant is expandable and is a concrete structure; however, he said he would still ask the Board's opinion of directing the Director of Public Works to talk with the State about exploring the possibility of additional capacity.

Commissioner Mills asked Mr. Goscicki if this is a time sensitive issue.

Mr. Goscicki replied that this Task Order is authorization for Camp Dresser and McKee [CDM] to conduct the design of the facility, and the Public Works Department would still need to come back to the Board for construction approval. He said that the two activities could be conducted concurrently. He said they could start with the design and at the same time go to the State and ask if the County were to expand this project from 50 to 75 or 100, what would be the limits for permitting.

Commissioner Openshaw moved to direct the Public Works Director to explore the possibility of getting extra discharge capacity at the Tallwood area simultaneously with the engineers completing its work and to approve Task Order #14 with CDM in an amount not to exceed \$138,429. The motion passed unanimously.

CONSIDERATION OF TEXT AMENDMENT TO THE UNION COUNTY LAND USE ORDINANCE REGARDING ATTENDANCE REQUIREMENTS FOR ALTERNATE MEMBERS:

The Chairwoman recognized the Interim County Manager who reported that this item is a subject that was carried over from the last meeting in which a Public Hearing was held. He said no one addressed the change to the amendment and the staff is asking tonight that the Board consider the Text Amendment and along with that action adopt a statement of consistency.

Motion was made by Commissioner Openshaw that the text amendment to Section 21(d) of Article III Administrative Mechanism of the Union County Land Use Ordinance be adopted to set forth that attendance requirements for alternate members of

the Planning Board be the same as the requirements for regular members as recorded below. He further moved adoption of the applicable Statement of Consistency as recorded below.

Text Amendment Section 21(d) of Article III of the Union County Land Use Ordinance:

(d) Regular and alternate planning board members may be removed by the Board at any time for failure to attend three consecutive meetings or for the failure to attend thirty percent or more of the meetings within any twelve month period or for any other good cause related to performance of duties. Upon request of the member proposed for removal, the Board shall hold a hearing on the removal before it becomes effective.

Statement of Consistency

Whereas, pursuant to N. C. G. S. 153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it helps to more clearly define the attendance requirements for alternate planning board members by making the requirements the same as those currently in place for regular planning board members.

The Chairwoman called for a vote on the motion. The motion passed unanimously.

At approximately 8:20 p.m., the Chairwoman called for a five-minute recess. At the conclusion of the recess, at approximately 8:35 p.m., Chairwoman Rogers reconvened the meeting. She requested that Item 13 of the Regular Agenda be moved to Item 6B.

TAX ADMINISTRATOR – ORDER OF COLLECTION:

The Chairwoman recognized John Petoskey, Tax Administrator. He requested the Order of Collection of Taxes for Fiscal Year 2010 as required in NCGS 105-321 be administered to him as Tax Collector.

Motion was made by Commissioner Mills that the Order of Collections for 2010 Taxes be adopted. The motion passed unanimously.

ORDER OF COLLECTION

TAX CHARGE FOR FISCAL YEAR 2010 – 2011

STATE OF NORTH CAROLINA
COUNTY OF UNION

TO: John C. Petoskey, Tax Administrator for the County of Union

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the 2010 tax records as filed in the Office of Tax Administrator, and in the tax receipts delivered to the Tax Administrator’s Office in August 2010, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be first lien on all real property of the respective taxpayers in Union County, Hemby Bridge Fire Protection District, Stallings Volunteer Fire Protection District, Springs Fire District, Waxhaw Fire District, and Wesley Chapel Fire District. You are further authorized, empowered, and commanded to collect the 2010 taxes charged and assessed as provided for by law for adjustments, changes, and additions to the tax records and tax receipts delivered to you which are made in accordance with law.

This Order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property and attach wages and/or other funds of such taxpayers, for and on account thereof, in accordance with the law.

The Tax Charge will be adjusted monthly according to releases, discoveries, and motor vehicle billings.

Witness my hand and official seal this 16th day of August 2010.

Kim Rogers, Chairwoman
Union County Board of Commissioner
Attest:

Lynn G. West, County Clerk

Accepted:

John C. Petoskey, Tax Administrator

	General Ledger
Union County	\$ 140,977,112.19
LLP	\$ 92,103.17
Springs Fire Tax District	\$ 296,669.49
LLP	\$ 147.52
Hemby Bridge Fire Tax District	\$ 955,594.58
LLP	\$ 614.22
Wesley Chapel Fire Tax District	\$ 1,185,539.45
LLP	\$ 239.31
Waxhaw Fire Tax District	\$ 617,430.53
LLP	\$ 233.38
Stallings Fire Tax	\$ 867,421.88
LLP	\$ 851.07
Fire Fee Totals	\$ 1,853,816.88
Grand Total	\$ 146,847,773.67

CAROLINAS MEDICAL CENTER – UNION – REQUEST FOR APPROVAL OF CAPITAL EXPENSE:

A.) Ambulatory Surgery Center

The Chairwoman explained that the first item is the Ambulatory Surgery Center and recognized Michael Lutz, President of Carolinas Medical Center-Union.

Mr. Lutz thanked the Board for the opportunity to present the hospital's request for approval to add a second operating room to the hospital's Ambulatory Surgery Center, which is currently under development in Indian Trail. He requested the Board's approval of a capital expenditure of \$1,113,124 to construct the second operating room, which was awarded by the State to Union Health Services. He summarized that the current ambulatory surgery center with the one operating room was approved by Board of Commissioners on November 19, 2007, to be developed at the Union-West Medical Plaza in Indian Trail. He said this project will add a second operating room that is to be constructed as part of the current Ambulatory Surgery Center [ASC] construction project. Mr. Lutz said the second operating room will add approximately 1,000 square feet to the existing 9,000 square foot Ambulatory Surgery Center. He further explained that the Medical Plaza is being developed by Benderson, who owns the property, and is one of the largest privately owned development companies in North America. He said the Charlotte-Mecklenburg Hospital Authority is leasing the space for the Ambulatory Surgery Center and sub-leasing it to CMC-Union and CMC-Union is sub-leasing it to Union Health Services, LLC. He pointed out that CMHA, CMC-Union, and Union Health Services are all paying the same cost per square foot. Mr. Lutz also explained that the CMHA lease with Benderson will expire in 2024 and the CMC-Union and Union Health Services LLC lease expire on August 26, 2020, which is the date the lease with Union County expires. He reviewed the drawings for the facility. He estimated the opening date to be December 2010.

Mr. Lutz further said the strategic benefits allow for an increase in efficiency at the Ambulatory Surgery Center due to the availability of two operating rooms versus a single operating room surgery center. He said this additional unit will increase outpatient surgical volume through offering a cost effective and convenient outpatient surgery option for Union County' citizens, especially those on the western side of the county.

He said it also allows for medically appropriate cases to be done outside of the operating room, so it would be moving some of the cases that are more appropriate for an outpatient setting out of the current operating rooms and into the surgery center. He said that this would increase operating room capacity at CMC-Union by 14 percent. Mr. Lutz further stated that volume projection is 2,186 for the first year, 2,337 in the second year, and 2,494 in the third year. He further presented the net income projections.

Motion was made by Commissioner Mills to approve the request of Carolinas Medical Center – Union to spend \$1,113,124 to construct a second operating room of approximately 1,000 square feet to be added to the existing 9,000 square foot surgery center.

Motion was made by Commissioner Openshaw to receive the information.

The Chairwoman ruled that two motions could not be on the floor at the same time. She offered that Commissioner Openshaw could make an amendment to the motion to receive information prior to approval.

Commissioner Openshaw restated his amendment to receive additional information prior to the approval.

Chairwoman Rogers stated that staff had requested the Board receive this request as a presentation because they have questions that they want to seek answers to prior to the Board acting on the request.

The Chairwoman called for a vote on Commissioner Openshaw's amendment to allow staff to get additional information prior to approval of the request. The motion passed by a vote of three to two. Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted for the amendment and Commissioners Baucom and Mills voted against the amendment.

Chairwoman Rogers stated that the amended motion now becomes the main motion which is to receive additional information from CHS and CMC-Union prior to the approval of the request of the ambulatory center. The motion passed by a vote of three to two. Chairwoman Rogers, Vice Chairwoman Kuehler and Commissioner Openshaw voted for the motion and Commissioners Baucom and Mills voted against the motion.

B. Waxhaw Emergency Department

The Chairwoman stated that the staff recommends against approval of this item and the legal team has prepared a Resolution for consideration by the Board of Commissioners. Chairwoman Rogers asked if there is a motion to adopt the resolution.

Motion was made by Vice Chairwoman Kuehler to adopt the Resolution and to direct the staff, legal, and two Commissioners to continue negotiations of the Waxhaw Emergency Department under different terms.

Commissioner Baucom offered an amendment that the motion be split into two motions. He stated that he might be able to support one segment of the motion but not the other.

Chairwoman Rogers stated in her opinion the issues are linked together, and it is what the staff has recommended and requested of the Board of Commissioners. She said she would not be in support of dividing the motion. She called for a vote on the

amendment by Commissioner Baucom. The amendment failed by a vote of two to three. Commissioners Baucom and Mills voted for the amendment and Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted against the amendment.

The Chairwoman called for a vote on the motion of Vice Chairwoman Kuehler to adopt the Resolution and to direct the staff, legal and two commissioners to meet with CHS/CMC to continue negotiations on the Waxhaw facility.

Commissioner Mills asked if Mr. Lutz was going to be able to make his presentation tonight.

Chairwoman Rogers stated that the presentation is on the financials, the markets and the lease payments and this information has no significance on why she could not approve the current lease. She said from her standpoint the medical office building is not tied to the County and the physicians could move their offices into that facility whenever CHS decides to open the medical office building. She said she would also like to mention that the Board would not be in the position of having this discussion if the original Certificate of Need that was approved by a prior Board was still before this Board. Chairwoman Rogers said it was changed in such a way that if she were going to approve the Waxhaw lease as it is proposed that she would feel that it would be in conflict with the main lease between CMC-Union and the County.

Commissioner Mills stressed that it is his opinion that the proper action would be to allow the presentation to be seen or heard. He said this meeting with the hospital has been put off several times, and they have spent their time waiting for a response. He said he thought the audience and those watching this telecast deserve to see and hear what the hospital has to present. He respectfully requested the Chairwoman to grant them the opportunity to make their presentation.

Chairwoman Rogers said the information tonight has been seen in the past and there is nothing new. She said if there was any new information that she would be more than willing to hear the presentation. The Chairwoman said the only new information was the fair-market value of the lease, the cost, which is not up before this Board at this time, but before the Board is the resolution that has been presented by staff for consideration.

Commissioner Openshaw said that staff has reported that the CHS material offered tonight is nothing new.

Commissioner Baucom asked Mr. Lutz if he had new information to present. The Chairwoman called Commissioner Baucom's attention to the procedure and the point that it is the Chairwoman who directs questions to the presenters. She then asked Commissioner Baucom if he has a question of the Chairwoman. He responded that he would appreciate her asking Mr. Lutz if he has

new information. Chairwoman Rogers replied that she has already told the Board what information is available and asked Mr. Lutz if there is information other than what has been stated relating to the fair market value of the lease, the need for the facility, etc. Unfortunately, she explained, the issue before the Board is the resolution as to whether or not to accept the agreement and the request from CHS to take action.

Mr. Lutz replied that he has an updated pro forma that the Board has seen but the public has not been made aware of the information included in the updated pro forma. He said he had also wanted to discuss the history of the Certificate of Need as the Board has raised issues, and he wants to address those issues and answer any questions. He said he thought it also important to see the financial impact that CMC-Waxhaw would have.

The Vice Chairwoman asked Mr. Lutz if when he referred to the pro forma was he talking about updated figures from the Steele Creek facility. She said the agreement has not changed as it relates to the terms of the lease payment over a ten year period and the amount that would be paid out.

She said she thought the information that he has mentioned is important as the Board gets into negotiations but stressed that what is before the Board tonight for consideration is the Resolution prepared by the County's legal team.

Commissioner Baucom asked if it is the full resolution to be voted on or is it a portion of the resolution.

Vice Chairwoman Kuehler stated that her motion was to adopt the full resolution as given to the Board by its attorney.

Commissioner Baucom suggested that this resolution be read aloud for the benefit of the public.

The Chairwoman stated that it would be the decision of the Vice Chairwoman as to whether she wants to read the full resolution or points of the resolution. Chairwoman Rogers stated that the resolution is available to the public.

The Vice Chairwoman replied that it is available to the public and has been on the Board's website. She said the resolution is three pages in length and contains a lot of information to detail.

Commissioner Mills stated that for transparency of government he would recommend the Vice Chairwoman read the resolution in full.

The Chairwoman asked the attorneys if they saw a problem with reading the resolution at this time. With their response being that there is no reason not to read the resolution, the Vice Chairwoman read the resolution in its entirety.

Mr. Lutz asked if he could make a comment. The Chairwoman agreed and stated she would stop him if it is an inappropriate statement.

He said he believed that as he heard the reading of the resolution that there is a misunderstanding and he thought if he and Mr. Phillips were able to give their presentation that they could enlighten the Board as well as the public on many of the issues that were raised in the resolution.

The Chairwoman stated that the hospital's attorney, Mr. Bracket, actually commented on the resolution and provided the information to Mr. Merritt who checked it and made sure that it was factually correct and any items that Mr. Bracket was concerned about have been addressed. She said that she thought the motion which includes a meeting of two commissioners to get the negotiation started will be the best action to move this project forward.

Mr. Lutz responded that he thought it was important that the public hears all the facts when there is a resolution.

The Chairwoman agreed and stated that was why the hospital's attorney, Mr. Bracket, had the opportunity to comment on the resolution and verified that the resolution was factually correct.

Commissioner Baucom made a substitute motion to approve the capital expenses requested by CMC – Union.

The Chairwoman ruled that a substitute motion is not a valid motion.

Commissioner Openshaw moved that the question be called. The motion passed by a vote of three to two. Chairwoman Rogers, Vice Chairwoman Kuehler and Commissioner Openshaw voted for the motion and Commissioners Baucom and Mills voted against the motion.

The Chairwoman next called for a vote on the motion to adopt the resolution as read, to direct staff, legal and two Commissioners to continue negotiations on the Waxhaw Facility. The motion passed by a vote of three to two. Chairwoman Rogers,

Vice Chairwoman Kuehler, and Commissioner Openshaw voted for the motion and Commissioner Baucom and Commissioner Mills voted against the motion.

**Resolution of the Board of Commissioners
Union County, North Carolina**

WHEREAS, Union County, North Carolina (the “County”) is the owner of Union Memorial Hospital, an acute care hospital located in the City of Monroe, together with certain land, buildings, healthcare facilities, fixtures, equipment and other tangible personal property associated therewith (collectively, the “Hospital”);

WHEREAS, the Hospital is operated by Union Memorial Regional Medical Center, Inc., a North Carolina nonprofit corporation doing business as CMC-Union (the “Corporation”);

WHEREAS, the Corporation is a subsidiary of the Charlotte-Mecklenburg Hospital Authority, a North Carolina hospital authority doing business as Carolinas Healthcare System (“CHS”);

WHEREAS, the Hospital is leased by the County to the Corporation pursuant to a lease agreement dated as of August 27, 1995, as amended (the “Amended Lease Agreement” or the “Lease”), and the term of the Lease expires August 26, 2020;

WHEREAS, CHS is a party to the Lease for the limited purpose of acknowledging CHS’ obligation to guarantee the payment of rent and other financial obligations of the Corporation described in the Lease;

WHEREAS, pursuant to the Lease, the Corporation agreed to “secure prior written approval of the County for long-term contracts, plans, specifications, and contractual documents for capital expenditures involving leased property, additions, renovations, and/or replacements, the cost of which will require the expenditure of Five Hundred Thousand Dollars (\$500,000) or more” (Lease section 2.1);

WHEREAS, the Lease further provides that (i) “no revenues or other assets of the Corporation shall be paid to, or utilized for the benefit of, [CHS] or any of its subsidiaries, facilities, or affiliates, except ...payment of the Fee; and ...utilization of revenues or other assets by the Corporation in its operation and maintenance of the Hospital...”(Lease, section 4.5); (ii) “the Corporation agrees to reinvest any ‘Net Operating Surplus’ into the Hospital and the provision of health care in Union County” (Lease, section 4.4); and (iii)

“the Corporation’s sole purpose shall be the operation and maintenance of the Hospital, except as may be otherwise expressly agreed by the County” (Lease, section 2.1);

WHEREAS, on September 15, 2006, the Corporation and CHS, as co-applicants, submitted a Certificate of Need Application (the “CON Application”) with the North Carolina Department of Human Resources, Division of Health Service Regulation, Certificate of Need Section requesting approval of the Waxhaw Project (Project Identification Number F-7706-06), with a total estimated capital expenditure of \$19,392,165 (the “Waxhaw Project” or the “Project”);

WHEREAS, the CON Application described the Waxhaw Project as a healthcare facility (the “Waxhaw Facility”) consisting of a free-standing emergency department and outpatient imaging and diagnostic facilities;

WHEREAS, the CON Application represented that the new facility would be built on a tract of land (the “Land”) purchased by CHS in Waxhaw and that the cost of constructing, furnishing and equipping the Waxhaw Facility would be paid by the Corporation;

WHEREAS, the CON Application represented that the Corporation’s share of the estimated total capital cost of the Project was \$17,192,165 and would be paid in cash from the Corporation’s reserves, and that CHS’ share of the cost was \$2,200,000 (the cost of the land) and would be paid out of its reserves;

WHEREAS, the CON Application further represented that the Land would be leased by CHS to the Corporation for a term of fifty (50) years at an initial rent of \$90,003 per year, subject to a 3% annual increase;

WHEREAS, on June 30, 2008 the CON Section issued a Certificate of Need for the Waxhaw Project subject to a maximum capital expenditure of \$21,005,319 and material compliance with “all representations made in the certificate of need application submitted to the Certificate of Need Section September 15, 2006...”;

WHEREAS, in a letter dated October 5, 2009 from CHS to the CON Section (the “Letter of October 5, 2009”), CHS and the Corporation, without consulting or informing the County, sought approval to reallocate certain costs, with CHS assuming the cost of constructing the building and site preparation for the Project (in addition to paying the cost of the Land), and leasing the building to the Corporation, and the Corporation continuing to be responsible for the cost of upfitting the building and providing the furniture, furnishings and equipment for the Project;

WHEREAS, on October 19, 2009, the CON Section responded favorably to this request, but noted that the Section's approval was "based solely on the facts represented by you and that any change in facts as represented would require further consideration...";

WHEREAS, the Letter of October 5, 2009 did not discuss the fact that pursuant to the new financing arrangement the Corporation went from having a ground lease for fifty (50) years to a building lease of approximately ten (10) years.;

WHEREAS, the on November 2, 2009, County received a request (the "Request") from the Corporation and CHS to approve: (1) the interior upfit costs above the \$40 per square foot allowance in the amount of \$6,098,249 from the hospital's accumulated reserve and, (2) the cost of the furniture, fixtures and equipment in the amount of \$5,173,627 by the Corporation for the Waxhaw Facility, as set forth in the Letter of October 5, 2009, and the County was at that time notified that the Term of the Lease would be reduced from a ground lease of fifty (50) years, as represented in the CON Application, to a building lease of ten (10) years and that the annual rent would change from \$90,003 to \$615,874.32;

WHEREAS, according to the Request, the total amount of rent paid by the Corporation during the Lease term will amount to approximately 72% of the total building and upfit expenditures for the Project;

WHEREAS, at the end of the Lease term, the Corporation will have paid a significant percentage of the total cost of the Project and yet will be subject to eviction from the Waxhaw Facility and no longer be able to operate the emergency department located in the facility;

WHEREAS, on or about November 1, 2009, CHS and the Corporation entered into an office lease (the "Office Lease") for the Waxhaw Facility for a term from November 1, 2009 to August 26, 2020, with an initial yearly rent of \$615,874.32 for the building, with the building upfit above \$40 per square foot to be paid by the Corporation;

WHEREAS, it is the understanding that the Corporation has been paying CHS monthly rent in the amount of \$51,322.86 since November 1, 2009, despite the fact that the building is not upfit or otherwise in a condition where an emergency department can be operated;

WHEREAS, on December 14, 2009, CHS and the Corporation made a second request for approval of capital expenditures related to the Waxhaw ED, except that the request was only for approval of the \$5,173,627 for furniture, fixtures and equipment from the Corporation's accumulated reserves, with the cost of the building upfit being converted to an operating lease cost and being paid as

additional rent by the Corporation, with no approval from the Board being sought for what had been formerly been presented by CHS and the Corporation as a capital cost;

WHEREAS, the July 19, 2010 request by CHS and the Corporation for approval continues to only seek approval of the furniture, fixtures and equipment as a capital cost and continues to treat the capital upfit costs as an operating lease;

WHEREAS, based on the foregoing facts and circumstances, the County has determined that the said capital expenditures proposed by the Corporation and CHS for the Waxhaw Project will substantially benefit CHS, which will own the Waxhaw Facility at the end of the Lease, and that such expenditures will not be solely for the operation and maintenance of the Hospital or the provision of health care in Union County;

NOW THEREFORE, the Board of Commissioners of the County of Union, North Carolina does hereby adopt the following resolution:

RESOLVED, that the County hereby refuses to approve the capital expenditures for building upfit and furniture, fixtures and equipment for the Waxhaw facility.

VOLUNTARY AGRICULTURAL DISTRICT (VAD) SIGN PRESENTATION TO FRANK HOWEY, JR., AND REPORT ON CURRENT ACREAGE IN THE VAD PROGRAM:

The Chairwoman stated the next item and recognized Everett Medlin, Chairman of the Union County Agricultural Advisory Board. Mr. Medlin explained that Mr. Howey could not be present and the County Extension Director Richard Melton had planned to be present but that he is addressing the Unionville Town Council on some of the extension programs. He thanked the Board for the approval of the Voluntary Ag District Program and voiced his appreciation of this Board's support as well as support of past Boards. He said the benefit of this program is to help preserve agriculture as it is known in this County today and to also preserve green space. Mr. Medlin said there are 28 parcels in this program and the total acreage is 7,644.16.

He showed the sign that will be presented to Frank Howey, Jr., for the Frank Howey, Jr., Farms. He reported that Frank Howey, Jr., is a third generation farmer in Union County.

The Chairwoman thanked Mr. Medlin for his comments.

SAFER COMMUNITIES MINISTRY ANNUAL REPORT:

The Chairwoman recognized Rev. Al Lewis who introduced Marion Simon. Rev. Lewis presented the annual report concerning the Life Skills Programs and the Second Chance Re-entry Network. He said the Life Skills Program for men and women is conducted inside the Union County Jail. He reported the program is a seven-week program, taught five days a week, for a minimum of 20 hours each week. He explained the sessions include goal setting, parenting skills, budgets, job readiness, and addiction recovery. He said these are all very practical topics and every week there is a different curriculum. He said that after three weeks in the Life Skills Program, all participants are enrolled in the Second Chance Re-entry Network. He reviewed that his contract with Union County sets out the goals and his program had surpassed them. He said that they had projected 56 participants in the Life Skills Program and actually had 103 participants. Rev. Lewis said that was because there was a volunteer, Sharon Carter, who came into the jail and set up the Life Skills for ladies, and it was far more than could have been expected. Rev. Lewis said that it was projected there would be 30 graduated from the seven-week program but there was actually 57. He said there are 27 county organizations that work together to help ex-offenders transition back into the community. Rev. Lewis reminded that there was a Governor's Crime Commission Grant for the SCREEN project that enabled him to hire a Screen Coordinator. He said that Lee Little, while working on his own caseload, focused on job readiness and placement, housing needs and assisted with recruiting mentors to work alongside the graduates. He said the grant ended in 2009 and he was concerned as to whether the numbers could be maintained. However, he reported that Dan Marshal who had retired after 30 years in the United States Army came on board and took over the Screen Coordinator position and through a Memorandum of Understanding with the Employment Security Commission was able to continue to assist ex-offenders with the transition. He reported that ESC provided a cubicle complete with phone, desk, and computer so that the services had been provided for the first three quarters of this year. He said Dan Marshal was hired to work full time in the ESC office but his job description still includes working with ex-offenders so now instead of only being seen on Wednesdays, the Screen partners can send their clients to him five days a week. He said that his programs worked with 106 ex-offenders last year.

Rev. Lewis reported that there is to be a Mentor Training Conference in October and asked the Commissioners to help advertise this program so there could be more mentors coming to help the ex-offenders and their family.

Rev. Lewis introduced Marion Simon. Mr. Simon stated that he is a citizen of Union County and has been a repeat offender but since graduating through the Life Skills Program he has not been back through the system. He explained how he has benefited from the program since he has been released from jail. He said that at 50 years old he went to the community college and got his GED with good scores and completed a computer course that December. Now, Mr. Simon reported that he is a mentor and is helping

to train others to also become mentors. Mr. Simon said that now instead of being a part of the problem he is becoming a solution to the problem.

Commissioner Openshaw complimented Rev. Lewis for his program and congratulated him on his attitude and his work with the ex-offenders. He asked Rev. Lewis to explain recidivism and its rate. Rev. Lewis explained the definition and stated that the national rate is between 54 and 65 percent in a three-year period. He reported that in North Carolina that rate is 50 percent. He stated that those statistics demonstrate that the system is not working. Rev. Lewis said that the Life Skills Program is proving that it works.

He said that Chief Ben Bailey confirms that it costs between \$23,000 and \$24,000 per year to incarcerate one person. He said if the person only goes through the Life Skills Program without follow-up, the rate is reduced to 30 percent. Rev. Lewis performed a math calculation to prove the savings provided through the program. He further reported that the statistics from the last grant proved that if these ex-offenders are given follow-up after completing the Life Skills Program that the recidivism rate is reduced 20 percent.

Chairwoman Rogers addressed Mr. Simon by saying that often people who address the Commissioners have a quiver in their voice and told Mr. Simon that he was very articulate and she did not hear a quiver in his voice. She congratulated him on his presentation to the Board.

LEASE FOR OFFICE SPACE FOR DEPARTMENT OF COMMUNITY CORRECTIONS (ADULT PROBATION AND PAROLE):

The Chairwoman recognized Wes Baker, Interim County Manager, to make the next presentation. Mr. Baker stated that currently the State maintains two offices for Adult Probation and Parole in Union County. He explained that one is located in the Government Center and the other is in leased space. Mr. Baker reported that as of January 1, 2010, the State passed on the cost of that leased space to the County. He said at this time the Adult Probation and Parole is at maximum, and the department needs to expand and has no space available for expansion at either location. He also reported that the State is going to add some additional employees due to significant increases in caseload. Mr. Baker said that because of the renovations that are taking place in this building, the County needs to relocate the space in this building. In order to do so, Barry Wyatt, General Services Director, has sought additional space through a Request for Proposal (RFP).

Mr. Wyatt reported that four commercial real estate firms responded to the request for proposals. He said he had asked for a property located within a three or four mile radius of the Judicial Center and for a complete up-fit of the space to include all

maintenance, housekeeping, utilities and any and all expenses associated with leasing space. Mr. Wyatt explained that there were two responses at approximately \$17.50 per square foot and one response was slightly less than the one being recommended, but it is space in the basement of the old Belk Building. He reported that the Department of Community Corrections looked at the space and their property agent addressed reasons that they would not want to occupy that space. Mr. Wyatt said the lease recommended is from Ty-Par at \$15.51 per square foot.

Commissioner Mills asked why the County specified a complete turn-key lease. Mr. Wyatt responded that he had specified that lease to prevent him from having to come back to the Board and asking for additional money for housekeeping, maintenance, repair, etc.

Commissioner Mills said he is working on a building lease with the Department of Defense and their staff had requested the same lease. Commissioner Mills explained that when there is such a lease the staff will leave the lights on 24-hour a day, computers are on all the time, and the staff leaves all utilities running 24-hours a day. Mr. Wyatt replied that he thought he could work with the local staff and encourage conservation of utilities. He said that he thought during the up-fit of the building that they could request that occupancy sensors be installed that would turn off lights, etc.

Commissioner Mills next asked why would it not be required that the tenant pay its own utilities. Mr. Wyatt agreed that it could be done this way if the lease is structured to specify that requirement.

Mr. Wyatt responded that if during negotiation of the lease that no inclusion of utilities in the lease is the direction the Board wants the County to take, he could do so. He said if the lease is approved tonight and completed without utilities the dollar per foot will be less than the \$15.55 quoted. He said he would report that amount to the Board at a later date.

Vice Chairwoman Kuehler asked if Mr. Wyatt had any frame of reference as to the cost of a lease that is not all inclusive and if that has been compared to the one presented tonight. Mr. Wyatt reported that on existing buildings, the County is running about \$2 per square foot for all utilities, which can vary greatly by facility, but confirmed that \$2 is a good figure to use for utilities. He further stated that if the lease is all inclusive for maintenance, housekeeping, landscaping, utilities, the cost is roughly \$5 per square foot.

Chairwoman Rogers stated she did not know why this item was removed by the staff from the last agenda and asked if the issue has been resolved. Mr. Wyatt responded that it is basically resolved. He explained that what had caused the removal was that Ty-Par has two buildings "side by side". He said that one is not completed and the other is completed. Mr. Wyatt said at the last

minute Ty-Par got someone who wanted to lease the entire incomplete building, and they took the offer. He stated that the one that is adjacent is partially occupied by a company but it is moving out of that space. Therefore, Ty-Par has said they will up-fit the building as had been drawn for the other building.

Commissioner Baucom moved that the Interim County Manager be authorized to negotiate with Ty-Par and to approve the lease for office space for the Department of Community Corrections – Adult Probation and Parole pending legal review in an amount not to exceed \$15.55 per square foot. He explained his motion gives the staff the latitude to contract for less than the all inclusive lease if it is determined to be more economically feasible for the County.

Commissioner Openshaw thanked Commissioner Mills for his comments noting that it is also his perspective and encouraged the staff to give it a thorough examination.

Following the comments, the motion passed unanimously.

PRESENTATION FROM FRONTIER COMMUNICATIONS:

The Chairwoman recognized John O. Dudley, General Manager of Frontier Communications, who addressed the Board to explain the operations of Frontier Communications. He explained that Frontier is not a new company but was established in 1935 in Stamford, Connecticut. He said the main reason that he is here is to explain to the Board and its viewing audience that Frontier Communications is a local telephone company that purchased Verizon Communications' telephone lines here in Union County as of July 1. He said that Frontier is now the largest rural telephone communications operation in the United States and when it acquired Verizon's lines in many states across the United States, it went from 2.1 million lines to 6.3 million lines. He reported that they operate in 27 states including North Carolina. Mr. Dudley stressed that Frontier did not purchase Verizon Wireless, which still operates as its own company.

Mr. Dudley reviewed the size, operation, and growth of Frontier and stated its mission is to be the leader in providing communication services in the residential and business markets that it serves.

The Chairwoman thanked Mr. Dudley for his presentation.

PRESENTATION OF FY 2011 NORTH CAROLINA DEPARTMENT OF TRANSPORTATION SECONDARY ROADS CONSTRUCTION PROGRAM:

The Chairwoman recognized John Underwood who stated he was the District Engineer for the Division of Highways in Union and Anson Counties. He presented the 2010-2011 Secondary Roads Construction Program. He reported that the last time a construction program was presented to this Board was in 2008 because the lack of funding prevented a program from being developed in 2009. Mr. Underwood gave a brief history of the program, its funding formula, and stated that once a road is in the top ten to be paved, it cannot be removed unless it is paved or is verified to be ineligible. He detailed how a road becomes ineligible.

Mr. Underwood explained that currently there are 20 eligible, unpaved secondary roads remaining that brings Union County to a total of 11.03 miles in its potential program. He reported that the roads recommended in this program are the following: SR 1318 – Lockhaven Road from EOP to EOM; SR1670 – Baucom-Tarleton Road from SR1627 to EOM; SR1959 - Vance Pierce Road from SR 1740 to SR1957; and SR1929 Canal Road from EOP to SC State Line. He noted that Canal Road is being partially funded in this year's program, and it is anticipated that its funding will be completed in the 2011-2012 Secondary Roads Construction Program. Mr. Underwood said the goal this year is for paving 5.1 miles at a cost of \$1,287,239. He further explained the rural paving alternatives, the General Secondary Roads Improvements and the Trust Fund Safety Improvements. Mr. Underwood noted that with these additions, it brings the grand total of funds to be expended in Union County to \$2,268,239.

Commissioner Openshaw mentioned the Lockhaven Dam. Mr. Underwood explained that the State would not be paving the dam; it is not part of the State's Secondary Road System. Mr. Underwood reported that his department received a request on that section but the State DOT determined that the area being maintained serves all the parcels located on the road and that the State could not accept that section of the road due to situation with the dam.

After receiving the detailed information on 2010-2011 Secondary Roads Construction and its funding sources, motion was made by Commissioner Baucom to adopt the resolution as presented and recorded below. The motion passed unanimously.

BE IT HEREBY RESOLVED that the Union County Board of Commissioners accepts the 2010-2011 Secondary Road Program for Union County as presented on August 16, 2010, and as recorded below.

**North Carolina Department of Transportation
Secondary Roads Construction Program**

RESOLUTION

BE IT HEREBY RESOLVED that the Union County Board of Commissioners accepts the 2010-2011 Secondary Road Program for Union County as presented on August 16, 2010, and as recorded below.

North Carolina Department of Transportation Secondary Roads Construction Program

Union County

FY 2011 Anticipated Allocation

Highway Fund	\$ <u>1,113,651</u>
Trust Fund	\$ <u>780,665</u>
Plus Balance From 2009	\$ <u>411,117</u>
Total	\$ <u>2,305,433</u>

I. Paving Unpaved Roads

Programmed Paving Goal: 5.10 Miles

A. Rural Paving Priority

Priority Number	SR No.	Length (Miles)	Road Name and Description	Est. Cost
1	SR 1318	.70	Lockhaven Road from EOP to EOM	\$ 433,891
2	SR 1670	.40	Baucom-Tarlton Road from SR 1627 to EOM	\$162,000
3	SR 1959	.40	Vance Pierce Road from SR 1740 to SR 1957	\$ 155,000
4	SR 1929	3.6	Canal Road from EOP to SC State Line	\$ 536,348

Total Miles 5.1

Subtotal \$ 1,287,239

* See Note

* Rural Paving Alternates

<u>Priority Number</u>	<u>SR No.</u>	<u>Length (Miles)</u>	<u>Road Name and Description</u>	<u>Est. Cost</u>
1	SR 1105	.30	Andrew Jackson Road from SC State Line to EOM	\$ 98,413
2	SR 1178	.15	Ben Price Road from SR 1103 to EOM	\$ 55,002
3	SR 1749	.70	Thomas Helms Road from SR 1750 to SR 1002	\$ 222,654
4	SR 1602	.30	Roy Kindly Road from SR 1601 to EOM	\$ 93,814
5	SR 1941	.30	Brooks Road from SR 1940 to EOM	\$ 100,465
6	SR 1910	.40	Huggins Dairy Road from SR 1005 to EOM	\$ 130,030
7	SR 2120	.15	Cox Road from SR 1005 to EOM	\$ 49,566

B. Subdivision Paving Priority

<u>Priority Number</u>	<u>SR No.</u>	<u>Length (Miles)</u>	<u>Road Name and Description</u>	<u>Est. Cost</u>

Total Miles _____

Subtotal \$ _____

* Subdivision Paving Alternates

<u>Priority Number</u>	<u>SR No.</u>	<u>Length (Miles)</u>	<u>Road Name and Description</u>	<u>Est. Cost</u>
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* In the event that any roads in priority have to be placed on the “Hold List” due to unavailable right of way or environmental review, or if additional funding becomes available, funds will be applied to the roads listed in priority order in the paving alternate list.

II. General Secondary Road Improvements

A. Paved Road Improvements

<u>SR No.</u>	<u>Project Description</u>	<u>Est. Cost</u>
SR 1001	Love Mill Road from SR 1638 to SR 1653	\$550,000
Subtotal		<u>\$ 550,000</u>

B. Unpaved Road Spot Improvements

Subtotal \$40,000

III. Trust Fund Safety Improvements (GS 136-182)

<u>SR No.</u>	<u>Project Description</u>	<u>Est. Cost</u>
SR 1627	New Salem Road, Improve intersection at NC 200 N	\$24,000

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Subtotal \$ 24,000

**EOP, End of Pavement
EOM, End of Maintenance
SC, South Carolina**

**IV. Funds reserved for surveying, right of way acquisition,
acquisition, road additions, contingencies, overdrafts,
and paving entrances to certified fire departments,
rescue squads, etc.**

Subtotal \$ 367,000

***Partially Funded \$ 536,348
Balance= \$ 518,905 to be funded 2012**

GRAND TOTAL \$ 2,268,239

This resolution adopted this the 16th day of August, 2010.

ATTEST:

Lynn G. West, Clerk to the Board

Kim Rogers, Chairwoman

/At approximately 10:00 p.m., the Chairwoman called for a five-minute recess. At the conclusion of the recess at approximately 10:15 p.m., Chairwoman Rogers reconvened the meeting,

INTERIM COUNTY MANAGER’S COMPENSATION:

The Chairwoman reconvened the meeting and explained the next item is to set the compensation of the Interim County Manager. Chairwoman Rogers moved that Wes Baker’s salary be adjusted to increase his salary by \$6,000 per month plus increase his travel per diem to \$600 per month. She said she had consulted with the Personnel Director and the Finance Director prior to making this recommendation and motion. The motion was passed unanimously.

REQUEST FROM COMMISSIONERS BAUCOM AND MILLS FOR REIMBURSEMENT OF LEGAL EXPENSE TO INCLUDE REIMBURSEMENT TO FORMER COMMISSIONER PRESSLEY:

The Chair read the heading of this item and asked for a motion.

Motion was made by Commissioner Mills that the County reimburse former Commissioner Pressley, Commissioner Baucom and him for their legal expenses caused by the ethical violation investigation.

Commissioner Openshaw moved an amendment to the motion that the reimbursements to the Commissioners not exceed the amount paid to the attorney who conducted the ethics investigation, which was \$10,000 plus \$88 in expenses.

Commissioner Mills accepted the amendment made by Commissioner Openshaw as a friendly amendment to become a part of his motion.

Commissioner Kuehler stated she thought what was being sought is a permanent amendment to the Indemnification Policy and moved to amend the motion to direct legal to accomplish changing the policy to provide for representation for ethical investigations as outlined in the agenda package. She said she would add to that motion that any reimbursements in the future would not exceed the amount paid for the investigation. She also offered a caveat that prior to legal fees being incurred under that provision that notification of hiring of attorneys be brought to the attention of the County Manager and the Board of County Commissioners in order to invoke the right under the policy to get reimbursement under the policy.

The Staff Attorney clarified that the amendment as put forth by the Vice Chairwoman would not be applicable to this claim but if approved would apply from this date forward. He said if it is the Board's intent to revise its resolution that his advice would be to do so with an actual resolution reviewed by the Board prior to adoption.

The Chairwoman stated that there is an amendment to the motion made by Vice Chairwoman Kuehler to direct legal to accomplish changing the Indemnification Policy to provide for representation for ethical investigations in the event (i) the Board pursues a formal investigation against one or more of its current or former members, (ii) such investigation could result in a finding of alleged criminal wrongdoing such that the party investigated could reasonably determine that legal counsel was necessary, and (iii) such investigation actually results in a finding that no violations occurred.

The Staff Attorney interjected that it might be helpful if he would prepare this document within the parameters mentioned by the Vice Chairwoman prior to any action being taken to approve an amendment to the Ethics Policy.

The Chairwoman explained that the Staff Attorney has requested that the wording of proposed amendment to the resolution be sent to him for preparing prior to the Board's adoption.

Vice Chairwoman Kuehler restated her amendment to the original motion: to direct staff to bring to the Board a proposed amendment to the Indemnification Policy to include reimbursement of legal expenses to provide for representation for ethical investigations in the event (i) the Board pursues a formal investigation against one or more of its current or former members, (ii) such investigation could result in a finding of alleged criminal wrongdoing such that the party investigated could reasonably determine that legal counsel was necessary, and (iii) such investigation actually results in a finding that no violations occurred. as well as the caveat that the amount reimbursed is a not to exceed the amount spent on the original investigation and any reimbursable fees. She also included a second caveat that in order to invoke the right to request reimbursement that the County Manager and the Board of County Commissioners must be notified in advance of any attorney being hired.

The amendment passed unanimously.

The Chairwoman stated that the main motion now becomes: To pay the legal expenses of former Commissioner Pressley, Commissioner Baucom, and Commissioners Mills not to exceed \$10,000 and to direct staff to amend the resolution pertaining to the Indemnification Policy as set forth by Vice Chairwoman Kuehler's amendment as approved.

The Chairwoman stated that she was going to vote to approve the motion but that, because of transparency, she had problems with how the three commissioners employed the attorney without notifying the County Manager or the Board. She said one of the ethical issues investigated had been on how an attorney was hired. The Chairwoman said that it would have been easier had the Commissioners first been notified of the intention to hire attorneys.

The motion passed unanimously.

ANNOUNCEMENT OF VACANCIES ON BOARDS AND COMMITTEES:

The Chairwoman announced the following vacancies:

- a.) Adult Care Home Advisory Committee (three vacancies)
- b.) Agricultural Advisory Board (one vacancy)
- c.) Union County Industrial Facilities and Pollution Control Financing Authority (two vacancies)
- d.) Juvenile Crime Prevention Council
 - (1) Substance Abuse Professional
 - (2) Two members under the age of 18
- e.) Nursing Home Advisory Committee (at least three vacancies)
- f.) Parks and Recreation Advisory Committee (one vacancy for a member with a physical disability)
- g.) Library Board of Trustees (four vacancies as follows: two at-large representatives; one representative from Monroe region and one representative from Indian Trail region)

APPOINTMENTS TO BOARDS AND COMMITTEES:

Agricultural Advisory Board: The Chairwoman announced the first appointment is to the Agricultural Advisory Board.

Commissioner Baucom nominated Ken Pierce to the Agricultural Advisory Board. With there being no other nominations, the Chairwoman called for a vote to appoint Mr. Pierce, which passed unanimously.

Criminal Justice Partnership Program: The Chairwoman stated that Phillip Tart, Union County Health Director, wants to continue serving on this Committee and that she would nominate him. She called for a vote on the nomination, which passed unanimously.

The Chairwoman next announced that Judge Lee is willing to continue to serve as the Judge of Superior Court on the Committee and she would nominate him. Chairwoman Rogers then called for a vote to appoint Judge Lee. The motion passed unanimously.

Chairwoman Rogers stated that Judge Gwyn has agreed to continue serving on said board to fill the position of District Court Judge. She nominated Judge Qwyn and called for a vote. The motion passed unanimously.

The Chairwoman next announced that Mr. Saxon has agreed to fill the position of Employment and Training Representative and she nominated him to fill the vacancy. Chairwoman Rogers called for a vote to appoint Mr. Saxon. The motion passed unanimously.

Responding to a question from the Chairwoman, the Clerk announced that all four at large members currently serving have reapplied and also two others have made application. The Chairwoman announced that she did not have the two new applications and requested time to look at these applications prior to making a nomination.

Motion was made by Commissioner Openshaw to table the appointments of the at-large members of the Criminal Justice Partnership Program. The motion passed unanimously.

COUNTY MANAGER'S COMMENTS:

Wes Baker, Interim County Manager, expressed appreciation for the opportunity to serve the Board of County Commissioners and to carry out its policies and directions. He further expressed appreciation for the confidence that has been expressed in him and assured that he would do the job to the best of his ability to fulfill those duties.

COMMISSIONERS' COMMENTS:

The Chairwoman recognized Commissioner Baucom who expressed his thanks to Mr. Baker for accepting the interim position.

He said that during the second meeting in June he failed to acknowledge his Mother-in-law's birthday. He said that Mrs. Lizzie Nance is 93 years old and issued a belated birthday greeting to her. He next said that on July 12 that his Mother celebrated her 97th birthday and also wished her a belated birthday.

Commissioner Mills reported that he would be leaving on Thursday and will not be returning until Tuesday because he is taking his middle daughter to Jackson, Mississippi, to attend college. He extended sympathy to the families who were affected with the deaths of the students attending Wingate College and those who were injured in the wreck.

Commissioner Openshaw stated that his father was 92 years old on July 15 and said there is no way to adequately express appreciation for what our parents have done for us. He said the older the parents get, the more it seems this becomes more evident.

He also sent condolences to Senator Goodall in the passing of his father who was 90 years old. Commissioner Openshaw stated the Waxhaw Farmers Market is flourishing and that he is enjoying the local produce.

Vice Chairwoman Kuehler stated that before the Board meets again that school will be in session and reminded the drivers to watch for buses and students on the road.

Chairwoman Rogers again extended a welcome to Mr. Cannon and Mr. Baker. She said she was excited for Mr. Baker to be in this position in that she thought he was the right person for the position and that she has already received favorable comments. She said she looked forward to working with him while he served in this capacity and assured that he was an asset to the County.

At approximately 10:35 p.m., Commissioner Mills moved to adjourn the regular meeting. The motion passed unanimously.