

Minutes of the Regular Meeting of  
Monday, March 2, 2009

The Union County Board of Commissioners met in a regular meeting on Monday, March 2, 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 of Commissioners; Jeff Crook, Senior Staff Attorney; Keith Merritt, County Attorney, members of the press, and interested citizens

**Opening of Meeting:**

At approximately 7:03 p.m., Chairman Openshaw convened the regular meeting and welcomed everyone present.

**a. Invocation**

Commissioner Kuehler offered the invocation.

**b. Pledge of Allegiance**

Commissioner Kuehler led the body in reciting the Pledge of Allegiance.

Following the pledge, Commissioner Mills asked to make a point of clarification regarding the Pledge. He stated that he had attended a Rotary Club meeting where he was told that an amendment has been passed, that when reciting the Pledge of Allegiance, there is no pause or comma in the following: “one nation under God, indivisible, with liberty, and justice for all.”

**Public Hearing – Re: Proposed FY 2010 Community Transportation Program Application: Total Funding Requests \$230,678 – Total Local Share: \$32,232**

At approximately 7:05 p.m., Chairman Openshaw opened the public hearing and stated its purpose.

No one registered to comment during the public hearing, and Chairman Openshaw asked if there was anyone in the audience who wished to address the Board during the public hearing. With there being no one wishing to comment, at approximately 7:06 p.m., Chairman Openshaw closed the public hearing.

**Public Hearing – Re: Proposed Text Amendments, Sections 21, 23, 27, 29, 31, 33, and 35 to the Union County Land Use Ordinance**

At approximately 7:07 p.m., the Chairman opened the public hearing and stated its purpose was to receive comments regarding proposed text amendments to Sections 21, 23, 27, 29, 31, 33, and 35 to the Union County Land Use Ordinance.

Chairman Openshaw recognized Jeff Crook, Senior Staff Attorney, for comments.

Mr. Crook stated that the Planning Board had not rendered a recommendation at the last Board of Commissioners’ meeting, and the Board of Commissioners provided clarification to the Planning Board's questions. He said that because the public notice had been sent for publication at that time for tonight's public hearing, the Board would need to address the same issues tonight as was addressed at the February 16, 2009, regular meeting. He stated that Richard Black, Planning Director, was present tonight and was prepared to review those comments for the Board.

Richard Black, Planning Director, explained that the proposed text amendments before the Board tonight for a public hearing are for a reconstitution of the Planning Board and the Board of Adjustment. He stated that there were two points that he wanted to review for the Board: 1) brief overview of the changes that would occur in the Land Use Ordinance; and 2) a brief discussion on clarification of questions raised by the Planning Board and discussed at the Board of Commissioners meeting of February 16, 2009.

Mr. Black explained that the proposed amendments would reduce the number of regular Planning Board members from nine to seven and reduce the number of regular Board of Adjustment members from seven to five. He noted that the second major change in the Land Use Ordinance would be to change the appointment of regular members of the Planning Board from each of the nine townships to at-large. He stated that the Board of Adjustment members currently are appointed at large. He pointed out the third major change is that the proposed text amendments would require completion of a Conflict of Interest form by applicants for the Planning Board and Board of Adjustment. The fourth major change as discussed by Mr. Black would be that the proposed text amendments would limit the Planning Board and Board of Adjustment members from serving on other county boards that influence land use or property values. He stated that the fifth major change in the Land Use Ordinance would be that it would allow no more than one person in a position of political leadership to serve on the Planning Board and no more than one person in a position of political leadership to serve on the Board of Adjustment.

Mr. Black addressed the clarification points as noted at the February 16, 2009, Board of Commissioners' meeting. He said that the two questions where clarification was discussed included a question regarding serving on other advisory boards and the second question related to positions of leadership. He stated that from that discussion, the results were that a citizen could only be a member of one of the following advisory boards: the Planning Board, the Board of Adjustment, Parks and Recreation Advisory Committee, Union County Partnership for Progress, Historic Preservation Committee, the Library Board, the Agricultural Advisory Board, the Public Works Advisory Board, or the Board of Equalization and Review.

The Planning Director pointed out that the second clarification discussed related to positions of political leadership. He said that from that discussion, positions of political leadership are defined as the Chairman/President or the Vice Chairman/Vice President of any political party, party affiliate, clubs, or outside committees. Mr. Black said one of the questions addressed was "What happens to the disclosure forms that applicants submit?" He stated that staff had pointed out that there is a schedule for determining the length of time board applications are retained. He noted that both the Application and Disclosure Forms are public records and could be accessed by the public. He said that the Disclosure Forms for unsuccessful applicants must be retained for two years after the position is filled. He stated that for appointees, the disclosure statements must be retained for one year after his or her term ends.

Chairman Openshaw stated that there was one additional change and asked if Mr. Black had mentioned in his overview the removal of the prohibition of County Planning Board members serving on municipal boards of adjustment or planning boards. Mr. Black stated that he had failed to mention that in his comments and agreed this would be another major change in the Land Use Ordinance.

Chairman Openshaw asked if there was anyone else who wished to register to comment during the public hearing.

Andy Williams indicated his desire to be added to the list of speakers for the public hearing.

The first speaker recognized to address the Board was Everette Medlin. Mr. Medlin stated that he is Vice Chairman of the current Planning Board. He expressed appreciation to the Board for the opportunity to voice his comments during the public hearing.

Mr. Medlin stated that he was against the at-large selection of the Planning Board and Board of Adjustment members. He said he was in favor of continuing to use townships for the selection of the Board members to both boards. Mr. Medlin said that the at-large method of selecting members ensures that all areas of the county are fairly and equally represented. He noted that the northern, eastern, and southern sides of the county represent the areas for the most future growth and would be in line more for the future land use plan and new zoning regulations. Mr. Medlin said that these areas are currently under the jurisdiction of the County's Planning Board and Board of Adjustment; however, he noted that the western side is mostly developed with little county jurisdiction of the County's Planning Board and Board of Adjustment.

He stated that the western side of the county also is already mostly incorporated into towns, and those towns have their own Planning Boards and Boards of Adjustments and are not subject to Union County's regulations. However, he said these areas are where the population is most dense. He stated they have the population of numbers and are greater in proportion to the land mass of the eastern, northern and southern sides. He said that the population density in the western portion of the county is not subject to the County's Planning Board and Board of Adjustment's decisions. He said that this refutes the theory that the denser population should have the majority of the members of the Planning Board and the Board of Adjustment. Mr. Medlin shared with the Board a map of the County's planning and zoning jurisdictions.

He stated that, in his opinion, if the majority of the Planning Board and Board of Adjustment members are selected from the western side of the unincorporated areas, then the other areas of the county are being denied fair and equitable representation regarding their property. He said that he would appeal to the Board's sense of fair play and its spirit of cooperation for all of the citizens of the county. He said that the unincorporated areas of the county constitute a tremendous amount of Union County versus the incorporated areas. Mr. Medlin stressed that by no means was he saying the incorporated areas of the county should not be included, because they are citizens with rights just as all citizens in the unincorporated areas. He asked that the Board take his comments into consideration.

In closing, Mr. Medlin stated that this great country was designed with the majority rule in the Constitution, but when it comes to checks and balances within the system to ensure fairness in representation, he noted the following action. He said recently in the United States Senate, a stimulus bill was passed by two Senators from the small State of Maine. He stated that these two Senators wielded the same power as the Senators from Texas, California, New York or Florida. He clarified that what he was trying to stress is that he knew that the majority rule was what the Constitution was built on, but he would implore the Board to give fairness in the representation in the county.

Chairman Openshaw reminded the speakers that each was allowed three minutes for comments and acknowledged that he had afforded Mr. Medlin some extra time since it had taken time to distribute copies of maps to the Board.

George Hendry, who resides at 201 Belvedere Lane, in unincorporated Union County, spoke in favor of the proposed text amendments. He said that Mr. Medlin had made some nice points in his presentation, but he stated the vote on the proposed text amendments is not about territory but about the people and not about the potential for people. He stated that approximately 50 percent of the population of Union County lives within the blue band shown on the map that borders Mecklenburg County. He said that the blue band is only about five miles wide. Through the use of a map, he identified the various townships in Union County.

Don Kerr, 9614 Joe Kerr Road, Waxhaw, North Carolina, spoke against the proposed text amendments. He said that he thought the township method of appointing boards and committees is the fairest way. He said that one of the previous speakers made the point that the western part of the County would control Union County. He stated that it was hard for him to justify or even think that was fair when the boards and committees are needed to represent all interests. He said that he is not saying he is against growth, but he thought the township method was needed to select boards and committees. He stated that it assures as Mr. Medlin had said the wisdom that the forefathers saw that population was not the best way to represent the total United States so each state has one senator bringing to bear that area is just as important as population.

Mr. Kerr said a great land use plan has been put together. He stated that \$250,000 was appropriated for the land use plan and \$140,000 of that amount has already been spent. He said he would hate for this land use plan not to be used.

Chairman Openshaw interjected that the public hearing was for the purpose of receiving comments for the proposed text amendments. Mr. Kerr responded that he understood that but this was his only stand, and he wanted to bring out the importance of

the land use plan. In closing, he urged the Board to strongly consider remaining with the township method of appointing boards and committees.

Chairman Openshaw offered if Mr. Kerr would like to address the land use plan, he was welcome to do so in the informal comments.

Jeff Gerber, who resides in Unionville, stressed that Unionville was the eastern side of the County and said that the east versus west mentality has got to stop. He stated that when he ran as a candidate for Commissioner in the last two elections, he advocated for township representation. He said that he no longer supported this method, at least for now, because he believes it has been a failed policy. Mr. Gerber said that in his opinion some members of major boards have been chosen for political campaign contribution paybacks. He stated that attendance is another problem with the township appointments, with the attendance record on some of the boards being deplorable.

Mr. Gerber stated that he believed that by eliminating the township representation, the Board would put the best minds and most qualified applicants in these positions. He said that he had complete faith that if the Board moves away from township representation on boards at least for now, all of Union County can and will be represented.

Cody Helms said he wondered if the County was ready for another Boston Tea Party—Taxation without representation. He stated that this is what is going to happen with the Planning Board and the Board of Adjustment. He said that the County does not need a stacked board. He stated that knowledgeable people are needed for this board, and there are good people on the board now. He said there is not much happening in the County and questioned why there needs to be change when it is not broken. He questioned what method would be used to choose the members of the Planning Board and who would choose the members. Mr. Helms asked that the entire county be considered. He said that all residents pay county taxes based on the same rate. He stated that he does 95 percent of his shopping in Union County, and if he goes somewhere else to shop, it is because what he is purchasing is not available in Union County. He said that it has been seen with the cutback in construction what has happened to the revenue in the County.

Mark DiBiasio, who resides at 4708 Toms Creek Court, which is in unincorporated Union County, said that he wanted to approach his comments from two directions: one he wanted to talk about townships, because he has a serious issue with townships; and second to discuss the Planning Board itself. He stated that the appointment basis for the Planning Board needs to be considered, which, by and large, is what the big issue is. He said that the Planning Board has been changed and for all intents and purposes, this

is what all the argument is about. He stated that prior to 2000, the Planning Board was based on townships and in August 2001, the membership was changed to at large, and the previous Board of Commissioners in 2007 changed it back to townships.

He used a Power Point presentation, which showed a map of the townships. He said that townships were formed in 1879 and began as military districts and then migrated into jurisdictions. He stated that in fact for 20 years, they were the ones who elected the Commissioners in Union County. He said that from that point forward, townships have been more for the use of assessing the location of parcels in Union County. He stated that townships would mean a larger Planning Board, which is what the County currently has, and there are questions whether that size board is a good size. He said that there is no commonality with townships, because they are different in geographic size, population; demographics; and tax contribution. He stated that one of the previous speakers talked about tax contributions. He shared a chart which showed the tax contributions by the various townships. He noted that Sandy Ridge, Monroe, and Vance Townships contributed 79 percent of all the real estate property taxes paid in Union County. He said that there was a distinct difference in the six small townships in the east. He noted that there is also a population difference with Monroe, Sandy Ridge, and Vance Townships' population being much higher.

Mr. DiBiasio stated that to say this is a fair distribution of representation is a far cry. At this time, the Chairman noted that Mr. DiBiasio was nearing his three minutes for comments. Mr. DiBiasio stated that townships do not guarantee representation and township appointments lessen the pool of available volunteers. He said that township appointees have historically had poor attendance records. He stated that with appointments at large, there is no discrimination on boundary, and it is easier to find volunteers with varied skill sets. He said the last point he would make is what is fair doesn't fit. He explained that the Planning Board is a technical board that approves major development permits, and advises the Commissioners on zoning issues and ordinances.

Andy Williams, who resides at 4918 Old Monroe-Marshville Road, Marshville, North Carolina, said that he has served on the Planning Board for the last two terms. He stated that for both of his terms on the Planning Board, one board was without township representation and one board was with township representation. He stated that the Planning Board that had township representation served the County much more broadly than the board which was basically structured by people who were from the western end of the County. He stated that as Cody Helms noted earlier in his comments, growth has stopped in Union County. He said that it has been said that the Planning Board was basically homebuilders, real estate people, etc. Mr. Williams stated that was the farthest thing from the truth. He said that five of the members of the current Planning Board are from the agricultural end of the county.

He said that he wanted to reiterate the fact that representation is needed on the northern and eastern ends of the county for the fact that there is no representation from those sides of the county. He stated that it had been pointed out tonight that 50 percent of the

county's population lives on the western border of Union County. He said that the other 50 percent is from the northern and eastern ends of the county, and they are the largest landowners and taxpayers of the county. Therefore, he felt those areas need representation on the boards.

In closing, he stated that he hoped all of the applicants for these boards will be people who have served Union County and have lived in Union County more than 10 years and voice their opinions that they are what Union County is made of. He asked that the Board keep in mind that township representation is needed for the Planning Board.

Jim King gave his address as 3514 Waxhaw-Marvin Road, Waxhaw, North Carolina, in unincorporated Union County. He said that in September 2003, there were four developers, five in his opinion, who tried a couple of nice changes. He stated one of those changes was to increase the density on R-40 zoning to R-20 zoning. He said another change was to decrease benefits of what developers had to do on Smart Growth giving \$5,000 per lot for all the bonus lots. He explained there would be 75 bonus lots from 100 acres. He said that is what had been proposed.

Mr. King said that the financial disclosure form is important. He stated that with the Planning Board, a conflict of interest is up to the individual. He said that the board cannot and should not make any ruling on whether a board member has a conflict of interest. He stated that last month one of the members of the Planning Board had said that a limited partnership did not mean anything, and it could be determined who owned a limited partnership and that member could not understand why a disclosure form was needed.

He stated that experience is another thing that has been talked about by the Board of Commissioners. Mr. King said that he had not heard anyone who had spoken in opposition to the proposed text amendments in 2007 say the Planning Board would be losing all this experience when the previous board was disbanded.

He stated of the townships except Vance, Monroe, and Sandy Ridge, the property taxes are less than 21 percent of the total property taxes paid in Union County. He said that the residents of Lanes Creek Township paid less than one percent of Union County's property taxes; New Salem Township paid 3.4 percent of the property taxes with \$181 million in tax value deferred last year. He questioned where the fairness is in that situation.

Chairman Openshaw noted that Mr. King's three-minute time limit was nearing. Mr. King said that he attended the Planning Board meeting in January, and it seems that there is one more member of the Planning Board in attendance tonight than attended the



Planning Board meeting in January when there were only two members in attendance. He said that in talking about making changes in the Planning Board, he thought the Board should look at the members on the Planning Board and find out what why they did not attend the January Planning Board meeting.

Liza Kravis, who resides at 1208 Glynwater Lane, in unincorporated Union County commented regarding the Conflict of Interest Form, which she said she also felt very strongly about. She said at the first meeting of the Planning Board that she attended several years ago, she saw a developer vote for his own development, and there were no questions and no one said anything. She stated that she thought it was important that people understand what is going on and that there is transparency in government.

The second point addressed by Ms. Kravis was her strong opposition to township representation. She said that she believes in fair representation and believes that there are a lot of different interests in the County, and there has to be a way to meet all of the interests of all the residents. She stated that township representation is the most unfair, inappropriate way to make that decision. She said that it is not an easy choice, and there are no easy answers. Mrs. Kravis stated that she knew for sure that she did not support townships and one of the reasons she did not support townships are the minute districts that are created, which create a reason for someone to start gerrymandering. She said that when someone starts to draw lines, then there are politics over where the lines are drawn. She stated that she was very opposed to this, and she believes there should be diversity of thought, diversity of experience, and diversity of geography on these boards. She said that she served on the Planning Board several years ago when it was an at large board, but there was representation from across the county, maybe not a member from every township. She said there were representatives from eastern Union County, southern Union County, northern Union County, and western Union County. She stated that there might have been more members from western Union County, but as has been seen from the numbers in terms of registered voters and property taxes, there are more people in western Union County, and their rights are taken away if there is not fair representation as well.

Mrs. Kravis reiterated that she did not think there was an easy answer, and she believed that it had to be left to the Board of Commissioners to do the right thing. She said that as Mr. Gerber said earlier, she trusts the Board of Commissioners when making the appointments to select people who are going to do a good job, who will attend the meetings, attend training, and who take their jobs seriously, and she did not want them all to be from the same population. In closing, she said that she thought her main point was that she wanted everything to be fair. She said that while it was difficult, she thought that the recommended changes are right for the county. She asked when the Board moves forward with an at-large representation, that it makes sure there is diversity.

At approximately 7:43 p.m, Chairman Openshaw announced that this concluded the list of speakers who had registered to comment during the public hearing. He expressed appreciation to the speakers.

**Informal Comments:**

Chairman Openshaw announced that no one had registered to speak under informal comments and asked if there was anyone in the audience who wished to make comments at this time.

Max Melton approached the podium, stating that he had been late arriving to the meeting, and had not registered to address the Board during the informal comments.

He introduced himself and stated that he lived at 220 Sandy Ridge Road in the southeast part of Union County. He said that he served on the Board of Commissioners from 1986 to 1990 after having served eight years on the Board of Education. He stated that he served five years as Chair of the School Board and three years as Chair of the Board of Commissioners. Mr. Melton said that after having been out of politics for approximately ten years due to his job requiring a lot of out of state travel, he took an early retirement and served one term in the North Carolina House of Representatives in 1999-2000.

He stated that during the time he served on the Board of Commissioners, the Board looked into the future and saw the need for water if the County were to grow as the Board thought it should. He said that Union County learned of Lancaster County's need for a water treatment plant, and, as a result, the Union County Board of Commissioners along with the Lancaster County Water and Sewer Authority convinced the State of South Carolina to allow them to purchase land near the banks of the Catawba River to build a water treatment plant. He said that occurred and the plant has increased its size since that time.

Mr. Melton stated another important thing that happened during the last two years that he served on the Board of Commissioners was the passing of a school bond referendum, the first of such since 1960. He said that Union County has grown dramatically since 1990 and has probably doubled in population. He stressed that it is time to grow the size of the governing board. He said that he came tonight to ask the Board to seriously consider asking the state legislature to increase the size of the Board of Commissioners to nine members with six districts and three at large. He stated that the Board could then decide the make up of the committees, although he personally thought the township method was a good way to make sure the whole county is represented.

Mr. Melton stated another good thing that he thought the Board of Commissioners that he had served on had done was to hire Jeff Crook.

Chairman Openshaw asked if anyone else wished to speak during the informal comments portion of the meeting.

Jim Bention, Sr., who resides at 302 Tucker Street, Monroe, apologized for being late to the meeting but noted that he had a meeting prior to the Board's meeting. He said that as it relates to the Board of Adjustment, the current Board of Adjustment has served the County of Union faithfully, adequately, and even handedly. He stated that the board has served the County with its hearts and the facts and not through anything else.

Mr. Bention said there has been conversation about who could possibly serve on boards. He said that he is a party official serving as the Vice Chairman of the Union County Republican Party, but in no way on any of the boards on which he serves has his party affiliation, his party authority, or party rank been used nor would he conceive in his mind to use that to any advantage as far as any votes or anyone influencing him. He said from what he has seen, he does not believe that it is such a problem that someone serving from a party perspective should be limited from serving this county. Mr. Bention stated that he did not believe any resource should ever be limited. He asked that the Board consider the current members of the Board of Adjustment, who have served faithfully, and who have not built their coffers or taken any bribes or payoffs. He further asked that the Board not let someone who is a party official be an automatic stop sign because that person might be the most qualified person for a board, and if there is a conflict of interest, then that individual will be held accountable.

In closing, Mr. Bention expressed appreciation to the Board for its wisdom in the manner in which it has moved and for giving the process an ample hearing. He reiterated that the current Board of Adjustment is made up of good men and women. He said that he serves as Chairman of the Board of Adjustment, so he knows they are good men and women. He stated that he loved Union County and has raised his children in this county. He said that Union County has produced a State Champion from Monroe High School, a wrestler, named John Bention, his son. He said he had a great reputation that he did not want to spoil by allowing favoritism to get in his way.

Chairman Openshaw stated that Mr. Bention's comments concluded the informal comments.

**Additions, Deletions, and/or Adoption of Agenda:**

Vice Chair Rogers stated that she hated to add any items to the agenda tonight, because her intentions were not to have any additions to the agenda based on the Board's discussion at the last meeting; however, Representative Pryor Gibson sent the Board a letter asking for comments. She said that Representative Gibson's letter had been received after the time she was able to include the item on the agenda. She asked to add to the agenda a response to Representative Gibson's letter.

With there being no further additions or deletions to the agenda, Chairman Openshaw moved adoption of the agenda as amended. The motion was passed unanimously.

**Consent Agenda:**

Vice Chair Rogers asked for a point of clarification of Item 7b. She said that this item references Budget Amendment #25 but the Action Requested is approval of Budget Amendments #25 and #26. She said that she did not see Budget Amendment #26 referenced in her packet and asked if this was a typographical error.

Al Greene, County Manager, responded that Budget Amendment #25 was associated with Item 7b and Budget Amendment #26 is associated with Item 7a.

Vice Chair Rogers thanked Mr. Greene for clarification of this item.

With there being no further comments or questions, Chairman Openshaw moved approval of the items listed on the Consent Agenda. The motion was passed unanimously.

***Minutes:*** Approved minutes of regular meeting of February 16, 2009

***FY 2009 Surplus Property Sale:*** Adopted Resolution Requesting Surplus Property Sale

RESOLUTION REQUESTING SURPLUS PROPERTY SALE

WHEREAS, the County has certain items of personal property that it is no longer using and is wanting to sell these items to the highest bidder; and

WHEREAS, the Purchasing Agent has developed a list of these items as shown on Attachment "A" for review by the Board of Commissioners for disposal;

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Union County Board of Commissioners that the items of personal property included on the list as presented by the Purchasing Agent be declared surplus and sold by the Director at: 1) Public Auction or; 2) Through the County's Existing Contract with GovDeals, an electronic auction service; or; 3) through the largest electronic auction service, eBay; whichever service is deemed by staff to apparently provide the County the highest dollar advantage in returned revenue.

BE IT FURTHER RESOLVED that the Purchasing Agent be authorized to sell said property in either of the methods set forth above and that the Purchasing Agent or his designated agent be authorized to execute any and all documents necessary to transfer title to said property on behalf of Union County.

BE IT FURTHER RESOLVED that the terms of the sale shall be as follows:

1. Sale to the highest bidder with all sales final.
2. All items sold "as is" and "where is" with no warranty, express or implied, which extends beyond the description of the item.
3. Purchasers will have ten (10) days to pick up their items from the day of the final sale at 610 Patton Avenue, Monroe, North Carolina.
4. Payment by cash, money order, or cashier's check.

Adopted this 2nd day of March, 2009.

ATTEST:

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Lynn G. West, Clerk to the Board

Lanny Openshaw, Chairman

**Attachment A  
Surplus Vehicles**

	VEH#	Date	ODOM	MAKE	MODEL
1	23-98	2/6/2008	151,929	ford	ranger
2	08-01	4/30/2008	143,631	dodge	RAM1500
3	23-96	5/01/2008	128,449	ford	F-250
4	04-01	5/5/2008	127,250	dodge	RAM1500
5	50-01	5/5/2008	138,453	dodge	RAM1500
6	22-02	6/4/2008	135,078	dodge	RAM3500
7	21-02	6/5/2008	147,636	dodge	RAM3500
8	45-03	6/5/2008	131,205	dodge	RAM3500
9	23-02	6/11/2008	166,212	dodge	RAM3500
10	44-97	7/8/2008	83,139	ford	ranger
11	42-01	7/14/2008	134,060	dodge	RAM1500
12	05-04	7/7/2008	187,483	dodge	caravan
13	08-02	7/29/2008	98,442	ford	crown
14	31-03	7/29/2008	129,157	ford	crown
15	69-99	7/31/2008	110,273	GMC	1500
16	44-02	2/18/2009	144,893	dodge	RAM3500
17	03-01	7/31/2008	133,185	dodge	RAM1500
18	43-01	8/27/2008	127,982	dodge	RAM1500
19	25-03	10/1/2008	126,766	ford	crown
20	15-01	10/1/2008	96,438	ford	crown
21	34-03	10/1/2008	112,013	ford	crown
22	52-01	10/1/2008	126,200	dodge	RAM1500
23	75-00	10/1/2008	155,396	ford	expedition
24	45-01	10/1/2008	113,036	dodge	RAM1500

25	46-01	10/1/2008	197,619	chev	2500
26	14-01	10/2/2008	104,648	ford	crown
27	55-98	10/22/2008	108,500	chev	lumina
28	38-01	10/22/2008	150,168	dodge	RAM1500
29	10-02	10/22/2008	98,976	ford	crown
30	27-01	10/22/2008	125,529	ford	crown
31	12-02	10/22/2008	91,446	ford	crown
32	35-99	11/18/2008	104,834	dodge	RAM2500
33	25-99	12/30/2008	163,812	ford	ranger
34	35-00	12/30/2008	149,518	dodge	Dakota
35	09-03	1/6/2009	168,000	chev	S-10
36	28-02	2/11/2009	155,234	Chev	S-10
37	10-98	1/30/2009	83,521	Ford	crown
38	38-97	2/11/2009	99,652	Ford	f-150
39	15-98	2/18/2009	108,048	Ford	crown
40	36-03	2/18/2009	123,019	Ford	crown
41	32-03	2/18/2009	133,948	Ford	crown
42	49-99	2/24/2009	118,489	Ford	f-150

***FY 2010 Community Transportation Program Application:*** Adopted Community Transportation Program Resolution and Authorized County Manager to Approve and Submit Application (Local Share of \$32,232 to be provided in FY 2009/2010 Budget)

**COMMUNITY TRANSPORTATION PROGRAM RESOLUTION**

**Section 5311**

**FY 2009 - FY 2010 RESOLUTION**

Applicant seeking permission to apply for Community Transportation Program funding,  
Enter into agreement with the North Carolina Department of Transportation

and to provide the necessary assurances.

A motion was made by (Board Member's Name) Chairman Lanny Openshaw and seconded by (Board Member's Name or N/A, if not required) N/A for the adoption of the following resolution, and upon being put to a vote was duly adopted.

WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and

WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and

WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural public transportation services consistent with the policy requirements for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis);

WHEREAS, (Legal Name of Applicant) Union County hereby assures and certifies that it will comply with the federal and state Statutes, regulations, executive orders, Section 5333 (b) Warranty, and all administrative requirements which relates to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U.S.C.

NOW, THEREFORE, be it resolved that the (Authorized Official's Title)\* County Manager of (Name of Applicant's Governing Body) Union County is hereby authorized to submit a grant application for federal and state funding, make the necessary assurances and certifications and be empowered to enter into an agreement with the NCDOT to provide rural public transportation services.

I (Certifying Official's Name)\* Lynn G. West (Certifying Official's Title) Clerk to the Union County Board of Commissioners, do hereby certify that the above is a true and correct copy of an excerpt from the minutes of a meeting of the (Name of Applicant's Governing Board) Union County Board of Commissioners duly held on the 2<sup>n</sup>d day of March, 2009.



\_\_\_\_\_  
Signature of Certifying Official

*\*Note that the authorized official, certifying official, and notary public should be three separate individuals.*

Seal Subscribed and sworn to me (date) \_\_\_\_\_

\_\_\_\_\_  
Notary Public\*

Affix Seal Here

\_\_\_\_\_  
Address

My commission expires (date) \_\_\_\_\_

**Contracts Over \$20,000:** Authorized the County Manager to approve: 1) Amendment to Agreement with Blessed Assurance Adult Day and Health Care Services which increases the current contract to \$50,400; and 2) Agreement with the Village of Marvin in the lump sum amount of \$36,042.85.

**Aramark Correctional Services Food Service Contract:** Awarded bid to Aramark Correctional Services (In September 2008, the County formally bid this service and sent the Request for Bids to three known institutional food service providers: Aramark, ABL Mgmt. and Canteen/Trinity Correctional Services. The only bid received was from Aramark); and authorized the County Manager to approve an agreement with Aramark for an initial 16-month contract beginning March 1, 2009, ending June 30, 2010, in the amount of \$1,034,805, pending approval of the legal department.

**Tax Administrator:** Approved Departmental Monthly Report for January 2009

**Budget Amendment:** Social Services: Special Children's Adoption Fund: Adopted Budget Amendment #26 increasing Operating Expenses by \$28,500 and State Revenue by \$28,500 to appropriate Additional Funds for the Special Children's Adoption Fund used to enhance the adoption services program (State Funds. No County Funding is required.)

**Budget Amendment:** Health Department: Adopted Budget Amendment #25 increasing State Revenue by \$32,500 and Medical Services by \$32,500 to appropriate additional funding for the Susan G. Komen Grant to be used for medical services (No County Funding is required).

**UCPS Marvin Ridge Middle School/High School Storm Water Detention Ponds:** Adopted Capital Project Ordinance #113

CAPITAL PROJECT ORDINANCE AMENDMENT							
BUDGET	School Bond Fund - 55			REQUESTED BY	Kai Nelson		
FISCAL YEAR	FY 2008-2009			DATE	March 2, 2009		
PROJECT SOURCES				PROJECT USES			
Source	Project To Date	Requested Amendment	Revised Project	Project Description and Code	Project To Date	Requested Amendment	Revised Project
G.O. Bond Proceeds	481,366,916	382,546	481,749,462	Middle School/High School "B" (115C-429b project allocation)	67,456,829	382,546	67,839,375
All Other Revenue	1,363,308	-	1,363,308	All Other School Projects	415,273,395	-	415,273,395
						-	-
						-	-

	482,730,224	382,546	483,112,770		482,730,224	382,546	483,112,770
EXPLANATION:	Funding requests submitted by UCPS for Marvin Ridge MS/HS "B" pursuant to 115C-429b.						
DATE:					APPROVED BY:		
						Bd of Comm/County Manager	
						Lynn West/Clerk to the Board	
FOR FINANCE POSTING PURPOSES ONLY							
<b>PROJECT SOURCES</b>				<b>PROJECT USES</b>			
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	481,366,916	382,546	481,749,462	Middle School "B" (115C-429b project allocation)	26,437,798	153,018	26,590,816
55491100-4710-530				55559200-5586-528			
				High School "B" (115C-429b project allocation)	41,019,031	229,528	41,248,559
				55559200-5586-529			

	481,366,916	382,546	481,749,462			67,456,829	382,546	67,839,375
Prepared By	dhc							
Posted By								
Date							Number	CPO - 113

***Information Only/No Action Required:*** Included in the agenda package with no action required was a report of Health Hazard Sanitary Sewer Tap Allocation due to failing septic systems at 309 South Indian Trail Road, Indian Trail, NC.

**Introduction of County Attorney:**

Chairman Openshaw introduced and welcomed newly appointed County Attorney, Keith Merritt. He stated that Mr. Merritt also serves currently as the attorney for the Town of Indian Trail.

**Public Information Officer’s Comments:**

Chairman Openshaw recognized Brett Vines, Public Information Officer, for his comments.

Mr. Vines commented regarding the following:

- a. Rocky River Rural Transportation Planning Organization in coordination with NCDOT will hold a local coordinated planning meeting on Thursday, March 12, from noon until 3:00 p.m. at the Griffin Room of the Monroe Library to discuss how mobility needs are currently being met or unmet and to identify opportunities for improvement along with assessing capacity of agencies to coordinate transportation services in Union County. The goal of the workshop is to

bring together local transportation providers, agencies, customers and other stakeholders to provide opportunity for participation and involvement and to facilitate an exchange of ideas to be used during the planning of future transit needs of the county. The plan is required in order to apply for additional federal funds in the future. Anson and Stanly Counties are also holding similar meetings.

- b. Project Lifesaver is a program through the Sheriff's Office that locates and returns adults and children who suffer from a disorder that might cause them to wander away from their home. He said that the Project Lifesaver bracelet is a one-ounce bracelet that is worn either on the person's ankle or wrist and emits a radio signal 24-hours per day. If someone wearing a bracelet becomes lost, the caregiver can call 911 and alert the Sheriff's Office. The Sheriff's Office has 11 trained deputies who have electronic devices that can locate this person via the signal emitted from the bracelet. The average rescue time is 30 minutes. The program has been in Union County for approximately two years. Mr. Vines noted that participation in the program has not been as good as had been hoped. The Pilot Club in Monroe is partnering with the Sheriff's Office on the program.

Vice Chair Rogers asked what methods are being used to provide information to the public about Project Lifesaver. Mr. Vines responded that the information is on the County's website, and videos have been displayed on the County's Government Channel for over a year and a half. He said that articles have also been published in the newspaper.

Sheriff Cathey came to the podium and said that some churches provide information on the program and presentations have been made throughout the county regarding the program. He said that for some reason there is some hesitancy about the program. He stated that the success of the program would help to spread the word about the program.

- c. Mr. Vines stated that the Sheriff's Office's website is <http://ucso.us>. He said that the website contains information about missing persons in the county, persons who have been arrested, gun permit information, etc. Sheriff Cathey explained the features of the website. He said that there is a link to the County's home page on the website.
- d. All of the volunteers with the Department of Social Services' Volunteer Income Tax Assistance Program have been trained, and the program provides free tax preparation for citizens with gross incomes of \$42,000 or less per year.

**Old Business:**

**Discussion Regarding Limiting the Length of Board Meetings (from February 16, 2009, Meeting):**

Al Greene, County Manager, offered that Matthew Delk, Assistant County Manager, is prepared to discuss this item.

Mr. Delk stated that he had no new information to add since the presentation last meeting but he could answer any questions that the Board might have based on his conversations with other counties about anything the Board might have considered since the initial discussions.

Vice Chair Rogers said that she had found the rule that she had mentioned last meeting which is in *Roberts' Rules of Order* that talks about limiting time and turning it into a special order versus a general order. She stated that more importantly as she was doing research on this matter, it says in *Roberts' Rules of Order* that "while this practice of setting times may be necessary in some cases, the resulting loss of flexibility often outweighs any benefits that may be gained." She said that when she read this, she had gone back to her initial comment which was exactly that and that she really did not like the idea of limiting the Board's conversations if they needed to occur. She stated that she had looked for alternatives that could be used and there are other methods that can be used such as making a motion to adjourn or recess or call the previous question. She said that she watched a couple of the Board's meetings and, at times, not all the Board members are as brief and concise as they could be and tend to repeat themselves. She stated that if the Board members discipline themselves in their responses and comments, the meetings will go smoother.

Vice Chair Rogers said that she had no problem when the Chair and the Manager are setting the meeting agendas to use estimated times to keep track of the amount of time they think each item will take, but she did not want to have any rule that ends the meeting.

Commissioner Kuehler commented that she also agreed that there are other methods that can be used. She said that she did not like the long meetings any more than anyone else, but she thought if staff could use time estimates in preparing the draft agenda and then once they have enough items where they believe it will be an adequate meeting, then staff could manage it from the backend. She stated that the meetings are for the Board to do the County's business and if an item takes longer than is printed on the agenda, it would be looking at a two-thirds vote to undo what has been done whereas there are plenty of options to stop a meeting to recess or to call the question. She said that the strictness that the time limits place on the ability for open discussion and transparency would tie the Board's hands when there are other ways to accomplish the same goal.

Commissioner Baucom moved approval for the Manager to include estimated times on agenda items.

Commissioner Mills said that he had made a comment last meeting about the consent agenda, and he thought it has helped tremendously and also about adding items to the agenda. He stated that sometimes there are issues that are important, and in the lateness of the hour in the meetings, these items may not get the respect, time or thought process they deserve because it is late, and the Board is tired. He said that when the meetings go to 12:30 or 1:30 a.m., he is not sure that justice is being done to the items that are discussed. He stated that there is no problem with recessing a meeting and everyone coming back with a fresh mind and thought process to assure that the Board is acting accordingly and doing the business of the County as best it can. He stated that he thought that there has been improvement with the consent agenda.

Commissioner Kuehler asked for a point of clarification on the motion on the table. She asked if the motion was to have the staff and Manager, in putting the agenda together, to take what they estimate times to be into consideration and to stop the agenda at a respectable time but not to print those times on the agenda or is the motion to print the times on the agenda. Commissioner Baucom clarified that his motion was not time limits but to print the estimated times on the agenda items so there would be an approach to determining how many items to include on agendas. Further, he said that his proposal would be for the estimated times to be printed on the agenda distributed to the public.

Chairman Openshaw asked if the proposal to have estimated times eliminates the *Roberts' Rules of Order* requirement. Jeff Crook, Senior Staff Attorney, responded that *Roberts' Rules of Order* is designed for a very large deliberative body, and the Board of Commissioners has adopted its own Rules of Procedure, and *Roberts' Rules of Order* is the default in the event of conflict. He said he thought the Board could adopt a rule or by motion request time estimates on the agenda in the manner discussed.

Chairman Openshaw asked for clarification of the motion that it was referring to estimated times. Commissioner Baucom responded that this was correct.

Commissioner Kuehler said that she still had questions regarding if there is an estimated time and it comes to that time and the Board is not finished with that item, could the discussion continue. Commissioner Baucom responded that the discussion could go on until 1:15 a.m.

Following further discussion regarding the estimated times, Mr. Delk stated that it was not included in the staff's recommendation but, if it is the intent of the Board to place estimated times on the agenda, staff would comply with the understanding that a footnote could be included to note that these are estimated times only to accommodate those in the public that might arrive at meetings and their particular item on the agenda has already been discussed.

Commissioner Kuehler asked Commissioner Baucom if a 10:00 p.m. ending time for meetings was a part of the motion. Commissioner Baucom responded that this was not part of the motion.

Chairman Openshaw repeated the motion as he understood it and asked Commissioner Baucom if he wanted to incorporate Mr. Delk's recommendation of including a footnote that the times for agenda items are estimates only, which was accepted by Commissioner Baucom.

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

**Transportation Advisory Board (TAB):**

Commissioner Kuehler explained that this item has been discussed by the Board and was brought forward by the Union County MUMPO (Mecklenburg-Union Metropolitan Planning Organization) members. She said that the County MUMPO members are struggling in trying to determine where the County is going with one voice and with pieces of the transportation funding pie getting smaller and smaller. She stated that she was approached by other County MUMPO members about this matter, and it was discussed at a Mayors-Commissioners Issues Conference (MCIC). She said that the Board also held a work session regarding this item, and she had put together a proposal which is included in the agenda packet for the creation of a Transportation Advisory Board (TAB).

Following her comments, Commissioner Kuehler moved that the Board create a Transportation Advisory Board (TAB) in accordance with the guidelines set forth below.

Al Greene, County Manager, stated that staff's recommendation would be to delay creating a Transportation Advisory Board as outlined and that the Board consider holding a workshop with the TCC staff (county transportation staff and municipal transportation staff), possibly representatives of the Department of Transportation, and Centralina Council of Governments planners to discuss how the committee might assist in unifying the voice of Union County on transportation issues. He suggested that there might be some tweaking to that board based on the input of those involved on a daily basis in the planning process that might have not been considered in the draft guidelines.



Vice Chair Rogers asked Commissioner Kuehler if this proposal had been brought forth by MUMPO members. Commissioner Kuehler responded that this was correct. Vice Chair Rogers asked if MUMPO members are part of the group that Mr. Greene had suggested review this information. Mr. Greene responded, no, that the workshop would be with the Board of Commissioners to discuss the board that the Board of Commissioners wanted to create. He said that he thought the recommendation would clearly be that whatever board is created include the MUMPO and the RPO (Rocky River Planning Organization) appointees.

Vice Chair Rogers said that she was not up to date on the various transportation boards, but in each of the areas represented by the County's MUMPO members was there something similar to the TCC and other advisory boards. Commissioner Kuehler said that each of those appointees have members of their boards that are part of the TCC, so the MUMPO officials are usually the mayors or the mayors' designee so there is staff involved at that level but not at a public info level.

Commissioner Baucom asked the number of members proposed for the board. Commissioner Kuehler replied 21 members were proposed. He asked if any of the 21 proposed members would be MUMPO members. Commissioner Kuehler responded that they could be depending on who the various entities appoint.

Commissioner Baucom asked for clarification of the purpose and intent of the board. He asked if the purpose of the Board was for RPO and MUMPO to speak with one voice for the county on transportation issues. Commissioner Kuehler responded that was correct. Commissioner Baucom asked if the Transportation Advisory Board would report to the Board of Commissioners, which Commissioner Kuehler agreed was correct. Commissioner Baucom questioned where would the consensus building be that would cause the MUMPO and RPO representatives to speak with one voice. Commissioner Kuehler explained that at the Transportation Advisory Board level, there would be public input—the people who live and drive the County's roads everyday, whether those appointed members are MUMPO representatives, RPO representatives, engineers of the town or citizens. She said that would be left to each municipality to appoint its representative. She said that the purpose of the board basically would be to identify the County's transportation needs, concerns, and problems and at that point work in conjunction work with the technical staff (the TCC).

Commissioner Kuehler stated that once the public input is known, it would be brought to the Board of Commissioners who would speak and deal with the RPO and MUMPO members. She explained that it is a chain all the way up so that everyone has fully vetted the process once it gets to the point that this is the information to be taken to the Department of Transportation.

Commissioner Baucom said that he understood Commissioner Kuehler's comments up to the point where the information is presented to the Board of Commissioners and the Board of Commissioners makes its decision about the direction it wants MUMPO

and the RPO to proceed. He questioned where the authority would come to delegate the responsibility to the other members of MUMPO and the RPO. He said that the Board of Commissioners has one appointee to MUMPO and one appointee to the RPO.

Chairman Openshaw said that it would seem to him since Commissioner Baucom (RPO) and Commissioner Kuehler (MUMPO) are the proposed co-chairs of the Transportation Advisory Board that Commissioner Baucom would communicate with the RPO and Commissioner Kuehler would communicate with the MUMPO members. Commissioner Baucom asked why would the MUMPO and RPO representatives not serve on the Transportation Advisory Board. Chairman Openshaw responded that it was proposed that the municipal boards would make the appointments to the board rather than the mayors, so the appointees could either be a board member, the Mayor, or a citizen.

Commissioner Baucom commented that it would become the responsibility of the RPO and the MUMPO appointees from the Board of Commissioners to lobby the other MUMPO and RPO designees to explain to them that they must vote with one voice. Chairman Openshaw said that there is also a representative from each municipality that would also be informed and could interact with their boards. He stated that he thought it was the responsibility of the MUMPO and RPO representatives to communicate with the other MUMPO and RPO members.

Commissioner Kuehler emphasized that the other County MUMPO representatives have asked for this direction and input.

Commissioner Baucom moved that the Board table action on this item until after the next MCIC meeting and place the discussion on the MCIC agenda and vet it with the MCIC. He said that he did not see that anything would be lost by tabling action tonight but an opportunity could be gained to get it right with all the municipalities.

Vice Chair Rogers asked if this proposal was in line with the discussion from the joint meeting with the Town of Indian Trail. She said that from what she was reading and hearing, the Transportation Advisory Board would give a collective, unified voice and more strength to the County's position and more unity. She stated that she did not see a down side to the proposal.

Mr. Greene said that he appreciated the work that Commissioner Kuehler has put into this proposal. He said that he thought everyone on the Board of Commissioners, the TCC staff, the elected officials in the county, and County staff want a better process that works so that Union County will speak as one voice on transportation issues. He stressed that this is an extremely complex process, and as he mentioned at the workshop if the Board is not careful in creating another board, it can make what is already a complex process even more complex. He said that the TCC staff (transportation planners in the county including DOT and COG) would love

to help the Board of Commissioners develop a process that would be streamlined and efficient and would accomplish what the Board wants.

Commissioner Kuehler stated that she appreciated the Manager's comments. She asked the Manager to specifically identify why this board would be so difficult. Mr. Greene responded that to coordinate a 21-person committee, none of which, other than Commissioner Baucom and Commissioner Kuehler, theoretically have to be a MUMPO or RPO member, with municipalities just to get their appointments would take a lot of work for a staff member for an extended period of time. He stated that once those appointments were made, assembling that group together for a meeting and beginning the process to educate those 21 members as to their responsibilities and the complexities of the DOT planning process could involve a several month educational process. He said that he thought the key would be to focus on the MUMPO and RPO designees from the municipalities and the County to bring them together so they communicate more frequently. He said that he thought this was one area where the process has broken down.

Another area where Mr. Greene said he thought the process was broken down is that the MUMPO and RPO representatives are not reporting to their governing boards and receiving direction as often as they should. He stated that this does not solve the public input question that has been posed. Mr. Greene said that he wanted the Technical Committee to provide input on this issue. He stated that all of the DOT planning processes have public comment requirements. He stated that he was afraid that this would be a large, cumbersome board that does not quite get to the heart of the problem which is the folks that will go to Charlotte or Wadesboro, or wherever, and vote. He stated that he believed this was the key to effectiveness.

Commissioner Mills stated that he understood the concept of what was trying to be accomplished, but his question was what is the mechanism that gets the people from this group to ensure that the people on MUMPO throughout the county in the municipalities actually vote the way the group wants. He said that in order to make sure that that everyone speaks with one voice, it seemed to him that the committee should be made up of the people who are going to be voting; otherwise, he was afraid, it would not be speaking with one voice. He applauded the idea of the Transportation Advisory Board, but said he was not sure that a Transportation Advisory Board was the correct vehicle to get that one voice carried forward. He suggested bringing in the MUMPO members and RPO members throughout the county and receive input from them.

Chairman Openshaw said that he could go into a counterpoint of each of these situations discussed. He stated that he believes the County needs to get moving on establishing a Transportation Advisory Board. He said that he thought the Board could adopt the guidelines that have been provided for a Transportation Advisory Board, and it would take time to get the word out to the municipalities and for them to make appointments. He mentioned that the County had used a large body during the APFO process to

reach out to everyone in the County, which he thought had worked very well. He said that he thought if the MUMPO group wanted to have its own meeting, this was a good idea and perhaps that could be incorporated into the guidelines for the board. He stated that perhaps the municipalities would appoint the MUMPO representatives to this board. He explained his concern that he wanted to see a broader representation from the unincorporated areas, and he said he wanted to have at least five members from the unincorporated areas of the County, and other than that concern, he was ready to move forward to establish the board.

Commissioner Baucom said he had heard two different objectives with one being to have a common voice going to RPO and MUMPO. He stated that the other objective he had heard was to form a citizens' group for input. He said that he thought it was going to be really challenging for one group to achieve both objectives especially initially. He stated that what he thought he had heard from the MCIC was that "we needed to be speaking with one voice." He said that was his reasoning for making the motion to defer any action and to put this item on the agenda to vet it with the MCIC and to get the MCIC members' input. He said at that point, the input could be as the Manager suggested with TCC. He stressed that he wanted to get it right while it was being done. He said if this item were time sensitive, he had not heard it.

Vice Chair Rogers said that it seemed to her if the Board takes this first step, which she believed the Board needs to do, she explained if action is tabled, it would be delayed over and over again. She stated if a municipality comes up with a better way to do it, there is nothing that would prevent the Board from bringing it back up at a later time and modifying it. She said that from that point she could support it, but she wanted to make sure the process was open and if somebody has a better idea, then it could be presented to the Board and modified.

Chairman Openshaw repeated Commissioner Baucom's motion on the table to defer action on the item until the Board meeting following the next MCIC meeting. The motion failed by a vote of two to three. Commissioners Baucom and Mills voted in favor of the motion. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted against the motion.

Commissioner Kuehler moved to establish a Transportation Advisory Board with the guidelines as written, which are set out below.

Chairman Openshaw offered as a friendly amendment to appoint five members from unincorporated Union County instead of three members. Commissioner Kuehler accepted the amendment as a friendly amendment to her motion.

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

#### TRANSPORTATION ADVISORY BOARD (“TAB”)

The Transportation Advisory Board shall investigate, evaluate, advise and make recommendations to the board of commissioners concerning all matters relating to the transportation within the Union County, including but not limited to, the need for the construction, operation, relocation, or improvement of streets, bridges, sidewalks, and bikeways, as well as the possible establishment and improvement of alternative methods of mass transportation.

The Transportation Advisory Board (TAB) shall consist of one member appointed by each Town’s governing body (elected official or resident of said Town), five members from unincorporated Union County who are located in areas not served by the focus of a municipality; one member of the Chamber of Commerce; one member of the UCPS system; and one member representing parks and greenways. The MPO and [RPO commissioner](#) representatives shall act as facilitators. The TAB shall appoint a secretary for the purpose of recording minutes in compliance with the Open Meetings laws. This Board shall work in conjunction with the TCC to establish priorities, examine feasibility of projects, and determine recommendations to be presented to the governing and advisory boards to the Department of Transportation.

The TAB shall report to the board of commissioners *as requested by the Board* and shall undertake such studies or perform such duties as the Board may request from time to time. The recommendations of TAB, and in consensus with the BOCC, shall be the unified recommendation to the appropriate agencies by the MPO and RPO representatives.

TAB will advise the Board and provide information and comments on major transportation issues; and provide to the Board recommendations regarding the overall planning and programming of transportation improvements in the County, including:

- Identify and prioritize the County’s roadway needs and available or possible sources of funding;
- Assist in development and review of the transportation component of the Comprehensive Plan;
- Provide recommendations to the Board regarding Federal and State legislation affecting transportation in Union County;

- Explore and make recommendations on innovative techniques and methods to improve the efficiency and capacity of existing and future transportation systems.
- Work in conjunction with the Union County TCC to establish viable, fundable projects to the State for consideration.

The authority for establishing the Transportation Advisory Board is Title 23 of the United States Code (U.S.C.) 134; Sections 3 (a) (2), 4 (a), 5 (g) (1), and 5 (1) of the Federal Transit Act of 1964, as amended; 49 U.S.C. 1602 (a) (2), 1603 (a), 1604 (g) (1), and 1604 (1); and Chapter 136, Article 3A, Section 136-66.2 (a) (b) of the North Carolina General Statutes.

The TAB has the responsibility for serving as a medium for open discussion and policy development for recommendations made to the general bodies of local government, the TCC, and the boards of the various modes of transportation and as a forum for cooperative and unified transportation planning and decision making for the Metropolitan Planning Organization.

**New Business:**

**Community Proclamation of American Red Cross Month:**

Chairman Openshaw introduced Kathy Bragg, Executive Director of the American Red Cross, Union County Chapter. She expressed appreciation to the Sheriff for his work with the Red Cross. She said that this is the fifth year in a row that Sheriff Cathey has served as the Honorary Chairperson for the Heroes for the American Red Cross Campaign.

Mrs. Bragg thanked the Board for its support, good will, and financial support of the American Red Cross. She said that last year the American Red Cross in Union County touched the lives of nearly 18,000 citizens through its Disaster Relief Program. She stated that the American Red Cross is the local connection with local military families and soldiers all over the world. She said the Red Cross has a Congressional Charter to be the emergency communication vehicle for the local families to get emergency messages to the soldiers' commanding officers. Mrs. Bragg said that in Union County the Red Cross goes one step further by also facilitating financial assistance for local military families who are experiencing extreme financial crisis.

She stated that Red Cross teaches thousands of people yearly how to save lives. She said that in Union County, Red Cross provides this training free of charge for the local law enforcement, which saves thousands of dollars in training fees each year.

In conclusion, Mrs. Bragg stated that the Red Cross supports the nation's plentiful and safe blood supply by facilitating over 150-community blood drives each year. She urged everyone to become blood donors. She said that each March municipalities across America take pause to acknowledge the work of thousands of Red Cross volunteers and donors by declaring March as Red Cross month. She requested that the Board consider adoption of a proclamation proclaiming March as Red Cross month in Union County.

Following the presentation, Commissioner Baucom moved adoption of the following Proclamation:

March 2009  
Union County, NC  
Community Proclamation of American Red Cross Month

For more than 125 years, the American Red Cross has been at the forefront of helping Americans prevent, prepare for and respond to large and small disasters. Families and communities depend on the Red Cross in times of need; yet the Red Cross depends on the support of the American people to help sustain the foundation.

Each year, during the month of March, municipalities formally recognize the American Red Cross and its essential humanitarian role in our community. We honor the role of the Union County Chapter's contribution to making Union County, NC a better place. This year we focus on the spirit of the volunteers, donors, partners and employees who support the Red Cross mission of humanitarianism.

For more than 91 years, the Red Cross in Union County has relied on the everyday heroes who donate time, blood or money; heroes who help coordinate blood drives; heroes who respond to victims of house fires; heroes who assist local military families during family crisis; heroes who teach lifesaving skills to adults and children in Union County; heroes who provide canteen services for first responders in Union County. The American Red Cross – Union County Chapter is in one of more than 700 chapters across the country who tirelessly serve their community.

It has been the place where compassionate people freely give their time and talent to help prevent and ease human suffering among friends, neighbors and even strangers.

The citizens of Union County made contributions to fund the cost of providing immediate relief to 224 victims of house fires last year. You gave over 5,000 units of your blood to save the lives of friends, neighbors and strangers. You volunteered your time to help those in need.

In the past year alone, the Union County Chapter responded to 61 local disasters. The Union County Chapter assisted 150 military family members with emergency messaging and facilitated \$9,091 in military emergency aid. The Union County Chapter trained 6,872 people in lifesaving skills such as CPR and first aid and presented preparedness information to 5,073 adults and children. The Union County Chapter works year round to be prepared as Union County's primary disaster shelter agent, participating in drills, resource attainment, and training with local government officials. Red Cross volunteers are the core of the Red Cross, donating their time and energy to selflessly serve those in need; demonstrating the compassion and generosity for which Americans are known.

The Union County Chapter, and its nearly 2,000 volunteers and donors, provide valuable tools and education to individuals, families, workplaces and schools; making us all stronger and more resilient. For the next 125 years and beyond, the Red Cross will meet the needs of the public by fostering volunteers who are professional, prepared and committed to continuing the tradition of providing supreme service delivery to our community.

Therefore, the Union County Board of Commissioners does hereby proclaim March 2009 as American Red Cross Month and urges all Americans to continue to give your time, blood and money to make a difference in the humanitarian fabric of this community. We help each other when we help the Red Cross.

In witness whereof, I have hereunto set my hand this 2nd day of March, in the year of our Lord two thousand nine, and of the Independence of the United States of America.

ATTEST:

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

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

Vice Chair Rogers said that she knew that times are tough right now, but the Red Cross is one area that impacts friends, relatives, and neighbors. She stated that Red Cross provides so much more especially in times of need.



Following the discussion, the motion was passed unanimously.

Commissioner Baucom asked Mrs. Bragg and Sheriff Cathey to explain the Heroes for the American Red Cross Campaign. Mrs. Bragg said that this campaign is launched by the Red Cross every March and is a wonderful grassroots opportunity to support the work of the American Red Cross. She challenged each member of the Board to become a hero for the American Red Cross by making a commitment to raise \$1,000 during the month of March for this campaign. She invited the Board to attend the campaign kick off event at the Monroe Mall on Thursday evening entitled “Fashion Passion.” She emphasized that the funds raised in Union County are used for local services in the county. Mrs. Bragg stated that many people believe that the American Red Cross is a government entity and is supported by federal and state dollars. She said that 100 percent of its operating funds come from the local community that the Red Cross serves.

**Resolution in Support of Food and Lodging Fees (Environmental Health):**

Chairman Openshaw recognized Phillip Tarte, Health Director, to explain the proposed Resolution. Mr. Tarte explained that current law does not allow local governments to charge for food and lodging inspections. He stated that it is outside of a local Board of Health and a local Board of Commissioners’ statutory responsibility or authority to collect anything else. He explained the request for the Board to support, through adoption of a resolution, introduction of a bill through the General Assembly to support local governments’ ability to charge for food and lodging inspections. Mr. Tarte said that as is included in the resolution, the County recoups approximately \$20,000 from the State to conduct the inspections, and it costs approximately three-quarters of a million dollars to perform the inspections. He stated that the Health Department can charge for on-site wastewater inspections, tattoo parlors, and swimming pool inspections, but it cannot charge for restaurant inspections. He said the Board of Health adopted a similar resolution. He explained that Union County is not alone in adopting a resolution, and assured that there are 99 other counties doing the same thing. He said that bills have been introduced in the legislature previously but have been voted down.

Mr. Tarte said that he thought if a bill were introduced, it would be capped at a certain dollar amount, possibly a \$500 a year cap, and would be based on the number of seats in a restaurant, the type of inspection, the frequency of the inspection, and would be a tiered and fair system.

Vice Chair Rogers reiterated Mr. Tarte's comments that the County receives \$20,000 from the State for these inspections, and it cost the taxpayers of the County approximately three-quarters of a million dollars to perform these inspections. She moved adoption of the Resolution as presented.

Commissioner Baucom reiterated that as the Board of Commissioners' representative to the Board of Health, this issue was fully discussed and supported by the Board of Health.

Chairman Openshaw commented that it is a semi-unfunded mandate. He said with the County receiving \$20,000 from the State for an expenditure of over \$750,000 is quite a burden to the taxpayer.

Following the comments, the motion passed unanimously.

**RESOLUTION IN SUPPORT OF LOCAL FEES  
FOR FOOD AND LODGING**

**WHEREAS**, the State of North Carolina mandates that local government provide Food and Lodging support and inspections;  
and

**WHEREAS**, the State provides less than \$20,000 per year to Union County in support of Union County's compliance activity;  
and

**WHEREAS**, it costs the local taxpayers of Union County upwards of \$750,000 to meet the State mandated requirements of the Food and Lodging Program; and

**WHEREAS**, the Union County Food and Lodging Program has been 100 percent compliant with the State mandate for consecutive years; and

**WHEREAS**, the Union County Board of Health believes fee for service funding for Food and Lodging support and inspections would be more equitable than asking county residents to bear the cost of this State mandated service through the use of ad valorem taxes; and

**WHEREAS**, other State mandated services such as the On-Site Sewage Program are funded using a fee for service approach; and

**WHEREAS**, Food and Lodging facility owners and operators are the ones who draw financial benefit from such facilities;

**THEREFORE**, the Union County Board of Commissioners, meeting in regular session, hereby requests the General Assembly to enact legislation empowering local government to enact and collect fees for providing Food and Lodging Support and inspections from such enterprises operating within their boundaries.

This the 2nd day of March, 2009.

Attest:

\_\_\_\_\_  
Lanny Openshaw, Chair  
Union County Board of Commissioners

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

**Debt Restructuring – Series 2007A and 2007B:**

Chairman Openshaw recognized Kai Nelson, Finance Director, to explain this item. Mr. Nelson said that the Board thus far has taken four actions with regards to the County's debt restructuring. He stated that tonight's action represents the final action of the Board's plan as approved on November 17, 2008. He said that the first two parts of the plan have been completed, and this resolution represents the third and final part of the plan.

Chairman Openshaw questioned if this resolution was converting variable rate debt to fixed rate debt. Mr. Nelson responded that it was not. He reminded the Board that there are three series of variable rate debt: 2004, 2005, and 2007. He explained that the 2004's and 2007's have swaps underlying those particular transactions, and the County wanted to avoid the termination payments in connection with the swaps. He said that the 2005 issue approved by the Board in January was sold and will close on March 10. He noted it converts the 2005 variable rate debt to a fixed rate debt. Mr. Nelson explained that this particular action replaces Dexia, the current liquidity provider, with Wachovia/Wells Fargo.

Chairman Openshaw asked Mr. Nelson for a total of the County's variable rate debt, the percentage of the County's variable rate debt, and if the debt is hedged. Mr. Nelson responded that in connection with the 2007 issues, which were originally issued in the amount of \$130 million, roughly \$20 million of the original \$130 million is unhedged. He said that in the entire County's portfolio, \$18 million of the original \$130 million will remain as unhedged variable rate debt. He stated that there is hedged variable rate debt totaling approximately \$200 million.

He said with approximately \$600 million of tax supported debt outstanding, roughly \$18 million is unhedged variable, which he estimated to be two or three percent of the County's debt.

Commissioner Baucom moved adoption of the following resolution (the "*Resolution*"), a copy of which was available with the Board of County Commissioners and which was read by title:

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA, REPLACING THE LIQUIDITY FACILITY AND REMARKETING AGENT FOR THE COUNTY'S VARIABLE RATE GENERAL OBLIGATION BONDS, SERIES 2007A AND 2007B**

*WHEREAS*, the County previously issued its \$65,365,000 principal amount Variable Rate General Obligation Bonds, Series 2007A (the "*2007A Bonds*") and \$39,220,000 principal amount Variable Rate General Obligation Bonds, Series 2007B (the "*2007B Bonds*") and together with the 2007A Bonds, the "*2007 Bonds*");

*WHEREAS*, Dexia Credit Local, acting through its New York branch, currently provides the liquidity for the 2007 Bonds;

*WHEREAS*, because of the financial difficulties facing the bank currently providing liquidity, the County has determined it is in its best interest to substitute the liquidity facility for the 2007 Bonds with a liquidity facility provided by Wachovia Bank, National Association ("*Wachovia*");

*WHEREAS*, Banc of America Securities LLC currently serves as the remarketing agent for the 2007A Bonds and Wachovia currently serves as the remarketing agent for the 2007B Bonds;

*WHEREAS*, in conjunction with the change of the liquidity facility to Wachovia, the County has determined it is in its best interest to change the remarketing agent for the 2007A Bonds to Wachovia so that all the 2007 Bonds are remarketed by the same financial institution that provides the liquidity facility for the 2007 Bonds;

*WHEREAS*, the County has requested that the Local Government Commission, or its designee, approve such changes;

*WHEREAS*, copies of the forms of the following documents (collectively referred to as the “*Documents*”) relating to the transactions described above have been filed with the Clerk to the Board:

1. a Standby Bond Purchase Agreement to be dated as of March 1, 2009 among the County, Wachovia and Regions Bank, as paying agent, for the 2007 Bonds;
2. a Remarketing Agreement to be dated as of March 1, 2009 between the County and Wachovia for the 2007A Bonds; and
3. a Remarketing Circular (the “*Remarketing Circular*”) with respect to the remarketing of the 2007 Bonds;

*NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF UNION, NORTH CAROLINA (the “Board”), AS FOLLOWS:*

***Section 1.*** The form and content of each of the Documents are hereby in all respects approved and confirmed, and the County Manager or the County Finance Director is hereby authorized, empowered, and directed to execute and deliver each of the Documents 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 his approval of any and all such changes, modifications, additions or deletions therein, and that from and after the execution and delivery of the Documents, the County Manager or the County Finance Director 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 Documents as executed. The use of the Remarketing Circular by Wachovia for the remarketing of the 2007 Bonds is hereby in all respects authorized, approved and confirmed.

***Section 2.*** The County Manager or the County Finance Director and the Clerk to the Board, or their respective designees, are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by the Documents; except that none of the above is authorized or empowered to do anything or execute any document which is in contravention, in any way, of (1) the specific provisions of this Resolution or the Documents, (2) any agreement to which the County is bound, (3) any rule or regulation of the County or (4) any applicable law, statute, ordinance, rule or regulation of the United States of America or the State of North Carolina.

***Section 3.*** That the County Manager and the Finance Director are hereby authorized and directed to retain the assistance of Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, as bond counsel, and First Southwest Company, Charlotte, North Carolina, as financial advisor.

**Section 4.** All acts of the County Manager or the County Finance Director and the Clerk to the Board that are in conformity with the purposes and intents of this Resolution and in the furtherance of the transactions contemplated by the Documents are in all respects approved and confirmed.

**Section 5.** If any one or more of the agreements or provisions contained in this Resolution 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 deemed to be separable from the remaining agreements and provisions and in no way will affect the validity of any of the other agreements and provisions hereof.

**Section 6.** All resolutions or parts thereof of the Board in conflict with the provisions contained in this Resolution are, to the extent of such conflict, hereby superseded and repealed.

**Section 7.** That this Resolution is effective on the date of 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, REPLACING THE LIQUIDITY FACILITY AND REMARKETING AGENT FOR THE COUNTY’S VARIABLE RATE GENERAL OBLIGATION BONDS, SERIES 2007A AND 2007B”** was duly adopted by the following vote:

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

NAYS: None

At approximately 8:54 p.m., the Chairman called for a five-minute recess of the meeting. The meeting was reconvened at approximately 9:01 p.m.

**Disposition of County Owned Property (Belk-Tonawanda Park):**

Chairman Openshaw recognized Al Greene, County Manager, for comments regarding this item.

Mr. Greene explained that sometime in the late 1980's the Board of Commissioners agreed that the City of Monroe could use a piece of property which is owned by the County in conjunction with Belk-Tonawanda Park. He stated that there was no formal agreement that staff has been able to locate regarding use of the property. He said that County staff made the City aware some months ago that the County was the owner of roughly half of the park property and over the past six months, County staff has had conversations with members of the City's staff about the property. Mr. Greene said that the City wants the property conveyed to the City for a number of reasons. A map was displayed showing that Union County's share of the property comes out onto Charlotte Avenue through an area currently used by local businesses. He said that the City has had discussions with property owners in that area and would like to acquire access from Charlotte Avenue through private property back to the County owned property to provide better access to the park for the public.

In addition, Mr. Greene stated that the City wants to apply for recreation grants that would allow the City to improve the park, and that process is made much more complex by County ownership of the property. He said that the County-owned property is roughly five and a half acres, with a tax value of \$83,700. He stated that County staff discussed with City staff that possible tangible remuneration be given to the County in exchange for the value of the property and specifically looked in the downtown area to determine if there might be a parking area or land suitable for parking near the Government Center that the City could consider conveying to the County. He said, however they have not been successful in that effort. Mr. Greene explained that from the staff's perspective, probably the best possible long-term use of the County-owned property would be for it to remain as park property and made available to all residents of the County in perpetuity for recreational purposes on the same basis.

Mr. Greene shared that based on his conversations with City staff, the City would be very amenable to whatever mechanism might be required to ensure if the property is conveyed to the City, it would be used in perpetuity for recreational purposes, and it would be available to all residents of the County on that basis. He said one final point is if the City were to use recreation grant funds to improve the property, a condition of the grant funding would be that the property be used for recreational purposes in perpetuity unless the City were to go through a long and difficult process of showing if it took some of the property out of recreational use, it would add additional property to compensate for it, which would have to be approved by the State. He said that the City is in agreement to work with the County if the Board were inclined to offer the property to the City to improve the park and to continue to operate it for a public use to all County residents.

Commissioner Kuehler asked Mr. Greene if the reason that a viable solution had not been found for property to exchange was because there was no property in close proximity of the Government Center, or if there was no property available that is usable to the

County, or because Monroe did not want to entertain the idea. Mr. Greene responded that there is a small parking lot owned by the City that staff has discussed with City staff; however, the City believes it has a need for the parking lot which is located at the corner of east Crowell and Church Streets. He said that staff thought the lot would be useful to the County for parking for the Government Center, but it is already a parking area and the City thought it needed to keep it in its inventory.

There was discussion regarding the size of that particular parking lot, which Mr. Greene estimated to be 1.3 acres. He said that the County's portion of the Belk-Tonawanda Park tract would be 5.5 acres.

Commissioner Mills asked the amount of compensation the County was asking in exchange for the County's share of the park property. Mr. Greene responded that what was being requested is a commitment from the City that the property would be used for public recreation purposes in perpetuity. He stated that no monetary compensation was being requested.

Commissioner Mills moved to authorize staff to negotiate the transfer of county-owned property to the City of Monroe in exchange for assurance for the future use of the property.

Vice Chair Rogers questioned if Belk-Tonawanda Park was the only park that the County owns that is operated by a municipality. Mr. Greene responded that he did not know the answer to that question. Vice Chair Rogers asked if the Board were to approve this request and other municipalities wanted the County to purchase land for parks and their paying for the operating costs, would that be something the County would consider? Mr. Greene responded that he would not recommend that the Board send a signal that the County would be willing to buy land for other municipalities. He said that this is an existing arrangement that has been in place for a long time, and from the staff's perspective, this is a higher and better use of the property.

Vice Chair Rogers said that she understood Mr. Greene's comments, but she noted that if the County were to donate 5.5 acres of property valued at \$83,000 to one municipality because it will operate the site as a park, the other 13 municipalities might look at it and say "you gave it to one, why would it not be good for me?" She questioned if there were buildings located on the County's share of the property. Mr. Greene stated that there was parking on the property being used by the businesses. He said that the City has plans to pursue the construction of a greenway around the backside of the Farmers Market and under the creek and through the County-owned portion of the land where the storm drain work is being performed. He stated that the City has long-range plans to improve the park.



He estimated the total acreage of the park to be approximately ten acres. Chairman Openshaw asked if the County were currently receiving any leased money for the parking on the property. Mr. Greene responded that the County was not receiving any money for parking on the property.

Commissioner Mills said when this matter was brought to his attention, he thought the City was looking for access to the property off Old Charlotte Highway, and in reviewing the deeds, they found that the County actually owned a portion of the property. He said he thought it was not known for a long period of time that the County owned a portion of the property, and the City has been maintaining the property.

Vice Chair Rogers said that it sounds like this issue goes back almost 30 years, and there has been some dialogue back and forth recently about exchanges or payment. She stated that she did not have a lot of history about the property, and this issue would be a great topic for discussion at a joint municipal meeting with the City of Monroe. She said that based on the information that she had in front of her, she would have a difficult time at this point in time approving the request.

Commissioner Baucom asked if there was any time sensitivity to moving forward with efforts to obtain grant monies. Mr. Greene stated that the next grant funding cycle begins in April, and they have been encouraged by the State to resolve this issue. In response to a further question by Commissioner Baucom, Mr. Greene said that staff knows of no County use for the property. Commissioner Baucom stated that he sees no reason not to move forward with approving the request.

Mr. Greene stated that he thought transfer of the property to the City would be an excellent sign of good will on the part of the County. He pointed out that currently the County provides \$225,000 a year for grant funds for athletic associations and municipal parks. He stated that he did not see a lot of difference in this matter.

Vice Chair Rogers said she thought that the County should be careful with statements that this would be an act of good will, because she believed it could be applied to any municipality. She said that the Board had just attended a joint meeting with Indian Trail where the Town Council asked for \$6,000 for the Carolina Thread Trail based on a grant that would give the town trails. She stated that Indian Trail had also asked for parks. She said that she wanted to be real careful, because this is the County taxpayers' dollars. She stated that given the history of this matter going back 30 years, and the question about whether there are other parks owned by the County operated by municipalities, it was unknown what precedent it would be setting, and there are too many questions at this point in time. She said that she was not putting it off entirely but thought there needed to be dialogue between the City Council

and the Board of Commissioners. She stated that she thought it would be a perfect opportunity for the two boards to talk about the issue.

Chairman Openshaw repeated the motion on the floor. The motion failed by a vote of two to three. Commissioners Baucom and Mills voted in favor of the motion. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted against the motion.

Chairman Openshaw commented that he was looking forward to discussing this matter with the City Council also.

### **Governance Policy:**

Chairman Openshaw recognized Commissioner Kuehler to explain this item. He stated that she has been working on these policies for a long time.

Commissioner Kuehler stated that the policies had been given to the Board members to review. She said that in order to open discussion on the item, she would move to adopt the policies as presented.

Commissioner Mills said that the Governance Policies was a class that should be taught and said that Commissioner Kuehler has done a lot of work on the policies. He questioned if the Board was ready to adopt the policies with very little input and stressed that this was a very serious matter. He said that for the simple fact that a lot of work has gone into drafting the policies, that he thought these should be discussed at one of the Board's work sessions and at a minimum to send the policies to the Institute of Government to ask for an opinion. He reviewed information in the proposed policies regarding the Chair's role and asked how this would differ from the current role of the Chair. He said that he wanted to make sure that the Chair's role is spelled out very clearly in the policies. He referred to Page 1 of the policies – "There shall be no strict dichotomy in the roles of Commissioner and Manager. There shall be involvement in both elected and administrative offices and levels of policy and administration." Commissioner Mills said that he looked at that as being the ability to micromanage and meddle in every aspect of County government and business. He stated that he attended two Schools of Government during his two terms on the Board, and he did not remember this being taught. He said that he thought this was contrary to what the Institute of Government recommends. Therefore, he said that he wanted to see the proposed policies sent to the Institute of Government for an opinion.

Commissioner Kuehler said that the County had spent over \$35,000 talking about policy governance, going to seminars, and having people come in and talk about governance, and it has gotten the Board nowhere. She stated that she had not reinvented the wheel with the proposed policies, that these are tested policies from other government boards, private businesses, non-profit businesses, public entities, and private entities that are tried and true principles. She said that much of the language comes from the very entity where Commissioner Mills was asking to send the policies. She stated that the Board had adopted a Reduction in Force policy that affected many more lives than the proposed Governance Policies would affect, and that policy was introduced much in the same way as these policies and the vote was not unanimous. She said that the proposed policies are very specific that Board members are not to go to employees in the County and have them doing personal projects or give them direction that is different than what the County Manager has given them. She stated that the Board has to start somewhere, and these policies can be refined and added to in the future.

Commissioner Mills said that the governance process was started with the previous Board, and it was a unanimous vote to start the process. He stated that he understood the need for the policies, but he did not see the need to hurry and try to ram it down people's throats tonight. He said it was just too much to try and digest in one session with no input from the Board members. He questioned where these policies had come from.

Commissioner Kuehler responded that the policies came largely from the School of Government. She said that there was also some language included in the policies from the Carvers.

Vice Chair Rogers said that having served four years on the school board, she was having difficulty with this because all she was hearing tonight were generalities, and was not hearing any specific issues or any recommended changes or additions. She stated that until she heard recommended changes or additions, there was no way she could respond. She referred to Section 10 of the proposed Policies which relates to monitoring the County Manager's performance, and under Section 10.4, she wanted to insert after "performance evaluations shall be conducted, **at a minimum**, bi-annually." She said she did not think the Board should restrict itself to a bi-annual performance evaluation. She also referred to Section 9, Executive Constraint, which references ICMA. She said she would like to see ICMA spelled out, because she thought that was the first time the acronym has been used, which is the International City/County Manager Association. Further, she stated there were a couple of places where periods needed to be inserted. She said that she also wanted to see where enumerations 1, 2, 3, 4, appear to change these to 2.0, 3.0, 4.0, etc.

Mr. Greene commented that it was hard for him to fathom policies of the scope and magnitude that are being considered here would be placed on an agenda at the last minute and voted on without any meaningful discussion among Board members and without

including the management staff in those discussions. He stated that these were sweeping policies. He addressed what he believed to be a lack of communication or the lack of willingness to communicate between the Board and staff and the need for the Board to communicate among itself and with staff about the direction in which it would like to proceed.

Commissioner Kuehler said that she had sent the draft policies to the Manager on December 23, and he had responded to her on January 8 that he had reviewed the work and thought she had done a very good job and any comments that he would have would be very minor. She said there had been changes since that time that she sent to the Manager, and she had gone through the draft and inserted the changes.

Mr. Greene responded that he had said that the proposed policies were very good and acknowledged that changes have been made in the policies. He said that he in no way thought that policies of such major implication would be considered without open and honest objective discussion about the organization and how it operates and how it can operate more efficiently.

Chairman Openshaw said that he read the policies and had read the School of Government's publications. He stated that Commissioner Kuehler had talked about how the front page of the policies was just the preface. He said that one of the things that is being said is that the Board wants to communicate and work with the team and staff. He stated that in the publications from the School of Government, it spells it out that the Board should be communicating with staff, not directing staff.

Following further discussion, Mr. Greene stated that he would love for key staff members to meet with the Commissioners and discuss the proposed policies.

Commissioner Mills said that what he thought he was hearing from the Manager was that with something of this magnitude, there needs to be dialogue among the Board members, the manager, and staff. He stated that the Board has not discussed the policies other than in this setting and all that is being discussed tonight is that the Board and staff have not communicated and talked about the policies as a group.

Vice Chair Rogers reiterated that she was not hearing anything specific but was hearing only generalities. She asked that suggested changes be pointed out. She said she was trying to do what primarily is her job, which is to set policy. She said that Commissioner Kuehler has taken the time to put these policies together. She said that without specifics she was having a hard time with the arguments because they are only sweeping generalities.

Commissioner Baucom said that a statement was made in tonight's meeting that a previous action by the Board affected more people than these policies would affect. He stated that these policies would affect every citizen of the county. He said that he received the policies on Friday night. He stressed that the policies are significant, and he could not fathom why the Board would not have a work session at the very least to discuss the policies. He said that he did not understand why the policies had not been presented to the Board earlier in a work session. He expressed his frustration and disappointment. He asked for an explanation of the statement "There shall be no strict dichotomy in the roles of Commissioner and Manager."

Vice Chair Rogers again said that she was not hearing specifics. She said that she received the policies at the same time the other Board members received theirs and she had taken the time to read the information and to do her research. She asked how more open it could get than to have this discussion on television versus a work session that is not televised. She said all she was hearing was a bunch of posturing. She stated that she assumed in order for the Board to move forward, it has to have a document in place that it can give to Mr. Merritt to review. She asked if it would be a correct assumption that the next step would be for the document to go to Mr. Merritt for review.

She asked Commissioner Kuehler if she would be willing to amend her motion for the Board to adopt the policies and send them to the Board's attorney for his review and comments. Commissioner Kuehler agreed to amend her motion to that effect.

Commissioner Mills commented that the Board was basically going from having zero policies to having policies overnight. He said he thought the respectful thing to do would be to slow down the process and for the Board to sit down and discuss the policies with the Manager and staff and to send the policies to the Institute of Government for an opinion.

He offered an amendment for the Board to hold a work session with the Manager and staff to discuss the proposed Governance policies and any recommendations resulting from that work session be sent to the Institute of Government for an opinion.

Commissioner Mills asked if a motion was currently on the floor. Commissioner Kuehler stated that her motion had been amended to adopt the policies pending legal review.

Vice Chair Rogers stated in response to Commissioner Mills' amendment that the policies are not set in stone and could be revised and amended as needed. She said that there was nothing to prevent Commissioners from bringing specific comments to the Board in the future for consideration when they have specific comments.

There was discussion about when Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler had first seen the policies. Commissioner Baucom asked the County Attorney, Keith Merritt, if he had a recommendation regarding the policies.

Mr. Merritt said that he got the information when the agenda packet came out, and he had not done a thorough review of the policies. He stated that in response to the issue of at what point, the Board would like to have the County Attorney involved in reviewing the policies, his preference would, obviously, be to review the policies prior to adoption. He explained that once the policies are adopted, it is much harder to go back and change them than to receive a legal review prior to adoption. However, he said there is nothing to prevent the Board from adopting whatever policies it wanted to adopt and then seeking a legal review at a later time. He offered that his personal opinion was that it would be a better practice to have the legal review prior to the adoption of the policies.

Following Mr. Merritt's comments, Commissioner Kuehler agreed to further amend her motion to send the policies to the County Attorney for legal review. She added that if this were going to be the precedent, then this procedure should be followed on everything and not just to pick and choose.

Vice Chair Rogers stated that she believed the motion had been to adopt the policies pending legal review. Mr. Merritt said he was unsure of what the Board was anticipating, whether it was final adoption or if it planned to place the policies on a future agenda for adoption pending comments from legal. He stated that this might also give the Board an opportunity to talk with the Manager in more detail about issues that he or staff might have with the policies. Again, he emphasized that his preference would be if there were documents for which the Board might want to have legal review, that the review be completed prior to final adoption of the ordinance or policy.

Chairman Openshaw said that the first vote should be on Commissioner Mills' amendment for the Board to hold a work session with the Manager and staff to discuss the proposed Governance policies and any recommendations resulting from that work session be sent to the Institute of Government for an opinion. The amendment failed by a vote of two to three. Commissioners Baucom and Mills voted in favor of the amendment. Chairman Openshaw, Vice Chair Rogers, and Commissioner Kuehler voted against the amendment.

At the request of Chairman Openshaw, Commissioner Kuehler restated her original motion to adopt the policies as presented, pending legal review. However, she said that the County Attorney stated his preference was for the legal review to take place prior to

the Board's adoption of the policy. She said she would amend her motion to send the policies to the County Attorney for legal review for his recommendation and then the Board could adopt the policies at that point based on his review.

Commissioner Mills asked Commissioner Kuehler if she would accept a friendly amendment to her amended motion that as the policies are being sent to the County Attorney, that the Board sit down with the Manager and staff and hold a discussion about the policies. Commissioner Mills said that it would be fine to have this discussion in a work session.

Commissioner Kuehler said that she was willing to discuss the policies. Commissioner Mills suggested that the Board have a discussion with the Manager and staff regarding the policies prior to the policies being reviewed by the County Attorney.

Commissioner Kuehler commented that Commissioner Mills' most recent amendment was different than what he originally proposed in that now he was asking that the Board, Manager, and staff discuss the policies prior to the policies being reviewed by the County Attorney. Commissioner Mills stated that the County Attorney could sit in on the work session and he might have some comments after he has time to review the policies. He said that it might be appropriate to hold a work session after Mr. Merritt has had a chance to look over the policies and have his input at the same time.

Chairman Openshaw noted that the Board has a work session scheduled for March 11. He said that he thought the purpose of that work session is to review the Voluntary Agricultural Districts. He stated that he did not see both the policies and the Voluntary Agricultural Districts being discussed at that work session.

Vice Chair Rogers said that the only way she would be willing to agree to Commissioner Mills' suggestion would be if the discussion regarding the policies takes place with specifics and not generalities and that all members of the Board come to the work session prepared with specifics, and there is no posturing and it is a true work session with alternatives. She stated that she wanted to hear from the Manager about the pros and cons of the policies, and she wants to hear specifics for suggested changes and what those suggested changes are based on. She said if the Board wants to have that kind of healthy dialogue, she did not have a problem with holding a work session, but if the work session is a way to try and hijack the policies or to prevent them from being adopted or provide another stage for posturing, she would not be supportive of the work session.

Mr. Greene said that he realized that this issue is a sensitive subject, but he did not believe if the goal is for all to work together objectively to develop good workable governance policies, there was the ability to do that without the School of Government's help.

He stated that if the School of Government drafted these policies, then he saw no harm in asking them to come to Union County and review the document with the Board and staff. He asked what could be lost from inviting them to review the policies.

Chairman Openshaw said that he was perfectly willing to support Commissioner Kuehler's motion to send the policies to the County Attorney for review. He said if the Board wants to discuss these policies in a work session on March 11 and discuss the policies among itself first, he was fine with that also. He stated that was what he would like to see as a motion.

Mr. Greene asked if he called the School of Government, and they could have someone attend the work session next Wednesday with the Board, would the Board be opposed to that. Chairman Openshaw said that he had stated his position, but he would be glad to listen to the Board.

Vice Chair Rogers said that she agreed with Chairman Openshaw as to the first action.

Commissioner Baucom stated that he was not clear and questioned if Chairman Openshaw was saying it was okay to bring the School of Government in for a work session. Chairman Openshaw responded that his take was to do as he had proposed which was to have the attorney review the policies first, and, if the Board wants to review the policies in the work session on March 11, that was fine, and then see what happens from that point.

Commissioner Baucom strongly urged the Board to bring in a facilitator, and if the Board did not agree to the School of Government, then to bring in another facilitator. Chairman Openshaw responded it was not the School of Government he opposed, but his suggestion is that the Board proceed in the manner in which he had enumerated.

Commissioner Baucom questioned where the danger would be in having an unbiased individual(s) come in and help move these policies forward. He said that the Governance Policy was something he had wanted and still wants. He stressed that the Board desperately needs a Governance Policy, but it needs to be the right Governance Policy. He said the policies should not be something put together with excerpts which have not been vetted legally.

Vice Chair Rogers said that the Board had a discussion at its last meeting and voted on bringing in the School of Government. She suggested that she thought there was a workable compromise on the table if Commissioner Kuehler is willing to amend her motion and the Board can move forward. She said that she thought all the Board members have had an opportunity to have their say,



and the discussion is going around in circles and that is what is making the meeting last longer than it should. She moved to call the question on the motion.

Chairman Openshaw called for a vote on the motion to call the question. The motion was passed unanimously.

Commissioner Kuehler withdrew her motion and agreed to allow the amendment by Chairman Openshaw to become the motion on the floor.

Commissioner Mills stated that if the Board wanted to do it correctly, he would prefer that Mr. Merritt review the policies first and then report his findings to the Board. He suggested that if Mr. Merritt could have his findings by the March 11<sup>th</sup> work session, that would be fine, but if not, he would be prepared to have a special meeting called of the Board for another day.

Chairman Openshaw said that he would be out of state most of the remainder of the month. He stated that Mr. Merritt was indicating that he could have the policies reviewed by next Wednesday with his findings. Chairman Openshaw said that he would like to have Mr. Merritt's findings e-mailed to the Board when they were available, and then Mr. Merritt could come and discuss the policies with the Board at the work session on Wednesday.

Mr. Merritt commented that his understanding of this matter was that he would attend the work session on Wednesday and discuss his comments on the proposed policies. Chairman Openshaw asked Mr. Merritt if he would deliver his comments to the Board regarding the policies prior to Wednesday's work session.

It was noted that the Board along with the Manager and staff would attend the work session. Vice Chair Rogers requested that everyone bring their specific comments about the proposed policies and be prepared to discuss those comments at the work session on Wednesday.

Chairman Openshaw said that he was not sure if the Board was clear on the motion on the table.

Mr. Merritt offered that he thought the motion at this time was to undertake legal review of the policies, have the County Attorney return his comments to the Board prior to a work session on Wednesday, March 11, and to have a work session regarding this policy with the County Attorney, Manager and staff present at that time.

Chairman Openshaw called for a vote on the motion. The motion was passed unanimously.

**Personnel Policy Revision (Article I. Organization of Personnel System):**

Chairman Openshaw recognized Commissioner Kuehler for her comments. Commissioner Kuehler stated that the County has just undergone a reduction in force, and the County is working with a slim staff, and has just lost one of its department heads. She said that she continues to hear how stretched staff is, and, at this point in time, she thought it was appropriate to exercise the statutory right of the Board to have approval of department head or higher, i.e. department head, assistant manager, and legal, prior to appointment or hire. She moved to adopt the Amendments to Sections 3, 4, and 5 of Article I. Organization of Personnel System to the Union County Personnel Resolution as presented and recorded below:

ARTICLE I. ORGANIZATION OF PERSONNEL SYSTEM

SECTION 3

Appointing Authority

Reorganize county government in order to promote orderly and efficient administration of county affairs, subject to the following limitations:

1. The board may not abolish an office, position, department, board, commission, or agency established or required by law.
2. The board may not combine offices or confer certain duties on the same officer when this action is specifically forbidden by law.
3. The board may not discontinue or assign elsewhere a function or duty assigned by law to a particular office, position, department, board, commission, or agency.
4. The board may not change the composition or manner of selection of the local board of education, board of health, board of social services, board of elections, or board of alcoholic beverage control.

In accordance with the provision of North Carolina General Statutes Sec. 153A-82, the County Manager shall, appoint, with the approval of the Board of Commissioners, and suspend and remove all County officers, employees and agents. Excluded from this section are officers, employees and agents who are elected by the people or whose appointment is otherwise provided for by law. As

to those officers, employees or agents who are excluded from this section, the County Manager shall recommend individuals for such appointments to the Board of Commissioners.

As such, the Board of Commissioners shall have approval of any and all appointments of Department Heads, Assistant County Managers, and/or additions to legal staff.

#### SECTION 4

##### **Responsibility of the Board of Commissioners**

The Board of Commissioners shall establish personnel policies and rules, including the classification and pay plan and shall make and confirm appointments when so specified, by law, and in accordance with any policies and regulations established by the Board of Commissioners.

#### SECTION 5

##### **Responsibility of County Manager**

The County Manager shall be responsible to the Board of Commissioners for the administration of the personnel program. This responsibility shall include the duty to direct and supervise the administration of all County offices and departments under the general control of the Board of Commissioners, subject to the general direction and control of the Board. All such offices and departments supervised by the County Manager shall report to the Board of Commissioners through the County Manager. The County Manager shall appoint, with the approval of the Board of Commissioners, and suspend, and remove all County officers and employees, except those elected by the people or whose appointment is otherwise provided for by law. The County Manager shall administer all appointments, dismissals, and suspensions in accordance with 153A-82 of the North Carolina General Statutes and the provisions set forth in this personnel resolution.

The County Manager has the responsibility of applying and carrying out this resolution and the policies adopted hereunder.

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Commissioner Mills questioned the intent of the revision. He said that the revision was taking away the Manager's ability to hire department heads and key staff. He said that this revision basically circumvents the system and the Manager form of government. He stated that it allows the Board to hire and holds the Manager to certain qualifications based on people who the Board has approved for him to hire, so they are really not accountable to him. He noted that it states that no one can be fired, unless it has

the Board of Commissioners' approval. Commissioner Kuehler responded that it pertains only to hiring. She clarified that the revision is applicable to appointments only.

Commissioner Baucom offered an amendment that the Board defer action on the proposed personnel policy revision until after the Board has addressed the Governance Policies. He explained that the rationale for his amendment is that the Governance Policies might take care of this revision.

Commissioner Kuehler stated that the proposed revisions are to the personnel policy, and this is an appropriate place for this revision. She said that the revision is not taking away the Manager's power to appoint; it is giving the opportunity to the Board to vet and look at the talent that is coming to the County with input from the Manager. She stated that it is not bypassing the Manager, and she said that with all due respect, County Managers very often find themselves in positions where they did not hire any of the department heads, and such is the case in Union County. Commissioner Kuehler said that Mr. Greene has not hired any department heads, so under that philosophy, if he did not hire them, then he cannot be held accountable. She said that he does have the ability to train, discipline, and fire department heads. She said that just because there is an extra set of eyes looking out at some of the best talent or a better fit for the County is not undermining the ability of the County Manager to be accountable for the staff.

Mr. Greene said that regardless of which of the motions prevail, there are a couple of points he wanted to address. First, there appears to be contradictory language in one area, and it appears that the revision would apply to all hires. He said in another area, it would be limited to department heads, possibly legal staff, assistant county managers, and he would hope that this language would be clarified in favor of allowing the manager to hire department heads and all below department heads. He stated that clearly he did not believe the Board would want all hiring decisions coming to the Board. He said that he strongly disagreed that the Board can have the authority to hire department heads and the Manager retain that authority. He stated that he thought this statement was contradictory.

Mr. Greene said that while the Board has the authority to amend the Personnel Resolution in the manner consistent with the General Statutes, he noted that the amendment drafted would not be in compliance with his employment agreement and that agreement requires mutual consent to amend.

Chairman Openshaw stated that he thought the Manager's employment agreement refers directly to the state statute and gives the outline as Commissioner Kuehler has referred to it, and then it refers to State Statute 153A-82.

Following further dialogue between the Manager and Chairman regarding language in the Manager's contract, the Chairman suggested that this might be a matter that the Board would want Mr. Merritt to review.

Commissioner Baucom raised a point of order. He said that he knew that this was the only issue in the contract submitted to Mr. Greene of which he was emphatic upon employment that he must have the approval to hire and fire the department heads. He said that this language was changed by the County Attorney, and it came back to the Board and was approved unanimously.

Mr. Greene further stated that he would not have accepted employment in Union County without that amendment.

Commissioner Kuehler stated that she had a question about the Manager's contract, and suggested that this is probably something that should be discussed in closed session.

Commissioner Mills asked if Commissioner Kuehler would agree to have her questions answered and defer action on this revision until after the March 11<sup>th</sup> work session. She said that she has asked the question, and she did not believe there is a problem.

Chairman Openshaw said that there is a disagreement about the interpretation of that one provision in the Manager's contract. He asked if either Mr. Crook or Mr. Merritt had a copy of the Manager's contract available tonight.

Mr. Crook responded that he has not reviewed the County Manager's contract, and he would defer to the County Attorney on that matter. Mr. Merritt stated that he has never seen a copy of the County Manager's contract and, therefore, could not comment on what it contains.

At approximately 10:15 p.m., Commissioner Mills requested a recess in the meeting. The Chairman agreed to call a five-minute recess.

At approximately 10:26 p.m., the Chairman reconvened the meeting.

Chairman Openshaw asked the status of Item 15 – Personnel Policy Revision.

Mr. Merritt suggested that if the Board wanted him to state an opinion with respect to the Manager's contract, he would advise that this discussion should occur in closed session, since it is attorney-client privilege. He said how the Board wanted to handle it from this point, would be up to the Board, but his recommendation would be for discussion in closed session.

Commissioner Kuehler said that she would like to hear what Mr. Merritt has to say. She stated that she did not know the proper reference under which to go into closed session. Mr. Crook recited that it was G.S. 143-318.11(a)(3) for attorney-client privilege.

At approximately 10:27 p.m., Chairman Openshaw moved that the Board go into closed session in accordance with G.S. 143-318.11(a)(3) in order to preserve the attorney-client privilege.

Mr. Greene stated that typically he attended closed sessions, but under the circumstances, he did not believe it would be appropriate at this time.

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

The Board members moved to the Board's Conference Room, first floor, Union County Government Center where the Chairman convened the closed session.

At the conclusion of the closed session, at approximately 10:35 p.m., Commissioner Kuehler moved that the Board go out of closed session. The motion was passed unanimously.

The Board members returned to the Board Room, first floor, Union County Government Center, and the Chairman reconvened the regular meeting at approximately 10:42 p.m.

Vice Chair Rogers stated that she believed there was a motion on the table, and she offered an amendment to send the proposed Personnel Policy Revision to the County Attorney for review. The motion was passed unanimously.

**Contract to Audit Accounts:**

Commissioner Mills moved to authorize the Chairman to execute a contract to audit accounts for FY 2009 with Potter & Company, P.A.

Chairman Openshaw said that if he remembered correctly this was a topic of conversation with a number of the Board of Commissioners. He said that what he remembered from those discussions was that the County should make a change in the auditor at least every five years. He stated that the only concern he has about this contract is that the dollars are getting tighter, and questioned if the audit had been bid. Mr. Nelson responded that there was a bid, and that Potter & Company was the low bidder.

Chairman Openshaw asked if any Board member used Potter & Company as his/her auditor. Commissioner Baucom stated that Potter & Company was his auditor and requested to be recused from the vote.

Chairman Openshaw moved to recuse Commissioner Baucom from voting on this item. The motion was passed by a vote of four to zero. Chairman Openshaw, Vice Chair Rogers, Commissioner Kuehler and Commissioner Mills voted in favor of the motion. Commissioner Baucom did not vote.

Chairman Openshaw called for a vote on the original motion by Commissioner Mills. The motion was passed by a vote of four to zero. Chairman Openshaw, Vice Chair Rogers, Commissioner Kuehler, and Commissioner Mills voted in favor of the motion. Commissioner Baucom was recused from the vote.

**HDR Engineering, Inc. of the Carolinas (Not to Exceed \$51,934.00) (Task Order #46):**

Chairman Openshaw said that he had asked for a copy of the task order, but he has not received it. He recognized the Manager for comments.

Mr. Greene stated that he apologized that the Chairman had not received a copy of the task order, but he would be glad to explain it. He said that on October 20, 2008, the Board directed staff to develop a Water Conservation Plan. He stated that there had been discussions for some time at the staff level about a Water Conservation Plan. He said that staff knew it would need consulting assistance with the plan, and HDR had been heavily involved in the County's water capacity issues and was well suited to perform the work. He stated that Public Works has negotiated Task Order #46 with HDR in an amount not to exceed \$51,934. He explained the tasks involved include project management and meetings. He said that the process for developing the plan was a joint process among the consultant, the Public Works staff, and Mr. Delk.

Mr. Greene stated that the consultant is managing the project and the meetings. He said that HDR has evaluated the County's existing customer usage and established baselines that can be used in the future to evaluate the effectiveness of conservation efforts. Further, he said that HDR has identified water conservation measure opportunities, measure analysis, goal quantification, water conservation tracking and the development of a water conservation plan itself. He explained that there are several problems with this issue, one of which is that the task order is being approved now while the work has already been done. He stated one of the reasons for that was there was no way to develop a water conservation plan within 120 days without starting to work on the plan immediately. He reviewed the County's contract approval process.

He said that another problem with the task order is that it should have come before the Board for approval from the start with the amount being \$51,000. He stated that the reason that the task order was not sent to the Board was due to an error in the contract control sheet. He said that the sheet was amended last June when the Board amended the contracting authority of the Manager from \$5,000 to \$90,000. He reminded the Board that as was discussed several weeks ago when the Board revisited that issue, engineering agreements were left at \$30,000 in June. He said that was not reflected in the contract control sheet being used, and so all items have in it a trigger for contracts over \$90,000 to be brought to the Board. He stated that there is no trigger for an engineering service agreement that exceeds \$30,000 to come back to the Board, so by following the contract control sheet, it would never trigger any contract over \$90,000 to come before the Board. Mr. Greene said this problem was found two weeks ago when the Board revisited the contracting authority of the Manager, and when staff went back to the contract control sheet to adjust the amount of the Manager's contracting authority to \$20,000, that is when the error was realized.

Commissioner Kuehler asked Mr. Greene to explain the scope of the task order. Mr. Greene said that Mr. Delk might be better prepared to explain that scope.

Mr. Delk apologized for not having a copy of the complete water conservation plan with him tonight. He said that the plan would be coming to the Board very soon. He explained that the plan was a result of the Board's October 20, 2008, meeting. He stated that after that meeting staff immediately started to develop a plan because the 120 days were specified in the verbal amendment to the motion of October 20, 2008. He said that staff realized that 120 days were barely enough time to get a contract started, and at the end of 120 days, staff did not want to be sitting with an inferior product for the Board, so it immediately started on the plan.

He stated that the plan revolves around a targeted list of projects and the theory behind it is over a five-year period various projects will be undertaken to implement conservation plans and measures. As an example, he said that one of the key issues



considered was the irrigation control meters and the feasibility of them. He said that they had also looked at examples and innovative measures that other communities were doing and that technology could support. He explained that the whole thesis of the plan is to find targeted methods that could be implemented over the five years through controlled studies to determine whether or not those methods would work in Union County. He reviewed the goal of the plan is not to control irrigation and conservation measures as much as it is to educate the public and find better ways of doing things.

Mr. Delk said that there is a section in the plan that discusses various irrigation options for the Board to consider in the long-term as the County comes out of the drought.

Commissioner Kuehler questioned what amount the County paid to HDR on its work on the Water Allocation Policy.

Mr. Greene responded that he could not address that amount. He explained that before a task order for engineering services is issued, the engineering firm develops an estimate of man hours, equipment, and time, and that estimate is broken down by each task in the task order and by each type of personnel in their firm. He said that in the end there is a projection of costs based on the projected amount of labor by type of employee, number of hours times their rate, and in this case, the estimate was for 304 total hours of labor among the engineer, the environmental technicians, and the quality control people at the firm who review the reports with each hour multiplied by the hourly rate by the type of employee. He said the total labor costs were \$44,671, travel costs of \$750, and a few other miscellaneous items. He stated that the amount is reviewed by Public Works to determine if it is a reasonable amount. He explained that the other measure of control for the County is that the billing is based on actual expenses.

Mr. Delk assured the Board that although a task order was not in place at the time the work began, the group's work was strictly for the Conservation Plan.

Following explanation of this item, Commissioner Kuehler moved to authorize the County Manager to approve Task Order #46 with HDR in an amount not to exceed \$51,934. The motion was passed unanimously.

**Discussion on Union County Athletic Council (UCAC):**

Chairman Openshaw said that the Board has been hearing comments through the grapevine that there is concern that the County will not be appropriating athletic association funding this year. He asked for clarification of this matter.

Mr. Greene stated that he thought all of the money for athletic association grant funding this year has been awarded. Chairman Openshaw said that the athletic associations normally have a mandatory meeting regarding the grant funding in January, and that meeting was cancelled. The Manager explained that meeting would have been in connection with the next fiscal year's funding.

Mr. Greene responded that the Chairman was correct that the meeting for the associations would have been held typically on January 13<sup>th</sup>. He said that Parks and Recreation has been asked to hold off on the meeting, and, in fact, staff had planned to discuss recreation funding for next year with the Board on March 16. He said that if athletic association grants were funded at the current year's level, it would be \$225,000, and he did not think the staff wanted to go out and promote that program for the next fiscal year before the Board had an opportunity to consider some preliminary numbers regarding the next year's budget. He stated that it is likely that staff would recommend to the Board on March 16 that the workshops not be offered for the grants until budget deliberations have determined whether or not funding would be available.

Chairman Openshaw said that the concern he has with this is that it is one of the things that sometimes can be inconvenient, but Parks and Recreation staff does a great job holding everyone's feet to the fire in regards to the grants, and they have a very spelled out process for the grant funding. He said that he has an e-mail dated January 8, 2008, to athletic council members, that "due to unforeseen circumstances, the workshop for the 2010 grant cycle scheduled for Tuesday, January 13, has been cancelled. We apologize for any inconvenience this may cause, and we will be in touch with you at a later time." He said that he gathered there has been no later time, and the problem is that the athletic associations depend on this funding. He said that this has kept the athletic associations in limbo, and they all have their own budget processes. The Chairman said that the concern he has is that staff has been talking to the public about this without the Board's knowledge. He stated that this is a policy decision and the Board should have been informed about it when staff started to think about it.

Chairman Openshaw said that referring to the policy discussions of earlier tonight, one of the issues that is addressed in the document is communication and building a team and roles of the Manager and interaction of Board with staff. He said that he wanted to be able to tell the athletic associations that the County is or is not going to offer the funding this year. He stated that he was perfectly willing to address the issue at this time. The Chairman said his take on the situation is that the County has failed Union County by not following the master plan for parks. He said that the good news is that it has been allocating money to the athletic associations and some of the municipalities over the years. He said the cost savings to the County is along the same analogy as the volunteer fire departments in that all of the people with the athletic associations are volunteers and do a tremendous job. He stated that the athletic associations save the County a lot of money while providing a valuable service. He said that in times like this, this is a

relatively inexpensive release that people need in a very trying time. He stated that he was not happy that this issue was not brought to the Board sooner.

Mr. Greene asked to offer a response to Chairman Openshaw's comments. He said that he thought the Board knew that the County is in a very difficult financial situation, the worse in many decades, and the County's finance office has been monitoring the revenue reports constantly. He stated it is a constantly evolving situation, and staff is trying to reach the point where it can come to the Board and talk intelligently about how it is going to look at starting next year's budget. He said that the way the County's revenues flow, it is not an easy thing to do. Mr. Greene assured that staff was not trying to keep anything from the Board, but it was simply trying to make sure it has information to provide the Board on which to base its decision. He offered apologies to the Board if statements have been made to the public about the athletic association funding.

Chairman Openshaw clarified that he was not saying that staff had kept anything from the Board, but added that staff had not informed the Board of this issue. He said that it had been discussed in connection with the governance policies about staff being involved in the Board's decisions and the Board being able to interact with staff. He stated that he was very sensitive to the County's budget situation, but said that this issue needed to come forward early. He said that it becomes a function of priorities, and he personally believes that the athletic association funding is money well spent. He said that it is a policy decision, and right now it is strictly the Board's decision. He acknowledged the Manager's apology and expressed appreciation for his having offered the apology. He asked that the Board decide what it wants to do in regards to the funding.

Commissioner Kuehler said that she had received some e-mails regarding this issue, and she was unable to respond to what was being asked. She questioned if the County was breaking its own guidelines in not holding the workshops with the athletic associations.

Mr. Greene stated that these were County guidelines and whether or not the timelines for the workshops are included in the guidelines, he was not sure. He said his concern is that the funding amounts to a quarter of a million dollars, and the County is in the hole.

The Chairman again reiterated that this was a policy decision, and the Board should have been informed of it earlier. Mr. Greene assured that it was never the intent of the staff to make a decision regarding the funding but to bring the decision to the Board with credible information for the Board to base its decision on.

Commissioner Mills said that what he was hearing was that the Board needed to allow the athletic associations to continue the process with the understanding that there is no guarantee that the funding will be available. Chairman Openshaw responded that was not his intent at all, but it was to deal with the issue of whether or not to provide the funding.

He said that he is not saying the funding level should be \$225,000, but one of the suggestions he would make is there is also a \$50,000 fund for the municipalities. He said his take is that the County is burdened with the school costs, and the municipalities are not, so he was willing to take the \$50,000 off the table. He said that if action reduced the amount from \$225,000 to \$175,000, then that already made some progress. He stated the question is what is the Board willing to do from that point. He said it would not be his vote to say no appropriation for the funding.

He suggested that the Board start to deal with the issue tonight and if it was not going to make the decision tonight, then to consider it as soon as possible. He said that he thought the Board should come up with a funding number and let the athletic associations work around that number. He stated that Parks and Recreation has made a very strong case in the past about why timelines need to be adhered to. He said that the athletic association funding system had been thrown out the window with no input from this board, and that is why he thinks a number for funding these grants needs to be put on the table ASAP.

Vice Chair Rogers asked if it would be prudent, as the first step in the process, for the Board to direct staff to hold the meeting with the athletic associations. She said that she did not know the purpose of that meeting.

Mr. Greene said that this is the first time he had heard that the athletic associations are upset. He said that he would be glad to call each and every one of the athletic associations tomorrow and explain the situation, but he would recommend that the Board hold off on a funding decision until the Finance Officer gets the revenue projections for March 16. He explained that had he known the athletic associations were upset he would have called them before tonight.

Commissioner Kuehler asked if there was a reason for not holding the meeting with the athletic associations even if there is no pot of money. Chairman Openshaw said that the grant funding process is very labor intensive for everyone involved and very time consuming.

Commissioner Mills asked the Manager about a collection figure for revenues. Mr. Greene responded that he had not seen those numbers recently. He said that the sales tax receipts collected on February 10, which would have been for November, were

\$400,000 below the County's revised projection. He said that last week staff received an e-mail from the State that it was withholding the County's quarterly ADM and lottery money of \$1.2 million. He stressed it was really not a good situation.

Chairman Openshaw said that he appreciated what the Manager was saying, but he was also cognizant of how dependent these athletic associations are on this funding. He said that he did not know if this was money that these associations could live without and said that the Manager would have to talk with all of them to find out how much they depend on the funding. He said that it should be plain to all that the County was going to be in a world of hurt next year, but there are still going to be priorities and money that has to be expended. He said it was a function of what the Board is going to support, and to him the question was at what level to provide the funding, not a question of whether to do it or not. He said that he too wanted to get some feedback from the athletic associations.

Vice Chair Rogers said that Mr. Greene has offered to call the associations tomorrow. She asked if it would be appropriate for him to call each one and inform them that the County has not forgotten about them, but the County is not sure where the funding level is going to be and on March 16, he would have more information on that. She said that she understood the associations' sense of urgency but questioned if they were missing deadlines. She asked if Mr. Greene could ask that question when he called the athletic associations.

Mr. Greene responded that these are private non-profit organizations, and he did not know what type of deadline they would have, and the concerns could be addressed at the March 11<sup>th</sup> work session.

Vice Chair Rogers suggested that if any of the associations alert the Manager of any missed opportunities during his conversations with him tomorrow that the Commissioners be so notified and, if necessary, a special meeting could be called or the concerns could be discussed at the work session on March 11th.

Following the lengthy discussion, Chairman Openshaw moved approval for the County Manager to contact representatives of each of the athletic associations to explain the County's budget situation and to find out if there is any urgency on the part of any of the athletic associations regarding a grant funding decision of the Board of Commissioners on the athletic association grants for the new year, and if so, those concerns would be addressed during the Board's work session on Wednesday, March 11. The motion was passed unanimously.

**Response to Representative Gibson's Letter to Board:**

Chairman Openshaw asked if he needed to suspend the Board's Rules of Procedure to place this item on the agenda. He explained that when the Board approved adding the item to tonight's agenda, he did not assign it a position on the agenda. Mr. Crook responded that he believed it was the Chairman's prerogative to place the item on the agenda.

Vice Chair Rogers apologized for adding this item at the last minute and provided the Board with a draft response to Representative Gibson's letter.

Commissioner Mills commented that in Item #2, Union Volunteer Fire Department Revenue: requested, vehicle for resolution for funding VFDs in (eastern) Union County, he thought the bill was for all 18 departments. He said that five of the departments are tax supported, but they are not all in eastern Union County.

Vice Chair Rogers explained that what is written in bold in the proposed response is the wording in Representative Gibson's letter. She explained that the Board received a letter from Representative Gibson stating that he intended to put in place bills that were of interest to Union County. She reviewed the two items contained in Representative Gibson's letter along with proposed responses.

Commissioner Baucom asked as a point of order if the Governance Advisory Committee has been formed. The Chairman responded that it is in the process of formation, because letters have been sent from the County to all the municipalities requesting that they appoint members to that committee.

Vice Chair Rogers added that a number of representatives from the municipalities have called and talked with her about the Governance Advisory Committee. She said some of the municipalities have already appointed representatives, and they are excited about the opportunity.

Commissioner Mills moved authorization for the Board to send a response to Representative Gibson as presented by Vice Chair Rogers. The motion was passed by a vote of four to one. Chairman Openshaw, Vice Chair Rogers, Commissioner Kuehler, and Commissioner Mills voted in favor of the motion. Commissioner Baucom voted against the motion.

To: Representative Pryor Gibson Date: March 2, 2009  
From: Union County Board of Commissioners  
Subject: Bill Filings (dated 2/18/09)

We are in receipt of your letter dated 2/18/09 that briefly outlines draft/discussion bills of interest to Union County. Thank you for your attention to the need of our County. Our position on two (2) of the items are as follows:

***Item 2.- Union Volunteer Fire Department Revenue: requested, vehicle for resolution of funding VFDs in (eastern) Union Co. –*** although we do not have any details as to what this draft bill may involve, we would like to make you aware of a recently approved Fire Commission Study for Union County to answer the following questions:

(1) Define "adequate fire protection" for the County as a whole and for each of the 18 volunteer fire departments; (2) How fire protection should be funded; and (3) What, if any, changes to the various fire district lines should be made to accomplish the adequate fire protection definition and goals. We have also passed a resolution for a fire fee increase that has been sent to the legislature.

***Item 3. – Union County Local Governance: requested, vehicle for resolution of equitable representation (eastern) on County Commission. Previous Board requested expansion, Current Board has announced study intentions.*** - Although we do not have any details as to what this draft bill may involve, as was stated in the resolution sent to you by the Union County Board of Commissioners (copy attached) we adamantly oppose any forced legislation regarding the makeup and/or expansion of the Board of County Commissioners.

Over the past 3 months we have taken several positive steps to open our local government and provide citizen participation, such as (1) formation of a Governance Committee made up of representatives from each municipality and an equal percentage of people, by population, from the unincorporated areas of the county to study the issue of the makeup of the local Board of County Commissioners, (2) taping/airing of planning board and board of adjustments meetings, (3) formation of a fire commission study, (4) taken the initiative to hold joint meetings between the BOCC and each municipality, at the municipality location, in order to better understand the issues and bring government to the people; so far we have met with Wingate and Indian Trail and have 4 other municipalities scheduled, (5) we are in the process of forming a Transportation Committee jointly chaired by the MUMPO and RPO reps – Commissioners. Kuehler and Baucom, again with people appointed by all the municipalities and an equal percentage by population from the unincorporated areas. We have many other initiatives we have started or will be starting soon.

As was stated in your letter, we also understand that there are many legislative responsibilities facing you this year, especially considering the state budget and country's economy, issues that will take up a considerable amount of your time and dedication.

Local government is a vital component of our country and we hold in high regard our right and the right of our citizens to be the ones to determine what is best for our County.

Please contact us anytime.

**Announcement of Vacancies on Boards and Committees:**

Chairman Openshaw announced vacancies on the following Boards and Committees:

- a. Juvenile Crime Prevention Council (JCPC): 1) District Attorney or Designee; 2) Substance Abuse Professional; 3) Person Under Age of 18; and 4) 4 Commissioner Appointees
- b. Adult Care Home Community Advisory Committee (1 Vacancy)
- c. Historic Preservation Commission (2 Vacancies)
- d. Parks and Recreation Advisory Board (1 Vacancy)
- e. Nursing Home Advisory Committee (4 Vacancies)
- f. Planning Board (Vacancies for 3 Regular Members Representing Lanes Creek Township, Monroe Township, Vance Township, and one Alternate member)

**Appointments to Boards and Committees:**

- a. **Board of Health** – Chairman Openshaw moved to appoint Dr. Michael Johnson to serve as the licensed optometrist. The motion was passed unanimously.
- b. **Juvenile Crime Prevention County (JCPC)** – Chairman Openshaw said that a number of applications were received to serve on this committee, and he moved to appoint the following persons to serve in the designated positions:
  - 1. Chief of Police or Designee – William Kilgo
  - 2. Local Sheriff or Designee – Chad Evans
  - 3. Person Under Age of 18 – Mark ClyburnThe motion was passed unanimously.

**Manager's Comments:**



The Manager advised the Board that the Union County Partnership for Progress Board of Directors met and discussed its funding from the County, and it has voluntarily requested that its County funding be reduced by \$120,000 for the current year.

**Commissioners' Comments:**

Commissioner Baucom reminded everyone about the Heroes for the American Red Cross Campaign that is underway. He challenged each of the Board members to participate with the Red Cross Heroes. He said it is a worthy cause and all of the money raised in Union County stays in the County. He stated that with the reduction in United Way contributions this year, it is increasingly important that the Heroes Campaign be successful.

Commissioner Baucom congratulated John Bention, a senior at Monroe High School, on his State wrestling championship.

He said that a roast was held for P. E. Bazemore last week at Monroe Country Club. He stated that Mr. Bazemore continues to work tirelessly and effortlessly for the citizens of the County.

Commissioner Baucom stated that as a part of the stimulus package, Highway 218 will be widened. He stated that Highway 218 is the de facto Monroe Bypass. He said that hopefully the work will initiate by July 1, and this project was one of the shovel ready projects. He expressed appreciation to Barry Moose, NC Department of Transportation Division 10 Engineer, and to MUMPO (Mecklenburg-Union Metropolitan Planning Organization) and RPO (Rocky River Rural Planning Organization) for helping to move this project forward. He stated that there has been a lot of cooperative effort getting the project to the top of the list, and when the money became available, it could move forward.

Commissioner Kuehler expressed appreciation to Pat Beekman, who served as the Director of Homeland Security for Union County. She said Mr. Beekman has moved on to other endeavors and there was a fabulous letter to the editor in the newspaper which characterized Mr. Beekman, and she said he would be sorely missed.

Commissioner Mills agreed that Mr. Beekman will be missed. He said it was a pleasure meeting Mr. Merritt, and he looked forward to working with him.

Vice Chair Rogers had no comments.

Chairman Openshaw reminded everyone of the Board's work session on Wednesday, March 11. He asked the Board if it wanted to begin the work session at 10:00 a.m. or 11:00 a.m.

Commissioner Mills suggested that the work session begin at 10:00 a.m.

By consensus, the Board agreed to change the starting time of the work session to 10:00 a.m. Chairman Openshaw said that the discussion regarding the Voluntary Agricultural Districts would be delayed until the next work session.

The Chairman also extended congratulations to Mr. P. E. Bazemore, who was issued the Order of the Long Leaf Pine, which is the highest civilian award that can be awarded by the State.

Chairman Openshaw said that he and Mr. Delk had the pleasure of having dinner with the Chairman of the Board of the Wake County Commissioners who was talking about Mr. Bazemore and their many years in the civil rights movement.

Chairman Openshaw stated that he attended Governor Purdue's press conference and was pleased to see such a strong turnout from Union County. He said it was noted that Union County had more people in attendance than did Charlotte.

The Chairman also commented about Pat Beekman, and said he was truly sorry to lose someone who was so great at his job. He said that two people, who work in the Emergency Preparedness field, had approached him about Mr. Beekman, and one told him that they had seen Mr. Beekman in action and were blown away by how great he was at his job. He stated that he also had heard this person make this comment to others. He said that the other person said he did not get along with Pat on a personal level but stated he would follow him into battle, because he was so great at what he did.

He recognized Sun Valley Middle School for finishing first in the Regional Science Olympics with Piedmont Middle School coming in second out of twelve schools in the region.

He echoed Commissioner Baucom's comments about John Bention. He said that John has had three great years as a wrestler at Monroe High School and he was delighted that John had won the gold.

Chairman Openshaw stated that in the Board's continuing effort to reach out to all parts of the County, the Board recently met with Wingate's Town Council, which he said was very informative. He said he was delighted to be able to leave that meeting with a clearer understanding of the issues confronting Wingate.

He said that as Vice Chair Rogers had noted in the response to Representative Gibson's letter, that the Board has four more municipal meetings scheduled for this month. He announced that on March 9, 2009, the Board would be meeting with the Weddington Town Council at 6:00 p.m. at its town hall and Marvin's Town Council at 7:15 p.m. which will be at Marvin Ridge Middle School in the pit. He said that he would not be able to attend those meetings. Further, he announced that on March 17, 2009, the Board would meet with the Village Council of Wesley Chapel at 6:00 p.m. at the Wesley Chapel United Methodist Church, and then with Waxhaw's Town Council at 7:15 p.m. at the Museum of the Waxhaws. He stated that the Board was trying to make it easy for the citizens to attend the meetings rather than for the citizens to have to travel to the Government Center to attend the Board meetings. Chairman Openshaw encouraged the County residents to attend the municipal meetings.

With there being no further items for discussion, at approximately 11:39 p.m., Vice Chair Rogers moved to adjourn the regular meeting. The motion was passed unanimously.