

Approved 7/20/2009

January 20, 2009  
Regular Meeting

The Union County Board of Commissioners met in a regular meeting on Tuesday, January 20, 2009, 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: Chairman Lanny Openshaw, Vice Chair Kim Rogers, Commissioner Allan Baucom, Commissioner Tracy Kuehler, and Commissioner A. Parker Mills, Jr.

ABSENT: None

ALSO PRESENT: Al Greene, County Manager, Matthew Delk, Assistant County Manager, Lynn G. West, Clerk to the Board, Jeff Crook, Senior Staff Attorney, H. Ligon Bundy, Interim County Attorney, Kai Nelson, Finance Director, members of the press, and interested citizens

**OPENING OF MEETING:**

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

***a. Invocation***

Chairman Openshaw presented the invocation.

***b. Pledge of Allegiance***

Chairman Openshaw led the body in reciting the Pledge of Allegiance to the flag of the United States of America.

**PUBLIC HEARING – PROPOSED ECONOMIC DEVELOPMENT INCENTIVE: RE: BAE SYSTEMS TENSYLON HIGH PERFORMANCE MATERIALS, INC. IN A TOTAL AMOUNT NOT TO EXCEED \$53,717.77:**

Chairman Openshaw announced that the first item on the agenda was the public hearing on the proposed economic development incentive for BAE Systems Tensylon High Performance Materials, Inc.

Commissioner Kuehler requested that the Board consider allowing her to recuse herself from participating in the public hearing and any action by the Board related thereto. She shared that her husband owns a company in which she is an officer and shareholder, and he has done business in the past with BAE Systems and would hope to conduct business with it in the future. She said that she thought this would qualify as a potential financial interest of hers in this matter.

Vice Chair Rogers moved to recuse Commissioner Kuehler from participating in the public hearing regarding the proposed incentive award and in any action by the Board related thereto. The motion passed by a vote of four to zero. Commissioner Kuehler abstained from voting on the motion.

Chairman Openshaw stated the purpose of the hearing and announced that he was going to change the order in which the speakers would be called for their comments during the public hearing. He explained that the speakers would be called in alternating order of one person speaking in favor of the proposed incentive award and one person speaking in opposition to the proposed incentive award.

Maurice Ewing, President and Chief Executive Officer for the Union County Partnership for Progress, was the first speaker. He stated that representatives of BAE Systems were present tonight along with the Chairman of the Board of Directors of the Partnership for Progress.

He announced the name of the company is BAE Systems and reported that Lisa Owens, its Vice President and General Manager, is present tonight. He stated that the company is incorporated in North Carolina and is located at 1901 Piedmont Drive, outside the city limits of Monroe. He said that the company currently employs 36 fulltime employees with three temporary contract employees. Mr. Ewing said that the company's expansion will occur at its current location on Piedmont Drive and will consist of equipment only with no additions to the facility being required for this expansion.

He shared that the total new equipment value is expected to be \$5.7 million which the company expects to invest during the 2009 calendar year. He said that as a result of the expansion 17 new jobs will be added with the average wage of \$16.11 per hour. Mr. Ewing stated that the additional fulltime employees are expected to increase the current payroll by \$533,000. He said that the company is also considering other existing sites to host its expansion which include Aiken, South Carolina; Fairfield, Ohio; York,

Pennsylvania, and Sealy, Texas. He stated that he also has been told that the State of Michigan is aggressively pursuing this project. He noted that several of these locations have existing BAE facilities that are believed to be able to accommodate the project.

Mr. Ewing said that the projected grant is expected to be \$53,717.77 to be paid over a three-year period with net revenues to the County after the grant period and over the same three years is expected to be \$31,400. He stated that the Partnership Board of Directors has reviewed this project and believes that it meets the criteria as described in the current incentive guidelines. Further, he said that BAE represents the type of company that is encouraged to locate and expand in Union County. He stated that the Board of Directors of the Partnership recommends that the Board of Commissioners favorably consider the incentive request.

Jim King, who resides at 3514 Waxhaw-Marvin Road, Waxhaw, North Carolina, stated that much of the information that the Board is hearing is being misrepresented. He reported that he had previously addressed the Board about incentives. He noted that a corrected advertisement had been published on this public hearing. He said evidently the Union County Partnership for Progress is not doing its due diligence, because he understood that a citizen pointed out that the math was wrong and a corrected advertisement was run for this project.

He said that the depreciation chart used was a fast depreciation chart, in the fourth year of the depreciation chart, the value on the equipment would be down to 50 percent, and the company would be taxed only on 50 percent of its investment. He shared information from an article published in *The Charlotte Business Journal* in December 2007. He said that the article referred to the last incentive grant given to BAE which stated that the “added capacity will add up to 42 jobs, more than doubling the plant’s workforce. The Company is expected to employ about 60 people by the end of 2008.” He said that this statement was by Lisa Owens, Tensylon’s Vice President and General Manager. He shared further quotes in connection with the last incentive grant to BAE Systems from Governor Easley and from minutes of the Board of Commissioners. He said that in the Union County Partnership for Progress’ annual report for 2006-2007 it stated that Armor Holding invested \$12 million to expand. He questioned where this investment was located on the County’s tax records.

Mr. King said that the contracts with companies for incentive awards are not requiring wages and personnel. He questioned where the 40 jobs were that were promised with the last incentive grant.

He stated that the last piece of property that BAE purchased in Union County was bought for \$53,000, and it is being taxed by the Tax Department at \$41,580.

Bob Butz, Chairman of the Union County Partnership for Progress, gave his address as 4225 Corporate Center Drive. He stressed how fortunate he thought it was for Union County to have the opportunity to expand manufacturing, jobs, and tax base in these times of massive contracting in the economy. He explained that this project is allowing the company to expand and double its capacity in order to meet the needs of the military war fighters.

He said that it was his understanding that several communities and states outside of North Carolina are vying for this project. He stated that BAE is a law enforcement and defense related company that develops cutting edge manufacturing projects. He said that these are the kinds of jobs and companies that are wanted in Union County and this is an excellent example of companies that are placing Union County in a good position in terms of the market and allowing the employee base to continue to grow and leverage its knowledge and technologies in products that support the American people.

He stated that the Partnership for Progress Board has reviewed the project and recommends that the Board of Commissioners looks favorably upon the request.

The next speaker to address the Board during the public hearing was Mark DiBiasio, 708 Tom's Creek Court near Wesley Chapel. He said that Mr. Jim King had discussed many of the numbers that need to be considered, but he thought beyond that, the fact needed to be looked at that Union County wants new and expanding businesses in Union County, and it wants companies like BAE Systems and others. He stated that his issue is who is watching out after an incentive is given. He said that the Partnership for Progress is looking for new companies and expansions, and they come to the Board asking for incentives, but after that, who is looking out for Union County and making sure the employees, if that is stipulated in the contract, are being employed; whether the company is being assessed properly; if Union County is receiving the tax dollars it is supposed to be receiving; whether or not the companies have invested as much as they said they were going to; and, if they do not invest as much as they said, is there someone looking to see if the incentive is being scaled back. He stated that from what he could gather, no one is looking out after the fact. Mr. DiBiasio said that if the County is going to continue to have economic development in Union County, it has to be watched over for the people who are paying, the citizens of Union County. He asked that the Board look at these concerns.

Lisa Owen, whose address is 1801 Piedmont Drive, in Monroe, North Carolina, spoke on behalf of BAE Systems. She expressed appreciation on behalf of the company for the Board's consideration of economic incentives to assist its startup company, Tensylon High Performance Materials, expand its capacity and advanced technology that was developed here and for which it holds a one-of-a-kind patent. She said that their company wants to grow and wants to grow in Union County. She said that they protect those who protect us. She described their product as one of the lightest, most state-of-the-art material that goes into Armor Systems for war

fighters for our nation and our allies. She said that their company creates jobs in Union County and helps the residents in the community. She assured that the firm is committed to creating good jobs in Union County.

Chairman Openshaw asked Mrs. Owen if she knew the type of armor that is in the new Presidential limousine. She responded that she did know but it was classified information, and she would not be at liberty to disclose that information. Mrs. Owen said before their company was BAE, it was Armor Holdings, and before that it was a small textile industry owned by local residents who still have a vested interest in what the company does. She spoke of the company's heritage and its pride in protecting not only the military but also the law enforcement, first responders, and those who provide protection around the world.

Mrs. Owen asked that the members of the team who were present tonight to stand up and be recognized. She said that these were the folks who had helped to put the technology on the map. She stated that these people represented some of the jobs that were being provided by the company.

With there being no one else wishing to address the Board during the public hearing, at approximately 7:19 p.m., the Chairman closed the public hearing.

**INFORMAL COMMENTS:**

Nathel Hailey, a resident of 205 Williams Road, Wingate, North Carolina, addressed the Board regarding district representation. He said that he hoped the Board would keep an open mind when it comes to allowing Union County to be represented by districts. He said that as he watched the Presidential Inauguration today and listened to the commentators talk about the District of Columbia being taxed without representation, it reminded him that this is the way he feels about the eastern part of Union County. He said that they have been represented but not adequately represented. He stated that he thought district representation would help change that idea. Mr. Hailey said that he wished the Board would keep an open mind not only about district representation but also about some of the boards to which the Board of Commissioners are planning to make changes. He stated that there are very few municipalities in the eastern part of the County so the boards are already weighted for the western part of the County, because there are more members coming from municipalities on that side. Mr. Hailey urged the Board to maintain an open mind when considering these changes.

Jeanette Sherrod, a resident of 221 South Bragg Street, Monroe, North Carolina, also addressed the Board regarding district representation. She expressed appreciation to the Board for allowing her to appear before the Board and to speak about district representation and increasing the number of board members. Mrs. Sherrod said that the increase in the number of board members

would help to establish equal representation from all areas of the county. She stated that if the number of commissioners were increased, then the infrastructure, growth of the county, and other issues that affect all areas of the County could be better studied. She said that she did not know of a better way to do this other than by district representation. Mrs. Sherrod stated that she realizes that the County's population is very diverse and recommended that this be considered when making changes.

She further said that changes have come to Union County and will continue to come to Union County, and these changes need to be met with greater input and understanding of issues facing all of the people of the County. She stated that she thought Union County could better meet these challenges with district representation and with programs that will improve the quality of life for all people. She said that she hoped that the Commissioners could put aside their differences and develop a plan and a way in which the County can have district representation as well as an increase in the number of Board members.

William Harris, who resides at 2610 Long Hope Road, Monroe, North Carolina, spoke about the Tax Appeal listed under Item 13 on tonight's agenda for Gary Gene Horne. He stated that he was told by the owners from whom he leases property that in September there was a huge increase in the amount of taxes owed for the lease agreement. Mr. Harris said they had spoken with an employee of the Tax Office who had given them instructions on exactly what needed to be done on the taxes for their farm. He stated that he had given the forms to the Tax Office the first week of November and on the second week when he followed up with that office either they had misplaced the forms or had not received them. He said that he took another copy to the Tax Office and someone from that office came out to his farm, without notifying him, and told him that the farm did not meet the requirements for farm present use value because of the amount of land fenced. He stated that after he told them exactly where the land is fenced, the Tax Office employee changed his mind and said it met all of the requirements for the farm present use value. Mr. Harris said that at no time was he ever informed there was anything else he needed to do, and in the first week of November, the Tax Office called to ask him about the sale of produce and the functions of the farm. He stated that the next day he received in the mail a notice of denial for this year. He further stated that they were approved for farm use in 2009. He said that the notice stated they had 48 hours from the date that the notice was sent in which to appeal. He stated that when he looked at the notice, he had less than 24 hours to file his appeal with the Tax Office.

Mr. Harris said that there was never any mention that they would be denied the farm use because of a timely manner filing, and he had done everything as quickly as possible.

Charlie Griffin, who resides at 6019 Unionville-Brief Road, Monroe, North Carolina, addressed the Board regarding district representation. He said that his great grandfather moved to Union County soon after the County was established and his family has resided here ever since. He stated that he owns a home in Unionville along with approximately 18 acres in open woods. He said that

he also owns a business in the Unionville area that currently employs 13 full-time and three part-time employees. In addition, he said that he is a partner in another business in the City of Monroe with 10 full-time and two part-time employees. He stressed that Union County is very important to him.

Mr. Griffin said that he is concerned that Union County is becoming what his grandmother would have called fractious. He stated that there seems to be a mindset that one portion of the County does not have or need to have the same need as another part of the County. He said that he realizes that everyone has their own wants and wishes, but he would urge the Board to do whatever possible to find some kind of common ground. He said that Union County is lucky to have a diverse population meaning people from all walks of life, such as factory workers, bankers, agricultural, education, mid management, and municipal and in order to maintain low tax rates, diversity is needed but stressed that Union County does not need partisanship. He said that a number of the communities have incorporated and are governed by their own town councils and advisory boards. He stated that typically these communities are in areas of higher population and a more advanced state of land development. Further, he stated that other communities lie in more rural areas of the county and do not have the local governing bodies that the other citizens of the County enjoy. He stated that he is concerned about those people getting their fair share in the appointments to the County Planning Board and Board of Adjustments. Mr. Griffin said that it seems that any future growth that the County makes is probably going to happen in areas of less developed land which will impact the residents of these areas more than anyone else in the County.

In closing, Mr. Griffin encouraged, in the name of fairness, for the Board to keep in mind and to make every effort to include representatives from all areas of the County on these boards. He said that it is his understanding that this Board is considering the reduction of the number of members on the Planning Board and the Board of Adjustment and, if this is the case, he would ask that the Board reconsider that action. He stated that the County's diversity and strength requires that it have the current number of representatives to properly let all areas of the County have an informative voice in action. Mr. Griffin further said that to reduce the number of members of those boards would ignore and deprive the County the unique insight that only local residents could bring to light about specifics of these communities that would need to be considered as the County moves ahead.

He said that he believed intelligent, responsible candidates for these boards can be found in any area of the County, because there is an abundance of good people. He stated that he has had the good fortune to work and interact all over the county during his lifetime and in his career, and smart and able people are one thing that the County has plenty of – all over. He said that it kind of gets to a taxation without representation thing. He reminded that Americans get kind of testy when this occurs.

Brad Hargett, who resides at 2811 Fowler Secrest Road, Monroe, North Carolina, addressed the Board regarding township representation. Mr. Hargett stated that the concept of representation by townships on boards and advisory committees is a fair and

proven method of delegating responsibility to successful citizens willing to offer their valuable time to further the social, economical, and ethical growth of our county. He said members of boards appointed by townships involved in their communities can bring forth the true feelings of the citizens they represent and serve to provide accessible and accurate information to be considered by this Board of Commissioners in the day-to-day operations of Union County. Mr. Hargett said that district representation on the Board of Commissioners would achieve the same goal of fair and just service to the citizens. He stated that the unbiased information would allow decisions to be made that would truly and fairly act upon the wishes of the people of Union County.

He said that he could understand the value of quality information and the decision making processes, because the Farm Bureau Board of Directors' positions are filled by members from the nine townships of Union County. He stated that County Farm Bureau Boards have been comprised by township representation in 100 counties across the state since North Carolina Farm Bureau was established in 1936. He said that successful and intelligent volunteer leaders are needed to serve on the advisory boards, whether for Farm Bureau or for the Union County Board of Commissioners, to modestly share their ideas and methods of success so that it can be translated and used to benefit the individuals being served. He stated that a true leader, one made of integrity, strength and modesty will place the needs of those they serve above themselves and will relinquish their position when forced to speak of their own successes to protect those they serve and their own deep-rooted morals.

In closing, he emphasized the importance of agriculture in Union County. He said that the members of the agricultural community who currently serve on county boards represent the 1200 plus farms in Union County. Mr. Hargett shared the status for Union County in its rankings in agricultural in the State of North Carolina for 2007. He said that Union County was number three for agricultural receipts that totaled \$401,534,000 not including the multi-million dollar agri-business industry that also contributed many stable jobs and income for Union County. He thanked the Board for allowing him to speak.

James H. Howie, who resides at 501 North Broad Street, Waxhaw, North Carolina, said that he is a lifelong resident of Union County. He stated that his family has been in Union County well over 140 years. He said that he along with his brother own some beef cattle in Waxhaw and has owned a dairy in the past, as well as has owned some rental property. He stated that he works in the agricultural industry in the southeast. He said that he takes a lot of pride in being from Union County and wants to see the best for all residents of the county.

He addressed the Board regarding how commissioners are elected and how boards are appointed. He said that he thought this was a matter that needed immediate attention and action. He described it as an issue of fairness. Mr. Howie reminded that the members of the Board of Commissioners are elected to serve all of the residents. He said that he lives in the western end of the county, which is well represented by the majority of the Board. He stated that he did not believe that was fair for anyone regardless



of which area they live. He said that the U.S. Congress and the North Carolina Legislature are elected by population in the House and by each state or district having the same number of representatives in the Senate. Mr. Howie stated that Union County should also follow this lead by electing its Commissioners by district or township and continue to nominate members to boards by township. He said that the boards that answer to the Board of Commissioners provide a lot of valuable information and knowledge for the Commissioners and the citizens of the County.

He said that this is the only way that he believes all of the citizens of the County can be equally and fairly represented. He stated that it has worked well for boards in the county and for Commissioners and Boards of Election in other counties. He said that the Board must also be careful not to deplete the boards and committees of qualified people by unnecessary requirements of financial and other disclosures that have been discussed. He stated that some of the disclosures might be necessary but he did not believe that some of the in-depth disclosures are necessary.

In closing, Mr. Howie thanked the Board for its time and urged the Commissioners to make a positive change for all citizens of the County and to take the steps necessary to have Commissioners elected by district and for the boards and committees to continue to be appointed by township.

Jerry Simpson, who resides at 9512 Simpson Road, Monroe, North Carolina, also addressed the Board regarding district representation. He stated that as a public servant in Union County for nearly 30 years he witnessed the unprecedented change brought on by growth on the County's western realm. He said that he witnessed the ripple effects that these changes have had on the lives and attitudes of those who are not directly in development's path. Mr. Simpson said that it is common knowledge that how the County grows in the future is at the center of political debate, and as the key decision makers in that debate, the Commissioners take on the responsibility to serve in the best interest of each and every citizen. He stated that he had lamented considerably over his decision to speak on the issue of districts in that he agrees with Thomas Payne who said "Government is best which governs least." He said that the least that government can do is to ensure the citizens' inalienable right to life, liberty, and property. He stated that farmers and rural landowners are generally land rich and cash poor, and contrary to popular belief, they are not waiting for development to reach them but are seeking opportunities to maintain their rural lifestyle and preserve it for the next generation. Mr. Simpson said that for some the time will come when circumstances may make this no longer possible. He said the causes are varied but include the rising tax burden by increasing infrastructure needs, burdensome regulations or the frustration of dealing with neighbors unsympathetic to their practices. He stated when and if the time to sell does come, it is their right to sell to the highest bidder and there is no shame in making a profit or from benefiting from accumulated wealth. He said that one advantage of the growth that has occurred is that for the most part it has been concentrated in the western part of the County. He stated that this concentration has allowed Union County

to remain a major agricultural county ranking third in the state in farm level income and contributing over 15 percent of the County's economy and jobs. He noted that a disadvantage is that there is a significant disparity to when it comes to political representation.

Mr. Simpson said that in a county of 640 square miles, four Commissioners live less than 15 miles from one another and three less than 10 miles. He stated that he was not insinuating from this fact, that the County is being governed by a political faction and recognizes that every citizen had the opportunity to register to vote. He said the proponents of at large elections refer to the fact of the one man-one vote thereby electing candidates by majority vote is the best form of government. He asked that the Board consider the words of James Madison who warned against the tyranny of the majority when he stated that "those who erroneously suppose that perfect equality in one's political rights translates into being perfectly equalized in possessions, opinions, and passions." Mr. Simpson said that he was sure that the Board, just as he, has been perplexed at times by the County's reputation for three/two votes and swings in direction brought on by each election. He said that Madison went on to say that "it would be of little avail to the people that laws are made by men of their own choice. If they be repealed or revised before they are instituted or undergo such excessive changes that no man who knows what the law is today can guess what it will be tomorrow." He said if anyone has been in or near the television today and heard the Inauguration, one could not help but to hear the many references to Abraham Lincoln.

He stated that Lincoln in one of his best known speeches stated that "A house divided against itself cannot stand." He said that Union County currently faces a number of serious challenges that will significantly impact the economy, the schools, and the quality of life. He stated that successful solutions to these challenges lie in the leaders' ability to garner support of citizens both urban and rural. He said that whether real or perceived, many rural citizens feel that though they are funding much of the costs of meeting these challenges, they have no voice in the means to a solution. He stated that taxation without representation was not popular with the colonists nor is it so with Union County's rural property owners.

In closing, Mr. Simpson encouraged the Board to give serious consideration to, at the least, expanding the Board and, at the most, some form of district representation.

Jim Carpenter, President of the Union County Chamber of Commerce, spoke about water allocation. Mr. Carpenter said that he and his brothers owned what once was his grandparents' farm in eastern and unincorporated Mecklenburg County. He said that the property has been for sale for a couple of years with no buyers because CMUD has not extended water and sewer to the property. He stated that the property will be annexed by Charlotte, and he and his brothers will be able to get their money from the property.

He said that he represents the Chamber and has talked with many business people and described the financial challenges facing many of these who are trying to stay in business during these trying economic times. He talked about the economy and said that

homebuilding does not generate the taxes to carry itself like industry does and stressed that the county needs companies like BAE and others. However, he stressed that there are developers, small business people from Union County, who have told him that they have gotten their allocation, invested in infrastructure, and have land that they are paying taxes on and a mortgage to the bank. He stated that if the water allocations are taken away from those companies, they would be in a tremendous bind. Mr. Carpenter also said that he knew there are pressures on the Board from the various people who live in the county. He stated that he knew the affluent folks in the west are concerned about adequate water pressure for swimming pools and sprinklers, but the majority of the Union County residents are concerned about survival.

Mr. Carpenter said that members of this Board have made significant overtures about representing the entire county. He stated that maintaining a fair water policy that allows people to develop their land and use their resources and not lose them would be a major and important step for the Board to take.

He said that he is not crazy for the land that his grandparents farmed to be filled with vinyl houses, but that is the market of today, and when the time is right, and he gets ready to sell the property, he will do so. In closing, he stated that he would implore the Board to consider maintaining a water allocation policy that allows people to develop their land for residential and commercial development.

Cody Helms, a resident of 1324 Helms Shortcut Road, Monroe, North Carolina, stated from the audience that he echoed the comments of Mr. Carpenter regarding water allocation.

Dan Kelly, a resident of 1356 Millbank Drive, Stallings, North Carolina, stated that he also echoed the comments of Cody Helms and believed that the presentation by Mr. Carpenter adequately states the changes in the County.

Ric Atwell, a resident of 3507 Savannah Way, Monroe, North Carolina, said that he is a laid off residential construction superintendent. He said that he is married and has two small children. He stressed that he was opposed to any control mechanism or ordinance that will re-allocate existing allocated water rights. He said that if a man follows the rules and legally purchases those rights, then that should be binding. He stated that if government makes a mistake in the allocation of water rights, then it is the government's job to fix it. He said that the mismanagement of the County, which he stated goes back many years, led to the justifiable, in his opinion, firing of the County Manager, who first used the head of Public Works as a scapegoat and then he put the blame on the so called inexperience of his handpicked replacement. He said many are pointing the finger at the big, bad developer, which indirectly is him. Mr. Atwell stated that the truth is that no real work has been done to solve the infrastructure problem. He said that Commissioners Stone, Sexton, and Lane rammed a 15-month moratorium down the residents' throats in 2005 and yet the

citizens persevered. He stated that after the moratorium was lifted, many were afraid of the political infighting. He said that David Nelson, the President of Ryan Homes at the time, was quoted as saying that “the political climate in the County would make the people less willing to buy land and wait for sewer capacity to become available.” He said that former Commissioner Sexton had said that the moratorium was to allow the County to catch its breath.

Mr. Atwell urged the Board to get a handle on the situation and to put in the infrastructure. He criticized attempted action of the Commissioners to cease and desist issuing all water permits and recalling the ones not yet in use but paid for. He said that the developers again were forced to come and fight for their rights to work and earn a living. He stated that he has lived here all of his life and the economy has collapsed, and he is laid off. He said now the Board is considering taking away the rights that have been paid for and agreed upon. Mr. Atwell said the market might bounce back and people might want to buy houses again. He stressed that by taking back these rights assigned to developers, the Board is directly limiting his possibilities to find work. Mr. Atwell stated that “this is another direct assault at the big, bad developer – me.” He assured that he would persevere. He encouraged the Board to work now toward building new infrastructure that is necessary. He reminded that all citizens are here in Union County together and asked that people stop punishing and pointing the finger at “so-called big, bad developers” for problems which were not created by the developers. He reminded that the developers did not allocate any permits but followed the rules and went out and sought and obtained the permits. He also asked the Commissioners as they are in the comfort and security of their homes during this winter storm to remember that the big, bad developer was probably responsible for that luxury. He said he thought that he and his colleagues in the construction industry deserve that respect and asked that the Board stop assaulting his right to work and earn a living.

Mark DiBiasio, 708 Tom’s Creek Court near Wesley Chapel, congratulated the Board on considering the Governance Committee. He said it was overlooked tonight as people have spoken about wanting districts but these individuals have not looked at the process of getting there. He stated that with the creation of a Governance Committee, the County will have a process to get to the point where people in Union County can vote on whether or not they want districts or an enlarged board. He reminded that in 2007, the County had a district referendum shoved upon the County’s citizens by the North Carolina legislature, and reported that it was voted down by a great margin; a large part of that was caused by how it was presented and how the districts were gerrymandered to favor certain people in certain sections of the county. He said the citizens now have an opportunity and the Board is going to get behind a citizen committee composed of members from throughout the county; a committee organized similarly to the APFO committee.

He said the other issue that he wanted to talk about was the idea of a financial subcommittee for the Commissioners. He explained that he thought it was very important in light of some of the things that have transpired lately. He said that he did not think there had been enough time to study some of the issues that have been brought forth and a lot of things have happened at the last

minute. Mr. DiBiasio said he could think of certain contracts that have been brought forth and dropped on the Commissioners' desks without their having time to consider the matters. He said that the same thing goes for changes in the bond structure that was dropped on the Commissioners' desks at the last minute, without the Commissioners having had time to study. Mr. DiBiasio said that regardless of how the Commissioners might think of it and how the Commissioners might vote about it, the members should have time to consider it before they are required to take action. He said a finance sub-committee, properly situated, could start looking at some of these things and the members would have a reference point to speak to and explained that he thought that would be an important factor.

Mr. DiBiasio addressed comments made by Mr. Simpson and others about the Planning Board and Board of Adjustments being represented by townships. He said he keeps hearing the same phrasing and wanted to answer it with a couple of points. He reported that there are three districts in Union County that actually contribute to the County's tax base by more than 80 percent; those townships are Sandy Ridge, Vance and Monroe. He said those also have more than 80 percent of the population. Mr. DiBiasio said there are nine townships and three of them bear all the population and pay 80 percent of what the county gets to spend money for. He pointed out that when the Board creates a township-based committee of any kind, the Board is giving people who do not have the same population, the same voice as those that do and the Board is also taking away from the townships that have more population; that, he said, is not the way this country was formed. He agreed that there needs to be a basis whereby everybody is represented when it comes to who is voted for, but it is as important to get people who want to serve on a board when it is being represented by district. He encouraged the Board to look at the current Planning Board and noted that only twice during the last year did the whole board meet at one time. Mr. DiBiasio said that most of the time there were only five, six or seven members present out of 11 people meeting. He noted that these were all appointed by townships. He said he reviewed all the Planning Board minutes from last year and reported that every decision it made had to do with western Union County. He stated that they did not make a single decision about a farm or anything in eastern Union County. He said the decisions they made effectively choked out the APFO. He pointed out that there is more to that which needs to be discussed, but he would wait until the next time.

Jim King stated that the citizens keep talking about fairness and district representation, etc, and he thought that a lot of the people from eastern Union County have a wrong idea. He said he had been in Union County a long time, although he is not a life-long Union Countain, and reported that when he moved here, it was also country on the western-side of the county. He said he does not speak for the developments or the newcomers but speaks for fairness. He explained that he thought everybody forgets that fact. Mr. King said that he wanted those people who spoke tonight about eastern Union County not being represented to go home and consider a couple of things: (1) in 1970's it was decided by legislation that farm land in Union County would be taxed at \$500 per acre. He said that now in 2009, the farmland will be taxed at \$360 or \$380 per acre. He noted that everybody else who has been in the county and

not in the farm program have had their taxes increased tremendously but the farm land tax has gone down in value. Mr. King stressed that fact made no sense to him but noted that there was nothing he could do about it.

He said two other things to study are townships and the number of people represented. He said he could be sold on the idea of district representation but for somebody to tell him that a township with 1,100 houses should have the same voice as a township with 15,000 to 20,000 houses has to be wrong. Mr. King said there is nothing American nor constitutional about that type of representation. He said he would work with anyone in any way, but it needs to be looked at fairly and for what is good for all of Union County. Mr. King said that what he thought would be fair is that everyone should be at the table, everyone should have a voice, and everyone should have an equal voice; not one township with 1,100 houses having the same voice as a township with 12,000 houses; that is not good, not fair and not reasonable. He thanked the Board for its time.

The Chairman asked for additional comments. With there being none, he closed the public comments.

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

The Chairman stated the purpose of the item and recognized Vice Chair Rogers who requested that the following items be removed from the Consent Agenda and added to the Regular Agenda: Items 4D – Purchase Orders Greater than \$50,000 for December 2008, Item 5 – FY 2009 Surplus Property Sale, 7B – Amendment to Agreement with Robert S. Segal, CPA, CP, to Provide Services Related to the Discovery and Collection of Sales and Use Tax Refunds. Commissioner Kuehler requested to pull the following items from the Consent Agenda to add these to the Regular Agenda: Item 7A – Memorandum of Understanding with the Union County Public Schools for Basic Cooperation between Union County Public Schools and the Union County Health Department, and Union County Public Schools and Item 8 - Item 8 - Union County Public Schools - Capital Project Ordinance #111.

The Chairman reported that the items as removed from the consent agenda to be discussed during the regular agenda will be placed on the agenda as indicated: 5.5 will become 7(a), 5.4(d) will become 7(b), 5.7(b) will become 7(c), 5.7 (a) will become 7(d), and 5.8 will become 7(e). Vice Chair Rogers moved that the agenda be adopted as modified. The motion passed unanimously.

#### **CONSENT AGENDA:**

Vice Chair Rogers moved that the Consent Agenda as amended be adopted and the items be approved. The motion passed unanimously.

**Minutes:** January 5, 2009

***Tax Administrator:***

- a.) Seventh Motor Vehicle Billing in the Grand total Amount of \$1,128,084.62
- b.) Seventh Motor Vehicle Release Register for the period of December 1, 2008 – December 31, 2008 in the Net Grand Total Amount of \$12,356.23-
- c.) Sixth Motor Vehicle Refund Register for the Period of December 1, 2008 – December 31, 2008, in the Net Grand Total Amount of \$1,374.65-

***Juvenile Crime Prevention Council – Additional Funding***

- a.) Budget Ordinance Amendment #18 to approve \$7,600 in additional State Grant Funding to JCPC – Operating Expense
- b.) Budget Ordinance Amendment #19 to approve \$8,620 in additional State Grant Funding to DJJDP – UC Shelter to increase Other Agency Payments

***Finance:***

- a.) Motor Vehicle Refund Overpayments for December 2008 in the amount of \$3,810.33
- b.) Budget Transfer Report for the month of December 2008
- c.) Report of Contracts exceeding \$50,000 – none for the month of December 2008
- d.) Purchase Orders exceeding \$50,000 for December 2008 – moved to regular agenda

***FY 2009 Surplus Property Sale*** – moved to regular agenda

***Amendments to the County Pay and Classification Plan:*** Approved the addition of Sheriff's dispatcher II (Pay Grade 62) and Sheriff's Dispatcher (Pay Grade 63) Job Classifications to the 2008-2009 Union County Pay and Classification Plan

***Contracts Over \$90,000:***

- a.) Memorandum of Understanding with the Union County Public Schools for Basic Cooperation Between Union County Public Schools and the Union County Health Department - moved to regular agenda
- b.) Amendment to Agreement with Robert S. Segal, CPA, CP, to provide services related to the discovery and collection of sales and use tax refunds – moved to regular agenda

***Union County Public Schools:*** Memorandum of Understanding with the Union County Public Schools for Basic Cooperation between Union County Public Schools and the Union County Health Department, and Union County Public Schools - Moved to Regular Agenda

***Amendment to Water Conservation Ordinance –***

AMENDMENT TO WATER CONSERVATION ORDINANCE  
AN ORDINANCE PROVIDING FOR CONSERVATION OF WATER  
AND RESTRICTIONS ON THE USE OF WATER DURING A WATER SHORTAGE  
OR IMPENDING WATER SHORTAGE

Whereas, on May 5, 2008, the Union County Board of Commissioners adopted an amended and restated version of the Water Conservation Ordinance (An Ordinance Providing for Conservation of Water and Restrictions on the Use of Water During a Water Shortage or Impending Water Shortage), hereinafter referred to as the “Conservation Ordinance”; and

Whereas, the Conservation Ordinance authorized the County Manager to allow various water uses one (1) day per week when declaring, or amending declaration of, a Stage III Mandatory Water Shortage Condition; and

Whereas, the Board of Commissioners now desires to authorize the County Manager to allow such water uses up to two (2) days per week.

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

1. Amend Article IV, Section 2 as follows:

In the event (i) a Stage II Mandatory Water Shortage Condition is in effect and the system demand for water continues to exceed capacity of the water system or portions thereof; or (ii) Duke Power Company LLC, doing business as Duke Energy Carolinas, LLC, declares a Stage 3 Low Inflow Condition pursuant to the Comprehensive Relicensing Agreement for the Catawba-Wateree Hydro Project (FERC Project No. 2232) dated December 22, 2006, to which Union County is a party, thus compelling certain mandatory water use restrictions by Union County, then in either such event a Stage III Mandatory



Water Shortage Condition may be declared. In addition to any voluntary and mandatory guidelines already in effect, it shall be unlawful to use water supplied by the Union County water system in the following manner:

- a. To water lawns; provided that shrubbery, trees, flowers and vegetable gardens may be watered by hand or by drip irrigation;
- b. To conduct residential vehicle washing;
- c. To wash public buildings, sidewalks, and streets, except as required for safety and/or to maintain regulatory compliance;
- d. To use water for dust control during construction;
- e. To conduct flushing or hydrant testing programs, except to maintain water quality or other special circumstances approved by the Director in advance;
- f. To fill new swimming pools; and
- g. To serve drinking water in restaurants, cafeterias, or other food establishments, except upon request.

Notwithstanding the prohibitions on use stated above, the County Manager, in his discretion and acting in the best interests of the health, safety, and welfare of the citizens, may allow one or more such uses ~~one (1) day~~ on a limited basis not more frequently than two (2) days per week if (i) stated in the original declaration of a Stage III Mandatory Water Shortage Condition, or in any amendment thereto; and (ii) consistent with the Stage 3 Low Inflow Condition declared by Duke Energy Carolinas, LLC, when such Condition is in effect. When allowing one or more such uses one (1) day or two (2) days per week, the County Manager may further regulate usage on the following bases: (i) time of day; (ii) day of week; (iii) customer type, including without limitation, residential, commercial, industrial and institutional; and (iv) physical attribute, such as address.

2. Except as herein amended, the provisions of the Conservation Ordinance shall remain in full force and effect.
3. The effective date of this Amendment shall be the date adopted by the Board of Commissioners.

Adopted this the 20<sup>th</sup> day of January, 2009.

UNION COUNTY BOARD OF COMMISSIONERS

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Chairman

***Voluntary Agricultural District and Enhanced Voluntary Agricultural District*** Ordinance – Amendment to Union County Voluntary Agricultural District & Enhanced Voluntary Agricultural District Ordinance Amending Effective date from February 1 to March 1.

AMENDMENT  
TO UNION COUNTY VOLUNTARY AGRICULTURAL DISTRICT &  
ENHANCED VOLUNTARY AGRICULTURAL DISTRICT ORDINANCE

WHEREAS, the Board of Commissioners adopted the Union County Voluntary Agricultural District & Enhanced Voluntary Agricultural District Ordinance (the “Ordinance”) on November 17, 2008, with an effective date of February 1, 2009; and

WHEREAS, certain provisions of the Ordinance require additional time prior to implementation; and

WHEREAS, the Board thus desires to extend the effective date.

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

1. In Article XVII(D), delete “February 1, 2009” and replace with “March 1, 2009” such that this subsection reads as rewritten:  
The Effective Date of this Ordinance shall be March 1, 2009.”
2. Except as herein amended, the provisions of the Ordinance shall remain in full force and effect.

Adopted this the 20<sup>th</sup> day of January, 2009.

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Lanny Openshaw, Chairman

***Information Only/No Action Required:*** The following reports were included in the agenda package for information only purposes with no action required by the Board: 1) Water Allocation Policy - UCPW Appeal Responses (Report); 2) Department of Inspections' Monthly Report for December 2008; and 3) Personnel Department's Monthly Report for December 2008

**PUBLIC INFORMATION OFFICER'S COMMENTS:**

Mr. Brett Vines, Public Information Officer, reported on several items for the public's information. He said that on Thursday, January 22, at 10:00 a.m., the Union County Board of Commissioners will be holding a special meeting. He announced that on the 26<sup>th</sup> of January, the Board of Adjustments will hold a special meeting at 7:00 p.m. in the meeting room on the ninth floor of the Government Center. He further stated that on Tuesday, January 27, 2009, at 5:30 p.m., the Board of County Commissioners and the Indian Trail Town Council will meet jointly at the Indian Trail Town Hall in Indian Trail.

He reported that the Health Department is continuing the Diabetes Self-Management Educational Program. He explained the program is to help those who have diabetes deal with their diabetes and to maintain a healthy lifestyle. Mr. Vines said anyone interested should call 704-296-4891.

Mr. Vines stated that the Christmas Bureau reports that it was a tough year for them but that they were still able to serve over 10,000 individuals. On behalf of the Christmas Bureau, he thanked the citizens of Union County for their participation.

The Public Information Officer said there have been a couple of recent articles in the newspapers about Prescription Drug Discount Cards. He reminded that Union County has been offering this card for over three and one-half years and the City of Monroe had recently started offering it. Mr. Vines said that during the time that Union County has offered the card there have been savings of over \$205,000 by the individuals in the County who used this card. He reviewed that the card is free and there are no forms to fill out. He said for those who do not have insurance or have limited insurance; these cards are accepted at 95 percent of all the pharmacies in the County. Mr. Vines said that for those who are interested, they can call him or the Personnel Office and a card will be put in the

mail to them. He explained that this information is also available on the County's web site. The Public Information Officer also explained that offering this card to those who do not have prescription insurance does not cost the taxpayers or the County.

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF \$64,500,000 GENERAL OBLIGATION SCHOOL BONDS, SERIES 2009A OF THE COUNTY OF UNION, NORTH CAROLINA:**

The Chairman announced the item and recognized the Finance Director, Kai Nelson, who explained that the resolution authorizes the County to sell the remaining balance of general obligation bonds in connection with School Bond Referendums in the amount of \$64.5 million dollars. He further explained that the resolution will provide funding for the completion of Poplin Elementary School, Cuthbertson Elementary School, as well as other school projects. Mr. Nelson said that originally the County had planned to issue this debt in the fall about the time the capital market collapsed but deferred the sale until there was an improved environment. Mr. Nelson said that the County had continued to fund school capital construction by using General Fund money, essentially, the County's fund balance. He said the staff is now at the point of believing the markets have sufficiently improved for the County to issue the debt and reimburse itself and to continue the County's School Capital Construction Project.

Commissioner Mills moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF \$64,500,000 GENERAL OBLIGATION SCHOOL BONDS, SERIES 2009A OF THE COUNTY OF UNION, NORTH CAROLINA**

*WHEREAS*, the Bond Order hereinafter-described has been adopted, and it is desirable to make provision for the issuance of the Bonds authorized by said Bond Order;

*NOW, THEREFORE, BE IT RESOLVED* by the Board of Commissioners (the "*Board*") of the County of Union, North Carolina (the "*County*"), as follows:

1. For purposes of this Resolution, the following words have the meanings ascribed to them below:

"*Bond Order*" means the Bond Order relating to the School Projects (as defined herein), which was adopted by the Board on August 14, 2006 and approved by the vote of a majority of the voters who voted thereon at a referendum duly called and held.

“*Federal Securities*” means (a) direct obligations of the United States of America for the timely payment of which the full faith and credit of the United States of America is pledged; (b) obligations issued by any agency controlled or supervised by and acting as an instrumentality of the United States of America, the timely payment of the principal of and interest on which is fully guaranteed as full faith and credit obligations of the United States of America (including any securities described in (a) or (b) issued or held in the name of the Trustee in book-entry form on the books of the Department of Treasury of the United States of America), which obligations, in either case, are held in the name of a trustee and are not subject to redemption or purchase prior to maturity at the option of anyone other than the holder; (c) any bonds or other obligations of the State of North Carolina or of any agency, instrumentality or local governmental unit of the State of North Carolina which are (1) not callable prior to maturity or (2) as to which irrevocable instructions have been given to the trustee or escrow agent with respect to such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified, and which are rated by Moody’s, if the 2009A Bonds are rated by Moody’s, and S&P, if the 2009A Bonds are rated by S&P, within the highest rating category and which are secured as to principal, redemption premium, if any, and interest by a fund consisting only of cash or bonds or other obligations of the character described in clause (a) or (b) hereof which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate; or (d) direct evidences of ownership of proportionate interests in future interest and principal payments on specified obligations described in (a) held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the underlying obligations described in (a), and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated.

“*Moody’s*” means Moody’s Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, “*Moody’s*” will be deemed to refer to any other nationally recognized rating agency other than S&P designed by the County.

“*S&P*” means Standard & Poor’s Ratings Services, a Division of The McGraw-Hill Companies, Inc., its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, “*S&P*” will be deemed to refer to any other nationally recognized rating agency other than Moody’s designed by the County.

“*2009A Bonds*” means the County’s General Obligation School Bonds, Series 2009A authorized under the Bonds Orders.

2. The County shall issue \$64,500,000 in total aggregate principal amount of its 2009A Bonds.

3. The 2009A Bonds shall be dated their date of issuance and pay interest semiannually on March 1 and September 1, beginning September 1, 2009. The 2009A Bonds are being issued to provide funds to pay the capital costs incurred in connection with the construction, renovation, improvement, equipping and furnishing of public school facilities within the County, including the acquisition of land or rights-of-way therefor (the “*School Projects*”), pursuant to and in accordance with the Bond Order.

4. *The Board has ascertained and hereby determines that the average period of usefulness of the School Projects being financed by the 5. The 2009A Bonds are payable in annual installments on March 1 in each year, as follows:*

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
2010	\$1,000,000	2020	\$4,165,000
2011	1,000,000	2021	4,390,000
2012	3,340,000	2022	4,425,000
2013	3,330,000	2023	4,465,000
2014	3,320,000	2024	4,510,000
2015	3,315,000	2025	4,555,000
2016	3,305,000	2026	4,000,000
2017	3,295,000	2027	2,400,000
2018	3,285,000	2028	2,000,000
2019	3,400,000	2029	1,000,000

6. The 2009A Bonds are to be numbered from “RA-1” consecutively and upward. All 2009A Bonds shall bear interest from their date at a rate or rates which are determined on the sale thereof, computed on the basis of a 360-day year of twelve 30-day months.

7. The 2009A Bonds are to be registered as to principal and interest, and the Finance Director of the County is directed to maintain the registration records with respect thereto. The 2009A Bonds shall bear the original or facsimile signatures of the Chairman and Clerk to the Board of the County. An original or facsimile of the seal of the County is to be imprinted on each of the 2009A Bonds.

8. The 2009A Bonds will initially be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity of each series will be issued to The Depository Trust Company, New York, New York (“DTC”), and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the 2009A Bonds in principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Interest on the 2009A Bonds will be payable to DTC or its nominee as registered owner of the 2009A Bonds in immediately available funds. The principal of and interest on the 2009A Bonds will be payable to owners of 2009A Bonds shown on the records of DTC at the close of business on the 15th day of the month preceding an interest payment date or a bond payment date. The County will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If (a) DTC determines not to continue to act as securities depository for the 2009A Bonds or (b) the Finance Director for the County determines that the continuation of the book-entry system of evidence and transfer of ownership of the 2009A Bonds would adversely affect the

interests of the beneficial owners of the 2009A Bonds, the County will discontinue the book-entry system with DTC. If the County fails to identify another qualified securities depository to replace DTC, the County will authenticate and deliver replacement bonds in accordance with the rules and procedures of DTC.

9. The 2009A Bonds maturing on or before March 1, 2019 will not be subject to redemption prior to maturity. The 2009A Bonds maturing after March 1, 2019 will be subject to redemption prior to maturity, at the option of the County, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after March 1, 2019, at the redemption price of the principal amount of 2009A Bonds to be so redeemed, plus accrued interest to the redemption date.

If less than all of the 2009A Bonds are called for redemption, the County shall select the maturity or maturities of the 2009A Bonds to be redeemed in such manner as the County in its discretion may proceed. The proceeds of the 2009A Bonds is not less than 25 years computed from the date of issuance of the 2009A Bonds. DTC and its participants shall determine which of the 2009A Bonds within a maturity are to be redeemed by lot; provided, however, that the portion of any 2009A Bonds to be redeemed shall be in principal amount of \$5,000 or integral multiples thereof and that, in selecting 2009A Bonds for redemption, each 2009A Bonds shall be considered as representing that number of 2009A Bonds which is obtained by dividing the principal amount of such 2009A Bonds by \$5,000. Whenever the County elects to redeem 2009A Bonds, notice of such redemption of 2009A Bonds, stating the redemption date, redemption price and identifying the 2009A Bonds or portions thereof to be redeemed by reference to their numbers and further stating that on such redemption date there shall become due and payable on each 2009A Bonds or portion thereof so to be redeemed, the principal thereof, and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, shall be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the 2009A Bonds, by prepaid certified or registered United States mail, at the address provided to the County by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of the 2009A Bonds, the County will give notice at the time set forth above by prepaid first class United States mail, to the then-registered owners of the 2009A Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the County. The County will also mail or transmit by facsimile a copy of the notice of redemption within the time set forth above (1) to the Local Government Commission of North Carolina (the "*Local Government Commission*"), (2) to each of the then-existing securities depositories and (3) to at least two of the then-existing national information services.

10. The 2009A Bonds and the provisions for the registration of the 2009A Bonds and for the approval of the 2009A Bonds by the Secretary of the Local Government Commission are to be in substantially the form set forth in Exhibit A hereto.

11. The County covenants to take such action as may be required in the opinion of nationally recognized bond counsel to cause the 2009A Bonds and all actions of the County with respect to the proceeds thereof to comply with Internal Revenue Code of 1986, as amended (the "*Code*"). In particular, the County covenants as follows:

(a) At least one of the following two conditions will be satisfied for the 2009A Bonds: (1) less than 10% of the proceeds of the 2009A Bonds, reduced by costs of issuance, will be used directly or indirectly in the business of a person other than a state or local governmental unit or (2) less than 10% of the principal or interest on the 2009A Bonds will be (under the terms of such issue or any underlying arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business or any interest in payments made with respect to such property or (B) to be derived from payments made with respect to property, or borrowed money, used or to be used in a private business;

(b) At least one of the following two conditions will be satisfied: (i) less than 5% of the proceeds of the 2009A Bonds reduced by costs of issuance will be used by nongovernmental persons for a use unrelated or disproportionate to the purposes for which the 2009A Bonds were issued or (ii) less than 5% of the principal or interest on the 2009A Bonds will be (under the terms of such issue or any underlying arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business described in (i) or by any interest in payments made with respect to such property or (B) derived from payments made with respect to property the use of which is described in (i), or borrowed money, used or to be used in a private business;

(c) It will not loan directly or indirectly more than 5% of the proceeds of the 2009A Bonds to nongovernmental persons;

(d) It will not enter into any management contract with respect to the School Projects financed with the proceeds of the 2009A Bonds unless it obtains an opinion of nationally recognized bond counsel that such management contract will not impair the exclusion from a recipient's gross income for federal income tax purposes of the interest on the 2009A Bonds;

(e) The County acknowledges that the continued exclusion of interest on the 2009A Bonds from a recipient's gross income for federal income tax purposes depends, in part, on compliance with the arbitrage limitations imposed by Section 148 of the Code. The County covenants to comply with all the requirements of Section 148 of the Code, including the rebate requirements, and it shall not permit at any time any of the proceeds of the 2009A Bonds or other funds of the County to be used, directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the 2009A Bonds to be "*arbitrage bonds*" for purposes of Section 148 of the Code;

(f) The 2009A Bonds shall not be "*federally guaranteed*" as defined in Section 149(b) of the Code;

(g) The County covenants to file or cause to be filed Form 8038G in accordance with Section 149(e) of the Code.

12. The Finance Director is hereby directed to create and establish a special fund to be designated "*County of Union, North Carolina General Obligation School Bonds, Series 2009A Project Fund*" (the "*Project Fund*"). The Finance Director shall deposit the proceeds from the sale of the 2009A Bonds in the Project Fund. The Finance Director shall invest and reinvest any moneys held in the Project Fund as permitted by



the laws of the State of North Carolina and the income, to the extent permitted by the Code, is to be retained in the Project Fund and applied with the proceeds of the 2009A Bonds to pay the costs of the School Projects, as directed by the Finance Director. The Finance Director shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom so as to satisfy the requirements of the laws of the State of North Carolina and to assure that the County maintains its covenants with respect to the exclusion of the interest on the 2009A Bonds from gross income for purposes of federal income taxation.

13. Actions taken by officials of the County to select paying and transfer agents, and a bond registrar, or alternate or successor agents and registrars pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, are hereby authorized and approved.

14. The Local Government Commission is hereby requested to sell the 2009A Bonds through a competitive sale to the bidder whose bid results in the lowest interest cost to the County, determined on the basis of the net interest cost method.

15. The Chairman, the County Manager, the Clerk to the Board and the Finance Director of the County are hereby authorized and directed to cause the 2009A Bonds to be prepared and, when they shall have been duly sold by the Local Government Commission, to execute the 2009A Bonds and to turn the 2009A Bonds over to the registrar and transfer agent of the County for delivery through the facilities of DTC to the purchaser or purchasers to whom they may be sold by the Local Government Commission.

16. The form and content of the Preliminary Official Statement to be dated on or about February 6, 2009 together with the final Official Statement to be dated on or about February 17, 2009 and the Notice of Sale with respect to the 2009A Bonds are in all respects authorized, approved and confirmed, and the Chairman, the County Manager, the Clerk to the Board and the Finance Director of the County are authorized, empowered and directed to execute and deliver the Official Statement in substantially the form and content presented to the Board, but with such changes, modifications, additions or deletions therein as shall to the Chairman, the County Manager, the Clerk to the Board and the Finance Director of the County seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the approval of the Board of any and all changes, modifications, additions or deletions therein from the form and content of the Official Statement presented to the Board.

17. The Chairman, the County Manager, the Clerk to the Board and the Finance Director of the County are authorized and directed to execute and deliver for and on behalf of the County any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the documents contemplated hereinabove or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

18. The County agrees, in accordance with Rule 15c2-12 (the "*Rule*") promulgated by the Securities and Exchange Commission (the "*SEC*") and for the benefit of the Registered Owners and beneficial owners of the 2009A Bonds, as follows:

(1) by not later than seven months after the end of each Fiscal Year to the Municipal Securities Rulemaking Board (the “MSRB”) in an electronic format as prescribed by the MSRB, the audited financial statements of the County for the preceding Fiscal Year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the County for such Fiscal Year to be replaced subsequently by audited financial statements of the County to be delivered within 15 days after such audited financial statements become available for distribution;

(2) by not later than seven months after the end of each Fiscal Year to the MSRB, (a) the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year for the type of information included under the captions “**THE COUNTY--DEBT INFORMATION**” and “**--TAX INFORMATION**” (excluding information on overlapping units) in the Official Statement referred to in Section 16 and (b) the combined budget of the County for the current Fiscal Year to the extent such items are not included in the audited financial statements referred to in clause (1) above;

(3) in a timely manner to provide (i) before July 1, 2009, to each nationally recognized municipal securities repository (“NRMSIR”) and to the state information depository (“SID”), if any, for the State, in each case as designated by the SEC, or to the MSRB and to the SID, if any, or (ii) on and after July 1, 2009, in a timely manner to the MSRB, notice of the occurrence of any of the following events with respect to the 2009A Bonds, if material:

- (a) principal and interest payment delinquencies;
- (b) non-payment related defaults;
- (c) unscheduled draws on debt service reserves reflecting financial difficulties;
- (d) unscheduled draws on credit enhancements for the 2009A Bonds reflecting financial difficulties;
- (e) substitution of any credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions or events affecting the tax-exempt status of the 2009A Bonds;
- (g) modification to the rights of the beneficial owners of the 2009A Bonds;
- (h) call of any of the 2009A Bonds for redemption, other than sinking fund redemptions;
- (i) defeasance of any of the 2009A Bonds;

- (j) release, substitution or sale of any property securing repayment of the 2009A Bonds;
- (k) rating changes on the 2009A Bonds; and

(4) in a timely manner to the MSRB, notice of the failure by the County to provide the required annual financial information described in (1) and (2) above on or before the date specified.

The County agrees that its undertaking under this Paragraph is intended to be for the benefit of the registered owners and the beneficial owners of the 2009A Bonds and is enforceable by any of the registered owners and the beneficial owners of the 2009A Bonds, including an action for specific performance of the County's obligations under this Paragraph, but a failure to comply will not be an event of default and will not result in acceleration of the payment of the 2009A Bonds. An action must be instituted, had and maintained in the manner provided in this Paragraph for the benefit of all of the registered owners and beneficial owners of the 2009A Bonds.

The County may discharge its undertaking described above by transmitting those documents or notices in a manner subsequently required by the U. S. Securities and Exchange Commission in lieu of the manner described above.

The County may modify from time to time, consistent with the Rule, the information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the County, but:

- (1) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the County;
- (2) the information to be provided, as modified, would have complied with the requirements of the Rule as of the date of the Official Statement, after taking into account any amendments or interpretations of the Rule as well as any changes in circumstances;
- (3) any such modification does not materially impair the interest of the registered owners or the beneficial owners, as determined by nationally recognized bond counsel or by the approving vote of the registered owners of a majority in principal amount of the 2009A Bonds.

Any annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Paragraph terminate on payment, or provision having been made for payment in a manner consistent with the Rule, in full of the principal of and interest on the 2009A Bonds.

19. Those portions of this Resolution other than Paragraph 18 may be amended or supplemented, from time to time, without the consent of the owners of the 2009A Bonds if in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the owners of the 2009A Bonds and would not cause the interest on the 2009A Bonds to be included in the gross income of a recipient thereof for federal income tax purposes. This Resolution may be amended or supplemented with the consent of the owners of a majority in aggregate principal amount of the outstanding 2009A Bonds, exclusive of 2009A Bonds, if any, owned by the County, but a modification or amendment (1) may not, without the express consent of any owner of 2009A Bonds, reduce the principal amount of any 2009A Bonds, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable, or reduce the percentage of consent required for amendment or modification and (2) as to an amendment to Paragraph 18, must be limited as described therein.

Any act done pursuant to a modification or amendment consented to by the owners of the 2009A Bonds is binding on all owners of the 2009A Bonds and will not be deemed an infringement of any of the provisions of this Resolution, whatever the character of the act may be, and may be done and performed as fully and freely as if expressly permitted by the terms of this Resolution, and after consent has been given, no owner of a 2009A Bonds has any right or interest to object to the action, to question its propriety or to enjoin or restrain the County from taking any action pursuant to a modification or amendment.

If the County proposes an amendment or supplemental resolution to this Resolution requiring the consent of the owners of the 2009A Bonds, the Registrar shall, on being satisfactorily indemnified with respect to expenses, cause notice of the proposed amendment to be sent to each owner of the 2009A Bonds then outstanding by first-class mail, postage prepaid, to the address of such owner as it appears on the registration books; but the failure to receive such notice by mailing by any owner, or any defect in the mailing thereof, will not affect the validity of any proceedings pursuant hereto. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the principal office of the Registrar for inspection by all owners of the 2009A Bonds. If, within 60 days or such longer period as shall be prescribed by the County following the giving of such notice, the owners of a majority in aggregate principal amount of 2009A Bonds then outstanding have consented to the proposed amendment, the amendment will be effective as of the date stated in the notice.

20. Nothing in this Resolution precludes (a) the payment of the 2009A Bonds from the proceeds of refunding bonds or (b) the payment of the 2009A Bonds from any legally available funds.

If the County causes to be paid, or has made provisions to pay, on maturity or on redemption before maturity, to the owners of the 2009A Bonds the principal of the 2009A Bonds (including interest to become due thereon), through setting aside trust funds or setting apart in a reserve fund or special trust account created pursuant to this Resolution or otherwise, or through the irrevocable segregation for that purpose in some sinking fund or other fund or trust account with an escrow agent or otherwise, moneys sufficient therefor, including, but not limited to, interest

earned or to be earned on Federal Securities, the County shall so notify Moody's and S&P, and then the such 2009A Bonds shall be considered to have been discharged and satisfied, and the principal of the 2009A Bonds (including and interest thereon) shall no longer be deemed to be outstanding and unpaid; provided, however, that nothing in this Resolution requires the deposit of more than such Federal Securities as may be sufficient, taking into account both the principal amount of such Federal Securities and the interest to become due thereon, to implement any such defeasance.

If such a defeasance occurs and after the County receives an opinion of a nationally recognized accounting firm that the segregated moneys or Federal Securities together with interest earnings thereon are sufficient to effect a defeasance, the County shall execute and deliver all such instruments as may be necessary to effect such a defeasance and desirable to evidence such release, discharge and satisfaction. The County shall make provisions for the mailing of a notice to the owners of the 2009A Bonds that such moneys are so available for such payment.

Upon motion of Commissioner Mills, the foregoing order entitled: **“RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION SCHOOL BONDS, SERIES 2009A OF THE COUNTY OF UNION, NORTH CAROLINA”** was adopted by the following vote:

AYES: CHAIRMAN LANNY OPENSHAW, VICE CHAIR KIM ROGERS, COMMISSIONER ALLAN BAUCOM, COMMISSIONER TRACY KUEHLER, AND COMMISSIONER A. PARKER MILLS, JR.

NAYS: NONE

***PASSED, ADOPTED AND APPROVED*** this 20<sup>th</sup> day of January, 2009.

**APPENDIX A**

**FORM OF 2009A BONDS**

No. RD-

\$

**UNITED STATES OF AMERICA  
STATE OF NORTH CAROLINA  
COUNTY OF UNION**

<b><u>INTEREST</u></b>			
<b><u>RATE</u></b>	<b><u>MATURITY DATE</u></b>	<b><u>DATED DATE</u></b>	<b><u>CUSIP</u></b>
	<b>MARCH 1,</b>	<b>MARCH 10, 2009</b>	<b>906395[ ]</b>

**REGISTERED OWNER: CEDE & CO.**

**PRINCIPAL SUM: DOLLARS**

**GENERAL OBLIGATION SCHOOL BOND, SERIES 2009A**

*THE COUNTY OF UNION, NORTH CAROLINA* (the “*County*”) acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner named above, on the Maturity Date specified above, on surrender hereof, the Principal Sum shown above and to pay to the Registered Owner hereof interest thereon from the date of this 2009A Bonds until it shall mature at the Interest Rate per annum specified above, payable on September 1, 2009 and semiannually thereafter on March 1 and September 1 of each year. Principal of and interest on this 2009A Bonds are payable in immediately available funds to The Depository Trust Company (“*DTC*”) or its nominee as registered owner of the 2009A Bonds and is payable to the owner of the 2009A Bonds shown on the records of *DTC* at the close of business on the 15<sup>th</sup> day of the month preceding an interest payment date or a bond payment date. The County is not responsible or liable for maintaining, supervising or reviewing the records maintained by *DTC*, its participants or persons acting through such participants.

This 2009A Bonds is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act, the Bond Order adopted by the Board of Commissioners of the County on August 14, 2006 which was approved by the vote of a majority of the voters who voted thereon at a referendum duly called and held. The 2009A Bonds are being issued to provide funds to pay the capital costs incurred in connection with construction, renovation, improvement, equipping and furnishing of public school facilities within the County, including the acquisition of land or rights-of-way therefor.

The 2009A Bonds maturing on or before March 1, 2019 will not be subject to redemption prior to maturity. The 2009A Bonds maturing after March 1, 2019 will be subject to redemption prior to maturity, at the option of the County, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after March 1, 2019. 2009A Bonds called for redemption will be redeemed at the redemption price of the principal amount of 2009A Bonds to be so redeemed, plus accrued interest to the redemption date.

If less than all of the 2009A Bonds are called for redemption, the County shall select the maturity or maturities of the 2009A Bonds to be redeemed in such manner as the County in its discretion may determine and DTC and its participants shall determine which of the 2009A Bonds within a maturity are to be redeemed by lot; provided, however, that the portion of any 2009A Bonds to be redeemed shall be in principal amount of \$5,000 or integral multiples thereof and that, in selecting 2009A Bonds for redemption, each 2009A Bonds shall be considered as representing that number of 2009A Bonds which is obtained by dividing the principal amount of such 2009A Bonds by \$5,000. Whenever the County elects to redeem 2009A Bonds, notice of such redemption of 2009A Bonds, stating the redemption date, redemption price and identifying the 2009A Bonds or portions thereof to be redeemed by reference to their numbers and further stating that on such redemption date there shall become due and payable on each 2009A Bonds or portion thereof so to be redeemed, the principal thereof and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, shall be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the 2009A Bonds, by prepaid certified or register United States mail, at the address provided to the County by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of the 2009A Bonds, the County will give notice at the time set forth above by prepaid first class United States mail to the then-registered owners of the 2009A Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the County.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this 2009A Bonds, exist, have been performed and have happened, and that the amount of this 2009A Bonds, together with all other indebtedness of the County, is within every debt and other limit prescribed by said Constitution or statutes. The faith and credit of the County are hereby pledged to the punctual payment of the principal of and interest on this 2009A Bonds in accordance with its terms.

This 2009A Bonds is not valid or obligatory for any purpose until the certification hereon has been signed by an authorized representative of the Local Government Commission.

*IN WITNESS WHEREOF*, the County has caused this 2009A Bonds to bear the original or facsimile of the signatures of the Chairman of the Board of the County and the Clerk to the Board of the County and an original or facsimile of the seal of the County to be imprinted hereon and this 2009A Bonds to be dated their date of issuance.

(SEAL)

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Clerk to the Board

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Chairman of the Board

Date of Execution: March 10, 2009

The issue hereof has been approved under the provisions of The Local Government Bond Act.

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Secretary of the Local Government Commission

**FY 2009 SURPLUS PROPERTY SALE:** Moved from Consent Agenda

The Chairman recognized Vice Chair Rogers who stated she had a few questions. She explained that she understands the disposition of Surplus Property but questioned what percent of the sale comes to the County. She noted that it is estimated that the revenue is to be \$95,000, and asked what percent of that amount the County receives versus the amount the person who conducts the surplus sale receives. She also asked if the contract goes out for competitive bids, is it a revolving contract, is there a standard percent for this type of sale, is Union County at the standard, above the standard or below the standard?

Mr. Nelson responded to the first question by stating that 100 percent of the sale proceeds are paid to the County. The Vice Chair asked the amount of handling fee of the person who is conducting the auction. Mr. Nelson responded that he was not sure if the buyer or the county pays that fee. The County Manager stated that being the staff could not answer the first question that it might be good to write down the questions and obtain answers to these and report it to the Board at a future meeting.

Commissioner Baucom stated that the items are sold through [www.govdeal.com](http://www.govdeal.com) and it is an on-going sale.

Commissioner Mills moved to table the request to declare the itemized list surplus until such time as answers are presented to the Vice Chair's questions. The motion was passed unanimously.



**FINANCE DEPARTMENT – Purchase Orders Greater than \$50,000 for December 2008:** Moved from Consent Agenda

The Chairman again recognized the Vice Chair who asked why the Dodge Caravan on the list cost \$70,543.80. The Finance Director reported that it is a 15-passenger, handicapped-equipped van for the Human Services Department.

Vice Chair Rogers moved that the Purchase Order Report for items greater than \$50,000 which included a handicapped-accessible 15-passenger van in the amount of \$70,543.80 be approved. The motion passed unanimously.

**CONTRACTS OVER \$50,000:** Moved from Consent Agenda

**Amendment to Contract with Robert S. Segal, CPA:**

The Chairman recognized the Vice Chair who had requested an explanation to the Amendment to the Agreement with Robert S. Segal, CPA, to provide services related to the discovery and collection of sales and use tax refunds in the amount not to exceed \$39,681. She explained she had read the summary and documentation included in the package and understands the process and what Mr. Segal is doing for the county, but had a question on the amendment to pay Mr. Segal for work prior to it being credited to Union County.

Mr. Nelson explained this firm conducts sales tax audits, which are point of audit sales. He said typically Union County is a beneficiary of those audits. He stated that when this contract was executed that he thought the 30<sup>th</sup> month expired October-November 2007. Mr. Segal actually conducted the audits in the summer of 2007; typically the Department of Revenue would turn those audits in within one to three month. However, in this particular case, the Department of Revenue did not turn it around for over a year. He further stated that Mr. Segal conducted the work within the 30-month time frame but the refunds were not received within the normal time frame and instead the refunds were received in the summer of 2008. He emphasized that Mr. Segal did the work within the contract period, but the Department of Revenue was delayed in providing the County with the reimbursement.

Vice Chair Rogers asked if this is a one-time amendment so Mr. Segal can be paid and not a standard amendment to the base contract. Mr. Nelson agreed that it was a one-time amendment to allow payment to Mr. Segal.

Commissioner Kuehler asked if the contract allows Mr. Segal to be paid 35 percent on what he finds under the audit and is that a standard percentage. The Finance Director answered in the affirmative.

Commissioner Kuehler next asked what kinds of mistakes are being found and who is responsible for these mistakes. Mr. Nelson responded that the mistakes are being made by vendors, the companies that the County buys goods and services from. He gave an illustration of how these errors could occur. He emphasized that Mr. Segal's company is a specialty firm that knows which vendors have difficulty in recognizing the correct situs of the County for sales tax purposes.

Commissioner Kuehler stated her point is that Union County is spending money to get money that should have been Union County's in the first place. She asked if there is any retribution to the companies that are causing the County to have to spend money that it should have received. The Finance Director responded that there is no retribution to the firm and there is none available.

The Chairman asked to see a list over the last three years of those companies that have incorrectly filed the sales tax report to determine if there is a pattern. He explained for the audience's information that the Board is talking about over \$100,000 in sales tax.

Vice Chair Rogers moved to approve the amendment to Agreement in the not-to-exceed amount of \$39,681 with Robert S. Segal, CPA, CP, to provide services related to the discovery and collection of Sales and Use Tax refunds. The motion passed unanimously.

#### **Memorandum of Understanding with the Union County Public Schools and Union County Health Department:**

The Chairman announced the next item was also under Contracts Over \$90,000 and recognized Commissioner Kuehler who had asked this item be moved to the regular agenda.

Commissioner Kuehler stated that she had reviewed the MOU and understood that it was a Memorandum of Understanding with the Union County Public Schools and the Health Department but what she did not understand was why it is classified as contract over \$90,000. She said she was guessing that this MOU is going to lead to some expense between the two entities that the County will be expected to pay for and asked what the amount would be.

The Attorney reported that this is an interlocal agreement and interlocal agreements are required to be approved by the Board of County Commissioners. The County Manager reported that there are no monetary provisions for this agreement.

Commissioner Kuehler moved that the Memorandum of Understanding as discussed be approved. The motion passed unanimously.

**UNION COUNTY PUBLIC SCHOOLS:** moved from the Consent Agenda

The Chairman reported this item was also removed from the Consent Agenda. He said the item requested the Board to adopt Capital Project Ordinance #111 to provide site maintenance and stabilization for middle school/high school “D” and architect and engineering services funds for Piedmont High School. Chairman Openshaw recognized Commissioner Kuehler who had asked that this item be moved to the regular agenda.

Commissioner Kuehler asked for clarification. She stated that she was looking at the background information that lists \$211,315 for middle and high school “D” and when she looked at the amended ordinance that she sees that number but that she also sees under Piedmont’s part of the equation a figure of \$56,800. However, she said that behind that information is additional paperwork that quotes a \$75,000 figure. She reported that the total Capital Project Ordinance Amendment #111 is \$268,115 but she wanted an explanation of the additional services of \$75,000 and what amount the Board is ultimately being asked to approve.

Don Hughes, Union County Public Schools, stated that the actual agreement for additional services with the architect Ramsey, Burgin Smith is \$75,000; although when the school requested funding from the County, it also requested, besides the architectural and engineering fees, soft costs for subsurface testing, printing, and a lot of other things. He said they would not actually need the whole \$75,000 so between his accountant and Mr. Nelson, they worked out what amount they needed to balance. Mr. Hughes explained that is why they are asking less than what the \$75,000 billed.

The Chairman interjected that the point that Commissioner Kuehler is actually trying to make is that on the actual agenda item it mentions the \$211, 315 but it does not mention the \$56,800. He said for future reference he thought that it should be so indicated.

Following the explanation, motion was made by Commissioner Kuehler that Capital Project Ordinance Amendment #111 in the total amount of \$268,115 be approved. The motion passed unanimously.

CAPITAL PROJECT ORDINANCE AMENDMENT							
BUDGET	School Bond Fund - 55			REQUESTED BY	Kai Nelson		
FISCAL YEAR	FY 2008-2009			DATE	January 20, 2009		

PROJECT SOURCES				PROJECT USES			
Source	Project	Requested	Revised	Project	Project	Requested	Revised
Description and Code	To Date	Amendment	Project	Description and Code	To Date	Amendment	Project
G.O. Bond Proceeds	481,098,801	268,115	481,366,916	Middle School/High School "D" (115C-429b project allocation)	11,226,585	211,315	11,437,900
All Other Revenue	1,363,308	-	1,363,308	Piedmont HS A&R (115C-429b project allocation)	625,899	56,800	682,699
				All Other School Projects	470,609,625	-	470,609,625
					-	-	-
	482,462,109	268,115	482,730,224		482,462,109	268,115	482,730,224
EXPLANATION:	Funding requests submitted by UCPS for various projects listed above pursuant to 115C-429b.						
DATE:				APPROVED BY:			
					Bd of Comm/County Manager		
					Lynn West/Clerk to the Board		
FOR FINANCE POSTING PURPOSES ONLY							
PROJECT SOURCES				PROJECT USES			
Source	Project	Requested	Revised	Project	Project	Requested	Revised
Description and Code	To Date	Amendment	Project	Description and Code	To Date	Amendment	Project
G.O. Bond Proceeds	481,098,801	268,115	481,366,916	Middle School "D" (115C-429b project allocation)	2,254,850	84,526	2,339,376
55491100-4710-530				55559200-5586-561			
				High School "D" (115C-429b project allocation)	3,382,275	126,789	3,509,064
				55559200-5586-562			

				Piedmont HS A&R (115C-429b project allocation)	625,899	56,800	682,699
				55559200-5586-566			
	481,098,801	268,115	481,366,916		6,263,024	268,115	6,531,139
Prepared By	dhc						
Posted By							
Date						Number	CPO - 111

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA, PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$80,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009B OF THE COUNTY OF UNION, NORTH CAROLINA:**

The Chairman recognized Kai Nelson, Finance Director, who explained that this action represents the final action requested of the Board in connection with the debt restructuring of the County’s 2005 Series of Variable Rate Bond. He reminded that information was presented to the Commission on November 17, 2008, November 26, 2008, and December 15. Mr. Nelson said that this is the final action; the County is scheduled to receive Local Government Commission approval on February 3 and the sale is scheduled for February 17. He reported that all indications are true interest constant will be around 4.6 percent, which is actually less than was thought originally. He said the current cost is around 4.2 or 4.3 percent. He said while the cost will be higher; the fees will be fixed.

Commissioner Baucom moved that the following resolution, copies of which having been made available to the Board of Commissioners, be adopted:

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$80,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009B OF THE COUNTY OF UNION, NORTH CAROLINA**

WHEREAS, the Bond Order hereinafter-described has been adopted, and it is desirable to make provision for the issuance of the Bonds authorized by said Bond Order;

WHEREAS, the County of Union, North Carolina (the “County”) desires to issue its General Obligation Refunding Bonds, Series 2009B (the “Bonds”) and, having been advised by its Finance Director and its Financial Advisor that the national credit crisis has made competitive sales of local government debt more expensive and at times impossible to complete, desires to request that the Local Government Commission (the “Commission”) sell the Bonds either (1) through a negotiated sale to one or more financial institutions (collectively, the “Underwriters”) determined by the County Manager and the County Finance Director, in accordance with the terms and conditions set forth in a Bond Purchase Agreement to be dated on or about February 24, 2009 (the “Bond Purchase Agreement”) among the County, the Commission and the Underwriters or (2) through competitive sale, as set forth below;

WHEREAS, copies of the forms of the following documents relating to the transactions described above have been filed with the County and have been made available to the Board of Commissioners of the County (the “Board of Commissioners”):

1. the Bond Purchase Agreement; and
2. the Preliminary Official Statement with respect to the Bonds to be dated on or about February 11, 2009, together with the Official Statement with respect to the Bonds to be dated on or about February 24, 2009 (collectively, the “Official Statement”);

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners as follows:

**Section 1.** For purposes of this Resolution, the following words have the meanings ascribed to them below:

“Bond Order” means the Bond Order authorizing the General Obligation Refunding Bonds adopted by the Board of Commissioners on December 1, 2008 and effective on its adoption.

“Bonds” means the County’s General Obligation Refunding Bonds, Series 2009B, authorized under the Bond Order.

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein will be deemed to include the United States Treasury Regulations proposed or in effect with respect thereto.

“Federal Securities” means (a) direct obligations of the United States of America for the timely payment of which the full faith and credit of the United States of America is pledged; (b) obligations issued by any agency controlled or supervised by and acting as an instrumentality of the United States of America, the timely payment of the principal of and interest on which is fully guaranteed as full faith and credit obligations of the

United States of America (including any securities described in (a) or (b) issued or held in the name of the Trustee in book-entry form on the books of the Department of Treasury of the United States of America), which obligations, in either case, are held in the name of a trustee and are not subject to redemption or purchase prior to maturity at the option of anyone other than the holder; (c) any bonds or other obligations of the State of North Carolina or of any agency, instrumentality or local governmental unit of the State of North Carolina which are (i) not callable prior to maturity or (ii) as to which irrevocable instructions have been given to the trustee or escrow agent with respect to such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified, and which are rated by Moody's, if the Bonds are rated by Moody's, and S&P, if the Bonds are rated by S&P, within the highest rating category and which are secured as to principal, redemption premium, if any, and interest by a fund consisting only of cash or bonds or other obligations of the character described in clause (a) or (b) hereof which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate; or (d) direct evidences of ownership of proportionate interests in future interest and principal payments on specified obligations described in (a) held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the underlying obligations described in (a), and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated.

“*Moody's*” means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, “*Moody's*” will be deemed to refer to any other nationally recognized rating agency other than S&P designed by the County.

“*2005 Bonds*” means, collectively, the 2005A Bonds, the 2005B Bonds and the 2005C Bonds.

“*2005A Bonds*” means \$50,000,000 aggregate principal amount of the County's Variable Rate General Obligation Bonds, Series 2005A, of which \$44,000,000 is currently outstanding.

“*2005B Bonds*” means \$20,000,000 aggregate principal amount of the County's Variable Rate General Obligation Bonds, Series 2005B, of which \$17,600,000 is currently outstanding.

“*2005C Bonds*” means \$20,000,000 aggregate principal amount of the County's Variable Rate General Obligation Bonds, Series 2005C, of which \$17,600,000 is currently outstanding.

“*Pricing Certificate*” means the certificate of the County's Finance Director delivered in connection with the issuance of the Bonds which establishes, with respect to the Bonds, the final maturity amounts, the interest payment dates and the provisions for redemption, all as agreed on in the Bond Purchase Agreement if the Bonds are sold to the Underwriters or as set forth in the successful bid if the Bonds are sold competitively.

“S&P” means Standard & Poor’s Ratings Services, a Division of The McGraw-Hill Companies, Inc., its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, “S&P” will be deemed to refer to any other nationally recognized rating agency other than Moody’s designed by the County.

**Section 2.** The County shall issue its Bonds in an aggregate principal amount not to exceed \$80,000,000.

**Section 3.** The Bonds shall be dated as of their date of issuance. The Bonds shall pay interest semiannually on March 1 and September 1, beginning September 1, 2009, unless the County Finance Director establishes different dates in his Pricing Certificate. The Bonds are being issued to refund the 2005 Bonds pursuant to and in accordance with the Bond Order.

**Section 4.** The Bonds are payable in annual installments on March 1 in each year, unless the County Finance Director establishes different a date in his Pricing Certificate. The maturities of the Bonds will be as set forth in the Pricing Certificate.

**Section 5.** The Bonds are to be numbered from “RB-1” consecutively and upward and shall bear interest from their date at a rate or rates which will be hereafter determined on the sale thereof computed on the basis of a 360-day year of twelve 30-day months.

**Section 6.** The Bonds are to be registered as to principal and interest, and the Finance Director of the County is directed to maintain the registration records with respect thereto. The Bonds shall bear the original or facsimile signatures of the Chairman of the Board of Commissioners or County Manager of the County and the Clerk to the Board of Commissioners of the County. An original or facsimile of the seal of the County is to be imprinted on each of the Bonds.

**Section 7.** The Bonds will initially be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company, New York, New York (“DTC”), and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the Bonds in principal amounts of \$5,000 or integral multiples thereof, with transfers of beneficial ownership affected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Interest on the Bonds will be payable to DTC or its nominee as registered owner of the Bonds in immediately available funds. The principal of and interest on the Bonds will be payable to owners of Bonds shown on the records of DTC at the close of business on the 15th day of the month preceding an interest payment date or a bond payment date. The County will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If (a) DTC determines not to continue to act as securities depository for the Bonds or (b) the Finance Director for the County determines that the continuation of the book-entry system of evidence and transfer of ownership of the Bonds would adversely affect the interests of the beneficial owners of the Bonds, the County will discontinue the book-entry system with DTC. If the County fails to identify another qualified securities depository to replace DTC, the County will authenticate and deliver replacement bonds in accordance with DTC’s rules and procedures.



**Section 8.** If the Pricing Certificate designates a date for the Bonds on and after which the Bonds are subject to redemption, then such Bonds are subject to redemption before maturity, at the option of the County, from any money that may be made available for such purpose, either in whole or in part on any date on or after the date set forth in the Pricing Certificate, at the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption, with such redemption premium, if any, designated for the Bonds in the Pricing Certificate.

If the Bonds are subject to optional redemption and if less than all the Bonds are called for redemption, the County shall select the maturity or maturities of the Bonds to be redeemed in such manner as the County in its discretion may determine, and DTC and its participants shall determine which Bonds within a maturity are to be redeemed by lot; *provided, however*, that the portion of any Bond to be redeemed must be in principal amount of \$5,000 or integral multiples thereof and that, in selecting Bonds for redemption, each Bond is to be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. When the County elects to redeem any Bonds, notice of such redemption of such Bonds, stating the redemption date, redemption price and identifying the Bonds or portions thereof to be redeemed by reference to their numbers and further stating that on such redemption date there are due and payable on each Bond or portion thereof so to be redeemed, the principal thereof and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, is to be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of such Bonds, by prepaid certified or registered United States mail, at the address provided to the County by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of such Bonds, the County will give notice at the time set forth above by prepaid first class United States mail, to the then-registered owners of such Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the County. The County will also mail or transmit by facsimile a copy of the notice of redemption within the time set forth above (1) to the Commission, (2) to each of the then-existing securities depositories and (3) to at least two of the then-existing national information services.

**Section 9.** The Bonds and the provisions for the registration of the Bonds and for the approval of the Bonds by the Secretary of the Local Government Commission are to be in substantially the form set forth in the Appendix A hereto.

**Section 10.** The County covenants to take such action as may be required in the opinion of nationally recognized bond counsel to cause the Bonds and all actions of the County with respect to the proceeds thereof to comply with Code. In particular, the County covenants as follows:

- (a) At least one of the following two conditions will be satisfied for the Bonds: (1) less than 10% of the proceeds of the Bonds, reduced by costs of issuance, will be used directly or indirectly in the business of a person other than a state or local governmental unit or (2) less than 10% of the principal or interest on the Bonds will be (under the terms of such issue or any underlying arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business or any interest in payments made with respect to such property or (B) to be derived from payments made with respect to property, or borrowed money, used or to be used in a private business;

(b) At least one of the following two conditions will be satisfied: (i) less than 5% of the proceeds of the Bonds, reduced by costs of issuance, will be used by nongovernmental persons for a use unrelated or disproportionate to the purposes for which the Bonds were issued or (ii) less than 5% of the principal or interest on the Bonds will be (under the terms of such issue or any underlying arrangement) directly or indirectly (A) secured by an interest in property used or to be used in a private business described in (i) or by any interest in payments made with respect to such property or (B) derived from payments made with respect to property the use of which is described in (i), or borrowed money, used or to be used in a private business

(c) It will not loan directly or indirectly more than 5% of the proceeds of the Bonds to nongovernmental persons;

(d) It will not enter into any management contract with respect to the facilities refinanced with the proceeds of the Bonds unless it obtains an opinion of nationally recognized bond counsel that such management contract will not impair the exclusion from a recipient's gross income for federal income tax purposes of the interest on the Bonds;

(e) The County acknowledges that the continued exclusion of interest on the Bonds from a recipient's gross income for federal income tax purposes depends, in part, on compliance with the arbitrage limitations imposed by Section 148 of the Code. The County covenants to comply with all the requirements of Section 148 of the Code, including the rebate requirements, and it shall not permit at any time any of the proceeds of the Bonds or other funds of the County to be used, directly or indirectly, to acquire any asset or obligation, the acquisition of which would cause the Bonds to be "*arbitrage bonds*" for purposes of Section 148 of the Code;

(f) The Bonds shall not be "*federally guaranteed*" as defined in Section 149(b) of the Code;

(g) The County covenants to file or cause to be filed Form 8038G with respect to the Bonds in accordance with Section 149(e) of the Code.

**Section 11.** The Finance Director shall cause a portion of the proceeds of the sale of the Bonds to be applied to redeem the 2005 Bonds on the date that the Bonds are issued. The Finance Director shall deposit the balance of the proceeds of the sale of the Bonds in a special account to be designated "*County of Union, North Carolina General Obligation Refunding Bonds, Series 2009B Cost of Issuance Account*" (the "*Cost of Issuance Account*") and apply such funds to pay the costs of issuance of the Bonds. The Finance Director shall transfer any money remaining in the Cost of Issuance Account on May 31, 2009 to pay the interest on the Bonds on the next interest payment date therefor.

**Section 12.** Actions taken by officials of the County to select paying and transfer agents, and a bond registrar, or alternate or successor agents and registrars pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, are hereby authorized and approved.

***Section 13.***

(a) On the basis of the recommendation of the County's Financial Advisor and subject to the approval of the Commission, the County Manager and the Finance Director shall determine whether the Bonds are to be (1) sold to the Underwriters through a negotiated sale or (2) sold through a competitive sale.

(b) If the County Manager and the Finance Director determine to proceed under clause (a)(1) above, the Commission is hereby requested to sell the Bonds through a negotiated sale to the Underwriters pursuant to the terms of the Bond Purchase Agreement at a true interest cost not to exceed 5.50%. The County Manager and the Finance Director shall select the Underwriters, subject to the approval of the Secretary of the Commission, from among Banc of America Securities LLC, BB&T Capital Markets, a division of Scott & Stringfellow, Inc., Morgan Keegan & Company Inc. and Wachovia Bank, National Association. The form and content of the Bond Purchase Agreement is in all respects approved and confirmed, and the Chairman of the Board of Commissioners, the County Manager or the Finance Director of the County is hereby authorized, empowered and directed to execute and deliver the Bond Purchase Agreement for and on behalf of the County, including necessary counterparts, in substantially the form and content presented to the County, but with such changes, modifications, additions or deletions therein as he may deem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of the Board of Commissioners' approval of any and all such changes, modifications, additions or deletions therein, and that from and after the execution and delivery of the Bond Purchase Agreement, the Chairman of the Board of Commissioners, the County Manager and the Finance Director of the County are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Bond Purchase Agreement as executed.

(c) If the County Manager and the Finance Director determine to proceed under clause (a)(2) above, the Commission is hereby requested to sell the 2009B Bonds through a competitive sale to the bidder whose bid results in the lowest interest cost to the County, determined on the basis of the true interest cost method.

***Section 14.*** The Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners of the County are hereby authorized and directed to cause the Bonds to be prepared and, when they shall have been duly sold by the Commission, to execute the Bonds and to turn the Bonds over to the registrar and transfer agent of the County for delivery through the facilities of DTC to the Underwriters.

***Section 15.*** The form and content of the Official Statement are in all respects authorized, approved and confirmed, and the Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners of the County are authorized, empowered and directed to execute and deliver the Official Statement in substantially the form and content presented to the Board of Commissioners, but with such changes, modifications, additions or deletions therein as the Chairman of the Board of Commissioners, County Manager or the Finance Director of the County may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive

evidence of the approval of the Board of Commissioners of any and all changes, modifications, additions or deletions therein from the form and content of the Official Statement presented to the Board of Commissioners.

**Section 17.** The Chairman of the Board of Commissioners, the County Manager, the Finance Director and the Clerk to the Board of Commissioners of the County are authorized and directed to execute and deliver for and on behalf of the County any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the documents contemplated hereinabove or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution.

**Section 18.** The County agrees, in accordance with Rule 15c2-12 (the “*Rule*”) promulgated by the Securities and Exchange Commission (the “*SEC*”) and for the benefit of the Registered Owners and beneficial owners of the Bonds, as follows:

- (1) by not later than seven months after the end of each Fiscal Year to the Municipal Securities Rulemaking Board (the “*MSRB*”) in an electronic format as prescribed by the MSRB, the audited financial statements of the County for the preceding Fiscal Year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the County for such Fiscal Year to be replaced subsequently by audited financial statements of the County to be delivered within 15 days after such audited financial statements become available for distribution;
- (2) by not later than seven months after the end of each Fiscal Year to the MSRB, (a) the financial and statistical data as of a date not earlier than the end of the preceding Fiscal Year for the type of information included under the captions “**THE COUNTY--DEBT INFORMATION**” and “**--TAX INFORMATION**” (excluding information on overlapping units) in the Official Statement referred to in Section 16 and (b) the combined budget of the County for the current Fiscal Year to the extent such items are not included in the audited financial statements referred to in clause (1) above;
- (3) in a timely manner to provide (i) before July 1, 2009, to each nationally recognized municipal securities repository (“*NRMSIR*”) and to the state information depository (“*SID*”), if any, for the State, in each case as designated by the SEC, or to the MSRB and to the SID, if any, or (ii) on and after July 1, 2009, in a timely manner to the MSRB, notice of the occurrence of any of the following events with respect to the Bonds, if material:
  - (a) principal and interest payment delinquencies;
  - (b) non-payment related defaults;
  - (c) unscheduled draws on debt service reserves reflecting financial difficulties;

- (d) unscheduled draws on credit enhancements for the Bonds reflecting financial difficulties;
- (e) substitution of any credit or liquidity providers, or their failure to perform;
- (f) adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- (g) modification to the rights of the beneficial owners of the Bonds;
- (h) call of any of the Bonds for redemption, other than sinking fund redemptions;
- (i) defeasance of any of the Bonds;
- (j) release, substitution or sale of any property securing repayment of the Bonds;
- (k) rating changes on the Bonds; and

(4) in a timely manner to the MSRB, notice of the failure by the County to provide the required annual financial information described in (1) and (2) above on or before the date specified.

The County agrees that its undertaking under this Paragraph is intended to be for the benefit of the registered owners and the beneficial owners of the Bonds and is enforceable by any of the registered owners and the beneficial owners of the Bonds, including an action for specific performance of the County's obligations under this Paragraph, but a failure to comply will not be an event of default and will not result in acceleration of the payment of the Bonds. An action must be instituted, had and maintained in the manner provided in this Paragraph for the benefit of all of the registered owners and beneficial owners of the Bonds.

The County may discharge its undertaking described above by transmitting those documents or notices in a manner subsequently required by the U. S. Securities and Exchange Commission in lieu of the manner described above.

The County may modify from time to time, consistent with the Rule, the information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the County, but:

- (1) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the County;

(2) the information to be provided, as modified, would have complied with the requirements of the Rule as of the date of the Official Statement, after taking into account any amendments or interpretations of the Rule as well as any changes in circumstances;

(3) any such modification does not materially impair the interest of the registered owners or the beneficial owners, as determined by nationally recognized bond counsel or by the approving vote of the registered owners of a majority in principal amount of the Bonds.

Any annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Paragraph terminate on payment, or provision having been made for payment in a manner consistent with the Rule, in full of the principal of and interest on the Bonds.

**Section 19.** Those portions of this Resolution other than Section 18 may be amended or supplemented, from time to time, without the consent of the owners of the Bonds if in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the owners of the Bonds and would not cause the interest on the Bonds to be included in the gross income of a recipient thereof for federal income tax purposes. This Resolution may be amended or supplemented with the consent of the owners of a majority in aggregate principal amount of the outstanding Bonds, exclusive of Bonds, if any, owned by the County, but a modification or amendment (1) may not, without the express consent of any owner of Bonds, reduce the principal amount of any Bond, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable, or reduce the percentage of consent required for amendment or modification and (2) as to an amendment to Section 20, must be limited as described therein.

Any act done pursuant to a modification or amendment consented to by the owners of the Bonds is binding on all owners of the Bonds and will not be deemed an infringement of any of the provisions of this Resolution, whatever the character of the act may be, and may be done and performed as fully and freely as if expressly permitted by the terms of this Resolution, and after consent has been given, no owner of a Bond has any right or interest to object to the action, to question its propriety or to enjoin or restrain the County from taking any action pursuant to a modification or amendment.

If the County proposes an amendment or supplemental resolution to this Resolution requiring the consent of the owners of the Bonds, the Registrar shall, on being satisfactorily indemnified with respect to expenses, cause notice of the proposed amendment to be sent to each owner of the Bonds then outstanding by first-class mail, postage prepaid, to the address of such owner as it appears on the registration books; but the failure to receive such notice by mailing by any owner, or any defect in the mailing thereof, will not affect the validity of any proceedings pursuant hereto. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the principal office of the Registrar for inspection by all owners of the Bonds. If, within 60 days or such longer period as shall be prescribed by the County following

the giving of such notice, the owners of a majority in aggregate principal amount of Bonds then outstanding have consented to the proposed amendment, the amendment will be effective as of the date stated in the notice.

**Section 20.** Nothing in this Resolution precludes (a) the payment of the Bonds from the proceeds of refunding bonds or (b) the payment of the Bonds from any legally available funds.

If the County causes to be paid, or has made provisions to pay, on maturity or on redemption before maturity, to the owners of the Bonds the principal of the Bonds (including interest to become due thereon) and, premium, if any, on the Bonds, through setting aside trust funds or setting apart in a reserve fund or special trust account created pursuant to this Resolution or otherwise, or through the irrevocable segregation for that purpose in some sinking fund or other fund or trust account with an escrow agent or otherwise, moneys sufficient therefor, including, but not limited to, interest earned or to be earned on Federal Securities, the County shall so notify Moody's and S&P, and then such Bonds shall be considered to have been discharged and satisfied, and the principal of the Bonds (including premium, if any, and interest thereon) shall no longer be deemed to be outstanding and unpaid; provided, however, that nothing in this Resolution requires the deposit of more than such Federal Securities as may be sufficient, taking into account both the principal amount of such Federal Securities and the interest to become due thereon, to implement any such defeasance.

If such a defeasance occurs and after the County receives an opinion of a nationally recognized accounting firm that the segregated moneys or Federal Securities together with interest earnings thereon are sufficient to effect a defeasance, the County shall execute and deliver all such instruments as may be necessary to effect such a defeasance and desirable to evidence such release, discharge and satisfaction. Provisions shall be made by the County, for the mailing of a notice to the owners of the Bonds that such moneys are so available for such payment.

**Section 21.** All acts and doings of the Chairman of the Board of Commissioners, the County Manager, the Finance Director of the County and the Clerk to the Board of Commissioners of the County that are in conformity with the purposes and intents of this Resolution and in the furtherance of the issuance of the Bonds and the execution, delivery and performance of the Bond Purchase Agreement are in all respects approved and confirmed.

**Section 22.** If any one or more of the agreements or provisions herein contained is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or for any reason whatsoever is held invalid, then such covenants, agreements or provisions are null and void and separable from the remaining agreements and provisions and will in no way affect the validity of any of the other agreements and provisions hereof or of the Bonds authorized hereunder.

**Section 23.** All resolutions or parts thereof of the Board of Commissioners in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

**Section 24.** This Bond Resolution is effective on its adoption.

On motion of Commissioner Baucom, the foregoing resolution entitled **“A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$80,000,000 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2009B OF THE COUNTY OF UNION, NORTH CAROLINA”** was duly adopted by the following vote:

AYES: Chairman Lanny Openshaw, Vice Chair Kim Rogers, Commissioner Allan Baucom, Commissioner Tracy Kuehler, and Commissioner A. Parker Mills, Jr.

NAYS: None



**APPENDIX A**

Form of Bond

No. RB-

\$

**UNITED STATES OF AMERICA  
STATE OF NORTH CAROLINA  
COUNTY OF UNION**

**INTEREST  
RATE**

**MATURITY DATE  
MARCH 1, \_\_\_\_\_**

**DATED DATE  
[DATE OF ISSUE], 2009**

**CUSIP  
906395[ ]**

**REGISTERED OWNER: CEDE & CO.**

**PRINCIPAL SUM: DOLLARS**

**GENERAL OBLIGATION REFUNDING BOND, SERIES 2009B**

*THE COUNTY OF UNION, NORTH CAROLINA* (the "*County*") acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner named above, on the Maturity Date specified above, on surrender hereof, the Principal Sum shown above and to pay to the Registered Owner hereof interest thereon from the date of this Bond until it shall mature at the Interest Rate per annum specified above, payable on September 1, 2009 and semiannually thereafter on March 1 and September 1 of each year. Principal of and interest on this Bond are payable in immediately available funds to The Depository Trust Company ("*DTC*") or its nominee as registered owner of the Bonds and is payable to the owner of the Bonds shown on the records of *DTC* at the close of business on the 15<sup>th</sup> day of the month preceding an interest payment date or a bond payment date. The County is not responsible or liable for maintaining, supervising or reviewing the records maintained by *DTC*, its participants or persons acting through such participants.

his Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act, a bond order adopted by the Board of Commissioners of the County on December 1, 2008 and effective on the date of its adoption. The Bonds are issued to provide funds to refund in advance of their maturities (1) the \$50,000,000 aggregate principal amount of the County's Variable Rate General Obligation Bonds, Series 2005A, of which \$44,000,000 is currently outstanding; (2) the

\$20,000,000 aggregate principal amount of the County's Variable Rate General Obligation Bonds, Series 2005B, of which \$17,600,000 is currently outstanding; and (3) the \$20,000,000 aggregate principal amount of the County's Variable Rate General Obligation Bonds, Series 2005C, of which \$17,600,000 is currently outstanding.

The Bonds maturing on or before [Call Date] are not subject to redemption before maturity. The Bonds maturing after [Call Date] are subject to redemption before maturity, at the option of the County, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after [Call Date], at the principal amount of the Bonds to be redeemed, together with interest accrued thereon to the date fixed for redemption, [without premium].

If less than all of the Bonds are called for redemption, the County shall select the maturity or maturities of the Bonds to be redeemed in such manner as the County in its discretion may determine and DTC and its participants shall determine which of the Bonds within a maturity are to be redeemed by lot; *provided, however*, that the portion of any Bond to be redeemed is to be in principal amount of \$5,000 or integral multiples thereof and that, in selecting Bonds for redemption, each Bond is to be considered as representing that number of Bonds which is obtained by dividing the principal amount of such Bond by \$5,000. Whenever the County elects to redeem Bonds, notice of such redemption of Bonds, stating the redemption date, redemption price and identifying the Bonds or portions thereof to be redeemed by reference to their numbers and further stating that on such redemption date there shall become due and payable on each Bond or portion thereof so to be redeemed, the principal thereof, redemption premium and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, is to be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the Bonds, by prepaid certified or registered United States mail, at the address provided to the County by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of the Bonds, the County will give notice at the time set forth above by prepaid first class United States mail to the then-registered owners of the Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the County.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, and that the amount of this Bond, together with all other indebtedness of the County, is within every debt and other limit prescribed by said Constitution or statutes. The faith and credit of the County are hereby pledged to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

This Bond is not valid or obligatory for any purpose until the certification hereon has been signed by an authorized representative of the Local Government Commission.

*IN WITNESS WHEREOF*, the County has caused this Bond to bear the original or facsimile of the signatures of the Chairman of the Board of Commissioners of the County and the Clerk to the Board of Commissioners of the County and an original or facsimile of the seal of the County to be imprinted hereon and this Bond to be dated as of the Dated Date above.

(SEAL)

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Clerk to the  
Board of Commissioners

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Chairman,  
Board of Commissioners

Date of Execution: [Date of Issue], 2009

The issue hereof has been approved under the  
provisions of The Local Government Bond Act.

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T. VANCE HOLLOMAN  
Secretary of the Local Government Commission

**FORM OF ASSIGNMENT**

**ASSIGNMENT**

*FOR VALUE RECEIVED* the undersigned hereby sells, assigns and transfers unto

---

(Please print or typewrite Name and Address,  
including Zip Code, and Federal Taxpayer Identification or  
Social Security Number of Assignee)

---

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

---

Attorney to register the transfer of the within Bond on the books kept for registration thereof,  
with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature guaranteed by:

---

NOTICE: Signature must be guaranteed by a Participant in the Securities Transfer Agent Medallion Program (“*Stamp*”) or similar program.

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NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration, enlargement or any change whatever.

**TRANSFER FEE MAY BE REQUIRED**

At 8:31 p.m., Chairman Openshaw called for a five minute recess.

At 8:42 p.m., the Chairman reconvened the meeting and asked for a motion to suspend the Rules of Procedure to add some items to the agenda and to move some items around on the agenda to give people an opportunity to address the Board earlier than scheduled on the agenda.

The Vice Chair moved that the Rules of Procedure be suspended as requested by the Chairman to add some items to the agenda and to rearrange agenda items. The motion passed unanimously.

**AGENDA ADDITIONS AND REARRANGMENT:**

The Chairman stated that he wanted to add a couple of items that he had forgotten at the beginning of the meeting. He said one is to announce the four Planning Board vacancies that are coming up and to add an item to approve county-wide training for Planning Boards and Boards of Adjustments in cooperation with the municipalities. He said this was something that was done several years ago and was quite successful. He said he had an opportunity to attend a couple of those meetings and there were people present from all over the county. Chairman Openshaw said that training course was offered through an arrangement with Centralina Council of Governments. He also requested that discussion on BAE be moved from Item 11 to Item 10. Chairman Openshaw further stated that if there is time, he added as a “maybe” Matthew Delk, Assistant County Manager, who has the answers to tabled Item 7a having to do with the surplus sale. He said the announcement of the Planning Board will be 20 (i) County-wide training will be 19 (a), BAE will be moved up to Item 10 in lieu of Item 11.

Motion was made by Commissioner Mills that the agenda amendments as recommended by the Chairman be approved. The motion passed unanimously.

**RECONSIDERATION OF AMENDMENT TO SCOPE OF PART F GRANT APPLICATION:**

The County Manager explained that at the last meeting the Board instructed the staff to delete the climbing wall from the Jesse Helms Park Recreation Grant Application. He said he thought it was the understanding of everyone that it was to be a large wall that would create some potential liability to the County. Mr. Greene said that after the meeting and during a conversation with Mrs. Smith, he learned that it is a small wall for children between the ages of five and twelve, and it is identical to one that the County has had for several years at Cane Creek Park without any incidences and demands on the staff. He said the staff wanted to put this item back on the agenda. He explained that although the wall would be only five points on the grant application, if the County wants to pursue the grant application, those five points could be very important to the County's chances of receiving the grant. Mr. Greene said the total maximum points are 115 and the County's staff anticipates that with the wall, the County will score 75. He reported that without the climbing wall, the County will score about 70. He emphasized that the competition for these funds will be intense because it is a lucrative grant of \$500,000.

Commissioner Mills stated that in light of the new information that he would move that the PARTF grant be amended to include the climbing wall for the Jesse Helms Park.

Commissioner Baucom said that he had earlier made the motion to support the grant but asked, for clarification purposes, if this grant is for FY 2009-2010. He said that with the economic challenges that this county and others are facing that he is concerned if the County needs to be investing \$500,000 in the park at this time. He asked the time frame and the financial impact to the budget.

Mrs. Smith, Parks and Recreation Director, replied that the grant is not awarded until the end of June, and it normally takes at least one year to get construction documents ready. Commissioner Baucom then asked if the project could be deferred on timeline due if it needs to be for economic reasons.

Mr. Nelson stated the reality is that Union County would probably not start spending the money until FY2010-2011. He said the County has a grant for the last fiscal year from which the County has not begun to expend funds. The Finance Director stated that the reality is if the County would receive the award, the County would not be into construction spending until 2010-2011.

Commissioner Baucom stated that he really wanted to support this project and the grant application because he thinks it is a good investment but wonders if during these bad economic times if the County should be making this commitment when the County does not know what its financial outcome is going to be.

The County Manager stated that he understood the dilemma and assured that the staff has discussed this on several occasions and questioned whether the County should pursue the grant. He said the reality is that it will probably be a year and a half before any of the funds are spent and for those that do not know the local match is \$500,000 and the grant is \$500,000; so, if the County is awarded the grant, the County receives \$500,000 in free money to help build the Jesse Helms Park. He said the funds identified to be used as local match are from the capital reserve fund balance, which should not be used for operating expense. Mr. Greene stressed that fund balance and capital reserve balance are not reoccurring revenue and from an accounting standpoint, they are best used for one-time capital expenses. He noted the staff could not recommend that the Board use these funds for the County's current budget problems. He said to do so would be only digging the hole deeper for next year. He said that in light of that fact, the staff weighed the benefits to the citizens if the grant is received to match with the local dollars. He noted that the grant would provide one million dollars in contract benefit for a local match of \$500,000.

Commissioner Baucom asked if there could be a contingency that the grant comes back to the Board before it is accepted. Mr. Greene said if the grant is offered, the County could choose not to accept the grant, but that action would hurt future efforts of Union County to receive grant funds.

Chairman Openshaw said that he agrees with Commissioner Baucom on this issue, and that it is a tough decision. He agreed that the climbing wall is not as big as he had thought, and stressed that he is a big advocate of parks. He said symbolically it is a problem to spend \$70,000 on a wall during a time when essentially that amount is somebody's job. Chairman Openshaw said he understood it is not the same pot of money, but none the less it is money that came from the taxpayers. He said to him that adding this wall to get money from the government strikes him as one of the essential problems of government. Secondly, he said he would say that if the Board chooses to pursue the grant, he would still recommend against the climbing wall. The Chairman said that his other option is to defer seeking this grant, which is a 100 percent return on the County's money, but would propose that the County consider deferring the grant application for a year. He explained that if the grant application is on-going with the State then hypothetically it will be there next year unless the State decides to cut its funds.

The Finance Director clarified that the County is required to provide the match consistent with the spending of that grant money so the match requirement would not occur until 2010 or 2011. He said it is when they start spending the money that the County needs to have its money.

Chairman Openshaw asked Mr. Nelson what he predicted to be happening in the economy in 2010 or 2011. Mr. Nelson responded that if he could answer that question he would not be here.

The County Manager stated that he understood the comments about the climbing wall and the games people play to get grants, but he would say that the wall at Cane Creek Park is used by young children, and it is an asset at Cane Creek Park. He said that while the staff is well aware of the rating criteria when the application was completed, the wall is part of the Recreation Master Plan that was adopted years ago. He said if it were not an asset at Cane Creek Park, he did not believe the staff would be recommending its inclusion for the Jesse Helms Park.

Vice Chair Rogers summarized her understanding that the grant is available every year and if the County were awarded the grant that it would have three years in which to complete the project. She said the County would be encumbering \$500,000 worth of expense over a three-year period of time. The Vice Chair confirmed her understanding that once the grant was approved, the Board could reject it, but that action would hurt future efforts for grant funding. She said the point for deferring it for one year, based on the conversations that she heard and the shared sentiments that she has, is because the County is looking at some cuts in the County. She stressed she had trouble spending a half million dollars for parks when people in the County are losing their jobs. She said she would agree with deferring it for a year because she would hate to approve it and then have to reject the funding.

Commissioner Kuehler asked what other endeavors could the County's capital reserve money be used. Mr. Nelson said the very same fund could be used to amend the fire grant for purchase of communication mobiles, if the County chose to do so. He said the Board is faced at almost every meeting with a request to spend the one-time capital money. He said this fund could be used for regional libraries, communications' equipment for E911, etc. He noted that the architect's fees for the community college's multi-purpose building are being paid from that particular fund. The Finance Director said that any public purpose for capital for one-time expenditure.

Vice Chair Rogers asked if public safety as far as jail improvements could be paid from that fund. Mr. Nelson agreed that they could be and have been in the past.

Commissioner Kuehler said that changes the equation in these economic times and setting priorities within the resources that the County has available.

Chairman Openshaw said that he had been to Jesse Helms Park and there are six soccer fields that are coming on line now and the County is still looking at the bridge to connect it to the back of the Agricultural Center. He said this is supposed to be a passive area of the park. The Chairman said he was delighted that the County owns the land and thinks it can be developed in the future.

Commissioner Baucom moved that the PARTF grant application be deferred until the next fiscal year.



Commissioner Mills reminded that he had a motion on the floor to approve and agreed to withdraw it.

The Chairman called for a vote on the motion to defer the PARTF grant application until the next year's budget. The motion passed unanimously.

**CONSIDERATION OF ECONOMIC INCENTIVE GRANT AWARD – BAE SYSTEMS TENSYLON HIGH PERFORMANCE MATERIALS, INC. IN A TOTAL AMOUNT NOT TO EXCEED \$53,717.77:**

Chairman Openshaw read the purpose of this item.

At 9:02 p.m., the Chairman moved that the Board go into closed session for the following purpose: 1) to discuss matters relating to the location or expansion of industries or other businesses in the area served by the public body, including agreement on a tentative list of economic development incentives that may be offered by the public body in negotiations in accordance with G. S. 143-318.11 (a) (4). The motion passed by a vote of four to zero; Commissioner Kuehler having asked for and having received recusal from discussion on this issue. Commissioner Kuehler did not go into the closed session.

**CLOSED SESSION**

At 9:45 p.m., the Chairman reconvened the regular meeting and recognized Commissioner Baucom for a motion.

Motion was made by Commissioner Baucom that the County approve the grant to BAE Systems Tensylon High Performance Materials in the amount of \$53,717.77 paid in three annual payments as follows: 2011 - \$20,719.71; 2012 - \$17,905.92; and 2013 - \$15,092.14 based on the guidelines that there be at least 75 percent of achievement of the \$5.7 million investment and 75 percent of 15 jobs.

The Chairman reminded that only four people will be voting on this motion since Commissioner Kuehler was recused. The motion passed by a vote of four to zero.

Ms. Lisa Owens, Vice President and General Manager of BAE Systems Tensylon High Performance Material, Inc., thanked the Board of County Commissioners for its support and invited them to the plant when the line is running.

Chairman Openshaw stated the next item will be the update on the Water Allocation Policy.

**UPDATE ON WATER ALLOCATION POLICY:**

The County Manager introduced Kevin Mosteller of the firm of HDR Engineering to make the presentation. Mr. Greene said that Mr. Mosteller and the County's staff have been working on this presentation for about a month and are seeking direction from the Board. He noted the report does not include any final conclusions but is a progress update.

Mr. Mosteller said that his presentation is a continuation of the workshop presentation that his colleague started last Tuesday. He explained that it is an update on key water issues and reiterated the agenda started at the workshop and included discussion about the findings of HDR's work on a preliminary engineering study for the eastern water supply project. He reminded that the executive summary was reviewed last week. He also mentioned the preliminary results and conclusions of the Board's motion on December 4, 2008, as it related to the Water Allocation Policy. Mr. Mosteller said the two presentations were tied together because they are very much linked as it relates to providing a short-term response to the water challenges and to identifying a long-term solution. He refreshed the Board's memory by showing a few slides from last week's presentation. He reminded that for the long-term as it relates to inter basin transfer issues, the County's water system needs to be divided very closely to the ridge line that is shown on the map. Mr. Mosteller said the area west of the ridgeline would be for long-term for the Catawba River Service area and everything on the eastern side of it would be from water supplied by the Anson service area. He said that by using some short-term construction modifications, they were going to try to extend that area and in long-term tie it very closely to the ridge line; the long-term water strategy for Union County must focus on the reduction of inter basin transfers.

He said that in spending the last number of months looking at the eastern water supply project that there are a number of other project participants who have surfaced and who may want to venture into a partnership on the project. Mr. Mosteller said when the total of those needs from potential project partners including Union County are combined in the Rocky River-Yadkin basin, the flow capacity that one would look for in 2030, from a peak demand standpoint, would be 56 million gallons per day; and in 2050, it would be 74 million gallons per day. He reported that the recommendation in the preliminary engineering report is to go to Blewett Falls on the Yadkin River and construct a new raw water intake and then pipe raw water to either western Anson County or eastern Union County where a new water treatment plant would be constructed initially at 40 mgd capacity, if indeed all the water project partners come to fruition or less if they do not. He reiterated that making a decision and moving forward on the eastern water supply project is very much tied to the County's water system demand challenges now and how the County is going to try to meet those needs.

Mr. Mosteller said that Phase I implementation costs are on the order of \$200 million for a project of that size and that excludes potable water transmission from the water plant to the end-use customers. He said the \$200 million would be for the entire raw water and treatment capacity to be shared among the project participants. Mr. Mosteller explained that in the next couple of months as the County moves forward and some participants fall off, some of the capital costs will be reduced as well.

Chairman Openshaw asked for more explanation. Mr. Mosteller said if one goes back to the allocation of need for all the project participants, it will be noticed that Anson County and its wholesale customers are at 12 million gallons per day in 2030. He reminded that currently Union County has a contract for four million gallons per day; if the 12 million gallons of Anson and four million gallons of Union County are added together, then the assumption is that 16 million gallons per day of that capacity would be maintained in the existing infrastructure. He explained that note two is simply that this plan gets raw water to the new water treatment plant that is being proposed on the eastern side of Union County or the western side of Anson County but then infrastructure will be needed to get the treated water to customers and those costs have not been included because the line has not been routed. He explained that this would be one of the larger water treatment plants in the state and permitting, designing, and executing a project like that is something that will take a length of time to get completed and; therefore, it is estimated a completion of around the end of 2018. Mr. Mosteller said that would include decisions made on what solution the County is going to look to in the eastern water supply by next month. He reported that to stay on schedule and get this capacity delivered in 2018, the County has a step process. He reviewed these with the Board.

Commissioner Baucom asked if this plant being proposed as a regional operation makes it any more agreeable to DWQ and the powers in Raleigh. Mr. Mosteller agreed that the State is very much a proponent of regional solutions. He said when taking the timelines as shown, it appears to take a long time, but HDR believes that in trying to get an IBT certification and have an environmental impact statement for a project such as this developed, completed and approved, these are timeframes that HDR believes are realistic – not necessarily aggressive or conservative.

Commissioner Kuehler asked if any preliminary studies been completed. She said she was under the impression that Twelve Mile Creek was going to these “green” numbers of capacity and got blindsided when the water quality came back at a level where the County was cut off right where it stood.

Mr. Mosteller said that was a great question. He said they had met with the State on this water supply solution and would say that this effort is a result of the no's that the County has had related to inter basin transfer. He further said that the difficulty in expanding east of the ridge line with Catawba River water is what has led HDR to this point. Mr. Mosteller concluded that this plan is more of a product of where you have been told no, like Twelve Mille Creek. He said there is still a possibility of running into issues but in conversations with the state thus far this is a much better solution to them on a long term basis.

Mr. Mosteller explained that he could not remember what month the Water Allocation Policy was adopted last year, but the engineers and Commissioners came back as a group on December 4 and the County staff was given a motion that the staff and engineers have been looking at which was to determine what opportunities are available with potential modifications. He defined for the body the definition of the problem – that the issue that the Water Allocation Policy seeks to deal with is not really long-term water supply but seeks to deal with an immediate issue related to peak demand. So, he explained, the immediate problem is that during certain peak demand periods, the existing Catawba River Plant Service Area demands exceed the contracted capacity from the Catawba River Water Treatment Plant. He showed by use, of a slide, the area that is served with Catawba River water. He stressed that is not the long-term vision because the red area shown on the slide is going to be pushed back into the ridge line, but what is shown is how it is today. Mr. Mosteller said the peak demand in the red service area exceeds 18 mgd on certain days.

He further said he has been involved with a number of regional utilities actually related to HDR's work nationally as it pertains to water supply. He explained that the issue of peak day demand and what drives it is a function of many variables. He said he knew some are obvious to the Board but noted that what is going on with the climate, the cost of water, and the economy is even driving conservation more so than some of the rates. He shared that what a lot of his peers are learning is that in post-drought people have conditioned themselves to behavior that is more conserving of water.

The peak day demand, Mr. Mosteller explained, is the issue here as it relates to the County's system having a peak day demand factor of about 2.8 mgd. He said that was the highest day that the County might experience as it relates to an average day. He said that some of the design criteria maximizes out typically at 1.4 mgd or 1.6 mgd. He said if the County would look at an entire year and take the average use in the Catawba service area and then take the peak demand, it still shows up as a factor of two.

Commissioner Mills asked what the peak time was. Mr. Mosteller said that in May 2007 the County had a peak of about 21.3 mgd; this is the highest day on record. He stressed that reducing the peak demand has a number of advantages. In the short term, it has the advantage of providing additional water supply that can be allocated to others and also has a tremendous advantage of deferring capital costs and transmission infrastructure as well as water plant infrastructure. He explained that the peak day demands are a function of a lot of variables and the way the water allocation policy was developed was recognizing that some times the peak day had exceeded the 18 mgd.

Mr. Mosteller further said the motion as HDR and staff understood it on December 4 was for them to look at the policy and see what changes would be necessary to insure that the County *never* exceeds the 18 mgd contract capacity and that the policy be based on a two-day per week irrigation schedule. He reported those were two components of the motion and the third element of the motion was that the policy provide opportunities for new development projects that are ready to move forward today to secure allocated capacity ahead of those that are on the list but that might not be started or completed for a long time. He said the second bullet – not only irrigating on a two-day per week capacity but spread over three days for customers so that the customers would use six days worth of irrigation distribution.

Mr. Mosteller said that he had tried to be very fact based in the analysis and went back to a period of time when the County was under a two-day per week irrigation pattern and referenced statistics from June 2007 to November. He said during that time the customers were under a two-day per week irrigation program and that time also coincided with one of the hottest, driest summers on record. He reviewed the daily pattern of Tuesday-Saturday and Thursday-Sunday and noted the watering schedule did not allow them to water from 9 a.m. to 5 p.m which provided even more of a restriction during the two-day-a-week policy. During that time period on August 11, Union County's water system hit a 19.5 mgd peak.

The Chairman stated that he would not want to make any assumptions but asked the rationale on the no watering from 9 a.m. until 5 p.m. Mr. Mosteller said that he did not know but that was Public Works' policy at the time.

Commissioner Baucom said he thought there were two components: one was the demand issue and the other was the conservation issue for utilization of the water during the evening and night hours.

Commissioner Mills said he thought that it had something to do with the recovery of the water.

Mr. Mosteller agreed that was probably right; it's probably the delivery infrastructure that caused the 9 a.m. until 5 p.m. restriction.

He reviewed how HDR and the County staff took the available figures and averaged and applied the numbers and determined that there is no water to allocate under the conditions of guaranteeing that the County does not exceed 18 mgd and providing a two-day per week watering pattern.

Commissioner Mills asked Mr. Mosteller who served on the team that put the original Water Allocation Policy together. He replied the team that has worked really closely together has been Mr. Greene, Mr. Crook, Mr. Bundy, Scott Honeycutt, Mike Garbark, Eric Hardy, Matthew Delk, and Richard Black.

Chairman Openshaw asked for clarification if the statement is that the two days of irrigation spread over three days results with no water to allocate.

Mr. Mosteller agreed that is a true statement if the County wants to guarantee that it is not going to ever exceed 18 mgd a day. He responded to a question from the Chairman by explaining how the daily average was compiled just from the two day watering period as opposed to the 365-day average.

The Chair further questioned how the team mathematically figured out from dividing it from the situation that the county previously had with two-days per week versus going to two-days per week, divided by thirds. Mr. Mosteller explained that they took the 19.5 mgd and subtracted the 13.3 mgd, providing a sub number of 6.2 mgd; that is the maximum day irrigation demand and the people were spread by two, so the irrigation demand is twice that number. He said if the 12.4 mgd is divided by three because it will be spread over three days, the County is at 4.1 mgd additional irrigation demands. Mr. Mosteller said if the 4.1 mgd is added to the 13.3 mgd average, the end result would be 17.4 mgd and when the additional 1800 customers have been added to the system plus divide them by residential and non residential and then add their peaking factors, the number will fall on either side of 18 mgd. He reminded that Lancaster County has made a year's commitment of granting additional water allocation to Union County. Mr. Mosteller explained that if the Board wanted him to do so he could recalculate the figures taking into consideration that the last summer was the hottest, driest one on record. He said with that scenario the County would have a couple hundred thousand gallons to distribute. He said, however, that with the point the team had with the direction to not exceed the 18 mgd cap as a guarantee, the County would be hard pressed to say there is any water to allocate.

Mr. Mosteller briefly reviewed a summary slide showing some of the projects and when these might be delivered. He said the decision on the Water Allocation Policy that the Board needs to make and the team tried to make has to be considered relative to the certainty of long-term solutions. He said what they tried to take into account was managing risks and the level of certainty that they had in the projects being delivered. He said in the interest of time he would not review all the examples but said there were certainly some historic examples. Mr. Mosteller said that one near-term challenge is the Catawba-Interbasin transfer that was talked about last week. He said the fact is there is about five million gallons per day of a grandfathered amount to move from the Catawba basin into the red service area as shown on the graph, and it appears that as the data is reviewed, Union County is approaching that top amount at this time. He explained that the expansion that the Board started the design on for the Catawba River Water Treatment Plant will only provide minimum relief to the red service area because of the interbasin transfer issue. He further stated that as the Anson County service area is expanded from the red to the green zone [shown on a graph before the board], the growth in that area and the grandfathered inter basin transfer of four mgd all present measured relief to an area as was displayed on the map available by slide to the Board. He noted that there is an area between the Anson County service area and the Catawba River Water Treatment Plant that will not receive any relief because of the interbasin transfer.

Commissioner Baucom asked why the line was not moved to include Monroe.

Mr. Mosteller responded that he thought that was because the next set of improvements that will be provided for the short-term relief does not include Monroe; long-term relief would. Mr. Mosteller said it was probably an oversight on the slide but later noted that the slide indicates information only to the year 2011.

The Chairman responded that 2014 is still five years away and Anson should give Union County authorization to increase its purchase from four million gallons per day to six million gallons per day within that time.

Mr. Mosteller explained the reason the presentations were tied together was so the Board could see that if the County wants to look at certainty in the Water Allocation Policy that it is really tied closely to the Catawba River Water Plant expansion, the interbasin transfer issues that go along with the wastewater solutions, and the long-term eastern water supply project. He said the team that has been working together developed a list of key priorities for 2009 for Public Works to provide a greater level of certainties. He said in those ten key issues, the group has included finalizing and enforcing the Water Allocation Policy, picking an eastern water supply project and then moving forward with getting partnerships, looking at the financial feasibility, and doing some preliminary design this year so the County will have better answers to the permitting questions that the Commissioners have and better answers to the project partnering questions the Board has by early 2010. Mr. Mosteller said that an integrated water, wastewater, and reuse master plan should be completed within the next twelve months. He said it would also be necessary to secure from the State confirmation of the current interbasin transfer amounts, which is something that is being worked on currently. Mr. Mosteller said that they would be bringing within the next couple of months a water conservation plan for review and approval that will help to conserve water use in the County over the long term. He stressed that it is very important that the Board maintain the schedule of the Catawba River Water Plant project and keep an eye on the design, permitting and construction schedules. He said that another item is to develop a long-term environmental mitigation plan. He said that to approve a project like the eastern water supply project, there must be a number of other area controls like environmental impact statements, storm water controls and buffers on streams to be approved and making sure that all the different municipalities involved and those that are going to be a partner will have those controls in place.

He said that it had been noticed that during these difficult economic times, the number of building permits and water permits that have been applied for in the County has been reduced. He said that although it is not good for the economy, it might be buying the County a little more time to provide greater certainty.

Mr. Mosteller said that as the Board considers the Water Allocation Policy direction, he would say there are only a couple of facts to be considered. He said it might mean a meter moratorium; no more meters for those that are in the system. He said an option to that would be to continue with the existing policy and reassess in twelve months after those key priorities are completed. He said that approach would have a number of advantages. One would be that it would allow the County and HDR to assess the impact of the two-day per week irrigation spread over six days and what the changing demands patterns of the County's customers might be with post-drought, post-economy, and post revised rate structures. He stated that he thought those three items would probably curb the peak demand in the system. He said it would allow the Board to implement the Water Conservation Program that will be brought forward, and enhance the revenue stream to the extent possible, which would be a real positive. Mr. Mosteller commented that it will allow the group to work on something that was the third part of the motion which is to assess the true status of all the "A" and "B" key projects. He said what they saw was the variance between the average daily demand, which is about 10 mgd, and the capacity the County has in the plant of 18 mgd.



He showed a graph depicting the average demands and projected demands of water usage. He said it is the team's recommendations to continue with the policy in place for the next twelve months, to work on the key priorities and to bring updates to the Board, and reassess it at that point. Mr. Mosteller requested that this recommendation be adopted and also recommended that the Board consider adopting the eastern water supply preliminary engineering report recommendation, which is to pull water from Blewett Falls and move forward with plans for a 40 mgd plant with partners or less without partners to be located in eastern Union County or western Anson County.

Chairman Openshaw asked Mr. Mosteller to provide data on numbers developed showing how many inter basin transfer gallons per day are currently being consumed in the green area. He said he did not have the number with him but thought it was a couple million gallons per day. Chairman Openshaw questioned the accuracy of that number since there is not a lot of development in that area and questioned why that line was chosen. Mr. Mosteller said that Mr. D'Adamo of their firm did those calculations and he did not have the information in front of him today. He said what was trying to be accomplished with the short-term Anson project is simply to maximize what the County has a contract to utilize and to push that as far as it will go regardless of where the green line is.

Commissioner Baucom said the line was actually irrelevant because the County is dealing with gallons and the additional capacity from Anson will be increasing the availability of Catawba water in that area.

Chairman Openshaw said that one of his questions some time ago was how many of the lots that have currently been approved are in the Yadkin basin versus the Catawba basin. He said the County will have to deal with the aging process if there is not a high demand for the water.

Chairman Openshaw asked if a study has been done on the potential maximum withdrawal from the Yadkin River. Mr. Mosteller responded that one has not been completed unless it is part of the relicensing processing that just took place on the Yadkin. He said he knew the State is looking at a lot of water withdrawal permitting rules as a result of the recent allocation study requested by the Legislature. He said he knew that when the State evaluates withdrawals, it does take a group of intakes in an area and look at that relative to the safe yield of that particular source at that point.

The Chairman said that because of the number of potential partners he is concerned about the relevancy of the numbers. He said that until a determination is made about the commitment of the project partners and what their desires are, accurate estimates are not available. He asked if there are rough numbers available.

The County Manager responded that the number of the potential project partners is very broad numbers.

Mr. Mosteller explained that if these project partners join with Union County at one particular location at Blewett Falls, the State will look at that project the same as it looks at four intakes, all 20 feet from one another. The State will look at that project collectively.

Chairman Openshaw asked how the County would be paying for all these projects – the Catawba River Water Plant project, the wastewater treatment project with the City of Monroe, the Blewett Falls Water Treatment Plant, and a myriad of other projects. He said he could agree this was the way to go, but questioned how the County would get there.

Mr. Greene stated that there are a myriad of stumbling blocks not just financial ones. He explained there is myriad of stumbling blocks and the engineers and staff will have to sort through them one at a time as the County goes through the process. The Manager said the financial feasibility will have to be studied in detail; most of the funding, unless there are grants coming out of Washington, will come from the County's current and future users. He stressed that all of those projections will have to be put together once it is identified who the partners are and what the preliminary cost estimates are, etc. He said there will have to be detailed feasibility studies completed to determine what impact it will have. He stated that at this time there are not precise enough details to make that determination.

Commissioner Kuehler said she appreciated the information but stated that she still did not see how the County will overcome her big concern. Basically, she said the “anti-growthers’ are talked about and that although she has been lumped into that category, she is not one. She stated that her Dad is a developer, but noted that in her opinion the allocation policy is the best “no growth” policy that the county has ever seen. She stressed it does not allow people who are ready to grow in this economy to come forward and get an allocation. Commissioner Kuehler said she did not see where the team attacked that problem.

Mr. Mosteller said that is what the team wanted to know—is there a need to tackle that problem if there is nothing to allocate. He said that the financial feasibility and the environmental impact statements are clearly the two biggest challenges of making this eastern water supply project happen. He said the message taken away last week and tonight is that the water allocation policy challenges will continue to be without that long-term solution complete, a long time frame will be required and it will be tough. He said the team was looking for direction as to whether or not it looks at the third issue.

Commissioner Kuehler agreed that was a vicious circle because Chairman Openshaw was talking about how it was going to be financed, and the fact is, it is a user-pay system and the system has some capacity, but it is not being used because the people who hold the allocation are not using it. She noted that Union County has a user-pay system that is not being used; therefore, the County is losing money everyday that the allocation is sitting there reserved and not being reallocated to those people who are ready to hit the road running. She said she had a huge problem with that; if there is someone who wants to build, she wants to be able to give them water.

Mr. Mosteller agreed but emphasized the team wanted to make sure there is water to allocate.

Chairman Openshaw concurred with Commissioner Kuehler's point explaining that the present system, if it is allowed to continue, will allow more people to hoard more water unproductively. He said that it is the best slow growth or no-growth policy in Union County, and it was hoisted by unrestrained overdevelopment. The Chairman suggested that the Water Allocation Policy be suspended and the Board re-examine these issues with the intent of trying to free-up as much water as is possible to allow for people who are literally first come, first serve. He said no one is locked out on a house-by-house, project-by-project basis if they are ready to come forward. He said that the proposed practice will allow some of the water to be freed up and get the revenue flowing to the County's coffers and to the enterprise fund. He said he had a lot of letters, of which he has copies, from people who support the first-come, first-serve basis and that is the method that he is proposing. The Chairman reiterated that he thought the County should go back to a literal first-come, first serve basis.

The County Manager recommended that the County not suspend the Water Allocation Policy until the legal staff has had an opportunity to finish its review of any implications that might result from suspending. He said they still have considerable work to do in researching that action.

Chairman Openshaw said one of the questions that he had asked himself was tomorrow when Public Works opens up, who would get the water and what happens. He said that his exceptions would be (1) single-family house with a contract in hand; he didn't care whether the developer is on the list or off the list. He said the guide is to put people to work and create some revenue for the County's system: (2) up to three models for new subdivisions that have no current inventory; (3) a single house to be built from subdivided family land, whether they are on the allocation policy or not; no multiple issuance of permits, literally on a case-by-case, one at a time basis; (4) those who have contracts with the County; (5) commercial projects on the Priority A list would be excluded (6) and if legal says that those with permits proceed, then those with permits proceed.

He asked if anyone else has something they want to add; if not, that is his recommendation. He said if it is not cut off at some point, someone is going to rush in and lock up another 100 lots. The Chairman stated that practice might be helping the developer but it is not helping anybody else.

Again, Mr. Greene, asked that the staff be given the flexibility of having a couple of weeks to study the Chairman's proposal.

The Chairman said that two weeks could result in a lot of building permits. He said that the County should have a suspension of the issuance of permits that the County Manager does not feel are legally entitled, but to the rest of the recommendation, he would say no. Chairman Openshaw said the County should cut it off and work to address that situation as soon as possible; in fact, the other thing he would like to propose is a task force of five people to work with the County Manager and staff, not to be too intrusive, to do the work on their own, to come back to the Board with their suggestions too. He said his intent is to put more minds behind this project. He said the way that he looked at the issue is that he receives at least one call a week from a commercial project developer who wants to get underway but can't do so because they can't get water or sewer.

The County Manager stated that he appreciated the Chairman's point of view but stressed that the proposal is extremely significant. He said for the Commission to make a hasty decision without any time for study could lead to unforeseen problems and he would implore the Commission to give staff, including legal staff, time to study the proposal.

Chairman Openshaw stated if the Attorney wants to advise the Board of his concerns about this proposal now in closed session, he is willing to listen. Otherwise, the Chairman said that this is not a hasty decision but is one that has been going on for months. He said he presented eight pages of questions or solutions in October when this policy was passed and not one of those was addressed. He said he has had a lot of time to think about this, would not say it's perfect, but the problem is, if the County does not act immediately to start a rationale system to put people back to work to build the projects that they want to build, Union County is not going to have to worry about it because the water will be gone. He said right now the system is taking water away from its existing customers to serve "first-come, first-serve" letters; that is not a commitment and the County is tying up water and the water commitments that are issued are taking water from the customers and there is no drop-dead date. The Chairman said the current allocation policy says that it is going to zero irrigation, which by the way is not acceptable because if the developer tries to sell houses with brown lawns, he can't. He noted that the developers want an exemption to water sod. He stressed that a citizen can buy a house with a green lawn, but cannot replicate it necessarily. The Chairman said that since there is nothing in the Allocation Policy that addresses this issue, the policy will be coming to you to take water from your house. He said it is happening in other places and could happen in Union County because there is nothing in the policy that would prohibit it.

Commissioner Mills said that he has learned from his prior service that the Board needs to take small steps. He said the allocation policy was put together when the Board took office and did not know the ramifications of sewer. Commissioner Mills said that water was never a known problem, but it was only later that the Board found out that there was a problem with a shortage of water. He said that people have followed the rule and have come forward through the procedures in place, and they were granted letters for water and sewer and nobody paid any attention to how much they were allocated. He stressed that no Commissioner had any input on the water allocation policy. He said he had been accused of allocating water and sewer to his buddies and friends, and it has not happened. Now, he said there is a suggestion to throw away the rules that have been in place in the past. He said there are local developers and builders who have borrowed money, bought land and put in drains, roads, etc.; they might be delayed from building because of the financial crisis and can't get the financing that they need at this time. He stressed that the depressed economy is part of the problem – people are not moving, people are losing their jobs, and there is a severe recession.

Commissioner Kuehler stated that in her opinion the developers who have built the roads and spent money on the infrastructure are the ones that are most likely going to move ahead. She said there are projects in the Allocation Policy that do not even have approval from the towns in which that they are trying to build. Commissioner Kuehler said that without approval, these developers have not laid one piece of infrastructure, not built one road, and not cleared one blade of grass. Those developments are the projects that are clogging up the system and under the current policy there is no way to identify who those people are and how to take capacity that they are not going to use for the next five years and give it to somebody who is ready to build right now.

The County Manager stated that the staff has made significant progress in going through the list of projects in the Allocation Plan since the Board's last meeting, in talking to the municipalities, and in doing a matrix of where each of those projects stands; the County staff has done a tremendous project. He encouraged the Board to let the staff complete the work and bring it back to the Board so each can see what is going on before such a drastic decision is made.

Commissioner Kuehler stated that based on the last time that the Water Allocation Policy was put on an agenda there was a run on the bank. She asked how would the County stop the next rush that will certainly come and asked how it could be just stopped until the information is brought back; can everything in time just stay as it is.

Commissioner Mills responded that what the County is trying to do with the policy is to try to meet the obligations that the County has already got on its books. The run is basically from people who were already approved by the county; he said these are not new, but already in the system and the people are going ahead and paying for it.

Commissioner Kuehler said that this is only a method to allow these people to tie up more capacity. She again reiterated that the Water Allocation Policy is a definite no growth policy. She stated that the allocation does not belong to the land, but it belongs to the project. She stressed there are lots of issues that need to be addressed.

The Vice Chair stated that it appears to her that the Water Allocation Policy as it is written gives out allocation that the County does not have. She said there is no way to magically make the water appear and the County is making commitments whether they are legal commitments, first use, obligations, permits, contracts, or whatever for something that it does not have. She said she thought this was misleading the public and she had a major problem with that. Vice Chair Rogers said that the County is restricting its current customers and not allowing any flexibility for a drought. She said it is taking its availability and squeezing it to allow for things to come in. She explained there are projects that need to come and reminded that tonight they heard from two gentlemen; one was out of work and one was worried about selling his land. She noted that there are commercial projects that want to come into the County but the County cannot give water to this project because of the way this current policy was prepared. She said the bottom line is that the County does not have the water. Vice Chair Rogers said she believed that Chairman Openshaw had said that the exemptions are those with permits and those with contracts so those who already have the contracts and permits are exempt from what he is talking about. She said that sometimes there has to be strong measures taken in order to get an action and get a result. Vice Chair Rogers said this has been batted about since she came on the Board and what she hears being said is that the staff is waiting for direction and then the staff will look at how the County can allocate, how it can increase, and how the different projects can be paid for. She stressed that the staff cannot ask her to make a decision to keep a plan in place without having the full facts.

Mr. Mosteller said the way the team had looked at the policy was that it was similar to buying a house with a mortgage. He said the team tried to do the policy and allocate water based after evaluating the certainty of those other things happening. Mr. Mosteller stated that he thought the judgment could be questioned but the team has tried to prepare a policy that struck a balance. He reported that what the team came back with and said is “if you want to have those parameters in place of nothing over 18 mgd and two days a week, there is no water to allocate.” He said if that is changed, then the team is open and has already started figuring out how to move projects that are ready to go up on the list, but the team wanted to know first that it had that flexibility.

Vice Chair Rogers said that using the housing analogy right now is a perfect example considering Fannie Mae and Freddie Mac and where the economy is right now; she said it is necessary to be able go to the table with a down payment and also look at what the repayment plan and what the cash will be. She said she is not saying that it is necessary to have the funds to come to the table right now because Union County does not have the water.

Mr. Mosteller interjected that Mr. Greene has gotten the down payment when he received a signed letter of guarantee of the three million gallons. He said it is up to the Board to determine how much mortgage the County can afford.

Mr. Greene said surprisingly he thought everyone had the same goal, and he understood the need for more information to make decisions. He also agreed the County did need more information, but stressed it takes time to develop that information. He said it may not appear that way, but the staff spent a lot of time and effort putting the Water Allocation Policy together, and it was only in early December that the County learned from a quorum of the Board that there might be problems that may require it to be changed. The County Manager said there is a lot going on and the staff is bogged down and to develop the information that is needed for the Board to make a decision on a sound, legal basis takes time. He said there is a lot of data to go through and assured that he is only asking for sufficient time for the staff to prepare the data so the Board can make the decisions with some reasonable expectation of knowing what the outcome of those decisions might be.

The Vice Chair assured that she was not being critical and she understood the need for time but she also understood what Commissioner Kuehler and the Chairman are saying. She said basically the County is having a sale but has no product to sell, but it is telling people it has a product to sell because there is a policy in place that says the County does. Vice Chair Rogers emphasized the County needs to find out how to get the crux of that problem solved, whether it is through suspension or some other mechanism; that is the crux of the problem. She said the staff and HDR need to take the time and the Board needs the questions answered but how does the County stop saying the County has a product to sell when it does not.

The County Manager said he thought that Vice Chair Rogers was talking about people coming in and paying their capacity fee and asked if that is correct. The Vice Chair said that was above her realm of knowledge. The County Manager said that the staff has done 50 single family permits in November and December and maybe not all of those were even on public water, and assured that is not enough to cause a problem over the next few weeks or a month or two as the County sorts through the main issues. He said that demand for service is relatively insignificant in terms of which is worse adding those customers or making a bad decision.

The Vice Chair said that what she thought she heard said was that the last time this issue was on the table in December, the County had \$500,000 worth of permits or tap fees put through the system the next day. She asked what was going to prevent that from happening tomorrow. She said she was not against growth and wanted to see more growth and particularly more commercial growth but reiterated that she is not comfortable in having a policy in place that is granting water that the County does not have.

Mr. Greene said he understood and he could not tell how many people would come in and pay capacity fees tomorrow but would guess that lots of them got it out of the way a few weeks ago.

Commissioner Kuehler said that was the point she was referring to and to expand on that, the longer the County leaves the plan in place, the more risk the County runs of people who are on the plan coming in and paying their tap fees.

Commissioner Mills interjected that the County does have water; the County is not out of water.

The County Manager said the County has eight or nine million gallons of water and the County issued only 25 building permits per month. Mr. Greene said he believes that the County has time to assure that it is making a good decision.

Commissioner Kuehler replied that was not her point. She said her point is that the County has a plan in place that basically says “here is the County’s plan and you are on it, and you are going to get water.” Commissioner Kuehler asked what if, after the County does all the things that the County is talking about doing, it can’t bring in the customers, and it needs to change. She stressed that the County has made a promise that it does not know that it can fulfill, and they are taking the County at its word and spending money or moving forward with getting loans or whatever to shore up their ability to get the water. She said that the County is creating some legal liabilities.

Commissioner Mills said he thought he understood what everyone is saying. I don’t agree with changing the policy but the County does have water to meet the needs and demands that are already obligated. He said there might be some developers that are behind on their construction schedule but the policy that was put in place was developed in fairness. Commissioner Mills stressed that it was boards prior to him that had promised more water than the County had. He asked how many new water projects have been approved since November 2007.

Mike Garbark, Public Works, said there have been none issued.

The Chairman said that one of the problems is that there are people who want to move and can’t because they do not have the allocation approval.

Mr. Garbark pointed out that the sewer allocation policy dictates that if developers do not have jobs permitted by July 31, 2009, their allocations are gone.



Chairman Openshaw pointed out that the staff recommended a deadline of April, but it was the previous Board of County Commissioners' majority that extended it to July; he said he wanted it made known that all ordinances are going to be enforced.

The Vice Chair said her definition of having water available means no restrictions and the second point of her statement is that there is no water available. She directed that the staff review pages 12 of 15 of the Water Allocation Policy which states that these Priority A projects account for an estimated total of 2.5 mgd of water capacity: "While Priority A projects exceed the estimated available capacity of 1.9 mgd, this policy directs Public Works to provide water service to these projects given the actual timing for completion of these projects and other impacts to overall demands and available capacity. Mandatory use restrictions that permit NO outdoor irrigation may need to be imposed to allow for this continued development." She said that she was sorry but for her that statement means that there is no water available. She said not only does the County not have water available with no restrictions, the Priority A projects exceed the available capacity. Vice Chair Rogers said that based on what is in the policy she takes issue with the fact that there is available capacity

Commissioner Mills reiterated that if the County has no drought and there is plenty of water, there still needs to be restrictions to reserve the resources.

Vice Chair Rogers assured that she was not advocating open-ended water usage.

Commissioner Baucom said that if the County would go back to one-day-a-week irrigation that would take the County to 21 mgd. Commissioner Baucom corrected himself and said that it was two-days-a-week irrigation that took the usage to 21 mgd. If the County stays at one-day-a-week irrigation, the County stays at 18 mgd. He pointed out that agronomically there is no need to irrigate more than one day a week.

Mr. Mosteller said there are some utility regions that regardless of the availability of water will restrict its usage.

Commissioner Baucom asked for a legal opinion as to what is being proposed.

Mr. Crook responded that he and the County Attorney would be glad to discuss in closed session any legal ramifications as they understand them to be.

Commissioner Baucom stated that he is extremely uncomfortable in making the decision without hearing the legal opinion of the County Attorney. He said he thought there was a possibility for adverse actions occurring for the County. He urged the Chairman to go into closed session to hear the opinions of the attorneys.

The Chairman stated his willingness to go into a closed session to receive advice from the attorneys.

Commissioner Baucom asked the results if the County allowed for one-day-a-week irrigation and utilized the three-million gallons per day from Lancaster County. Mr. Mosteller said that it would appear to give the County 1.9 mgd. He said that when the policy was written, the County went into the policy, and the results have been that the policy has worked a little better than they had thought it would during the growing season. He said that if the data is studied through the fall, it might be a little more than 1.9 mgd but what the staff would really like is to study the policy through a spring and summer to determine the real statistics. He stated that was the reason for the request for a twelve-month reassessment. He said the short answer to the question is 1.9 mgd or a little more.

Commissioner Baucom summarized again that if the County went to a one-day-a-week irrigation and used the Lancaster water, there would be at least 1.9 mgd. Mr. Mosteller corrected that the County would have 1.9 mgd without the Lancaster water and would exceed the 1.9 mgd when the Lancaster water is taken into consideration.

In response to a question, the County Manager stated that Lancaster County Water Authority was only willing to sign a year by year agreement dependent upon the growth of its system. He said the current extension expires in October 2009 and Lancaster County Water Authority has agreed to extend the contract for another year if the capacity is still available. He said he would anticipate that it would be available due to their growth also being restricted, but that he did not know that for a fact.

Commissioner Baucom next asked if there is any way that Union County could enhance the amount of water that it has and its ability to utilize the water that it has.

Mr. Mosteller said that he thought everything such as purchasing water from other utilities had been looked at but stated that the Water Conservation plan that will be brought to the Board as well as the water reuse plan will enhance the County's ability to utilize the water that it has. He said that at the time the Water Allocation Plan was approved in September or October, the County asked for a Water Conservation Plan to be developed within 120 days.

The Chairman suggested a five-minute break.

The Vice Chair interjected that if the County chooses to go into closed session that she recommends that the Board again suspend the Rules of Procedure to dispense with the business of Aqua Utilities and any other item on the agenda when persons are in attendance to address these items.

Commissioner Mills pointed out the Tax Administrator was still present and there were other citizens in attendance to address other items. The Vice Chair agreed that these too should be heard prior to the closed session.

Commissioner Baucom asked if the other items could be tabled until another meeting of the Board of Commissioners could be called by the Chairman.

The Chairman asked the County Manager what items are remaining on the agenda for which action is critical. He stated that Item 14 is critical, and he would defer to the Finance Officer and Neal Spear about the Firefighters' grant. Mr. Nelson responded that Items 14 and 15 are urgent from the staff's prospective

At 11:00 p.m., the Chairman declared a recess.

Chairman Openshaw reconvened the meeting at 11:16 p.m. and asked if the Commissioners wanted to take action to suspend the Rules of Procedure to temporarily table discussion on the water allocation policy while the Board takes care of some of the other critical items on the agenda.

Motion was made by Vice Chair Rogers that The Rules of Procedure be suspended to amend the agenda to temporarily table discussion on the Water Allocation Policy until later in the meeting while the Board discusses items 12, 13, 14, 15, and 16. The motion passed unanimously.

**DISCUSSION OF PROPOSED RATE INCREASE FOR UNION COUNTY CUSTOMERS SERVED BY AQUA UTILITIES, INC.:**

Mrs. Lynda Paxton, Mayor of the Town of Stallings, introduced Donald Horner, a resident of Country Wood East. Mayor Paxton explained that she, the Town Council, and Mr. Horner are advocating for intervention in the rate increase request of Aqua North Carolina, Inc. She stated that Aqua North Carolina has over 250,000 customers in over 40 counties with approximately 11,600

customers in the towns of Indian Trail and Stallings. She noted that according to the rules of the Utilities Commission, Aqua Utilities must use metered water for establishing its rates, if reasonable or practical to do so, but these users are customers of Union County's water system. Mayor Paxton explained that she and the residents know that Aqua Utilities must have a profit but believe that an increase from \$58.35 to \$70 is unreasonable for the citizens. She said that in Union County the average usage is 7500 gallons per month at an average cost of \$34 and the maximum amount any customer on the Union County sewer system would pay is \$48.85. Mrs. Paxton said that another private company, Carolina Water and Sewer, has requested the Utilities Commission to grant an increase of its sewer rates from \$37.25 to \$40.83.

Mayor Paxton stated that the Stallings Town Council unanimously voted to request the Union County Board of Commissioners to adopt a resolution asking the Utilities Commission to direct Aqua North Carolina to base its fees to Union County's customers on their metered water usage.

Mr. Donald Horner, a resident of Union County and customer of Aqua North Carolina, Inc., described how Aqua started its program in Union County. He also explained the growth and operation of Aqua America, Inc. Mr. Horner offered to notarize any documents on water usage required by the customers to be provided to Aqua North Carolina, Inc., and asked that the Union County Board of Commissioners supports their request to the North Carolina Utilities Commission and adopt a resolution in support of a usage based fee schedule for Aqua North Carolina, Inc., users in Union County.

Motion was made by Commissioner Mills that the resolution as amended by the staff attorney be adopted.

Commissioner Kuehler stated that such requests are an example of the problems of private water and sewer businesses within a county. She also stated that she did not believe that the resolution as amended meets the request of Mr. Horner and Mayor Paxton nor does it provide help for the citizens. She asked Mr. Crook to explain the reasons for the amendment and asked if there is a release or waiver that could be executed to allow water usage information to be released to Aqua North Carolina, Inc.

Jeff Crook, County Attorney, stated the request posed to him was could the water bill information be provided to Aqua North Carolina, Inc. under the Public Records Law of North Carolina. The attorney read from the law and stated that under the Public Records Law, the information is not public information that can be disbursed to third parties and pointed out the exceptions which apply to that law do not seem to apply to the present situation.

Commissioner Kuehler said that if the information cannot be released, she did not believe the resolution would be of any good for the customer.

The Attorney stated that the purpose of the law is to protect the account holder. He further explained that it might be possible to provide the information to Aqua North Carolina if releases were executed by the customers but noted that he would need to research this request in more depth. He said another concern is from the administrative standpoint, this would be additional work and the county staff will have to maintain these records somewhere but that would be an issue for the county administration.

Commissioner Mills amended his motion and moved that the County Attorney prepare a release to be brought back to the board for approval.

The Chairman and Mrs. Paxton noted that this is a time sensitive issue because the Utilities Commission's hearing is in February. Mrs. Paxton said the hearing has been delayed from February 3 but that it is still time sensitive.

Commissioner Baucom stated that he thought the request has the support of the Board but there are some problems with complying with the logistics of the request.

The Chairman stated that he would make a motion if there is not one already on the floor. Commissioner Mills withdrew his motion.

After additional comments and discussion, Chairman Openshaw then moved to adopt the following resolution in support of the request with the caveat that the Board would investigate the legalities and staff consideration of providing the water usage information to Aqua North Carolina.

The Attorney advised that it would not be necessary for the Board to approve the release form.

The Chairman called for a vote on the motion to adopt the resolution. The motion passed unanimously.

**Resolution in Support of a Usage Based Fee Schedule  
For Aqua North Carolina Inc. Users**

**Whereas**, Aqua North Carolina, Inc. has made a request to the NC Utilities Commission for a 20% rate increase for their residential customers in Union County from \$58.35 to \$70; and

**Whereas**, this follows a 36% increase that was implemented in October, 2000; and

**Whereas**, NC General Statutes 62-130 through 62-139 requires that the “Commission shall fix such rates as shall be fair to both the public utilities and to the consumer”; and

**Whereas**, Union County currently has approximately 1650 homes in the neighborhoods of Country Woods East, Emerald Lakes, Creekside, Buckingham, Crismark, Beacon Hills, and Hemby Acres which are served by Aqua North Carolina, Inc. with service pending for 500 more homes; and

**Whereas**, residents of the county and region have been placed under restrictions for water use due to severe drought conditions and limited water capacity from existing sources since May 29, 2008; and

**Whereas**, the most recent update of the NC Drought Management Advisory Council “strongly urges the implementation of drought response actions” for all water users located in areas of the state experiencing drought levels of D0, D1, D2, or D3 until further notice; and

**Whereas**, the flat rate fee structure used by Aqua inadvertently discourages water conservation and is deemed to unfairly penalize low consumption customers by charging higher than average monthly sewer rates; and

**Whereas**, the Aqua residential customers are provided metered water service by the Union County Public Works Department with rates based upon usage; and

**Whereas**, NC Utility Commission Rule 10-18 prescribes that sewer service be based on the amount of water metered except where impractical to do so,

**NOW THEREFORE BE IT RESOLVED** that the Union County Board of Commissioners supports and encourages the NC Utilities Commission to take any and all necessary steps to require Aqua North Carolina, Inc. to implement a fair and reasonable fee schedule determined by metered water usage which can be acquired from Union County Public Works.

Adopted this 20th day of January, 2009

ATTEST:

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

\_\_\_\_\_  
Lanny Openshaw, Chairman

**TAX ADMINISTRATOR—2008 UNTIMELY USE VALUE APPLICATION APPEALS:**

John Petoskey, Tax Administrator, explained that he is present to discuss late applications for farm use consideration. He stated that in 1973, the Legislature enacted a plan to allow farm land to be taxed at farm value use rather than at regular use value. Mr. Petoskey said that there are over 3,000 such parcels in Union County. He further said that the tax bills go out in August and at that time it is too late for the farm use applications to be processed. He further noted that North Carolina law contains a provision for the Board of County Commissioners to consider such late applications for just cause after the Board of Equalization and Review has adjourned. He said that although there are not rules for when such should be approved, the North Carolina Property Tax Commission has said that it would consider such late applications for military or medical reasons. The Tax Administrator said he has denied 20 untimely applications for 2008 and of this number only three have requested further consideration.

Commissioner Kuehler asked if the reasons the three applications were denied were because these were filed untimely and pointed out that the envelopes indicate that they were postmarked and filed by December 5.

The County Attorney pointed out that the December 5<sup>th</sup> deadline was the date the Administrator's office required these be received for appeal to the Board of Commissioners. He noted that the farm use applications are due before the end of the Board of Equalization and Review's last meeting which was in June.

Mr. Petoskey pointed out that these three will qualify for 2009 farm use deferment but did not qualify for the 2008 farm use value. He assured that if these applications had been filed prior to the last meeting of Board of Equalization and Review, they would have been considered and approved.

In response to a request for his recommendation, Mr. Petoskey stated that he had already denied 20 and that he would recommend these be denied because of the equity issues.

Motion was made by Commissioner Baucom that the recommendation of Mr. Petoskey be accepted and the late farm use value applications for: Sarah Niven Spillman, #05-174-006 and #05-171-002, Gary Gene & wife Barbara Rollins #04-249-018; Mary G. Horne, Trustee – #06-192-003C, #06-192-003D; and #03-042-005 be denied.

The Chairman stated that if the applicants were actively engaged in farm use that he would prefer to see all 20 approved and given a fair shot.

Vice Chair Rogers asked if she understood correctly that these appeals should have been filed prior to June but dialogue on these three did not begin until about August or September.

Mr. Petoskey agreed with that assessment and reiterated that the dialogue did not begin in a timely manner.

Commissioner Baucom said that he thought everyone in agriculture understood that the applications have to be made timely and cannot be made throughout the year. He stressed that the Board needs to be equitable to all and that a precedent has been set and he thought these had to be denied.

Commissioner Kuehler asked for clarification on the situation surrounding Black Swan Farms. Mr. Harris, who addressed the Board during informal comments, said he was not aware of the program but after learning of it, he worked through the application process. He said he was not informed that there was a timeline to be followed. It was noted that Mr. Harris was not the owner of the property but leased it from Mr. and Mrs. Rollins. He said that it was only after he had completed the application that he learned there was a time problem.

Commissioner Baucom acknowledged that he understood the situation, but that he thought the recommendation of the Tax Administrator should be followed as precedents have previously be set. He also noted that the employee who worked with Mr. Harris is a fair employee who works diligently to assist the taxpayer.

Commissioner Kuehler stated that she thought as a lessee of the property and the individual who filed the application for Black Swan Farms that his application should to be considered.

Commissioner Kuehler moved to amend the original motion to give special consideration to the application of Gary Gene & wife Barbara Rollins 04-249-018 filed by William Harris, lessee of the property.



The Vice Chair asked the County Attorney if these are considered on an individual basis and the Board would not be setting a precedent. The Staff Attorney agreed that decisions are to be on a case-by-case basis. After reading the pertinent law to the Board, Mr. Crook explained that the Board's action must be based on "good cause".

The Vice Chair also asked if this appeal could be made to a higher level of government. Mr. Petoskey said the application could be appealed to the Property Tax Commission.

Commissioner Kuehler said she would argue that this case constitutes good cause based on the ownership of the land.

At the request of the Vice Chair, the Chairman repeated the motion stating that Commissioner Kuehler had moved to amend the original motion to allow this applicant to continue to work with the tax office to resolve the issue. Commissioner Kuehler replied that her motion is to allow him to have the exemption. After the County Manager pointed out that under the wording of the motion, the staff does not have authority to complete the action required within the motion, the Chairman asked if the applicant meets all the requirements except for the date of filing.

Mr. Petoskey reported that the application does meet the requirements for approval.

Commissioner Kuehler then moved that the application filed by William Harris on property leased from Gary Gene & wife Barbara Rollins, Application # 04-249-018, be approved for inclusion in the farm use value program. The motion passed by a vote of three to two. Chairman Openshaw, Vice Chair Rogers, Commissioner Kuehler voted for the motion and Commissioners Baucom and Mills voted against the motion.

The Chairman then called for a vote on the main motion as amended to uphold the recommendation of the Tax Administrator and to deny the appeals of Sarah Niven Spillman, #05-174-006 and #05-171-002, Mary G. Horne, Trustee – #06-192-003C, #06-192-003D; and #03-042-005. The motion passed unanimously.

#### **AMENDMENTS TO UNION COUNTY PERSONNEL RESOLUTION REGARDING REDUCTION OF WORK FORCE:**

The Chairman announced the next item. Mr. Greene explained that the Personnel Director and the Staff Attorney had worked on the policy for force reduction and recognized Mark Watson, Personnel Director, to present the proposed policy.

Mark Watson, Personnel Director, stated that the Board has before it a proposed reduction in force policy and explained that it further adds an addendum which allows for the payment of severance compensation. He stated that in the development of that schedule there were a number of options considered. He said they chose to go with the schedule that follows the vacation accrual schedule that current employees have and added to that for full-time employees was a severance for a health insurance stipend for individual health insurance premiums. Again, he said, all of that is based upon length of service. He said in addition there was a technical amendment to Article I that is related to the severance package.

At the request of the Chair, Mr. Watson explained the insurance severance stipend. Mr. Watson said that he looked at the current individual premium rate paid by the County of \$495 per month which he rounded to \$500 and then for each of those other categories increased it by one month.

The Chairman asked if the person would receive a lump sum payment. Mr. Watson replied that was correct. He said the person would certainly have a need for health insurance but if they choose to use those funds for something else, it would be up to the individual.

Commissioner Kuehler stated that when one reviews and identifies the retention of employees in the classes affected as the information is presented, she would understand it to mean that type of appointment is the number one consideration, relative skills and efficiency, skills, knowledge, productivity is the second consideration, and length of service is the third consideration. She asked if that is the way it is meant to be read.

Mr. Watson agreed that is the way the statement is intended to be read. He further said that in the presentation to be given to the Commissioners on Thursday, the decision-making processes will be better explained. But, he noted that the type of appointment is the first consideration. Mr. Watson further explained that in following the second consideration there may be a number of employees within one category, and it would be at that time that length of service would be considered.

Commissioner Kuehler stated that she knows the most objective, unemotional way to go about a reduction in work force is "last in-first out" but that she did not agree with that philosophy. She said she was trying to ascertain if the policy being presented to the Board tonight is specifying that is the third consideration.

Mr. Watson assured that length of service was the last factor considered. He said the consideration was based on length of service effective the date of hire with Union County not the date of last transfer into a position.

Commissioner Kuehler said that she thought she had heard something about other services. He said that information on that issue will be presented on Thursday, but it is not part of the severance package.

The Vice Chair also commented on the order of factors considered for force reduction but noted that the last sentence of the paragraph is somewhat contradictory to his explanation in that it states: “The relative weight to be accorded each of these considerations will be determined by the County Manager.” She said the way that sentence is written appears that the priorities could be shifted from 1, 2, 3 to 3, 2, and 1. She asked for clarification on that point.

The County Manager asked the Staff Attorney to address that point. Mr. Crook said that he thought it important to preserve that provision to give the County Manager flexibility that he needs in individual circumstances. He stressed that is the intent of that statement, and he thought it was important that it remain a part of the policy.

Mr. Watson reiterated that the way he described the consideration of the factors has been consistently followed during the thought processes in how it could be applied and assured it has been applied just as it has been laid out in the policy.

Vice Chair Rogers said if the staff is recommending that the last sentence remain a part of the policy that she would like to see the previous sentence say affected on first- the type of appointment, second - relative efficiency, skills knowledge and productive, and third - the length of service. She said she would prefer to see it spelled out in that manner and then the final sentence as presented.

Mr. Crook asked if he understood that the board was establishing a priority by the rewording. The Vice Chair said that was the question Commissioner Kuehler had asked and the response she received was that those were the priorities of the consideration. She agreed that her intent would be to establish priority.

The Staff Attorney stated that would be a decision for the Board but that he would not recommend the rewording. He emphasized that he thought it really important to preserve the County Manager as much flexibility in the policy as could be afforded to him. He said he thought it important to leave it as it is written.

Vice Chair Rogers said she understood what he had said but she would still want to see it spelled out first, second, and third because to her the priority is important. She also noted that on the Addendum. Item (2) where the document addresses severance compensation, she asked why these part-time employees who did not receive benefits were considered as a part of the severance package.

Mr. Watson explained there are three classifications of employees: the first is full-time employees that are benefited, the second category is regular part-time employees that are benefited except for health insurance and then the third category is temporary, part-time employees and seasonal employees who do not receive any benefits. He said the part-time employees and seasonal employees are not included in the severance. He said the part-time employees who receive benefits except for health insurance are included in the schedule and shown as percentage of workweek.

Vice Chair Rogers said that in the private sector there is not the severance package that is being offered here. She said that the Commissioners are responsible for the taxpayers' dollars and she wants to make sure that Union County is doing things responsibly and at the level of other local governments. She asked for an explanation of the provision to give a severance package to someone that has been with the county two years or less.

Mr. Watson said that if the person is a probationary employee, which is six months or less, the person would not be entitled to a severance package. If the employee is outside of his/her probationary period by more than six months but less than two years, the employee would qualify for the first level.

Vice Chair Rogers asked when did the benefits begin such as accrual of vacation, etc? She asked when the different levels of accrual began. Mr. Watson replied that the breakdown for accrual follows the information provided under the heading "Years of Service".

Motion was made by Commissioner Baucom that the Union County Personnel Resolution be amended to add new Section 5 to Article VII (Separation) to read as follows:

#### **AMENDMENTS TO UNION COUNTY PERSONNEL RESOLUTION**

1. Add a new Section 5 to Article VII (Separation) to read as follows:

##### **SECTION 5** **Reduction in Force**

For reasons of budgetary constraints, organizational needs, or decreased work load, the County Manager has the authority to separate employees and to eliminate position classifications within a department on the basis of reduction in force. The County Manager will base retention of employees in classes affected on (i) the type of appointment, (ii) the relative efficiency, skills, knowledge, productivity, and value to the department, and (iii) the length of service. The relative weight to be accorded each of these considerations will be determined by the County Manager.

In implementing a reduction in force, the County Manager will endeavor to provide employees with such notice of separation as may be reasonable under the circumstances, provided that the County Manager may give notice of immediate separation in the event severance compensation is made available to such employees. Union County is under no obligation to provide severance compensation to employees separated by a reduction in force, but if provided, such severance shall be in accordance with, and pursuant to, an Addendum to this Resolution. If an employee separated pursuant to a reduction in force is rehired by the County within twelve (12) months of the separation date, it will be deemed that no break in service occurred for purposes of the continuity of service requirements in Article XI, Section 5 of this Resolution; provided, however, that only time actually worked shall count toward the required number of years of creditable service. The scope of any grievance filed pursuant to Article IX, Section 3 of this Resolution for separation due to a reduction in force shall be limited to whether the County Manager or his designee followed the requirements of this Section. To the extent that the provisions of this Section conflict with the State Personnel Act, such provisions shall be deemed inapplicable to employees of Union County subject to the Act. Department Directors and/or County Officers who are solely responsible for the discharge of their employees are encouraged to follow the provisions of this Section when implementing a reduction in force.

2. Add a new Addendum # 1 to the Union County Personnel Resolution to read as follows:

**ADDENDUM # 1**

**SEVERANCE COMPENSATION FOR EMPLOYEES SEPARATED  
DUE TO REDUCTION IN FORCE  
AFTER JANUARY 20, 2009, BUT BEFORE JULY 1, 2009**

An employee who meets the following criteria shall be eligible for a severance payment in accordance with the terms of this Addendum to the Union County Personnel Resolution:

- (1) The employee is involuntarily separated from employment with the County after January 20, 2009, but before July 1, 2009, due to a reduction in force; and
- (2) The employee is (i) a full-time, permanent employee or (ii) a regular part-time employee; and
- (3) The employee is not on probationary status pursuant to Article IV, Section 10 of the Union County Personnel Resolution. (Employees subject to the State Personnel Act who have not reached career status pursuant to N.C.G.S. § 126-1.1 shall be eligible for a severance payment in accordance with the terms of this Addendum provided that they are not on probationary status pursuant to Article IV, Section 10 of the Union County Personnel Resolution and that they otherwise satisfy the eligibility criteria of this Addendum.)

The amount of severance to be provided under this Addendum shall be calculated as set forth on the following page. The County will deduct from such severance payments all applicable withholding taxes and any other mandatory deductions.

[The remainder of this page intentionally left blank]

ADDENDUM # 1 (cont.)

<u>Hours Worked Annually</u>	<u>% of Standard</u>	<u>Years of Service Based on Most recent Date of Hire</u>	<u>Severance Hours to be Paid</u>	<u>Severance Health Insurance Stipend</u>	
2080	Standard	Less than 2 years	96	\$500.00	
2080	Standard	2 but less than 5 years	112	\$1,000.00	
2080	Standard	5 but less than 10 years	136	\$1,500.00	
2080	Standard	10 but less than 15 years	160	\$2,000.00	
2080	Standard	15 but less than 20 years	184	\$2,500.00	
2080	Standard	20 years or more	208	\$3,000.00	
2184	105%	Less than 2 years	101	\$500.00	
2184	105%	2 but less than 5 years	118	\$1,000.00	
2184	105%	5 but less than 10 years	143	\$1,500.00	
2184	105%	10 but less than 15 years	168	\$2,000.00	
2184	105%	15 but less than 20 years	193	\$2,500.00	
2184	105%	20 years or more	219	\$3,000.00	
1768	85%	Less than 2 years	82	0	
1768	85%	2 but less than 5 years	95	0	
1768	85%	5 but less than 10 years	116	0	
1768	85%	10 but less than 15 years	136	0	
1768	85%	15 but less than 20 years	156	0	
1768	85%	20 years or more	177	0	
1560	75%	Less than 2 years	72	0	
1560	75%	2 but less than 5 years	84	0	
1560	75%	5 but less than 10 years	102	0	
1560	75%	10 but less than 15 years	120	0	
1560	75%	15 but less than 20 years	138	0	
1560	75%	20 years or more	156	0	

1325	65%	Less than 2 years	62	0	
1325	65%	2 but less than 5 years	73	0	
1325	65%	5 but less than 10 years	88	0	
1325	65%	10 but less than 15 years	104	0	
1325	65%	15 but less than 20 years	120	0	
1325	65%	20 years or more	136	0	
1144	55%	Less than 2 years	53	0	
1144	55%	2 but less than 5 years	60	0	
1144	55%	5 but less than 10 years	75	0	
1144	55%	10 but less than 15 years	88	0	
1144	55%	15 but less than 20 years	101	0	
1144	55%	20 years or more	114	0	

3. Amend Article I, Section 2(6) as follows:

Except for Articles I, II, III, IV, V, VI Sections 2, 7, 9, 10, 12, X, and XIII these regulations shall not apply to part-time employees, which includes temporary and seasonal employees as defined in Article III, Section 8; provided, however, that Article VII, Section 5, shall apply to regular part-time employees.

4. Except as herein amended, the provisions of the Union County Personnel Resolution shall remain in full force and effect.

The motion passed by a vote of three to two. Chairman Openshaw, Commissioner Baucom, and Commissioner Mills voted for the motion and Commissioner Kuehler and Vice Chair Rogers voted against the motion.

**FEDERAL ASSISTANCE TO FIREFIGHTER’S GRANT – VOLUNTEER FIRE DEPARTMENT (VFD) COMMUNICATIONS EQUIPMENT:**

The Chairman stated the next item is federal assistance to firefighters’ grant and recognized the County Manager to present the information.

Mr. Greene said that in March 2007, the Board of Commissioners authorized the staff to work with the Beaver Lane VFD that was eligible to apply for a million dollar grant for subscriber units for the new radio system. He explained that subscriber units are



radios, portables and mobiles. He said that based on the estimated cost at the time the grant application was filed there would have had to be a match of a \$200,000 appropriation from the County. The grant has not been awarded but the funding agency is going back to applicants and verifying numbers. He said that since the time of the application, based on fine tuning of the numbers of subscriber units needed and the cost of those, the match appears to have increased to \$251,659 and the action recommended is to amend the Board of Commissioners' action of March 24, 2008, by increasing the local match from \$200,000 to \$251,659.

Chairman Openshaw asked for a motion. Commissioner Baucom moved that the action of the Board of Commissioners dated March 24, 2008, be amended to increase the local match for the Beaver Lane VFD Firefighter's grant from \$200,000 to \$251,659.

The Vice Chair stated that she was sure this subject was discussed at the time the initial \$200,000 was granted but asked if the grant is available to all volunteer fire departments in the County.

Mr. Greene said the money would be used to provide subscriber units to all the volunteer fire departments in the county.

Vice Chair Rogers repeated her question and received confirmation that the grant would be used to help all departments. She then asked why the fire tax fees do not cover the cost of these units and why the county has to provide \$251,659.

The County Manager stated that if the County does not receive the grant, the Board will have to look to the fire districts funding, county-wide tax appropriation, user fees or some other unidentified revenue source to provide the \$1.25 million.

Vice Chair Rogers asked if the County is statutorily responsible for providing this funding or is funding being provided because the taxes or fees are not adequate to cover the cost of these units.

Mr. Greene said funding is being provided so that the volunteer fire departments can communicate.

The Vice Chair then asked for confirmation that the funding is not statutorily required. She said that she pays a fire tax while others pay a fire fee. Vice Chair Rogers said that she would assume that those fees or taxes would cover the operation of the volunteer fire departments, equipment, etc.

Mr. Greene responded that the fees and/or fire tax partially cover those things but they do not cover them wholly. He then asked the Finance Director to respond to the question.

Mr. Nelson stated that back in 2007 when the deployment of 800 MHz communications' system was debated by the Board of County Commissioners over a period of many months and many meetings; there were a number of financing models that were shared with the Board. He explained that in connection with the backbone infrastructure, the towers, microwaves on the towers, ancillary buildings, etc., the ultimate model that the Board approved was a model in which the County's general fund would pay 100 percent of the backbone infrastructure costs. Mr. Nelson said there will be many partners in the system to include municipalities, law enforcement, perhaps even some state agencies, but in connection with the "highway" the Board ultimately pays 100 percent of those costs – capital and all maintenance. The issue then moved to portables and mobiles and there was extensive discussion as to who should pay for those mobiles and portables with questions such as should the County pay for all law enforcement agencies, City of Monroe, Waxhaw; should it pay for all the volunteer fire departments. The Finance Director said that ultimately the decision was made by the Board that although there was an interest in the County's general fund paying for all the costs, the County could not afford to do so. He said the concession was that the County would pay for the volunteer fire departments because currently the fee which is statutorily limited to \$50 is insufficient to meet the volunteer fire departments financing needs. He said that essentially if some of the volunteer fire departments had a tax, they probably could buy the portables and mobiles but there were many of the other departments that would not be able to purchase out of the fire fees. He said that additionally there is the issue of maintenance on the portables and mobiles. Mr. Nelson said the County had an interest that if it provided for these purchases out of the general fund that it wanted to make sure that these were being maintained by the County. He said some departments may purchase additional mobiles and portables but as far as maintenance the County may not be able to handle those

Vice Chair Rogers said she appreciated the information but that this issue probably needs to be discussed at a later date.

Chairman Openshaw pointed out that this item is time sensitive. He noted that his opposition had been that the County was taxing municipalities twice.

Pat Beekman interjected that this grant is a million dollar grant strictly for volunteer fire departments and could not be used for any other agencies. He pointed out that although the County wrote the grant, it had to request a volunteer fire to file the application. He said this grant does not go to the point addressed by the Chairman in October 2007. He stressed that this is a million dollars that the County has already agreed to pay. Mr. Beekman said it looked like the County is going to receive the million dollars, if it agrees to the additional match.

Chairman Openshaw asked how many radios will be going to each volunteer fire department.

Mr. Beekman said it depends on the number of stations or apparatus that each has. He said there is a formula that is worked

out because some have one station while others have more.

Chairman Openshaw again asked for clarification if this grant is for a unit per apparatus. Mr. Beekman agreed and pointed out that there are a certain number of mobiles that go with the apparatus. He said it was explained in October as to the number per volunteer fire department. Mr. Beekman emphasized that there is a very detailed list, and it has been established now for several years.

Chairman Openshaw then asked what is the largest number of units a fire department will receive. Mr. Nelson said that the grant will provide for one (1) mobile radio for 101 of the volunteer fire departments apparatus inventory, one mobile radio for each department's chief's vehicles, 18 portable radios (one for each department's chiefs) and 237 portable radios to be prorated to the 18 departments. Mr. Beekman stated that every station based on the number of apparatus it has and the number of people that goes with that apparatus has a proportion number of the radios; it is strictly a formula driven.

The Chairman called for a vote to approve the motion as stated. The motion passed unanimously.

**REQUEST FOR APPOINTMENT OF COMMISSIONER TO SERVE ON THE FAMILY DRUG TREATMENT COURT ADVISORY COMMITTEE:**

The Chairman stated the purpose of the next item and asked for a volunteer. Commissioner Kuehler volunteered to serve on the Family Drug Treatment Advisory Committee.

**WATER ALLOCATION POLICY:**

The Chairman announced that the Commissioners will consider the disposition of the remaining items when it returns from closed session. He asked for a motion to go into closed session.

At 12:25 a.m., Commissioner Kuehler moved to go into closed session in accordance with G. S. 143-318.11 (a) (3) to consult with an attorney in order to preserve the attorney-client privilege. The motion was passed unanimously.

**CLOSED SESSION:**

At 1:30 a.m., Chairman Openshaw moved to go out of closed session and to reconvene in regular meeting. The motion passed

by a vote of five to zero.

**WATER ALLOCATION POLICY:**

The Chairman recognized County Attorney, Ligon Bundy, to present his recommendation on the motion having to do with review of the water allocation policy. After Mr. Bundy's brief presentation, motion was made by the Chairman to direct the Public Works Staff to stop applying for water permits under the Water Allocation Policy except for government facilities and non-residential uses. This directive expires in 60 days. The motion further directed that the County staff review the Water Allocation Policy and that the County's website and copies of the policy provided to the public show that the policy is under review in accordance with the motion passed by the Board of Commissioners at its December 4, 2008, special meeting.

Commissioner Mills stated that he understands what is trying to be done but he would prefer the County to follow the recommendation of the staff or wait until July when the sewer deadline takes effect and re-evaluate at that time.

The Chairman asked the County Manager if the earlier recommendation was still the recommendation of the staff. The Manager confirmed that it is.

The motion passed by a vote of four to one. Chairman Openshaw, Vice Chair Rogers, Commissioner Baucom and Commissioner Kuehler voted for the motion and Commissioner Mills voted against the motion.

At 1:35 a.m. on January 21, 2009, Commissioner Baucom moved that the meeting be adjourned.

The County Manager asked to be given time to distribute a plan for two-days-a-week irrigation that the County plans to implement as soon as the Public Works' staff can do so. He said that he would also request to consult with the Board in that it is the intention of the staff to declare Stage 2 drought conditions as per the recent Drought Management Advisory Group recommendation. He explained the benefit of that would be alleviating the burden of the high tier rates in Stage 3 drought conditions.

In response to the Chairman's question if the Board needed to act on this information, the County Manager stated that it was being distributed for information and consultation purposes only.

The Chairman called for a vote on the motion to adjourn. The motion passed unanimously.