

Approved: 12/6/2010

Minutes of the Regular Meeting of  
Monday, November 1, 2010

The Union County Board of Commissioners met in a regular meeting on Monday, November 1, 2010, at 7:00 p.m. in the Commissioners' Board Room, first floor, Union County Government Center, 500 North Main Street, Monroe, North Carolina. The following were

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

ABSENT: None

ALSO PRESENT: Wes Baker, Interim County Manager, Lynn G. West, Clerk to the Board of Commissioners, Jeff Crook, Senior Staff Attorney, Keith Merritt, County Attorney, David Cannon, Finance Director, members of the press, and interested citizens

**OPENING OF MEETING:**

***a. Invocation***

Vice Chairwoman Kuehler offered the invocation.

***b. Pledge of Allegiance***

Chairwoman Rogers led the body in reciting the Pledge of Allegiance to the United States flag.

*c. Featured Community Benefit Organization*

Linda Smosky, Director of the Council on Aging in Union County, expressed appreciation to the Board for the opportunity to share information regarding the Council on Aging and for the Board's support of the agency. Ms. Smosky shared a Power Point presentation regarding the agency and explained the various programs and services offered by the agency.

She stated that the Council on Aging in Union County's mission is to help people remain independent and living in their own homes. She said its vision is to be the resource for Union County residents looking for services for older adults. She stated that the Council on Aging in Union County was formally organized in 1972 and first received funding in 1974.

Ms. Smosky shared the following aging facts:

1. North Carolina ranks fourth nationally in the number of grandparents raising their grandchildren.
2. The Alzheimer's rate in Union County is almost twice that of the State as a whole.
3. The 60 and over population is currently 31,034 and increases by approximately 3,000 to 4,000 each year.
4. The first of the Baby Boomers turned 60 in 2006, and the last of the Baby Boomers will turn 60 in 2024. The impact that this will have is that currently more than 50 of North Carolina's 100 counties have a larger 60+ population group than the 17 and younger age group.

She shared some of the agency's upcoming events:

1. Wellness Expo on November 4, 2010
2. Prescription Drug Plan Reviews will be done from November 15 through November 30
3. Senior Christmas Party on December 14, 2010

**INFORMAL COMMENTS:**

Chairwoman Rogers reminded the speakers of the three-minute time period in which to make their comments and asked they be courteous in their language and presentation. She first recognized Frank Aikmus.

Mr. Aikmus prefaced his remarks by stating that he did not come tonight to throw rocks at anyone or to be ugly or angry with anyone but came as a concerned citizen. He stated that he attended a Board meeting last Friday (October 29, 2010) during which the Board made a decision to hire a County Manager. He said he felt that he needed to address the Board and to share his feelings.

He said that first and foremost he was disappointed in the decision of the current majority to hire someone who in less than 60 days will be reporting and working at the pleasure of a new administration. He stated that he did not understand how that decision was reached with the level of education that sits on the Board and is represented by the Board majority. He said that irregardless of who is elected at tomorrow's election, he thought they should have had the opportunity to meet with and participate in the hiring process. Mr. Aikmus said his hope is that the newly elected Commissioners will work in good faith with the new County Manager, because Union County has been down this road before and everyone knows how expensive it can be and what a loss it can be to the taxpaying citizens of Union County if it does not work out.

He commented regarding a statement that was posted on the County's website wherein there were comments about references received on this candidate. Mr. Aikmus went into the particulars of listing the adjectives in the reference letters used to describe this candidate. Mr. Aikmus said that he thought all would agree those are admirable traits, but he questioned whether it was appropriate to post the statement on a County website. He stated that he thought there is candidate confidentiality, and he thought someone had realized that because the statement has been removed from the County's website.

He said that he also thought it was time as a County Board to put politics aside and to start actively listening and acting like the fiscally sound citizens that the Board members are. He said the Commissioners are here to represent the people of Union County irregardless of where the people live and what their politics are. Mr. Aikmus said that he hoped that the Board would take those statements to heart.

The next speaker was Don Kerr, who stated that he resides in Marvin. He expressed his disappointment in the action of the Board majority regarding the recent hire of a County Manager. He said that it was clear that it was their intent to destroy what they cannot control. Mr. Kerr stated that terminating Al Greene was the ultimate act of tyranny.

He said that to hire a Manager prior to the seating of a new Board makes it clear that the Board majority serves for their own reasons and not for the betterment of the collective. He said that all are suffering from the effects of a socialistic manifesto from Washington. Mr. Kerr stated that it makes him physically sick that we are at this point locally, state, and nationally. He said that he awaits with pleasure the results of tomorrow's election.

Lewis Phillipi was the last speaker. Mr. Phillipi stated that he resides at 2026 Coatsdale Lane in Stallings. He said that last May the people of Union County made a decision regarding the current leadership of this Board of Commissioners. He stated that it should be apparent that the people are not pleased with the direction or the performance of the Board's current majority. He addressed the hiring of a new County Manager and said that should the new hire not be compatible with the new Board majority, then the County is in for another protracted, painful, and expensive transaction.

Mr. Phillipi said he has heard and expects to continue to hear that hiring a new County Manager was perfectly legal and the Board had the absolute authority to do so; however, he said it is not a question of legality but a question of right. He stated that this was not right.

#### **ADDITIONS, DELETIONS, AND/OR ADOPTION OF AGENDA:**

Chairwoman Rogers asked to remove Item 8 from the Consent Agenda – Goose Creek/Fairfield Plantation Mediation Agreement and move it to the Regular Agenda. She further asked to remove Item 7 from the Regular Agenda – Discussion of Health Benefits for Commissioners and Item 8 from the Regular Agenda – Discussion of Legal and Ethical Concerns. She also included a request to add an item to the Regular Agenda entitled “Submission to Public Comment of Certificate of Need (CON) Section.”

Commissioner Openshaw requested to delete Item 2 on the Consent Agenda – Minutes, since there were no minutes included in the agenda package.

Commissioner Baucom asked to add an item to the Regular Agenda for Discussion of Personnel Confidentiality. Chairwoman Rogers asked that Commissioner Baucom elaborate on this topic. Commissioner Baucom said that part of this was an e-mail sent by Chairwoman Rogers and part of it involved the statement about the County Manager candidate included on the County's website. Chairwoman Rogers asked if this item would be closed session material since it is related to personnel confidentiality.

Keith Merritt, County Attorney, responded that it would depend upon the nature of the issue. He said that if the discussion involves a particular person, then it would be covered by personnel and could be discussed in closed session. However, he said if the discussion involves generic personnel policy, then it would be an open session discussion. Mr. Merritt stated that without knowing more of the particulars of the item, it is hard to say whether or not it would be closed session.

Commissioner Mills stated that Commissioner Baucom had covered part of what he had wanted to discuss, but Commissioner Mills said he also wanted to include discussion of a policy concerning the use of the County's website as a sounding board or a blog. He said that he was not sure how individual Commissioners has access to the website. He stated that he had numerous contacts and calls regarding the statement that had been posted about the candidate. He said that he thought there needs to be some type of policy to address and make sure that this does not happen again, and if it does happen again, that the Board be made aware of it and to make sure that it is known that the person who has statements published on the website is not speaking for the Board but as an individual. Chairwoman Rogers commented that she thought the Board had enough information to be able to vote on whether to add this item to the agenda.

Chairwoman Rogers stated that she would call for a vote on each of the requested items individually. She asked for a motion to delete Item 8 from the Consent Agenda and add it to the Regular Agenda – Goose Creek/Fairfield Plantation Mediation Agreement.

Commissioner Mills moved to delete this item from the Consent Agenda and to add it to the Regular Agenda. The motion passed by a vote of four to one. Chairwoman Rogers, Vice Chairwoman Kuehler, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Baucom voted against the motion.

Chairwoman Rogers called for a vote on her request to add an item to the Regular Agenda entitled "Submission to Public Comment of Certificate of Need (CON) Section." The vote was four to one. Chairwoman Rogers, Vice Chairwoman Kuehler, Commissioner Baucom, and Commissioner Openshaw voted in favor of the request. Commissioner Mills voted against the motion.

Chairwoman Rogers called for a vote on her request to remove Item 7 from the Regular Agenda – Discussion of Health Benefits for Commissioners. The vote was three to two. Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted in favor of the motion. Commissioners Baucom and Mills voted against the request.

Chairwoman Rogers next called for a vote on her request to remove Item 8 from the Regular Agenda – Discussion of Legal and Ethical Concerns. The vote was three to two. Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted in favor of the request. Commissioners Baucom and Mills voted against the request.

Chairwoman Rogers called for a vote on the request by Commissioner Openshaw to delete Item 2 from the Consent Agenda – Minutes. The vote was unanimous.

A vote was taken on the request by Commissioner Baucom to add an item to the Regular Agenda entitled “Personnel Confidentiality.” The vote was three to two. Commissioners Baucom, Mills, and Openshaw voted in favor of the request. Chairwoman Rogers and Vice Chairwoman Kuehler voted against the request.

The Chairwoman called for a vote on Commissioner Mills’ request to add an item to the Regular Agenda entitled “Policy Concern on Use of County Website.” The vote was three to two. Commissioners Baucom, Mills, and Openshaw voted in favor of the request. Chairwoman Rogers and Vice Chairwoman Kuehler voted against the request.

Chairwoman Rogers placed the items approved on the agenda as follows:

1. Consent Agenda 8 – Goose Creek/Fairfield Plantation Mediation Agreement – moved to Regular Agenda as Item 6b
2. Submission to Public Comment Certificate of Need (CON) Section – Item 8 on the Regular Agenda
3. Personnel Confidentiality – Item 9 on the Regular Agenda
4. Policy Concern on Use of County Website – Item 10 on the Regular Agenda
5. Item 10 – Announcement of Vacancies on Boards and Committees will be renumbered to Item 11 on the Regular Agenda

She restated the placement of the items on the Regular Agenda as follows:

1. Anson/Union County Water Agreement – Item 6a
2. Goose Creek/Fairfield Plantation Mediation Agreement – Item 6b
3. Current Item 9 – Parks & Recreation Funds Release becomes Item 7
4. Submission to Public Comment of the Certificate of Need (CON) Section – Item 8
5. Personnel Confidentiality – Item 9a
6. Policy Concern on Use of County Website – Item 9b
7. Item 10 – Announcement of Vacancies on Boards and Committees – Remains as Item 10

With there being no further additions or deletions to the Agenda, Commissioner Mills moved adoption of the agenda as amended. The motion passed by a vote of four to one. Chairwoman Rogers, Vice Chairwoman Kuehler, Commissioner Mills, and Commissioner Openshaw voted in favor of the motion. Commissioner Baucom voted against the motion.

**CONSENT AGENDA:**

Commissioner Mills moved approval of the items listed on the Consent Agenda as amended. The motion passed unanimously.

**Contracts and Purchase Orders Over \$20,000:** Authorized the County Manager to approve the contract with the State of North Carolina Department of Environment and Natural Resources for appropriation for forest protection as amended.

**Minutes:** This item was removed from the agenda at the request of Commissioner Openshaw.

**Tax Administrator:** Approved a) Fifth Motor Vehicle Billing in the grand total amount of \$1,147,830.07; and b) Departmental Monthly Report for September 2010.

**Library:** Authorized the Library Director to certify and submit the online “Great Stories CLUB” Grant Application (The American Library Association) (No County match required).

**Amendment to the 2010-2011 Union County Pay and Classification Plan:** Approved amendments to the 2010-2011 Union County Pay and Classification Plan to add the following new job classifications and pay grade assignments: a) Solid Waste Manager, Pay Grade 79; b) Landfill Operations Superintendent, Pay Grade 72; and c) Lead Meter Technician, Pay Grade 63.

**Department of Social Services: Budget Amendment #8 to Appropriate \$11,948 in Additional Federal Funding for the Temporary Assistance for Needy Families (TANF) and Family Violence Prevention Services Act (FVPSA):** Adopted Budget Amendment #8 as recorded below:

**BUDGET AMENDMENT**

BUDGET	<u>DSS</u>	REQUESTED BY	<u>Dontae Latson</u>
FISCAL YEAR	<u>FY2011</u>	DATE	<u>November 01, 2010</u>

**INCREASE**

**DECREASE**

Description

Description

Operating Expenses 11,948

Federal Revenue 11,948

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Explanation: Appropriate additional TANF Domestic Violence funds and Family Violence Prevention Services Act (FVPSA)  
funds for services to be provided by Turning Point.

DATE \_\_\_\_\_

APPROVED BY \_\_\_\_\_

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

FOR POSTING PURPOSES ONLY

**DEBIT**

**CREDIT**

Code

Account

Amount

Code

Account

10553101-5381-1450

Professional Services

7,314

10453101-4342-1450

Federal Funding

7,314





**Veterans Services/Patriot Awards:** Adopted the proclamations to be awarded at the Veterans' Day Celebration on November 6, 2010 as follows:

**PROCLAMATION**

**BY THE UNION COUNTY BOARD OF COMMISSIONERS**

**FOR**

**THE 2010 PATRIOT AWARD**

**THAT WHEREAS,** Union County is very fortunate to have active Junior Reserve Officers' Training Corps units in several of the high schools throughout the County; and

**WHEREAS,** the Junior Reserve Officers' Training Corps is an exceptional national youth program that promotes leadership, scholastic achievement, and patriotism; and

**WHEREAS,** the ideas instilled in the young men and women who participate in the Junior Reserve Officers' Training Corps are exemplary of the principles handed down by the "citizen-soldiers" of the American Revolution; and

**WHEREAS,** the Union County Board of Commissioners encourages and recognizes the outstanding student citizens and supports their exceptional national youth program.

**NOW, THEREFORE, THE UNION COUNTY BOARD OF COMMISSIONERS** does hereby proclaim

**Cadet Lieutenant Karen Woessner**

being a daughter of the County of Union and member of the **Navy Junior Reserve Officers' Training Corps** of **Forest Hills High School**, to have a high degree of merit with respect to patriotism, leadership, military bearing, scholarship and general excellence, and we do hereby grant to her the **Patriot Award** with the honor and privilege to be known as a Patriot among the citizens of the County of Union.

On behalf of the Union County Board of Commissioners, this Proclamation is adopted this 1st day of November 2010.

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Kim Rogers, Chairwoman  
Union County Board of Commissioners

ATTEST:

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Lynn G. West, Clerk to the  
Union County Board of Commissioners

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**PROCLAMATION**  
**BY THE UNION COUNTY BOARD OF COMMISSIONERS**  
**FOR**  
**THE 2010 PATRIOT AWARD**

**THAT WHEREAS**, Union County is very fortunate to have active Junior Reserve Officers' Training Corps units in several of the high schools throughout the County; and

**WHEREAS**, the Junior Reserve Officers' Training Corps is an exceptional national youth program that promotes leadership, scholastic achievement, and patriotism; and

**WHEREAS**, the ideas instilled in the young men and women who participate in the Junior Reserve Officers' Training Corps are exemplary of the principles handed down by the "citizen-soldiers" of the American Revolution; and

**WHEREAS**, the Union County Board of Commissioners encourages and recognizes the outstanding student citizens and supports their exceptional national youth program.

**NOW, THEREFORE, THE UNION COUNTY BOARD OF COMMISSIONERS** does hereby proclaim

**Cadet Sergeant Jamie Glenn**

being a daughter of the County of Union and member of the **Air Force Junior Reserve Officers' Training Corps** of **Monroe High School**, to have a high degree of merit with respect to patriotism, leadership, military bearing, scholarship and general excellence, and we do hereby grant to her the **Patriot Award** with the honor and privilege to be known as a Patriot among the citizens of the County of Union.

On behalf of the Union County Board of Commissioners, this Proclamation is adopted this 1st day of November 2010.

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Kim Rogers, Chairwoman  
Union County Board of Commissioners

ATTEST:

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Lynn G. West, Clerk to the  
Union County Board of Commissioners

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**BY THE UNION COUNTY BOARD OF COMMISSIONERS**

**FOR**

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**WHEREAS**, the ideas instilled in the young men and women who participate in the Junior Reserve Officers' Training Corps are exemplary of the principles handed down by the “citizen-soldiers” of the American Revolution; and

**WHEREAS**, the Union County Board of Commissioners encourages and recognizes the outstanding student citizens and supports their exceptional national youth program.

**NOW, THEREFORE, THE UNION COUNTY BOARD OF COMMISSIONERS** does hereby proclaim

**Cadet Lieutenant Colonel Laura Tadeo**

being a daughter of the County of Union and member of the **Air Force Junior Reserve Officers' Training Corps** of **Porter Ridge High School**, to have a high degree of merit with respect to patriotism, leadership, military bearing, scholarship and general excellence, and we do hereby grant to her the **Patriot Award** with the honor and privilege to be known as a Patriot among the citizens of the County of Union.

On behalf of the Union County Board of Commissioners, this Proclamation is adopted this 1st day of November 2010.

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Kim Rogers, Chairwoman  
Union County Board of Commissioners

ATTEST:

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Lynn G. West, Clerk to the  
Union County Board of Commissioners

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**BY THE UNION COUNTY BOARD OF COMMISSIONERS**  
**FOR**  
**THE 2010 PATRIOT AWARD**

**THAT WHEREAS**, Union County is very fortunate to have active Junior Reserve Officers' Training Corps units in several of the high schools throughout the County; and

**WHEREAS**, the Junior Reserve Officers' Training Corps is an exceptional national youth program that promotes leadership, scholastic achievement, and patriotism; and

**WHEREAS**, the ideas instilled in the young men and women who participate in the Junior Reserve Officers' Training Corps are exemplary of the principles handed down by the “citizen-soldiers” of the American Revolution; and

**WHEREAS**, the Union County Board of Commissioners encourages and recognizes the outstanding student citizens and supports their exceptional national youth program.

**NOW, THEREFORE, THE UNION COUNTY BOARD OF COMMISSIONERS** does hereby proclaim

**Cadet Lieutenant Commander Anthony Heredia**

being a son of the County of Union and member of the **Navy Junior Reserve Officers' Training Corps** of **Sun Valley High School**, to have a high degree of merit with respect to patriotism, leadership, military bearing, scholarship and general excellence, and we do hereby grant to him the **Patriot Award** with the honor and privilege to be known as a Patriot among the citizens of the County of Union.

On behalf of the Union County Board of Commissioners, this Proclamation is adopted this 1st day of November 2010.

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Kim Rogers, Chairwoman  
Union County Board of Commissioners

ATTEST:

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Lynn G. West, Clerk to the  
Union County Board of Commissioners

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**PROCLAMATION**  
**BY THE UNION COUNTY BOARD OF COMMISSIONERS**  
**FOR**  
**THE 2010 PATRIOT AWARD**

**THAT WHEREAS,** Union County is very fortunate to have active Junior Reserve Officers' Training Corps units in several of the high schools throughout the County; and

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**WHEREAS,** the ideas instilled in the young men and women who participate in the Junior Reserve Officers' Training Corps are exemplary of the principles handed down by the "citizen-soldiers" of the American Revolution; and

**WHEREAS,** the Union County Board of Commissioners encourages and recognizes the outstanding student citizens and supports their exceptional national youth program.

**NOW, THEREFORE, THE UNION COUNTY BOARD OF COMMISSIONERS** does hereby proclaim

**Cadet Second Lieutenant Alexis Arellano Avila**

being a son of the County of Union and member of the **Air Force Junior Reserve Officers' Training Corps** of **Piedmont High School**, to have a high degree of merit with respect to patriotism, leadership, military bearing, scholarship and general excellence, and we do hereby grant to him the **Patriot Award** with the honor and privilege to be known as a Patriot among the citizens of the County of Union.

On behalf of the Union County Board of Commissioners, this Proclamation is adopted this 1st day of November 2010.

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Kim Rogers, Chairwoman  
Union County Board of Commissioners

ATTEST:

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Lynn G. West, Clerk to the  
Union County Board of Commissioners

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**PROCLAMATION**

**BY THE UNION COUNTY BOARD OF COMMISSIONERS**

**FOR**

**THE 2010 PATRIOT AWARD**

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**WHEREAS**, the ideas instilled in the young men and women who participate in the Junior Reserve Officers' Training Corps are exemplary of the principles handed down by the “citizen-soldiers” of the American Revolution; and

**WHEREAS**, the Union County Board of Commissioners encourages and recognizes the outstanding student citizens and supports their exceptional national youth program.

**NOW, THEREFORE, THE UNION COUNTY BOARD OF COMMISSIONERS** does hereby proclaim

**Cadet Captain Elizabeth Cady**

being a daughter of the County of Union and member of the **Air Force Junior Reserve Officers' Training Corps** of **Parkwood High School**, to have a high degree of merit with respect to patriotism, leadership, military bearing, scholarship and general excellence, and we do hereby grant to her the **Patriot Award** with the honor and privilege to be known as a Patriot among the citizens of the County of Union.

On behalf of the Union County Board of Commissioners, this Proclamation is adopted this 1st day of November 2010.

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Kim Rogers, Chairwoman  
Union County Board of Commissioners

ATTEST:

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Lynn G. West, Clerk to the  
Union County Board of Commissioners

**Goose Creek/Fairfield Plantation Mediation Agreement:** This item was moved to the regular agenda.

**Tyler-MUNIS Agreement:** Ratified the Interim County Manager’s approval of an Application Service Provider Agreement with Tyler Technologies, Inc. with a \$4,000 increase in price.

**Dodge City CDBG Grant – Language Access Plan:** Accepted the Language Access Plan with authorization for staff to modify the plan and add information to the plan as may be necessary for completion.

**Admin and Capital Community Transportation Grant Funding for FY 2011:** Ratified the Interim County Manager’s approval of the amended Grant Agreement.

**Catawba River Water Supply Project (CRWSP) Purchase of Mitigation Credits:** Approved the revision to the Stream Mitigation Plan and authorized the Manager to approve the associated purchase agreement following legal review.

**Information Only/No Action Required:** Included in the agenda package with no action required was the Personnel Report for September 2010.

**PUBLIC INFORMATION OFFICER’S COMMENTS:**

Chairwoman Rogers recognized Brett Vines, Public Information Officer, for his comments.

Mr. Vines stated that a number of the matters that he would be commenting about had been mentioned by him during the October 18, 2010, meeting.

1. Low Income Energy Assistance Program is now accepting applications at the Department of Social Services’ Office. He stated that this program provides assistance to low income residents for heating bills. This assistance will be provided as a one-time check in February. The application period will run through November 12, 2010, from 8:00 a.m. to 5:00 p.m.
2. The Christmas Bureau is accepting applications, monetary donations, toys, and volunteers. There will be a benefit ride for the Christmas Bureau on Saturday, November 6, with registration beginning at 9:00 a.m. at Hebrews Coffee House in Marshville. The benefit ride begins at 10:00 a.m. Rain date is November 13, 2010.
3. The Warriors and Warbirds Airshow will be held November 6 and 7, 2010, at the Charlotte-Monroe Executive Airport. The gates open at 9:00 a.m., and advanced tickets are available for purchase at Monroe City Hall and the airport. Tickets will be on sale at the gate. Tora! Tora! Tora! will be featured at the airshow.
4. November is National Adoption Awareness Month. The Department of Social Services will be holding an event on November 18, 2010, at South Piedmont Community College entitled “Family Begins in the Heart.” Mr. Vines explained that this will be an opportunity for Social Services to educate the community about adoption and the adoption process.

5. Union County Offices, the County Landfill, the County Libraries, Fred Kirby and Jesse Helms Parks, and the Animal Shelter will be closed on Thursday, November 11, in observance of Veterans Day. Cane Creek Park will be open from 8:00 a.m to 5:00 p.m. on that day.

#### **ANSON/UNION COUNTY WATER AGREEMENT:**

Wes Baker, Interim County Manager, explained that Union County currently has an Agreement with Anson County for the purchase of water up to four million gallons per day. He stated that this agreement will expire in 2014, and staff has been working on extending the Agreement. He recognized Ed Goscicki, Public Works Director, for his comments regarding the Agreement. Mr. Baker pointed out that Mr. Goscicki as well as several of the Board members have worked hard developing this water agreement.

Mr. Goscicki said that Union County has been in negotiations with Anson County for the better part of a year regarding an Agreement. He provided background information that the County has an existing agreement with Anson County for the purchase of potable water to serve the eastern portion of Union County which was originated in 1992 and amended in 1993 or 1994. He said that it has been recognized as part of the master planning efforts over the years that Anson County and the water from Anson County is an integral part of the County's long-term water supply, and, for this reason, the County has been trying to negotiate with Anson County to extend the agreement and also to increase the water supply from Anson.

Mr. Goscicki explained that the new Agreement would extend the term for another 30 years and would give two ten-year extension options beyond that time, and would increase the available water supply to Union County from the current four million gallons per day to six million gallons per day. He stated that in order to achieve the six million gallons per day, Anson County would need to make certain improvements estimated to cost approximately six million dollars. He said that Union County has agreed to pay 30 percent of the improvements. Mr. Goscicki recognized Vice Chairwoman Kuehler and Commissioner Openshaw as key members of the negotiating team along with Anson County's representatives. He stated that he thought the negotiated agreement is a good one that staff would request the Board consider approving.

Following Mr. Goscicki's comments, Commissioner Mills moved to authorize the County Manager to approve the Agreement, subject to legal review.

Vice Chairwoman Kuehler asked Mr. Goscicki if it were his opinion that this agreement is something that the current Board should be approving tonight or if the Board should wait for the new Board to come in.

Mr. Goscicki responded that he thought the question of who would sign off on the Agreement would be a decision of this Board and not a decision for him. He said that from a Public Works' perspective, staff believes it is a good agreement and provides for some long-term certainty in terms of water supply for the residents of Union County. He stated that it is a part of a long-term solution, and staff would recommend moving forward with the Agreement.

Vice Chairwoman Kuehler asked how much of the original infrastructure would result in a push back into the Twelve-Mile Creek basin. Mr. Goscicki stated that the one million gallons of water currently pushed into the Yadkin Pee Dee Basin returns to the Catawba Basin as wastewater as part of the interbasin transfer. He said that this agreement would allow approximately one million gallons less water from the Catawba Basin into the Yadkin Basin, so it will help in terms of the current overall interbasin transfer limits.

Commissioner Openshaw noted for the benefit of the public that some water that accrues from this agreement is due to go to Monroe in 2014, so the four million gallon expansion in two separate phases is approximately 2.1 million gallons for the remainder of the County after Monroe gets its two million gallons. He said that he also thought the public should be aware that this shows what a great deal the Catawba water is at fifty-eight cents per thousand gallons whereas the Anson water looks to be approximately \$1.62 per thousand gallons.

Commissioner Baucom agreed with Commissioner Openshaw's comments about the good deal that Union County gets with the Catawba water because of the County's joint ownership. He said that even with the \$1.62 per thousand gallon cost, it is still economical compared to many water systems throughout the state and the country.

Mr. Goscicki concurred that the \$1.62 per thousand gallons was a good value.

Commissioner Baucom stated that Union County was fortunate that in the past there had been foresight for the County to move forward with the Catawba water, and the County is continuously reaping the benefits from that plant, both currently and into the future.

Commissioner Openshaw reminded that approximately three years ago, he along with Commissioners Baucom and Mills met with Anson County's Board of Commissioners to discuss this matter. He said that the County had a contract with Anson County to purchase up to four million gallons of water per day, but the County was only using 1.9 million gallons per day. He further said that

during that meeting Commissioner Baucom asked the Anson County Board of Commissioners if it would be interested in expanding the amount of water that Union County could purchase up to six million gallons per day. He noted that the first two million gallons would be done in a year and a half and the next three would be done in three years or so. He said that this Agreement has been a long time coming.

Following the discussion, the motion passed unanimously.

**GOOSE CREEK/FAIRFIELD MEDIATION AGREEMENT (This item was moved from the Consent Agenda to the Regular Agenda):**

Chairwoman Rogers recognized Ligon Bundy, Attorney at Law, and Ed Goscicki, Public Works Director, to explain this item.

Mr. Bundy stated that they were pleased to report to the Board a proposed settlement of a contract dispute between Union County on one part and William Trotter Development and Goose Creek Utility Company on the other part. By way of background information, Mr. Bundy explained that Goose Creek Utility Company owns and operates a package sewer treatment plant on Goose Creek which treats the sewage from the Fairfield Plantation Subdivision and discharges the treated sewage into Goose Creek. He said in 2006, the County entered into a contract under which Goose Creek Utility Company would close the package treatment plant, the County would take the sewage flow from the Fairfield Plantation Subdivision and treat it in the County system, and Goose Creek Utility Company and William Trotter Development Company would contribute money to the County to pay for infrastructure construction and the sewer capacity fees for the residents in the Fairfield Plantation Subdivision.

Mr. Bundy said that in 2009 before the contract could close, the William Trotter Development Company and Goose Creek Utility Company gave the County notice that they were terminating the contract. He stated that the County did not recognize their right to terminate the contract, so for the past year, the County has been in discussions with the Trotter Development and Goose Creek Utility to try and resolve the situation. He said that while those discussions were underway, the State of North Carolina, which monitors the efficiency and operation of the plant, found numerous violations in the operations of the plant and issued notices of violation to the effect that the treatment plant was in violation of water quality standards with the treated sewage that was being discharged into Goose Creek.

He said that on October 20<sup>th</sup> there was an eleven-hour mediated settlement conference, and, as a result of the mediated settlement conference, a proposed settlement is being presented to the Board tonight for consideration of approval. He reviewed the following terms of the proposed settlement:

1. The County will take the sewer flow from the Fairfield Plantation Subdivision and put it into the County's system and treat it in the County's system. The residents of the Fairfield Plantation Subdivision (196 customers) have been paying rates at a higher rate to Goose Creek Utilities than customers in the County's system pay. Mr. Bundy said as a result of bringing these residents into the County's system, their rates will go down.
2. Goose Creek Utilities will close its package treatment plant, which is potentially an environmental hazard, and Goose Creek Utilities and the William Trotter Development Company will pay the County \$519,400 which are the capacity fees for the residents of the subdivision. They will pay this amount by signing a promissory note, payable over ten years, which will be secured by a deed of trust on property owned by the William Trotter Development Company in and about the Fairfield Plantation Subdivision. Mr. Bundy noted that this property has a tax value of approximately \$503,000.

Mr. Bundy stated that it is requested that the Board approve the settlement and authorize the Interim County Manager to sign the settlement documents to finalize the settlement.

Following explanation of the item by Mr. Bundy, Commissioner Baucom moved approval of the settlement and authorization for the Interim County Manager to sign the settlement documents to finalize the settlement. The motion passed unanimously.

#### **PARKS AND RECREATION FUNDS RELEASE:**

Chairwoman Rogers recognized Wes Baker, Interim County Manager, for his comments regarding this item.

Mr. Baker explained that currently there are three athletic associations in Union County that have grant application requests pending with Union County. He said that at this time those grant application requests have not been funded because they do not meet the guidelines required by the Union County Parks and Recreation Advisory Committee which requires a 25-year use agreement, and the athletic associations have been unable to work out those agreements with the schools. He stated that Commissioner Openshaw requested that this item be included on the agenda tonight. He recognized Commissioner Openshaw for his comments.

Commissioner Openshaw requested that Bill Whitley, Parks and Recreation Director, come to the podium. Commissioner Openshaw stated that the Parks and Recreation Advisory Committee has been dealing with this issue for approximately one year. He said that the schools' representative has talked with the advisory committee, and it became clear that this issue was not going to go anywhere, so he asked the Board of Commissioners to allow him to form a committee with representation from the Parks and Recreation advisory committee, the school board, the Board of Commissioners, and the athletic association. He explained that it was supposed to have been brought up to the Schools' Facility Committee, and it did not make one of its agendas, and it had to be added to a future agenda of the Facilities Committee before it could be referred to the school board. He said that they had developed some rough ideas with the main issue being the amount of time. He stated that the County's policy states in order for the County to give the athletic associations a grant, they must have a 25-year commitment from the schools for use of the property, and the schools are not willing to approve a commitment of that length. He said they had hoped to get a five-year commitment from the schools.

Commissioner Openshaw said that the applicants must also obtain a letter from the schools regarding the Americans with Disabilities Act (ADA). He stated that the schools have changed the policy that allows approval to come from the schools' principal and now it must come from Dr. Mike Webb, Assistant Superintendent. He said that the third issue would be the restrooms. He stated that he wanted to hear from Mr. Whitley regarding what Parks and Recreation is looking for from the athletic associations.

Mr. Whitley agreed that there is a 25-year use agreement required for the grant applications. He said that as Commissioner Openshaw had stated, in the past the schools' principals have authorized that and now the Schools' Facilities Committee requires it to go to the School Board for approval for those agreements. He stated that this has not occurred on these three grants. Further, he said that Parks and Recreation is very much interested in ADA compliance, and with the grant funding that remains unspent from this year, they have encouraged the athletic associations to apply to request funds for ADA compliance. He said that South Union Athletic Association applied for some of the remaining funds to be spent for ADA compliance issues.

He stated there is also a concern that proper facilities be in place. He noted that in Porter Ridge Athletic Association's initial application, it requested to remove the restroom, but was unable to do so due to code requirements. He said that Porter Ridge sent in a resubmittal, which was reviewed on February 15, 2010. He said that he had stated in the agenda package that hopefully they would be able to obtain a formal written use agreement with the schools for a minimum of at least three years. Mr. Whitley explained that he had based this number on the last application by Porter Ridge that was approved and Porter Ridge had a use agreement which allowed three years.

He said that at the last Parks and Recreation Advisory Committee meeting, it worked on revisiting the grant application guidelines and asked for some updates to them. He stated that it would be fairer to have some thresholds for the number of years for the use agreements based on the grant funding amount. As an example, he cited for a \$10,000 grant, the number of years for a use agreement would be three years in order to receive a return on the investment. Mr. Whitley said it was very important for the schools to be involved in these matters, because they have a risk for allowing the improvements to be placed on their property.

Commissioner Openshaw said that he had not mentioned that the idea behind this was the hope of creating public/private partnerships so that the school fields that are under utilized could be utilized with minimal expense, if any, to the taxpayer other than volunteer organizations. He said that he visited Waxhaw Athletic Association's project, which is for field renovation at Kensington Elementary School. He stated that they are running a nice operation. He noted that one of the issues with this project had been putting money into fields where mobile units might sit, which would not be a return on the investment as mentioned by Mr. Whitley. He said that the fields at Waxhaw are so far removed from the school building, he could not believe this would be an issue. He stated that there are Port-a-jons at this location, one of which is an ADA Port-a-jon. He said that he wanted to make sure that they are not being held to a standard of having to build a concession building or permanent restroom facilities in order to qualify for one of those grants. He explained that Waxhaw Athletic Association has an agreement with a developer that as it sells a certain number of homes, it will build a concession stand with permanent restrooms. He said he thought the current focus should be to help them to do what they do to benefit the community without holding it to a large capital expense of building a structure such as that. He stated that he was unsure if that is a conflict with the County's policy.

Mr. Whitley said that on the Parks and Recreation's master plan, it is requested that a school park be developed in the western side. He said that when that comes about, if there is a use agreement and subcommittee developed, when that school is built, it is designed to use common infrastructure. For example, he said that an outdoor facility could be built that would come onto the school's sewage system or the school could be designed so that the facility could be used while the remainder of the school is locked. He said that their concern is to construct facilities to make sure they meet the public needs. He stated that it is easy to build fields but it is the infrastructure requirements of pathways to get to those fields that are important. He said, at this point, they were not holding up the grants only because of the bathrooms, but stated when he visited Waxhaw's facility, they only had one Port-a-jon.

Chairwoman Rogers asked Commissioner Openshaw if there was an action that he was requesting of the Board. He stated that staff has asked the Board to approve the three agreements for Porter Ridge Athletic Association, Prospect Athletic and Recreation Association, and Waxhaw Athletic Association with those associations meeting the contingencies recommended by the Parks and Recreation Advisory Committee.



Bill Whitley offered as a point of clarification that these three athletic associations would have to obtain approval from the School Board. Commissioner Openshaw said that Parks and Recreation has also asked to form a committee to work with the schools. Mr. Whitley responded that the Parks and Recreation Advisory Committee and the staff thought it would be best if the Board of Commissioners and the School Board agreed to form a committee so that they would work together.

Commissioner Baucom asked if this committee would be a steering committee or a standing committee. Mr. Whitley responded that he was not sure, but they believe if they are to move forward with a school park in the western side of the County in the near future, it is best to start looking at how to create a partnership now.

Commissioner Baucom asked if it would be appropriate that rather than the Board voting to establish a committee, that the liaisons of both the Board of Commissioners and the Board of Education get together and make recommendations regarding the structure of the committee. Mr. Whitley said that seemed to be appropriate. He said they were looking at a committee being established to include representatives from the Parks and Recreation Advisory Committee, staff members from Parks and Recreation Department, and some school board members and report back to the Board.

Chairwoman Rogers restated the motion on the table to approve the athletic grant applications of Porter Ridge Athletic Association, Prospect Athletic and Recreation Association, and Waxhaw Athletic Association with the associations meeting the contingencies as set forth below. She asked Commissioner Openshaw if this included everything in his motion.

Commissioner Openshaw stated that he was agreeable with Commissioner Baucom's suggestion regarding establishing a committee. He asked Chairwoman Rogers for her thoughts on the committee, since she had served on the Schools' Facility Committee.

Chairwoman Rogers stated that, in her opinion, right now there are so many unknowns that she was not sure if she would have a Commissioner liaison to a Board of Education liaison. She said she thought it might be better to have some facility committee members and some representatives from the Parks and Recreation Advisory Committee to meet and prepare a report. She stated at that point in time it might be more appropriate to have a board-to-board discussion. She said that she did not have a problem if he wanted to make it a part of his motion. The Chairwoman stated that she understood it has been a long process, and it has not gone in the direction it was hoped it would go.

Commissioner Baucom asked if it would be appropriate for Mr. Whitley and Dr. Webb from the schools to meet. Commissioner Openshaw said that he was fine to make a request of the schools. The Chairwoman asked if Commissioner Openshaw wanted to make this a part of his motion, which he agreed that he wanted to do. She asked him if she had correctly restated his motion, which he stated was correct.

Commissioner Openshaw added that he has spoken with both Dr. Davis and Dr. Webb regarding this issue, and they both thought what was proposed was worth taking forward. He stated that a long-term solution was needed.

Following the lengthy discussion, the Chairwoman called for a vote on the motion as stated and amended. The motion passed unanimously.

**Prospect Athletic & Recreation Association                      \$ 7,629.31**

**Project: Continuation of Field #5 Project (Phase 3) and Facility Improvement Project**

- a) Field Rakes and Line Markers be removed from grant items authorized for purchase. These are not considered capital purchase items and show a total cost of \$1,074.87.
- b) That picnic tables be authorized for purchase as long as they meet ADA Guidelines for accessibility and are stated as such in the product's specifications.
- c) That the total project request of up to \$10,681.03 be authorized to assist in covering any increases in purchasing of "Accessible Picnic Tables" and to ensure that an accessible trail is developed to get to the "required number" of picnic tables on the facility as per ADA Guidelines.
- d) That President of Organization must have application notarized as required.
- e) That a proper letter from the school, meeting the requirements of the application be provided to staff to file with the original grant packet.
- f) That a copy of the certificate of accord of insurance be obtained as required for attachment with the original application.

**Waxhaw Athletic Association    \$ 12,115.38**

**Project: Field Renovation at Kensington Elementary**

- a) That the property receives a 25-year agreement for use.

- b) That the President’s signature on the application be “sealed” as required.
- c) That an approved copy of the certificate of accord of insurance be obtained for attachment with the application.
- d) That any required permits (grading, construction, etc.) be obtained for the construction of the fields and any code required infrastructure be met.
- e) That ADA Guidelines be met as part of the project.

**Porter Ridge Athletic Association**

**\$ 32,672.50**

**Project: Hemby Bridge Complex Renovation**

- a) That the five percent contingency be included.
- b) That all improvements be included.
- c) That all improvements be ADA compliant;
- d) That Union County Public Schools provide acceptable assurances that the improvements can be made and that the facilities will remain available for public use through the required term;
- e) That all construction permits be obtained; and
- f) That the association also pursue a complete audit of all of its existing facilities.

**SUBMISSION TO PUBLIC COMMENT OF THE CERTIFICATE OF NEED (CON) SECTION (This item was added to the Agenda):**

Vice Chairwoman Kuehler moved to direct staff to put together a short letter to include the pertinent provisions from the lease for the hospital regarding financing and to submit it to the Public Comment period for the current Certificate of Need (CON) application under review. She clarified that this request is to make clear that the Board is just providing the financial information to the CON section, and it is not a for or against position. She said from discussions that she has had with the CON section, this is information that they do not have, and this is the correct way to provide this information to them.

Commissioner Baucom said that he was not comfortable with moving forward with sending this letter. He stated that he did not know what was to be gained from the County’s perspective because additional Certificates of Need that would be granted would

be of benefit, he thought, to the citizens of the County, and any additional Certificates of Need that would be granted to CMC-Union would be an additional financial benefit to the facility.

Commissioner Mills asked if the Board directed Vice Chairwoman Kuehler to contact the CON section. Vice Chairwoman Kuehler responded that she was a citizen that called the CON section and she did not know she needed the Board's permission.

Commissioner Mills said while she might be representing herself as an individual citizen, she is a part of the Board. He stated that the Board majority has already decided it wants to allow the next Board of Commissioners to work on the hospital lease. He said that he was not being critical but he was not sure that now is an appropriate time or that this is an appropriate step and stated that he was not comfortable with her contacting the CON Section. He stated that he was not sure it was appropriate for a sitting member of the Board to individually contact the CON Section without direction from the Board.

Commissioner Openshaw expressed appreciation to Vice Chairwoman Kuehler for doing her homework and finding out how the system works. He said there have been some issues in the past, and he thought it was well advised to send a letter to the CON Section. He said that this was basically letting them know the terms of the County's agreement with the hospital.

Chairwoman Rogers said that the Board has a responsibility to make sure that all parties involved within a decision are notified of the terms of the lease and any restrictions or approvals so that the people who make decisions can make them with the full use of any information available. She stated that this is very neutral and just says there is a lease. She said that it is very unusual to have a hospital that is county owned in the State of North Carolina. She said that she thought it was prudent to get all of the information out there.

Following the discussion, the motion passed by a vote of three to two. Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted in favor of the motion. Commissioners Baucom and Mills voted against the motion.

At approximately 8:15 p.m., the Chairwoman called for a five-minute recess in the meeting.

The Chairwoman reconvened the meeting at approximately 8:38 p.m. and called for the next item on the agenda.

**PERSONNEL CONFIDENTIALITY (This item was added to the agenda):**

Chairwoman Rogers cautioned the Board that discussion regarding personnel is a fine line of what the Board can discuss in open session. She recognized Commissioner Baucom for his comments.

Commissioner Baucom stated that there were two components to this item. He said one was an e-mail sent by Chairwoman Rogers to staff asking about the release of confidential information. He stated that he did not believe any of his comments were in violation of what is confidential but requested that Mr. Merritt and Mr. Crook stop him if he were to become in violation. He said that he knew that the new County Manager called Republican candidates on Thursday afternoon and inasmuch was actually calling a citizen of the County and was not calling anyone from an elected office. He stated that she gave her name, and he was not privy to what was said during the conversations but did know that she gave her name when she called each one of these candidates. He said that he thought any confidential information regarding a name was released by the candidate for County Manager herself at that point and beyond that he had no knowledge of it.

Commissioner Baucom said he received a call on Friday afternoon asking why an individual Commissioner's comment was on the County website. He stated that he did not know anything about it, and the caller told him it was a statement issued by, he thought, Commissioner Kuehler, because it said it was a statement by her and her name was on the statement. He said that he looked at the County's website and saw the statement, and he read the response into the minutes: "A very public question was posed by three of the eight candidates running for County Commissioner." He said that supposedly the question was "What does it say about any candidate's leadership qualities who would willingly execute a contract knowing that a change in the Board's majority is imminent? I have an answer to that question." He said again this was Commissioner Kuehler's statement on the website. "A person who believes that a County Manager is not a political position but an opportunity to demonstrate her exceptional analytical abilities, leadership, and fiscal talent, a person of character and integrity who reached out and gave up her statutory right to confidentiality and contacted the very people questioning her motives, someone who was described by her peers and superiors as having such personal caliber who will choose to do the right thing 'even if it puts her job in jeopardy.' A candidate where every reference included the adjectives . . . "

At this point in the comments, Mr. Merritt requested that Commissioner Baucom refrain from disclosing any information from the references. Commissioner Baucom responded that he would do that. He continued his comments by saying the last statement was "an individual who believes in the future of Union County willing to come here in the face of political sniping to offer her multi-faceted expertise of 36 years in public service." He expressed appreciation to Mr. Merritt for stopping him from reading into public record the adjectives used by individuals as references. He said that his question to the attorneys was "Is this a violation of personnel confidentiality?"

Mr. Merritt stated that if the Board wished to have a discussion regarding the legal impact of this, he would be glad to answer that in closed session. He said with respect to the question posed by Commissioner Baucom, he could refer him to the applicable statute which is G.S. 153a-98 which deals with privacy of employee personnel records. Commissioner Baucom requested that Mr. Merritt provide the Board with a gist of the statute. Mr. Merritt explained that with respect to employee personnel records, there is certain information that is a public record as listed in G.S. 153a-98b and anything other than that is considered to be confidential and should not be disclosed. He stated that this applies also to anyone who is applying for a position with the County as well as persons employed, and the effect of it is also for former employees and is part of their personnel record and is covered by the statute.

Mr. Merritt stated that with respect to employees, they generally have a right to review their personnel files. However, one thing that they are not allowed to review as contained in G.S. 153a-98c – “all information contained in a County employee’s personnel file other than the information made public by subsection (b) of this section is confidential and shall be open to inspection only in the following instances: 1) the employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment and (ii) information concerning a medical disability, mental, or physical that a prudent physician would not divulge to his patient.” He said there are parts of the file that are open to the public, there are parts of the file not open to the public, parts of the file not open to employees, and then there are parts of a personnel file that are not available to an employee or prospective employee.

Commissioner Baucom further asked if information from references ever become public. Mr. Merritt reiterated that if the Board wished to hear his legal advice, he would be glad to provide that information to the Board in closed session. He said that pursuant to the statute as he has read, employees are not entitled to references or reference letters in their file, they are not entitled to review that information.

Commissioner Baucom repeated his question whether a County employee ever has the right to view responses from references. Mr. Merritt referred to G.S. 153a-98(c)(i) which says that in essence an employee may examine all portions of his personnel file and one of the exceptions is letters of reference solicited prior to employment. Commissioner Baucom asked if Mr. Merritt could give him a legal opinion on whether there is a sunset to that provision, to which Mr. Merritt responded he was not aware of a provision that ever makes a part of a personnel record that is subject to non-disclosure discloseable. Mr. Merritt added that even for someone who is applying for a job and does not get the job, their personnel records are considered to be confidential and are maintained as confidential forever. In response to a further question by Commissioner Baucom, Mr. Merritt stated that the statute applies to both applicants and to persons who are hired and continues to apply after the termination of employment.

At approximately 8:40 p.m., Commissioner Baucom moved that the Board go into closed session for the purposes of consulting with an attorney in accordance with G.S. 143-318.11(a)(3).

By way of discussion, Chairwoman Rogers said she had not voted for this item to be added to tonight's agenda, because the Board's Rules of Procedure states that items not be added to the agenda during the meeting. She stated that this was all last minute, and she personally would like to see a little bit more about what is going on and get more familiar with it before she was prepared to do anything with it at this time.

Commissioner Openshaw stated that he had not seen the statement to which Commissioner Baucom had referenced on the County's website. He said that until he has an opportunity to look at what is on the website and ponder it, he would not support the motion.

Commissioner Mills said that he thought this was picking and choosing what is right and wrong. He said that he thought the statute is very clear, and these are exactly the same calls he received over the weekend about the statement that was posted on the website but has now been taken off. He said that he would like to get to the bottom of this matter and questioned if there are legal implications to the Board for the statement having been posted on the website.

Chairwoman Rogers said that the e-mail that Commissioner Baucom had referenced at the beginning of his comments that she had sent to staff was asking about confidential information being leaked. She stated that there is definitely a leak and she wanted to investigate it, because the name of the candidate was out prior to the candidate calling Thursday afternoon to have a discussion with each of the Republican candidates for County Commissioner. She said there is a very real problem, and she did not know if the innocuous posting of adjectives is the root of that problem or if it stems much further. She said that she did think it needed to be looked at further but not at the last minute without any documentation. She said that now it was basically putting accusations out without having information.

Vice Chairwoman Kuehler stated for the record that she did not have the power to post anything to the County's website. She said if there is an issue with the process, which she thought was the next item that was to be discussed, that is something else. She stated that to make accusations that she just put something up on the County's website without anybody knowing it is absolutely incorrect and that is not what happened. She said even if she wanted to, she could not do it.

Following the lengthy discussion, the Chairwoman called for the vote on the motion by Commissioner Baucom that the Board go into closed session which failed by a vote of two to three. Commissioners Baucom and Mills voted in favor of the motion. Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted against the motion.

Commissioner Openshaw said that he was not opposed to having this item looked into further, but he would like to have an opportunity to know what is being discussed so he can know what is going on. He stated that he wanted to do his own study on this. He stressed that he did not want to leave anyone with the impression that he is opposed to looking at it, and, quite frankly, he was glad that this whole issue is on the table because Chairwoman Rogers' e-mail is something that he thought is an item that should have been on the agenda in terms of pursuing it. He suggested that information be obtained and that the Board deal with the issue in the future. He said he had no intention of waylaying it by not going into closed session. He said he just did not want to do it without being informed and without having a chance to think about it and understand what is going on.

**COUNTY WEBSITE POLICY (This item was added to the agenda at the request of Commissioner Mills):**

Chairwoman Rogers recognized Commissioner Mills for his comments.

Commissioner Mills said that this item is an extension of what has been discussed previously. He stated he was trying to determine what the policy is for posting information on the County's website and who the Commissioner went through to have the information posted. He said that the County's website did not need to be turned into a blog or a bully pulpit for any Commissioner to spout whatever they want to. He said he did not know if the website has been used before in this way. He said that the Board wants transparency and open government. He said he was curious of what the policy is and who gave the authority for this information to be posted.

Mr. Merritt cautioned that before this item was discussed further if the Board was going to be talking about specific individuals and their performance, which he thought they would be about who specifically was contacted to post the information, that is probably a closed session item as opposed to an open session item.

Commissioner Mills said he was asking what the County's website policy is.

Chairwoman Rogers said she did not know if anyone was present tonight that could answer that question, since this item was not on the agenda and was added at the last minute. She stated that she had no problem looking into this question further. She said



that it fits in to what her prior e-mail went to before. She stated it would be interesting to know what the County's website policy is and to look at the past history. She said that she seemed to remember there have been times when there have been comments from Commissioners about certain subjects. She stated that she personally did not have a problem with that and it would be interesting to review past press releases. She said she was surprised that there were no comments from any Commissioners in the press release. She stated that she thought each Commissioner should have been asked about his/her comments, so if no website policy exists, she was fine with looking into creating a policy, but tonight is not the time, because the information is not available and she did not know if anyone was prepared with that information. She said that this could be included on the Board's work session of November 10<sup>th</sup> to discuss the policy.

### **ANNOUNCEMENT OF VACANCIES ON BOARDS AND COMMITTEES:**

Chairwoman Rogers announced vacancies on the following Boards and Committees:

- a. Adult Care Home Advisory Committee (at least 5 Vacancies)
- b. Agricultural Advisory Board (1 Vacancy Expired in June 2010)
- c. Juvenile Crime Prevention Council:
  1. Substance Abuse Professional
  2. Two Members under the Age of 18
  3. One Member of Business Community
  4. One Member Representing United Way or Other Non-Profit
  5. One Commissioner Appointee
- d. Nursing Home Advisory Committee (at least 4 vacancies)
- e. Parks and Recreation Advisory Committee (1 vacancy for a member with physical disability)
- f. Planning Board (Four vacancies as follows: One unexpired term for Regular member ending 4/20/2011; Two unexpired terms for regular members ending 4/20/2012; and one unexpired term for regular member ending 4/20/2013)
- g. Library Board of Trustees - 5 Vacancies as follows:
  - 1) Two (2) At-Large Representatives
  - 2) One (1) Vacancy representing the Monroe Region (City of Monroe and Central Union County)
  - 3) Union West Region – Indian Trail, Stallings, Lake Park, Hemby Bridge
  - 4) Fairview Region – including Unionville and northwestern Union County
- h. Historic Preservation Committee – (1 Vacancy due to a resignation with the term ending February 2011)
- i. Animal Care Committee

- 1) 4 Members at Large
  - 2) 1 Representative from a 501c(3) Rescue Group
  - 3) 1 Veterinarian
  - 4) 1 Representative from the County Animal Shelter
- j. Farmers Market Committee (1 Member at large as of December 2010)
- k. Union County Home and Community Care Block Grant Advisory Committee (5 vacancies for community representatives as of December 2010).

### **INTERIM COUNTY MANAGER'S COMMENTS:**

Wes Baker, Interim County Manager, shared that the County recently received an award from the North Carolina Department of Labor. He said that the County has received safety awards a number of times that reflect the fact that the County workers have very few lost days because of job injuries. He commended the employees for their efforts.

### **COMMISSIONERS' COMMENTS:**

Commissioner Baucom said that again tonight he had two agenda items that he has requested for seven of the last nine Commissioner meetings. He said one of those items is to discuss health benefits for Commissioners and the second item is to discuss legal and ethical concerns. He said that these items continue to be removed from the agenda. He said he has been called a liar by Vice Chairwoman Kuehler on more than one occasion with the most recent incident occurring last Friday, October 29, 2010, during the open session of the special meeting of the Board where a new County Manager was hired. He said that the statements that he made during that meeting were truthful. He stated the other times she has called him a liar have been related to his attempts to have an agenda item added to the agenda, one of which he just mentioned concerning legal and ethical concerns. He explained that this item was to discuss the ethical or unethical aspect of Vice Chairwoman Kuehler's motion during the meeting of March 2, 2009, for the Board of County Commissioners to have hiring authority of County department head employees. He said that the motion in and of itself was not the issue, but the issue came from the fact that when she made the motion, there was an opening for the Public Works Director of Union County in which a recruiter had been hired and applications had been taken.

At this point in Commissioner Baucom's comments, Mr. Merritt interjected that with respect to any applicant or any names or information, etc. that would identify any persons could not be made in open session.

Commissioner Baucom continued with his comments by saying that a screening process was underway. Chairwoman Rogers cautioned him by saying that the attorneys have said that if this goes to any identifiable quality, he would be out of order. Commissioner Baucom attempted to continue his comments, but the Chairwoman deemed him to be out of order. Mr. Merritt again repeated his previous comments regarding personnel information covered by G.S. 153a-98.

Chairwoman Rogers stated that Commissioner Baucom was in violation of that statute.

Commissioner Baucom said that there is one simple way to resolve this matter and that is by the Board going into closed session to ask five questions: 1) what were the hiring process dates for the Public Works Director position; 2) what was the date of the motion that was made; 3) what was the motion; 4) a name; and 5) the relationship of the applicant. He stated that if he were wrong about his allegations, he would publicly apologize to Vice Chairwoman Kuehler for his statements and the issue will be laid to rest. He said that if he was correct, he expected an apology, and he expected the Board to deal with the issues at the level at which they occurred.

Following his comments, he moved that the Board go into closed session.

Chairwoman Rogers responded that historically and with respect to the integrity of the Board, Commissioners' Comments are not the place where motions are made. She restated the motion to go into closed session asking Mr. Crook for the applicable statute reference allowing the Board to go into closed session, which was G.S. 143-318.11(a)(3) and (6). She called for a vote on the motion, which failed by a vote of two to three. Commissioners Baucom and Mills voted in favor of the motion. Chairwoman Rogers, Vice Chairwoman Kuehler, and Commissioner Openshaw voted against the motion.

Commissioner Baucom said that the failure of the Board to go into closed session on the other items tonight was expected. He requested that four agenda items be included on the next agenda. Chairwoman Rogers responded that it would be appropriate for Commissioner Baucom to contact Mr. Baker, Interim County Manager, at any time after tonight's meeting to give him the requested items.

Commissioner Baucom reminded everyone of Veterans Day on November 11 and the celebration at the airport this weekend.

He shared that the Board adopted a resolution this summer honoring Mrs. Elsie Chambers from Marshville for having lived 105 years. He said that he had the privilege of attending her birthday celebration. He stated that he received a call Saturday that Mrs.

Chambers passed away. He expressed condolences to her family. He said that Mrs. Chambers was a fine lady and a good citizen of the County for 105 years, and she leaves a quality legacy.

He asked that everyone remember Wilson Morgan, who is the uncle of John Whitley, the County's Board of Elections Supervisor, who has a serious illness.

Commissioner Mills also mentioned Veterans Day and the air show this weekend. He reminded everyone of the eleventh hour, the eleventh day, the eleventh month of 1918, the Armistice was signed in. He asked everyone to remember the veterans, and in special honor of the veterans, there is a Patriot's Gala in Charlotte that will be taking place. He said that purpose of the gala is to provide funds to the Wounded Warrior fund. He said that the event is at Quail Hollow Country Club at 6:30 p.m. He stated he was asked to mention the gala because it is such a trying time for the veterans. He said that Jan Ringling, a local citizen, and a group from Union County are helping to put on the gala.

He invited everyone to attend the air show this weekend at the airport. He said that Tora! Tora! Tora! will be featured at the air show, and the funds that the Board appropriated is a huge part of helping this come to Monroe. He said that Pete Hovanac, Chris Plate', and Bob Russell at the airport do a marvelous job with this event. Commissioner Mills stated he was contacted by Laura Byrd from Union County 4-H who stated that there will be some 4-H participants assisting with the event. He stated that he would be attending this event except for the fact that he has a father-daughter event planned with his ten-year old daughter this weekend.

Commissioner Mills expressed appreciation for the concerns from the Board and citizens regarding his baby sister who has been diagnosed with breast cancer. He said that she had surgery on Friday and is now at home.

Commissioner Openshaw said he was sorry to hear about Commissioner Mills' sister and shared that his sister was a breast cancer survivor. He stated that he would share with Commissioner Mills information about her treatment.

He said that what has been seen tonight is a consistent theme of Commissioner Baucom of "Do as I say and not as I do." He said that he would say that part of this Board has been the most overtly financial wasteful of any Board dating back into the early part of this decade. He reminded of the Partnership for Progress contract with no accountability and the 40-year lease of the hospital done without knowing the value of the asset. He said that while some of the Board is tagged with wanting to sell the hospital, the lease agreement that Commissioner Baucom negotiated was termed as a sale by the hospital law expert and the top's in the nation firm to help negotiate with the hospital on a level playing field. However, he stated that the most egregious act of all by Commissioner

Baucom was a backroom deal cut with Representative Pryor Gibson where he pushed to extend his own term for two years along with that of Commissioner Mills and Pressley and going to districts without a vote from the citizens. He said that Commissioner Baucom had attempted to present this in closed session but the Board Attorney at that time repeatedly asked him what was the legal question that would allow the closed session discussion. He stated that to give credit where credit is due, Mr. Pressley is to be thanked for stopping this action.

Commissioner Openshaw expressed appreciation to Chairwoman Rogers and Vice Chairwoman Kuehler for the tremendous value they provide to the citizens of the County, for their diligence and willingness to tackle the tough issues, pose the tough questions, and research the information presented for the benefit of the County despite the personal attacks from the squawkers who often have something to lose by Chairwoman Rogers and Vice Chairwoman Kuehler's insights.

Vice Chairwoman Kuehler stated that it has been the talk of the town with people questioning the Board's decision about hiring a Manager. She said that she weighed another question when moving through this process which was "How can three new people, who have no experience, have never, by their own admission, gone through the budget, never looked at the County's infrastructure needs or costs, do not know what contracts are pending and which ones need amending, have no basis on how to deal with the solid waste department, what to do about emergency medical services and first responders' expenses costing the taxpayers millions of dollars, and the list of endless issues be expected to know what kind of experience and background fits the needs of a Manager with any kind of expediency?" She stated that the new Manager choice is a good fit and is not a political appointment. She said it is a position that requires experience, fortitude, professionalism, and innovation. She stated that she believes the Manager that was hired exemplifies those qualities.

Vice Chairwoman Kuehler cautioned that all should be careful in drawing conclusions about what is reported. She said if anyone has been a public figure, elected or hired, for any period of time, they have been the center of or the scapegoat for some political agenda. She said that what should matter is that the new Manager has experience and the skill set to move the County forward. She stated that it is unknown who will be elected, but she does know that the current sitting Board who hired the Manager is Republican and has acted with the fiscal conservativeness that has resulted in two zero tax increase budgets in very, very trying economic times. She said that it is also a Board with anywhere from two to eight years experience in Union County government that are familiar and conversant with the challenges facing this county. She stated that she weighed putting a competent experienced person into a non-political position during an economic period where the County cannot afford to be without experienced leadership even for a short time against delaying the process until January which meant there would not be a Manager until at least March or April which is smack in the middle of the budget and a revaluation with no Kai Nelson, no Matthew Delk, and that is not to say there

are not great people in place now, but the historical knowledge is not there, and they are in the same learning curve she has just described. She said that situation is unsettling at best, and is going to be chaotic at worst without a leader. She stated that in her opinion the second scenario was not even an option when looking at the consequences. She stated that in any event people have the right to disagree with the decision she made, and she hopes that they will give the new Manager a chance to perform. She added that nothing she has said takes away from the tremendous job that she believes Wes Baker has done in his capacity as Interim Manager. She said that she sincerely appreciates his stepping up into the position, and he has done a tremendous job.

Chairwoman Rogers said she is asked a lot why she does this job and why she subjects herself to it. She stated that looking at the comments made tonight over the last few minutes, one realizes why it is difficult to get good, honest people to run for office, people who truly are grassroots, and who do not have over \$140,000 in their campaigns. She said she got elected on \$7,000 or \$8,000 which were \$50 and \$25 donations. She stated she had one large donation of \$1,000 but that was not tied to anything. She stated she was sure it was a disappointment to those who are watching, to her, and to her children who watch the meetings, and her daughter in college who receives articles that are printed about investigations about various things going on who is astute enough and smart enough to realize what is going on.

Chairwoman Rogers said that she hoped whoever is elected tomorrow is sincere in their campaign promises because they all said they wanted to work together. She shared that the candidates for County Manager who were interviewed were impressed by how much the Board has done over the last two years. She said it was her opinion that there would not have been the caliber of candidates this time three and a half years ago. She said this was stated by recruiters, and it was not just her opinion, this was stated as a fact. She stated that the County Manager is getting massacred before even getting the opportunity. She said that Vice Chairwoman Kuehler brought up good points about experience. She said that she has been on the Board for two years, and she was accused when she was running that she was a housewife who did not know how to lay a pipe. She stated that she knows how to lay a pipe a little better than she did, but she is still a housewife. She said that she researches everything and makes informed decisions and weighs what the legal team and staff tells the Board and never blindsides anybody.

With there being no further discussion, at approximately 9:15 p.m., Vice Chairwoman Kuehler moved to adjourn the regular meeting. The motion passed unanimously.