

Approved 11/16/2009

March 16, 2009
Minutes of Regular Meeting

The Union County Board of Commissioners met in a regular meeting on Monday, March 16, 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, H. Ligon Bundy, Attorney at Law, members of the press, and other interested citizens

Opening of Meeting:

a. Invocation

Commissioner Baucom offered the invocation.

b. Pledge of Allegiance

Commissioner Baucom led the body in reciting the Pledge of Allegiance to the United States flag.

c. Presentation by Union County Community Arts Council:

Barbara Faulk, Executive Director of the Union County Community Arts Council, expressed appreciation to the Board of Commissioners for its support of the Arts Council for the past 29 years. She gave a brief introduction of the Arts Council and invited the Board members' participation and involvement in the many events sponsored by the Arts Council.

Mrs. Faulk stated that the Arts Council makes a significant impact on economic development and the quality of life in Union County. She stressed that it is an educational based organization and serves to promote education in every way possible. She said that the return on the County's investment in the Arts Council is tremendous. She reported that the Arts Council serves and has served every child in the Union County Public School System since 1980 in one way or the other. She shared that at the time she started working with the Arts Council, every child in the school system received a minimum of three programs per month. She said that with the current growth in the system, she could not say that this is true any longer but stated that the quality of the programs has increased over the years. Mrs. Faulk said that the Arts Council while serving 36,000 plus students in 51 schools has made a tremendous impact over and above what the school system can provide. She emphasized that every child in the County has the same opportunity in the County's arts.

She said that the Union County Community Arts Council has been consistently recognized by the North Carolina Department of Cultural Resources as one of the three strongest arts councils in the state because of its fiscal responsibility, its accountability, its internal operations, and its ability to stretch its dollars as far as possible.

Informal Comments:

Joe Tolan, who resides at 5800 Deal Road, addressed the Board regarding the Wesley Chapel-Weddington Athletic Association (WCWAA) Optimist Park. Mr. Tolan provided the Board with some photographs depicting conditions of the property and the road near his property. He said that his eastern property line is the WCWAA's western property line. He stated that for some time they have been in disagreement over matters of filling in the floodplain and floodway. He said that the pictures that he took clearly show the culvert at Highway 84 is not the flooding issue, that there is plenty of free capacity for the water to get in and out of the culvert, but it is a matter of grading.

Mr. Tolan said that years ago a notice of violation was issued by the County concerning grading and filling operations in the floodway/floodplain and to date nothing has been resolved with that issue. He stated that several months ago, the previous Board of Commissioners took action that allowed 30 days for a presentation of a no-rise certification, and to the best of his knowledge, he did not believe that had been done. He said that the agenda item to award a grant to the WCWAA is inappropriate use of the taxpayers'

money until the grading and flooding issues are resolved once and for all. He stressed that something must be done to resolve this issue.

Jonathan Thomas, who resides at 3204 East Lawyers Road, commented on the proposed Governance Policies. He said that he had attended the Board's work session on Wednesday and to his dismay he was a little shocked that the meeting was not videoed. He expressed appreciation to Commissioners Baucom and Mills for voting to have the work session televised. [No vote was taken.]

Mr. Thomas said that he left after approximately one hour and 45 minutes into the meeting. He stated that he was somewhat disgusted and shocked that this County has the highest debt per capita, has limited water and sewer capabilities, and Chairman Openshaw has said there is a possibility of tax increases of ten percent in the upcoming year, but yet so much time has been spent on the small details of policies that mean very little in the large scheme of things. He said that the issue as many have said before is that there is no east and west in Union County, but it is all one county, but when playing politics, there is an east and a west, a winner and a loser. Mr. Thomas stated that solutions should be looked at for some of the County's problems such as possibly delaying the construction of a school for one year saving six million dollars, that so much time should not be spent writing policies to manage a man that he believes has done a super job in the last year and to manage a staff that he would put bar none with any county in the state. He stated that he thought the County had a wonderful staff and there was a wonderful opportunity to have Mr. Greene as the Manager. Mr. Thomas said that he would challenge the Board to look at the County as a business, and if the outcome is not what is wanted, then look at the process; otherwise, he asked the Board not to mingle and micromanage the process where it negatively affects the outcome. He emphasized that real solutions are needed such as minimizing taxes and assisting to find solutions to some of the County's problems that make Union County a better place to live.

A third person, whose signature was not legible, signed to speak during the informal comments; however, that individual did not come forward when the name was called. At approximately 7:27 p.m., the Chairman closed the informal comments portion of the meeting.

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

Commissioner Baucom requested that Item 5 – Wesley Chapel-Weddington Athletic Association (WCWAA) be removed from the Consent Agenda and placed on the Regular Agenda.

Vice Chair Rogers requested that Item 6a – Public Works Department (Amendment to Water Allocation Policy) be removed from the Regular Agenda to be discussed during a work session of the Board. She said that she had reviewed the agenda package, and there were no materials or information regarding this item. She stated that she would like to have information on items prior to the meetings. Vice Chair Rogers said that the Water Allocation Policy is an important issue and one that she thought the Board would need to spend more time on.

Further, Vice Chair Rogers requested that Item 11 – Public Health Fee Requests for Environmental Health Services to be moved up on the agenda since it requires people in the audience to stay. She requested that Item 6f – HDR Engineering, Inc. of the Carolinas – Task Order #47 and Item 7-Additional Services for the Water Allocation Policy (Amendment to Task Order #43) be moved from the Consent Agenda and placed on the Regular Agenda for discussion.

Al Greene, County Manager, explained that there was a reason that the staff had not sent materials in advance for Item 6a – Amendment to the Water Allocation Policy on the regular agenda. He stated that this would be explained in Closed Session.

Jeff Crook, Staff Attorney, commented that the staff had requested a Closed Session in regards to this item and that was the reason that the time for this item had been estimated for two hours. He said that he believed that the public presentation tonight for this item would be relatively short. He informed the Board that should it decide to defer action on this item tonight, action would need to be taken to extend the suspension of applications for water permits. He stated that the 60-day period previously directed by the Board would expire this week.

Mr. Greene interjected that if the Board decided to delay action on this item until a work session, it would be difficult to send materials out in advance without there being potential repercussions and suggested that the Board should discuss, if possible, this item with staff and the attorneys in closed session.

Commissioner Kuehler stated that in light of the information provided tonight, that Item 15 – Report on Legal Expenses on the Regular Agenda be removed from tonight’s agenda and discussed at a later date. She asked the Manager if Item 6b-Water Conservation Plan on the Regular Agenda is time sensitive. The response by the Manager was that it was time sensitive only from the standpoint that staff was directed to develop a plan within a timeframe, and it would be ideal to have it considered and approved before spring weather.

Chairman Openshaw asked in connection with Vice Chair Rogers' request to defer Item 6a-Amendment to Water Allocation Policy to a work session, that she consider a brief public presentation and closed session to define what the Board wants to do. He said that he was not advocating for a two-hour closed session tonight and also preferred to hold it at sometime in the future.

Chairman Openshaw said that he would like to move Item 6e-Agreement with Drayton Hall Homeowners Association from the Consent Agenda to the Regular Agenda to have a question answered. He said that he had tried to speak with the President of that Homeowners' Association today, but was unsuccessful and was hoping that someone from the staff could answer his question.

The response by Vice Chair Rogers to the request by the Chairman in regards to Item 6a-Amendment to Water Allocation Policy was that there were four other members of the Board that could vote to leave the item on tonight's agenda. She said that she did not like the idea of not having information in advance. She stated that she would prefer to have time to look at this item. Commissioner Baucom suggested that since the consultant was available that the Board hear the public presentation.

Chairman Openshaw asked for a motion to adopt the agenda as amended with the exception of deferring Item 6a-Amendment to the Water Allocation Policy to a work session which would be voted on by a separate motion.

Vice Chair Rogers moved adoption of the regular agenda as amended with the exception of deferring Item 6a-Amendment to the Water Allocation Policy to a work session to be voted on by a separate motion.

Commissioner Baucom questioned why Item 6a- Amendment to the Water Allocation Policy was not being included as part of the amended agenda. The response by Chairman Openshaw was that his guess was that there might be a difference of opinion by the Board, and that he did not hear a difference of opinion for any of the other amendments to the agenda except for that one item. He said his point was why hold up all the other amendments for that one item.

Following the discussion, 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.

Chairman Openshaw stated that Vice Chair Rogers had made a motion to defer Item 6a-Amendment to the Water Allocation Policy until a work session. He asked Vice Chair Rogers if she preferred that the Board go into closed session first.

The response by Vice Chair Rogers was that she continued to stand for removing the item from the agenda and deferring it to a work session. She reiterated that if the other Board members wanted this item to remain on the agenda, that was fine. She agreed if the Board were going to discuss this item during the open session, it should go into closed session prior to discussing the item.

Chairman Openshaw moved that the Board go into closed session first to discuss Item 6a and then reconvene the regular meeting to deal with the item at that time.

Commissioner Baucom offered a substitute motion that the Board address the remaining items on the agenda at this time and defer going into closed session on this item until later in the meeting. He said that there are people at tonight's meeting who would like to be heard and have their issues addressed. The substitute motion was passed by a vote of four to one. Chairman Openshaw, Commissioner Baucom, Commissioner Mills, and Commissioner Kuehler voted in favor of the substitute motion. Vice Chair Rogers voted against the substitute motion.

Chairman Openshaw stated that Item 5 from the Consent Agenda – Wesley Chapel-Weddington Athletic Association (WCWAA) would become Item 6 on the Regular Agenda. He said that it was at his request that this item had been placed on the Consent Agenda and that staff had recommended that the item be placed on the Regular Agenda.

He placed the items removed from the Consent Agenda in the following order on the Regular Agenda:

1. Item 6e – Drayton Hall Homeowners Association – to become Item 15 on the Regular Agenda.
2. Item 6f – HDR Engineering, Inc of the Carolinas – Task Order #47 – to become Item 16
3. Item 7 – Additional Services for the Water Allocation Policy (Amendment to Task Order #43) – to become Item 16a

Chairman Openshaw asked that Item 16 on the Regular Agenda – Update on Current FY Revenue Projections and Union County Athletic Council become 6a.

He stated that Item 6a on the Regular Agenda – Amendment to the Water Allocation Policy would become Item 16b.

The Chairman asked for a motion to approve the change in order of the agenda items. Commissioner Mills moved to approve the changes. Vice Chair Rogers stated that she did not believe a motion was necessary to change the order of the agenda items, as that would be in the purview of the Chairman. [No vote was taken on the motion.]

Wesley Chapel-Weddington Athletic Association (WCWAA) (moved from the Consent Agenda at the request of Commissioner Baucom:

Commissioner Baucom stated that he would like to have staff's comments on this item which would be more for the benefit of the public than for any other reason.

Mr. Greene requested that Wanda Smith, Parks and Recreation Director, explain the request. He said that the request is somewhat complex. He stated that he appreciated the Board's considering moving this item from the Consent Agenda to the Regular Agenda because he was going to make that request to be able to report that there were contingencies on these grants. He noted that the most significant contingency on the grant was that the County must obtain a copy of the 25-year lease whereby WCWAA has the right to use the property for which the grant funds will be expended. He said that he was unsure if the County has a copy of that lease.

The response by Mrs. Smith to the Manager's question was that the County does not have a copy of the 25-year lease from WCWAA and this was one of the contingencies.

Consent Agenda:

Chairman Openshaw interrupted at this time to ask if approval of the consent agenda were needed. The response by Jeff Crook, Senior Staff Attorney, was yes, that approval of the Consent Agenda was necessary.

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

Tax Administrator: Approved Ninth Motor Vehicle Billing in the Amount of \$932,085.09.

Tax Administrator: Approved Eighth Motor Vehicle Release Register for the Period of February 1, 2009 - February 28, 2009, in the Net Grand Total Amount of \$11,657.45-.

Tax Administrator: Approved Eighth Motor Vehicle Refund Register for the Period of February 1, 2009 - February 28, 2009, in the Net Grand Total Amount of \$1,441.04-.

Refunds for February 2009: Approved refunds for February 2009 in the Grand Total of \$5,313.65:

REFUNDS FEBRUARY 2009

Acct #	Name	Release #	Totals
2008			
06093031	SEAGRAVES JAMES A & VIOLA	5290	324.26
07024033	KIKER ANNA C	5300	282.68
50087587	THOMAS SHERRY	5332	56.65
50100776	SIMPSON WILLIAM GARY JR	5333	242.49
03015011B	HOWARD KATHERINE H & MELVIN B	5345	746.13
06174244	LONGVIEW HOLDINGS II LLC	5365	400.19
06174243	LONGVIEW HOLDINGS II LLC	5366	400.19
06174245	LONGVIEW HOLDINGS II LLC	5367	400.19
06066198	GRAHAM MELVIN F TRUSTEE	5368	738.21
06174247	LONGVIEW HOLDINGS II LLC	5369	243.06
06213034	STEPHENS DEWEY E & KELLI M	5313	50.00
06213031	RUBINS KAREN A	5314	55.00
06213029	GLEASON BRIAN J & STEPHANIE A	5315	55.00
09075007H	TAYLOR CARROLL & VERNA MAE B	5317	366.85
50100821	SHEAFF DANNY EARL	5375	48.80
Totals - 2008			4,409.70
2007			
06093031	SEAGRAVES JAMES A & VIOLA	5291	293.76
04204037	CROWDER VIOLA BELK HEIRS & CROSBY RL	5303	86.80
Totals - 2007			380.56
2006			
06093031	SEAGRAVES JAMES A & VIOLA	5292	263.03
Totals - 2006			263.03

2005			
06093031	SEAGRAVES JAMES A & VIOLA	5293	260.26
Totals - 2005			260.26
GRAND TOTALS			5,313.55

Releases for February 2009: Approved releases for February 2009 in the Grand Total of \$76,573.10:

RELEASES FEBRUARY 2009

Acct #	Name	Release #	Totals
2010			
06048395	HAWA TAMMY L & SHIMON S	5305	3,183.03
Totals - 2010			3,183.03
2009			
06048223	GIAIMO MICHAEL & MICHAELA	5307	2,462.26
06048225	KIPP NOREEN ANN & WILLIAM	5308	2,295.87
06048395	HAWA TAMMY L & SHIMON S	5335	3,108.07
06048222	NESBITT THOMAS & KATHLEEN P	5336	2,205.47
06048226	MORRILL GINA M & STEVEN W ROGISH	5337	2,156.62
06048228	ASBURY ANDREW JENNINGS & KATIE OEHLER	5338	2,415.56
06048229	CHANDLER RICHARD R & AMY F	5339	2,242.76
06048230	ASHLEY-WILKINSON LORRAINE	5340	2,365.82
50100558	WESLEY CHAPEL FAMILY DENTISTRY	5341	2,825.43
06048223	GIAIMO MICHAEL & MICHAELA	5346	2,404.27
06048225	KIPP NOREEN ANN & WILLIAM	5347	2,241.80
09049008F	FAULKNER AMY C	5362	392.06
Totals -2009			27,115.99

2008

50100639	COLE ALBERT ERNEST	5276	20.50
50069061	FADEL RONALD ALBERT	5277	241.83
50082002	MOORE STEVEN E	5279	41.80
50073760	COOK AARON RAY	5283	131.49
50078755	GROOME BARRY A & MARY B	5288	98.98
07096279	TAYLOR GLENN OF INDIAN TRAIL	5294	1,028.54
07096326	TAYLOR GLENN OF INDIAN TRAIL	5296	243.54
07096385	TAYLOR GLENN OF INDIAN TRAIL	5298	152.55
04204037	CROWDER VIOLA BELK HEIRS & MCPHOY NEIL	5302	175.16
06174307	DALLA ROSA RAINER JOHN & LESLIE PHILPOT	5304	410.97
06048222	NESBITT THOMAS & KATHLEEN P	5306	2,299.46
07129012	AUSTIN CAROLYN	5309	196.51
07129013	AUSTIN CAROLYN	5310	194.82
06129010F	SMITH KAREN BYRUM	5311	246.54
05129010	BYRUM ELIZABETH N & RICHARD E BONAVITA II	5312	246.54
04249018	ROLLINS GARY GENE & WF	5316	3,043.32
06213028	DOMANSKI CHESTER J & WIFE KATHLEEN M	5318	55.00
06213030	MINSK DAVID A & LAURA A	5319	55.00
06213032	MYLES ROBERT J JR & WF PATRICIA M	5320	55.00
06213033	VANCE MARK A	5321	55.00
50070668	LINDER VICKIE	5322	81.83
50081816	ELKS APRIL	5323	168.06
50083295	HELFRICH DAN	5325	109.76
50098442	PINCH GUT GROCERY STORE	5326	502.95
50088379	REPS INC	5327	216.35
50066629	ASTI RUSSELL Z ATTORNEY AT LAW	5328	140.67
50096231	CLEAN SWEEP LANDSCAPING	5329	182.88
50085622	BAKER THOMAS D & SHELLY	5330	59.05
50096027	JJC TRUCKING & TOWING	5331	5.43
50069696	DAVIS TERRY CLARK	5334	111.81
06048223	GIAIMO MICHAEL & MICHAELA	5342	2,508.66
06048225	KIPP NOREEN ANND & WILLIAM	5343	2,337.07
06108284	ST LAWRENCE HOMES INC	5344	3,014.43

06048391	WESLEY OAKS HOMEOWNERS ASSOCIATION INC	5348	208.42
06048378	WESLEY OAKS HOMEOWNERS ASSOCIATION INC	5349	165.75
06048377	WESLEY OAKS HOMEOWNERS ASSOCIATION INC	5350	181.10
06048314	WESLEY OAKS HOMEOWNERS ASSOCIATION INC	5351	31.30
06048313	WESLEY OAKS HOMEOWNERS ASSOCIATION INC	5352	30.96
07123109	DC HOMES USA LLC	5353	1,195.70
09321002E90	CRAFT DEVELOPMENT LLC	5354	11,114.30
07090581	TRAN THEPHONG D & THUY CHINH DINH PHAN	5355	4,079.92
06159006	PROVIDENCE ROAD 46 LLC	5359	1,694.56
05042022A	GRAHAM MELVIN F 7 WIFE TERESA P	5360	620.25
06210107	OAKBROOK ESTATES HOMEOWNERS ASSOCIATION	5361	508.28
05138044	INSPIRATIONAL DELIVERANCE TEMPLE	5363	209.98
07087067	STEGALL BRUCE D & DEBBIE SUE	5364	666.44
50072609	BEAVER GERALD WAYNE & CLARA HELMS BEAVER	5372	75.97
50092955	CROOKE STEPHEN	5373	62.51
50091790	BREWER WILLIAM RUFORD	5376	26.06
50096374	BEL LAR	5377	188.14
Totals - 2008			39,491.14

2007

50069061	FADEL RONALD ALBERT	5278	224.88
50082002	MOORE STEVEN E	5280	48.10
50071479	MOSLEY JOHNNY FRANKLIN & BETTY	5289	12.59
07096279	TAYLOR GLENN OF INDIAN TRAIL	5295	894.39
07096326	TAYLOR GLENN OF INDIAN TRAIL	5297	81.01
07096385	TAYLOR GLENN OF INDIAN TRAIL	5299	12.30
H4033007	FOGLIETTA GARY	5301	203.74
50069696	DAVIS TERRY CLARK	5324	168.19
50092955	CROOKE STEPHEN	5374	124.85
05138044	INSPIRATIONAL DELIVERANCE TEMPLE	5378	213.47
Totals - 2007			1,983.52

2006			
50082002	MOORE STEVEN E	5281	45.31
02117010	MARSH JERRY W	5356	1,408.83
50079638	MULLIS DILLON B & MARGARET	5370	269.08
Totals - 2006			1,723.22

2005			
50082002	MOORE STEVEN E	5282	47.72
50072657	BAKER BRIAN S	5284	13.86
02117010	MARSH JERRY W	5257	1,394.00
50079638	MULLIS DILLON B & MARGARET	5371	263.37
Totals - 2005			1,718.95

2004			
50072657	BAKER BRIAN S	5285	13.75
02117010	MARSH JERRY W	5358	1,316.56
Totals - 2004			1,330.31

2003			
50072657	BAKER BRIAN S	5286	13.86
Totals - 2003			13.86

2002			
50072657	BAKER BRIAN S	5287	13.08
Totals - 2002			13.08

GRAND TOTALS			76,573.10
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Kensington Elementary School/Nature Trail: Approved Permissive Use Agreement with the Union County Public Schools granting permission for the schools to build and use a nature trail and an outdoor classroom area for educational purposes on a portion of an 18 acre tract owned by Union County at the corner of Waxhaw-Marvin and Kensington Roads.

Joint Resolution of the Boards of Union County Commissioners of Cabarrus County, Davidson County, Rowan County, Stanly County and Union County: Adopted resolution as follows:

**JOINT RESOLUTION
OF THE BOARDS OF COUNTY COMMISSIONERS
OF CABARRUS COUNTY, DAVIDSON COUNTY, ROWAN COUNTY,
STANLY COUNTY AND UNION COUNTY**

WHEREAS, the Board of County Commissioners of Cabarrus County, the Board of County Commissioners of Stanly County, and the Board of County Commissioners of Union County by Joint Resolution dated April 1, 1974, established Piedmont Area Mental Health Program; and

WHEREAS, the Board of County Commissioners of Cabarrus County, the Board of County Commissioners of Stanly County, and the Board of County Commissioners of Union County by Joint Resolution dated March 31, 1981, modified their Joint Resolution dated April 1, 1974, by naming the entity “Piedmont Area Mental Health, Mental Retardation, and Substance Abuse Authority; and

WHEREAS, by Joint Resolution dated October 1, 1997, the County Commissioners of Cabarrus, Rowan, Stanly and Union Counties included Rowan County as a participating county in the area authority and renamed it Piedmont Area Mental Health, Developmental Disabilities and Substance Abuse Authority; and;

WHEREAS, by Joint Resolution adopted by the Boards of Commissioners of Cabarrus County (on April 21, 2003), Davidson County (on May 13, 2003), Rowan County (on March 17, 2003), Stanly County (on May 5, 2003) and Union County (on April 7, 2003), providing that Davidson County, pursuant to G. S. 112C-115 (c) became a participating county in the multi-county Area Authority known as Piedmont Area Mental Health, Development Disabilities and Substance Abuse Authority, and

WHEREAS, for many years, Piedmont Area Mental Health, Developmental Disabilities and Substance Abuse Authority has for several years operated under the name “Piedmont Behavioral Healthcare”, the acronym for which is “PBH”, and

WHEREAS, by Session Law 2001-437 effective July 1, 2002, entitled “An Act to Phase In Implementation of Mental Health System Reform at the State and Local Level,” the North Carolina General Assembly has amended North Carolina General Statute Chapter 122C and launched extensive changes in North Carolina’s mental health system, and,

WHEREAS, Piedmont Area Mental Health, Developmental Disabilities and Substance Abuse Authority has been recognized as a state leader in implementing mental health system reform and has now successfully made the transition to the status of Local Management Entity or “LME”, as defined by G.S. 122C-3 (20b) carrying out the functions of an LME as set forth in G.S. 122C-115.4, and

WHEREAS, Piedmont Area Mental Health, Development Disabilities and Substance Abuse Authority desires to manifest its change in status to an LME with a formal change of its name to PBH, and

WHEREAS, Piedmont Area Mental Health, Developmental Disabilities and Substance Abuse Authority has obtained U.S. Servicemark Registration No. 3,150,979 dated October 3, 2006, for “PBH”,

WHEREAS, the parties to this agreement believe that it is in the best interests of all concerned to re-name Piedmont Area Mental Health, Developmental Disabilities and Substance Abuse Authority with the new name PBH,

NOW, THEREFORE, BE IT RESOLVED JOINTLY BY THE BOARDS OF COUNTY COMMISSIONERS OF CABARRUS COUNTY, DAVIDSON COUNTY, ROWAN COUNTY, STANLY COUNTY, AND UNION COUNTY that the Joint Resolution of the Boards of County Commissioners of Cabarrus, Stanly, and Union Counties dated April 1, 1974, as amended by the Joint Resolution of the Boards of County Commissioners of Cabarrus, Stanly and Union Counties dated March 31, 1981, as further amended by the Joint Resolution of the Boards of County Commissioners of Cabarrus, Rowan, Stanly and Union Counties dated October 1, 1997, and as amended by the Joint Resolution adopted by the Boards of Commissioners of Cabarrus County (on April 21, 2003), Davidson County (on May 13, 2003), Rowan County (on March 17, 2003), Stanly County (on May 5, 2003) and Union County (on April 7, 2003), be amended as follows:

Section 1. Change of Name

The name of “Piedmont Area Mental Health, Developmental Disabilities and Substance Abuse Authority” shall be changed to “PBH”.

Section 2. Effective Date

This Joint Resolution shall be effective as of the date that all five participating Boards of Commissioners have adopted this resolution.

ADOPTED AND RATIFIED in five counterparts by the Boards of Commissioners of Cabarrus County, Davidson County, Rowan County, Stanly County and Union County.

Finance Department: Approved Motor Vehicle Tax Refund Overpayments for February 2009 in the amount of \$7,195.91.

Wesley Chapel Weddington Athletic Association (WCWAA): This item was moved to the regular agenda at the request of Commissioner Baucom.

Contracts/Purchase Orders Over \$20,000:

1. Authorized County Manager to approve Purchase Order to Pace, Inc. (Purchase Order #90316) for Cooling Tower Maintenance and Repair in a lump sum amount not to exceed \$30,000)
2. Authorized County Manager to approve, pending legal review, Memorandum of Understanding with the State of North Carolina Division of Public Health (No Payment Terms) - This is a consolidated agreement for FY 2009-2010 for maintaining and promoting the advancement of public health in N.C. (federal/state certifications and assurances)
3. Authorized County Manager to approve, pending legal review, Software Agreement Renewal with ERSI in an lump sum amount not to exceed \$38,467.96)
4. Authorized County Manager to approve, pending legal review, Agreement with Turning Point, Inc. in an amount not to exceed \$31,591. Turning Point provides housing assistance, transportation, education expenses, and individual and family adjustment services (counseling, court advocacy, etc.) to eligible families participating in the Domestic Violence Services program.

5. Drayton Hall Homeowners Association Agreement - This item was moved from the Consent Agenda to the Regular Agenda at the request of Chairman Openshaw.
6. HDR Engineering, Inc. of the Carolinas - Task Order #47 - This item was moved from the Consent Agenda to the Regular Agenda at the request of Vice Chair Rogers.
7. Additional Services for the Water Allocation Policy - Amendment to Task Order #43 - This item was moved from the Consent Agenda to the Regular Agenda at the request of Vice Chair Rogers.

Information Only - No Action Required: The following reports were included in the agenda package with no action required: 1) Personnel Monthly Report for February 2009; and 2) Department of Inspections' Monthly Report for February 2009

Continuation of Wesley Chapel-Weddington Athletic Association (WCWAA) (moved from the Consent Agenda at the request of Commissioner Baucom):

Mrs. Smith continued with her explanation regarding the contingencies on the WCWAA grant awards.

She noted that the Parks and Recreation Advisory Committee had approved several contingencies to send to the Board of Commissioners; however, these contingencies were not forwarded to the Board because when they were making their site checks, it was determined that the project for which WCWAA was applying had already been completed. She explained that the contingencies were not forwarded to the Board because WCWAA could not meet those contingencies. Mrs. Smith stated that it was a two-part project with the 2008 project being the first phase, which was the grading of the project, and the 2009 project being the actual turf and completion of the field.

She said that the 2008 project had to be inspected and all of the paperwork completed including a close-out form and submitted to Parks and Recreation. Mrs. Smith noted that this phase of the project was skipped, and they went directly into the second phase. She explained that since the project had been completed, they could not go back and perform the inspections. She clarified that Parks and Recreation has not gone back to evaluate the project because they wanted to receive guidance from the Board on how to proceed.

It was pointed out that the contingency for extension of the 25-year lease with the Optimist Park has not been met. Tracy Clinton, President of WCWAA, and Bob Butz, Vice President of WCWAA, addressed questions from the Board.

Mrs. Clinton addressed the 25-year lease with the Weddington Optimist Club. She said that the WCWAA and the Optimist Club have had a very long-term partnership, and the Weddington Optimist Club originally formed the WCWAA to handle the athletic association's part of their activities. She stated that the lease with the Optimist Park has not been renegotiated, but she did have in hand a letter from the President of the Optimist Club stating that they have every intention to extend the lease for an additional 25 years prior to the expiration of the current lease.

Mrs. Clinton asked the Board to consider accepting the letter from the Optimist Club as full intent to extend the lease for 25 years and to place this as a contingency. Further, she stated that WCWAA is so sure that this partnership will continue, that they will agree to return the grant funding if the lease is not renewed prior to the expiration of the current lease.

Commissioner Kuehler moved that the Board approve grants for WCWAA as follows: FY 07 - \$53,385.21 for the lower multi-purpose complex; the FY 08 grant - \$55,000 for Phase I of the Astro Turf field; and the FY 09 grant in the amount of \$54,916.54 for Phase II of the Astro Turf field with the conditions that the documentation will be provided on the lease, and if the lease is not executed prior to the expiration of the current lease, that the grant funding be returned to the County. She stated that the FY 07 grant application should reflect the completed work on the lower level multi-purpose field.

Commissioner Kuehler added that while she had every empathy for Mr. Tolan, who had spoken during informal comments regarding the flooding in this area, she lives on this same creekway. She said that she had experienced worse flooding than what she had seen in the photographs provided by Mr. Tolan. She stated that she believed this matter involved two separate issues: the park and its services and the flooding. She reviewed that the prior board had approved release of the 2007 grant funds to WCWAA on the following dates with no contingencies and no stipulations: January 2007 and May 2007 and in August 2007, it was requested that disbursement of the funds be delayed; however, in February 2008, the Board again approved the release of the funds. She shared that according to her research, the Optimist Park serves 2,560 families and receives over 6,300 registrations per year.

Commissioner Baucom asked Mrs. Smith what was the recommendation of the Parks and Recreation Advisory Committee. The response by Mrs. Smith was that for the 2007 funding, since the grant agreement had not been executed by WCWAA that the \$53,385.21 be returned to the general fund. Mrs. Smith stated that she could not answer why the grant agreement had not been signed by WCWAA. The response by Mrs. Clinton was that they did not sign the agreement in February 2008, because the flooding issue had not been resolved, and they were told that until the flooding issue was resolved that they could not do any further development on the lower parcel of the park. Further, she said that they had asked the Parks and Recreation Advisory Committee that the FY 07 and 08

grant funds be applied to the synthetic turf field, and, at that point, the Advisory Board asked that WCWAA return the FY 07 grant. Mr. Butz stated that the WCWAA never received the FY 07 grant funds, and the agreement was returned to the County unexecuted.

He said that he thought one of the key points was that it is a requirement under the grant to have matching funds, and since they could not invest those dollars on the lower property, which is where the floodplain is located, they could not execute the FY 07 grant agreement.

Commissioner Baucom asked Commissioner Kuehler for clarification of whether her motion included approval of the FY 07 grant funds, which she confirmed was included. When asked by Commissioner Baucom if WCWAA was prepared to sign the FY 07 grant agreement, Mrs. Clinton stated that they were as long as the Board of Commissioners understands that if they sign the FY 07 grant and accept the funds, WCWAA will not expend those funds until the flooding issue is resolved. She said that they would be glad to have the flooding issue resolved and to expend the funds for lights for the fields. She stated that they would sign the agreement and accept the funds contingent upon spending the funds when the flooding issue has been resolved.

Commissioner Baucom explained that his only purpose of requesting that this item be moved from the Consent Agenda to the Regular Agenda was because he believed that the public deserved to have a clear understanding of the matter, since it has been an issue that has continued for a long period of time. Further, he said that the County does have a Parks and Recreation Advisory Committee that has made recommendations in this matter, and he did not want that committee to feel that it is not being heard and that its advice is not being accepted. He stated that the committee has worked diligently on this matter, and it deserves to have the clear understanding that the Board of Commissioners has heard the Committee's recommendations.

Commissioner Mills questioned if it were possible for the 2007 grant funds to be used to help remedy the flooding situation on the lower field. Mr. Butz and Mrs. Clinton agreed that those funds could be used for that reason. However, Mrs. Clinton said that she was hesitant to accept the funding for that use because at this point they do not know what the remedy for the flooding will be. She added that WCWAA does have funding in reserve to accomplish that work without expending the grant funds if the County would accept the current remediation proposal.

Chairman Openshaw responded that he preferred "not to muddy that water."

Mrs. Smith commented that the Board did approve a previous grant for WCWAA to build the fields that are in the floodway/floodplain area, and this would be the second grant, if approved, that would be used in that area to remove the same dirt. She stated that it would be fine if the funds were used in a different area such as for lights.

Mr. Nelson asked Mrs. Smith if the FY 08 and 09 grant funds were included in her department's budget for the current year. She confirmed that the FY 07 grant funds have been removed from her department's budget and returned to the General Fund and are no longer available. Mr. Nelson asked Mrs. Smith if the FY 07 grant funds were approved for release, what other activities would she be able to cut in her department's budget in order to meet the Board's request. She responded it would be another position in her department. The Chairman stated another option would be for the funds to be transferred from the General Fund.

There was discussion about why the FY 07 funding had been returned to the County's General Fund rather than returning to the Parks and Recreation budget. It was explained by both Mr. Greene and Mr. Nelson that all unspent funds at fiscal year end lapse to fund balance.

In connection with the FY 08 grant funds of \$55,000, it was noted that these have already been paid to WCWAA. The Chairman stated that he found it mildly disturbing if Commissioner Kuehler were correct that this would be the third time that he has voted to release this funding. After further comments by the Chairman regarding the Board's having voted to release the funds, the Manager requested that the comments regarding this matter be directed to him rather than to Mrs. Smith. He offered that the staff would be glad to research this matter and provide a full report for the Board.

Responding to a question about the failure to release 2007 funds, Mrs. Smith explained that WCWAA failed to execute the grant agreement, therefore, the funds could not be paid to WCWAA.

Discussion again ensued about why the FY 07 grant agreement had not been executed and returned. Mrs. Clinton said that in July 2008 when WCWAA requested that the FY 2007 grant funds apply to the synthetic turf field, that the recommendation of the Advisory Board at that time had been for WCWAA to return the FY 2007 grant and put Phase I of the project toward the FY 2008 grant, and Phase II of the project could be done under the FY 2009 grant. She said that this was the recommendation of the Advisory Board to the Board of Commissioners at that time. She added that when WCWAA had first approached the Parks and Recreation Advisory Committee about changes in the use of the grant funds, the turf project had not begun, but by the time it went through the process, the project had been completed.

Mr. Butz said that he believed it was fair to say that in terms of working with the Parks and Recreation staff on this process, that both sides worked through the steps in the process together. Commissioner Baucom asked Mr. Butz what was the request tonight of WCWAA. Mr. Butz responded that it was very simply to receive approval for the FY 08 and 09 grants of approximately \$100,000. He noted that approximately \$55,000 of that amount has already been paid to WCWAA which they have in reserve until they have the lease extension with the Optimist Club. He said that WCWAA will begin negotiating the lease extension over the next several months.

Following the lengthy discussion, Commissioner Kuehler agreed to amend her motion to remove approval of the FY 2007 grant funds.

Chairman Openshaw said that he was glad to support the motion as amended and he had driven by the turf field recently when it was raining, and when all of the other fields in the area were cancelled, the children were still able to play on this field. He stated that he did have a problem with the fact that the Board had approved release of the grant funding, and then the flooding issue came up and that with the removal of the approval to release the FY 2007 grant funds, WCWAA would have lost one year of revenue. Chairman Openshaw said that he is not really comfortable with that situation, but he did understand what Mr. Nelson was saying.

Vice Chair Rogers expressed appreciation to WCWAA on its working with the middle and high schools for use of the fields. She said that the high school fields either cannot accommodate their use or the fields are in no condition for the children to practice on them.

Chairman Openshaw restated the motion as amended to approve the release of the FY 2008 and 2009 grant funds to WCWAA, pending receipt of a copy of the letter from the Optimist Club regarding extension of the lease with WCWAA.

Commissioner Kuehler confirmed that with the amended motion there would no longer be a contingency of resubmitting the FY 07 grant. Commissioner Mills stated that this could be considered during budget deliberations.

Chairman Openshaw requested that the Board be provided a copy of the executed check once the FY 2009 grant funds are paid out, so that the Board will know that this issue has been taken care of and it will not be coming back before the Board.

The motion, as amended, was passed unanimously.

Additional Services for the Water Allocation Policy (Amendment to Task Order #43) (NTE \$35,000) – This item was moved from the Consent Agenda at the request of Vice Chair Rogers:

Chairman Openshaw stated that he thought it was a little presumptuous to issue new funds for a water allocation policy that the Board has yet to see. He asked if there were a motion to move this item to end of the agenda after the presentation of the Amendment to the Water Allocation Policy, and if not, he would move to defer this item until the Board has an opportunity to see and comment on the Amendment to the Water Allocation Policy.

Mr. Greene responded that the Board had directed additional work to be done on the Water Allocation Policy beginning on December 4, 2008. He said it was a little bit of a chicken or the egg situation with the consultants needing to be paid for the work that has been done to accomplish what was directed to be accomplished on December 4.

Chairman Openshaw asked if some of these monies have already been spent. Mr. Greene responded that some of the funds probably have been spent. The Chairman said that this was two weeks in a row of unpleasant surprises. He stated that he would like to defer action on this item until the Board has an opportunity to talk with the attorneys, which he said he made as a motion.

Commissioner Baucom said that he thought he understood the Chairman's concern but was not sure. He stated that as he read it, the Board took action on December 4 which required additional work by the consultants. He said that he did not know that it was anything but Board action that was followed.

Commissioner Kuehler said that she agreed with wanting to have some additional information on the water allocation policy. She stated that she did not know who played what roles in determining to move forward with the policy. She said that she was under the assumption that some of the things that were asked by the Board on December 4 would be done internally because it had to do with vetting people on the list and had nothing to do with water or engineering. She stated that the direction of the Board that she remembered from that meeting was to basically go through the list and see if some allocation could be freed up based on those on the list who had not received approval, expiring permits, deadlines that were coming up, etc., and she did not see how this would be a function of HDR. Commissioner Kuehler said that she had questions about what the direction from the December 4th meeting would warrant HDR to do. She stated that she would like more information on this item as well but stated that those questions might be answered once the Board gets to the water allocation review and presentation.

Chairman Openshaw repeated his motion to defer action on this item until the Board has consulted with the attorney.

Vice Chair Rogers asked if this item would become 16c if it is deferred to later in the meeting. The Chairman responded that was correct.

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

Public Information Officer's Comments:

The Chairman stated that the Public Information Officer's Comments had been bypassed and asked Brett Vines, Public Information Officer, to present his comments at this time.

Mr. Vines provided the following comments:

1. Sheriff's Auto, Truck and Motorcycle Show will be Friday, March 27 from 6:00 p.m. to 9:00 p.m. with a car show on Saturday, March 28 from 9:00 a.m. to 4:00 p.m. at the Motorama located at Skyway Drive and Highway 74 in Monroe. Registration will be Saturday at 9:00 a.m. This show supports the Sheriff's Office Youth programs.
2. Earth Day is planned for Saturday, April 25 from 10:00 a.m. to 2:00 p.m. in Downtown Monroe. This event is sponsored by the City of Monroe and Union County. All Union County water customers will receive information in the utility bills.

Chairman Openshaw stated that the Town of Stallings had also requested County participation on Earth Day. He asked Mr. Greene if he knew the dates on that event and whether there had been any further conversations regarding this matter with the Mayor of Stallings.

Mr. Greene deferred to Matthew Delk, Assistant County Manager, for a response to this question. Mr. Delk replied that Stallings' event is the same date. He stated that Jeff Rieves with the Cooperative Extension in Union County will be providing assistance with this event. He said that while the County is not providing assistance for Indian Trail's Earth Day, it will be held on Saturday, April 19th.

Mr. Vines continued with his comments by stating that the Union County 4-H has a number of events planned including a Golf Tournament to be held on May 5, Summer Fun Programs beginning in June for children five years old through high school age; and a Summer Enrichment Program for rising second and fifth graders on June 22-26 at Rock Rest Elementary School.

Update on Current FY Revenue Projects and Union County Athletic Council Grants (moved from Item 16 on the Regular Agenda):

Chairman Openshaw said that he would like for the Manager to call the individual athletic associations, as requested at the March 2, 2009, meeting, to ask each association about its needs, which he later stated was in the form of a motion. He said that as mentioned in the conversation tonight with representatives of Wesley Chapel-Weddington Athletic Association (WCWAA), there is a need for matching funds for the grants. He stated that he thought it would be appropriate for the Manager to contact the individual athletic associations and ask about their needs due to the fact that they might have difficulties with providing their matching funds which might obviate the need for the Board of Commissioners to act on this item.

Commissioner Kuehler added that she has heard from a couple of the athletic associations that they may only have \$10,000 or \$20,000 in matching funds. She said if it could be ascertained what amount they are able to match and determine what the County might be asked for, then the County might be ahead of the game.

Mr. Greene reported that he had e-mailed all of the athletic associations' representatives at noon the day following the last regular Board meeting (March 3). He said that he had meetings all that afternoon, but in his e-mail he had asked them to contact him if there were any problems whatsoever. He stated that he had not heard from any of the associations, but assured that staff would be glad to follow up with each of them about any specific information that the Board would like to have obtained from them. Mr. Greene said that he was unsure what the County was asking of the athletic associations.

Chairman Openshaw stated that what needs to be asked of the athletic associations is “Do they plan to submit a grant application and what do they have planned to submit for this coming year’s request?” He said that as Commissioner Kuehler has mentioned, there is a good possibility that the associations will be scaling back because they will have to meet the matching grant funds, so that the Board can be fully informed when it makes a decision on what to do about this particular situation.

Mr. Greene responded that he understood what was being asked and noted that Mr. Nelson, Finance Director, was prepared to give the Board a financial update. He asked if the Board would like to hear the update at this time. The Chairman responded “No,

thank you.” He said that he had already expressed his opinion. He stated that he believed the athletic associations perform an invaluable service, and he understands that the County has financial constraints. He stated that he thought this would be a good way of understanding where the County stands at this point.

Mr. Greene commented that to say the County has financial constraints would be a tremendous understatement, and the Chairman said that he would agree. He said that it is a message that the public must hear and understand.

Following the discussion, the motion was passed unanimously.

Consideration of Proposed Text Amendments to Union County Land Use Ordinance (Re: Planning Board and Board of Adjustment) (Public Hearing Held on March 2, 2009):

Commissioner Kuehler moved adoption of the text amendments as proposed with the deletion of Sections 4(e) and 9(k) which are related to the political party restrictions. The amendments are set forth below.

The Chairman asked if a Statement of Consistency must also be included in the motion. Jeff Crook, Senior Staff Attorney, stated that it is a statutory requirement to adopt consistency statements when either adopting or denying a land use change. He said that the Legal Department had prepared Consistency Statements for both contingencies, which were included in the agenda package. Mr. Crook also noted that he had prepared and provided in the agenda package a brief memorandum for the Board that cleaned up the remainder of the section regarding cross serving if the Board wished to adopt that proposal. He stated that he believed that the new language was consistent with the Board’s discussions during the public hearing on March 2, 2009. In response to a question by the Chairman, Mr. Crook stated that he thought it would be helpful if the provisions that were being modified were read into the record for Section 4(d) and Section 9(j) which replaces what appeared in the package with the language in the draft provisions attached to his memo. He stated that the Consistency Statement did not need to be read into the record.

Commissioner Kuehler amended her motion by replacing the language in Section 4(d) and Section 9(J) with the following:

Section 4

- (d) Regular and alternate members of the planning board shall not serve on any of the following Union County boards and committees during their term: the Board of Adjustment, the Parks and Recreation Advisory Board, the Joint Historic

Preservation Commission, the Library Board of Trustees, the Agricultural Advisory Board, the Public Works Advisory Board, and the Board of Equalization and Review; nor shall regular or alternate members serve on the board of directors of Union County Partnership for Progress, a North Carolina nonprofit corporation.

Section 9

- (j) Regular and alternate members of the board of adjustment shall not serve on any of the following Union County boards and committees during their term: the Planning Board, the Parks and Recreation Advisory Board, the Joint Historic Preservation Commission, the Library Board of Trustees, the Agricultural Advisory Board, the Public Works Advisory Board, and the Board of Equalization and Review; nor shall regular or alternate members serve on the board of directors of Union County Partnership for Progress, a North Carolina nonprofit corporation.

The Chairman asked Commissioner Kuehler if her motion included the formal adoption of the Statements of Consistency to Approve Amendments. Commissioner Kuehler stated this was correct with the revisions as read and the deletion of 4(e) and 9(k).

Commissioner Baucom stated that he would like to hear the rationale of removing 4(e) and 9(k) because he had heard the rationale of including that language in previous meetings. Commissioner Kuehler responded that after hearing some of the comments made during the public hearing and speaking with leaders of the political parties, the intent was to limit one party or the other taking over, and she thought this could be accomplished by the party appointing them. She said that she did not want to limit the people who are serving the political parties from serving the County as well.

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

TEXT AMENDMENT: UNION COUNTY LAND USE ORDINANCE

SECTION 1

AMEND subsections (a) and (e) of Section 21, Appointment and Terms of Planning Board Members, as follows:

- (a) There shall be a planning board consisting of ~~nine~~ seven regular members and two alternates, all appointed at large by the board of commissioners. All members, whether regular or alternate members, must reside within the county and no more than two members shall reside within the same municipality. One regular member shall be a resident of each of the county's nine townships, and the alternate members may reside anywhere in the county. Any person serving on a municipal board of adjustment or planning board shall be ineligible to serve as a member of the Union County planning board.
 - (e) If a regular or alternate planning board member ~~moves outside the township he or she represents or if an alternate member~~ moves outside the county, that shall constitute a resignation from the planning board.
-

Subsections (a) and (e) of Section 21 of the Land Use Ordinance thus read as rewritten:

- (a) There shall be a planning board consisting of seven regular members and two alternates, all appointed at large by the board of commissioners. All members, whether regular or alternate members, must reside within the county and no more than two members shall reside within the same municipality.
- (e) If a regular or alternate planning board member moves outside the county, that shall constitute a resignation from the planning board.

SECTION 2

AMEND subsection (a) of Section 23, Quorum and Voting, as follows:

- (a) A quorum for the planning board shall consist of ~~five~~ four members (including alternates sitting in lieu of regular members). A quorum is necessary for the board to take official action.
-

Subsection (a) of Section 23 of the Land Use Ordinance thus reads as rewritten:

- (a) A quorum for the planning board shall consist of four members (including alternates sitting in lieu of regular members). A quorum is necessary for the board to take official action.

SECTION 3

AMEND Section 27 as follows:

- (a) Upon adoption by the board of commissioners on ~~April 2, 2007~~, March 16, 2009, of an amendment revising Section 21 of the Land Use Ordinance to ~~increase~~ decrease membership on the planning board from ~~seven~~ nine to ~~nine~~ seven regular members appointed at large ~~and to provide for geographical representation by township~~, the terms of sitting planning board members, both regular and alternate, shall expire at the time of such adoption and all positions shall be deemed vacant. Notwithstanding Section 21(b) of the Land Use Ordinance, such members shall not continue to serve until their successors have been appointed. In order to achieve staggered terms upon filling these vacancies, the board of commissioners shall appoint new members as follows: (i) three regular members ~~and one alternate~~ for a term of three years; (ii) ~~three~~ two regular members and one alternate for a term of two years; and (iii) ~~three~~ two regular members and one alternate for a term of one year. During the first meeting of these newly appointed members at which a quorum is present, the planning board shall elect one of its regular members to serve as chairman and preside over the board meetings and one regular member to serve as vice chairman. Prior to the election of a chairman at such first meeting, the Planning Division Director shall temporarily preside over the meeting until the chairman takes office. The officers so elected shall serve until new officers are elected the following calendar year pursuant to Section 24 (a).

Newly designated subsection (a) of Section 27 of the Land Use Ordinance thus reads as rewritten:

- (a) Upon adoption by the board of commissioners on March 16, 2009, of an amendment revising Section 21 of the Land Use Ordinance to decrease membership on the planning board from nine to seven regular members appointed at large, the terms of sitting planning board members, both regular and alternate, shall expire at the time of such adoption and all positions shall be deemed vacant. Notwithstanding Section 21(b) of the Land Use Ordinance, such members shall not continue to serve until their successors have been appointed. In order to achieve staggered terms upon filling these vacancies, the board of commissioners shall appoint new members as follows: (i) three regular members for a term of three years; (ii) two regular members and one alternate for a term of two years; and (iii) two regular members and one

alternate for a term of one year. During the first meeting of these newly appointed members at which a quorum is present, the planning board shall elect one of its regular members to serve as chairman and preside over the board meetings and one regular member to serve as vice chairman. Prior to the election of a chairman at such first meeting, the Planning Division Director shall temporarily preside over the meeting until the chairman takes office. The officers so elected shall serve until new officers are elected the following calendar year pursuant to Section 24 (a).

SECTION 4

ADD new subsections (b), (c), and (d) to Section 27 to read as follows:

- (b) Regular and alternate members of the planning board shall only be considered for appointment after submitting a completed county service application and conflict of interest disclosure form to the Clerk to the Board of Commissioners. Failure to fully disclose any required information or falsification of information on the application or disclosure form shall constitute good cause for removal pursuant to Section 21(d).
- (c) While a geographic representation of members on the planning board is desirable, the planning board is appointed at large to allow for the selection of the best talents, ideas, and experience in the county.
- (d) Regular and alternate members of the planning board shall not serve on any of the following Union County boards and committees during their term: the Board of Adjustment, the Parks and Recreation Advisory Board, the Joint Historic Preservation Commission, the Library Board of Trustees, the Agricultural Advisory Board, the Public Works Advisory Board, and the Board of Equalization and Review; nor shall regular or alternate members serve on the board of directors of Union County Partnership for Progress, a North Carolina nonprofit corporation.

SECTION 5

ADD a new Section 35 to read as follows:

Upon adoption by the board of commissioners of an amendment to repeal in its entirety subsection (a) of Section 29, Appointment and Terms of Board of Adjustment, the board of adjustment in existence at the time of such adoption shall be immediately abolished.

SECTION 6

REPEAL in its entirety subsection (a) of Section 29, Appointment and Terms of Board of Adjustment, such that the board of adjustment established therein is abolished.

SECTION 7

ADOPT a new subsection (a) of Section 29 to read as follows:

There is hereby established a board of adjustment consisting of five regular members and two alternates, all appointed by the board of commissioners. All regular members and alternates shall reside within the county.

SECTION 8

AMEND subsections (b) and (e) of Section 29 to read as follows:

- (b) Board of adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. In order to achieve staggered terms upon initial appointment following ~~adoption of this ordinance, establishment of the board of adjustment,~~ (i) three ~~two~~ regular members shall be appointed for a term of three years; (ii) two regular members and one alternate shall be appointed for a term of two years; and (iii) ~~two~~ one regular ~~members~~ member and one alternate shall be appointed for a term of one year.
- (e) If a regular or alternate member moves outside the county, that shall constitute a resignation from the board, ~~effective upon the date a replacement is appointed.~~

Subsections (b) and (e) of Section 29 of the Land Use Ordinance thus read as rewritten:

- (b) Board of adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. In order to achieve staggered terms upon initial appointment following establishment of the board of adjustment, (i) two regular members shall be appointed for a term of three years; (ii) two regular members and one alternate shall be appointed for a term of two years; and (iii) one regular member and one alternate shall be appointed for a term of one year.
- (e) If a regular or alternate member moves outside the county, that shall constitute a resignation from the board.

SECTION 9

ADD new subsections (h), (i), and (j) to Section 29 to read as follows:

- (h) Regular and alternate members of the board of adjustment shall only be considered for appointment after submitting a completed county service application and conflict of interest disclosure form to the Clerk to the Board of Commissioners. Failure to fully disclose any required information or falsification of information on the application or disclosure form shall constitute good cause for removal pursuant to Section 29(d).
- (i) While a geographic representation of members on the board of adjustment is desirable, the board of adjustment is appointed at large to allow for the selection of the best talents, ideas, and experience in the county.
- (j) Regular and alternate members of the board of adjustment shall not serve on any of the following Union County boards and committees during their term: the Planning Board, the Parks and Recreation Advisory Board, the Joint Historic Preservation Commission, the Library Board of Trustees, the Agricultural Advisory Board, the Public Works Advisory Board, and the Board of Equalization and Review; nor shall regular or alternate members serve on the board of directors of Union County Partnership for Progress, a North Carolina nonprofit corporation.

SECTION 10

AMEND subsection (a) of Section 31, Quorum, as follows:

- (a) A quorum for the board of adjustment shall consist of ~~four~~ three members (including alternates sitting in lieu of regular members). A quorum is necessary for the board to take official action.
-

Subsection (a) of Section 31 of the Land Use Ordinance thus reads as rewritten:

- (a) A quorum for the board of adjustment shall consist of three members (including alternates sitting in lieu of regular members). A quorum is necessary for the board to take official action.

SECTION 11

AMEND subsection (a) of Section 33, Board of Adjustment Officers, as follows:

- (a) Each year during the first meeting at which newly appointed members are seated, the board of adjustment shall elect one of its members to serve as a chairman and preside over the board's meetings and one member to serve as vice-chairman. The persons so designated shall serve in these capacities until new officers are elected the following year. Vacancies in these offices may be filled for the unexpired terms only.

At the first meeting of the board of adjustment following the effective date of this ordinance or following abolition and re-establishment of the board of adjustment pursuant to Sections 35 and 29, respectively, the board of adjustment shall hold elections for the offices of chairman and vice-chairman. Prior to the election of a chairman at such first meeting, the board of adjustment's attorney shall temporarily preside over the meeting until the chairman takes office. The officers so elected shall serve as chairman and vice-chairman until new officers are elected the following calendar year.

Subsection (a) of Section 33 of the Land Use Ordinance thus reads as rewritten:

- (a) Each year during the first meeting at which newly appointed members are seated, the board of adjustment shall elect one of its members to serve as a chairman and preside over the board's meetings and one member to serve as vice-chairman. The persons so designated shall serve in these capacities until new officers are elected the following year. Vacancies in these offices may be filled for the unexpired terms only.

At the first meeting of the board of adjustment following the effective date of this ordinance or following abolition and re-establishment of the board of adjustment pursuant to Sections 35 and 29, respectively, the board of adjustment shall hold elections for the offices of chairman and vice-chairman. Prior to the election of a chairman at such first meeting, the board of adjustment's attorney shall temporarily preside over the meeting until the chairman takes office. The officers so elected shall serve as chairman and vice-chairman until new officers are elected the following calendar year.

SECTION 12

Except as herein amended, the provisions of the Union County Land Use Ordinance shall remain in full force and effect.

Approved following public hearing, this the 16th day of March, 2009.

Statements of Consistency for Proposed Text Amendments

TO APPROVE AMENDMENTS

(1) Amendments to subsections (a) and (e) of Section 21, Appointment and Terms of Planning Board Members.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendments is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendments is reasonable and in the public interest because the amendments decrease the number of regular planning board members from nine to seven, and provide for at-large appointment of members in order to allow for the selection of the best talents, ideas, and experience in the County while recognizing that geographic representation of members is desirable.

(2) Amendment to subsection (a) of Section 23, Quorum and Voting.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it decreases the number of members necessary for a quorum of the planning board from five to four, and this decrease relates to the decrease in number of total members of the board implemented by the amendments to subsection (a) of Section 21.

(3) Amendments to the newly designated Section 27(a).

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendments is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendments is reasonable and in the public interest because the amendments allow for the Board of County Commissioners to replace the current members of the planning board with seven at-large, regular members and two alternate members following the adoption of an amendment revising Section 21.

(4) Adoption of a new subsection (b) to Section 27.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because the amendment requires prospective regular and alternate members of the planning board to submit a county service application and conflict of interest disclosure form prior to their consideration for appointment, and the required completion of these documents promotes honesty and openness in government, and may help members recognize potential conflicts of interest as they occur.

(5) Adoption of a new subsection (c) to Section 27.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it allows for the at large appointment of planning board members in order to allow for the selection of the best talents, ideas, and experience in the county.

(6) Adoption of a new subsection (d) to Section 27.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it prohibits planning board members from, during their term on planning board, simultaneously serving on other county boards and committees that may deal with and/or influence land use or property value.

(7) Adoption of a new subsection (e) to Section 27.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it limits the number of persons from a position of leadership in any one political party that may serve on the planning board at a given time and this is in keeping with the non-partisan nature of the planning board.

(8) Adoption of a new Section 35.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it provides for the abolishment of the existing board of adjustment to allow for constitution of a new board of adjustment in accordance with the amendments to Section 29.

(9) Repeal of subsection (a) of Section 29, Appointment and Terms of Board of Adjustment and adoption of a new subsection (a) of Section 29.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendments is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendments is reasonable and in the public interest because the amendments result in the abolition of the existing board of adjustment consisting of seven regular members and two alternates, and the establishment of a new board of adjustment consisting of five regular members and two alternates.

(10) Amendments to subsections (b) and (e) of Section 29, Appointment and Terms of Board of Adjustment.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendments is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendments is reasonable and in the public interest because the amendments stagger the terms of the members of the board of adjustment in accordance with the newly reduced size and new constitution of the board of adjustment, and call for a board of adjustment member's automatic resignation upon that member's move outside the county.

(11) Adoption of new subsection (h) to Section 29, Appointment and Terms of Board of Adjustment.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because the amendment requires prospective regular and alternate members of the board of adjustment to submit a county service application and a conflict of interest disclosure form prior to their consideration for appointment, and the required completion of these documents promotes honesty and openness in government, and may help members recognize potential conflicts of interest as they occur.

(12) Adoption of new subsection (i) to Section 29, Appointment and Terms of Board of Adjustment.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it allows for the at large appointment of board of adjustment members in order to allow for the selection of the best talents, ideas, and experience in the county.

(13) Adoption of new subsection (j) to Section 29, Appointment and Terms of Board of Adjustment.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it prohibits board of adjustment members from, during their term on the board of adjustment, simultaneously serving on other county boards and committees that may deal with and/or influence land use or property value.

(14) Adoption of new subsection (k) to Section 29, Appointment and Terms of Board of Adjustment.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it limits the number of persons from a position of leadership in any one political party that may serve on the board of adjustment at a given time and this is in keeping with the non-partisan nature of the board of adjustment.

(15) Amendment to subsection (a) of Section 31, Quorum.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendment is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendment is reasonable and in the public interest because it decreases the number of members necessary for a quorum of the board of adjustment from four to three, and this decrease corresponds with the decrease in number of total members of the board implemented by the amendments to Section 29.

(16) Amendments to subsection (a) of Section 33, Board of Adjustment Officers.

Whereas, pursuant to N.C.G.S. §153A-341, the Board of County Commissioners does hereby find and determine that adoption of the proposed text amendments is consistent with the adopted Union County Land Use Plan, and that adoption of the proposed text amendments is reasonable and in the public interest because the amendments provide for the election of a chairman and vice-chairman at the first meeting of the board of adjustment following the abolition and reestablishment of the board of adjustment pursuant to Sections 35 and 29, respectively, and provide that until a chairman is so elected, the first meeting is to be temporarily presided over by the board of adjustment's attorney.

Resolution to Adopt Legislative Positions for the 2009-2010 Session of the North Carolina General Assembly:

Commissioner Kuehler moved to defer action on this item. She stated that the first time this item was on an agenda, the Board decided not to vote on it, because all of the municipalities had not adopted a similar resolution. She said that three municipalities still have not adopted the resolution.

Commissioner Baucom questioned if the motion were to defer action on this item until the County has heard from all of the municipalities regarding their resolutions.

In response to a question by Commissioner Mills about whether all of the municipalities have been contacted, Mr. Delk stated that all of the municipalities have been contacted. He said that two of the municipalities are scheduled to vote on resolutions this week, and one municipality has declined to adopt the resolution.

Following the discussion, the motion was passed unanimously.

Governance Vision and Policies for Union County:

Commissioner Kuehler moved to adopt the Governance Vision and Policies as was amended during the Board's recent work session.

Commissioner Baucom stated that he would be voting against the motion. He expressed his appreciation to the Board for its cooperation in making some substantive changes during the work session. He stated that he believed that the Board should have some expert advice to help in working through the policies, because it was important. He said that the requests to have these experts such as representatives from the School of Government come to Union County were not approved by the Board, so he would be voting against this motion.

Commissioner Mills said that the Board had conducted a very lengthy work session regarding the Governance Policy, and he too expressed appreciation to the Board for its cooperation in this matter. He said a lot of time and work has gone into the policies. He stated that he appreciated the camaraderie in this matter and hoped that the Board would continue to work through these matters.

Following the discussion, the motion 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 Governance Vision and Policies as adopted are recorded below:

Governance Vision and Policies for Union County

1.0 Values Statement

The values of the Board reflected throughout Board policies are as follows:

As Union County Commissioners, we believe, and together will exemplify, the following values:

- 1.1 We are entrusted to serve the public and are responsible for carrying out the Board and County mission for the benefit of the community
- 1.2 We are committed to providing excellent service and leadership to all residents
- 1.3 All individuals are unique and important, and will be treated with fairness, dignity, and respect
- 1.4 We take pride in our work, leadership, and representation and are accountable and trusted to carry out our responsibilities with honesty and integrity
- 1.5 Initiative, leadership, personal development, and training are vital for us to continuously improve
- 1.6 Open communication, cooperation, and teamwork are shared responsibilities and essential to the successful performance of our work and representation
- 1.7 We are committed to creating an inclusive work environment which reflects and supports the diversity in our community and enriches our perspectives

1 Excerpts in this document were based on Bell, Fleming A. III, and Wicker, Warren Jake, 1998. County Government in North Carolina, 4th ed., UNC—Chapel Hill School of Government, as well as Stenberg, Carl W. III, 2007. County and Municipal Government in North Carolina, Article 5: *Leading and Governing in Council-Manager Counties and Cities*, UNC—Chapel Hill School of Government.

2.0 Governing Style

The Board will govern with an emphasis on (a) outward vision, (b) encouragement of variety in viewpoints, (c) strategic leadership, (d) clear understanding of Board and administrative roles, (e) collective rather than individual decisions, and (f) proactivity rather than reactivity.

Accordingly:

- 2.1 The Board will cultivate a sense of group responsibility. The Board, with input from staff, has the ultimate responsibility to ensure excellence in governing is achieved. The Board will be the initiator of policy, not merely a reactor to staff initiatives.
- 2.2 The Board will direct, control, and inspire the government through the careful establishment of written policies reflecting the Board's values and perspectives. The Board's major policy focus will be on the intended results, not on the administrative or programmatic means of attaining those effects. However, the Board will not merely "rubber stamp" staff recommendations, but will carefully vet and deliberate the issues before them.
- 2.3 The Board will further inform itself, individually and collectively, through outreach to determine community wishes and through continuing communication on issues relevant to the County, to include appropriate inquiries with Department Heads and staff. Appropriate is defined as compliant with the Board's vision, policies, and processes, and the Manager shall be copied on all communications.
- 2.4 The Board will enforce upon itself the discipline that is needed to govern with excellence. Discipline will apply to matters such as attendance, preparation for meetings, policymaking principles, and respect of roles, decorum, and ensuring the continuance of governance capability.
- 2.5 Continual Board development will include orientation of other members in the government process and periodic Board discussion of process improvement.

2.6 The Board will allow no board member, individual, or committee of the Board to hinder or be an excuse for not fulfilling its commitments.

The Union County North Carolina Board of Commissioners Rules of Procedure are hereby incorporated into this Policy by reference.

3.0 Commissioners' Code of Conduct

The Board commits itself and its members to ethical, business-like, and lawful conduct, including proper use of authority and appropriate decorum when acting as Board members.

Accordingly:

3.1 Commissioners must have loyalty to the position, unconflicted by loyalties and/or ties to staff, other organizations and/or individuals, and any personal interest.

3.2 Commissioners avoid conflict of interest with respect to their personal financial interests

3.3 Commissioners may not attempt to exercise individual authority over the government staff or its processes

3.3.1 Commissioners' interaction with the County Manager or with staff must recognize the lack of authority vested in individuals except when explicitly Board authorized, excluding the purpose of information gathering and educational communication

3.4 Commissioners will respect the confidentiality appropriate to issues of a sensitive nature, in accordance with applicable law, including but not limited to the North Carolina open meetings and public records laws.

3.5 Commissioners will be properly prepared for Board deliberations to include, but not limited to, reading the material in agenda packets, doing research on issues, obtaining community input when needed, and providing specific comments on issues

3.6 No one shall individually record closed session information

Violations of the Commissioner's Code of Conduct and/or County Commissioners Code of Ethics may result in censure by the Board.

The North Carolina Association of County Commissioners Code of Ethics as Adopted on December 2, 2002 is hereby incorporated into this Policy by reference.

4.0 Chairperson's Role

The Chairperson assures the integrity of the Board's meeting procedures. The Chair may also act as a ceremonial representative of the County.

Accordingly:

4.1 The role of the Chairperson is to ensure that the Board behaves consistently with its own rules.

4.1.1 Meeting discussion content shall be germane to only those issues on the adopted agenda.

4.1.2 Deliberation will be fair, open, and thorough, but also timely, orderly, and kept to the point.

4.2 The authority of the Chairperson consists in making decisions that fall within topics covered by Board policies and those specifically enumerated by Statute and set forth in the Board's Rules of Procedure. The Chairperson is authorized to use any reasonable interpretation of the provisions of these policies.

4.2.1 The Chairperson is empowered to chair Board meetings with the commonly accepted power of that position, to include but not limited to:

- (a) ruling on points of parliamentary procedure, including the right to rule out of order any motion offered for patently obstructive or dilatory purposes;
- (b) determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- (c) calling a brief recess at any time;
- (d) adjourning in an emergency.

- 4.2.2 The Chairperson has no authority to make decisions about rules, regulations, and procedures established by the Board. Therefore, the Chairperson has no authority to independently supervise the County Manager.
- 4.2.3 The Chairperson may represent the Board to outside parties in announcing *Board-stated positions* and in stating Chair decisions and interpretations within the area delegated to him/her.

5.0 Unity of Control

Only officially passed motions of the Board are binding on the County Manager.

Accordingly:

- 5.1 Decisions and/or instructions of individual Board members or committees are not binding on the County Manager unless adopted by the Board.
- 5.2 In seeking clarification on informational items, statistics, policy, regulations, etc., Board members may directly approach professional staff members to obtain said information, etc. needed to supplement, upgrade, or enhance their knowledge to improve legislative decision-making, provided such request does not substantially affect administrative workloads.

6.0 Accountability/Communications of the County Manager

The County Manager is the Board's primary link to operational achievement and conduct, so that authority and accountability of staff, pursuant to any and all personnel policies that the Board may adopt, is considered the authority and accountability of the County Manager

Accordingly:

- 6.1 The Board, as a whole or individual members, will not give direction to a person who reports directly or indirectly to the County Manager. This does not include requests for information or clarification.

- 6.2 The County Manager serves at the pleasure of the Board.
- 6.3 In order to meet citizen and government body expectations, the manager shall build a modern organization that has both capacity and competence. This entails implementing and updating business practices and processes for personnel administration, finance, purchasing, payroll, contracting, and other basic local systems. He/she shall use management tools like strategic planning, performance measurement, benchmarking, and program evaluation to ensure continuous improvement of operations as well as use of technologies like websites and e-government to increase public outreach and access and reduce costs, careful workforce and succession planning, job sharing, job rotation, etc., if deemed appropriate for the organization or specific department.
- 6.4 The Manager shall offer balanced and impartial advice and present alternatives and provide all relevant information that is reasonably available on the different options, assess the advantages and disadvantages of each option, explain the professional reasoning and analysis that leads him or her to a recommendation, and base that reasoning on established professional, technical, ethical, or legal principles.
- 6.5 The County Manager is responsible for providing information to the Board and supporting its work. Therefore, he/she shall:
- 6.5.1 Submit information required by the Board in a timely, accurate, and understandable fashion;
 - 6.5.2 Keep the Board informed of known relevant trends, anticipated adverse consequences, threatened or pending lawsuits, and material external and internal changes, particularly changes in the assumptions upon which any Board policy has previously been established;
 - 6.5.3 Assemble for the Board staff and external points of view, and options to include both pros and cons as needed to inform the Board of its choices, including those which may be contrary to the recommendation of the Manager;
 - 6.5.4 Provide a mechanism for official Board, officer, or committee communications;
 - 6.5.5 Report in a timely manner a known actual or anticipated noncompliance with any policy of the Board;

6.5.6 Not allow his/her personal opinion on a matter reflect in his/her professional direction given to staff or when communicated to others;

6.5.7 Not make any attempt to prohibit or limit appropriate, nondisruptive contact between elected officials and employees.

6.6 The manager shall direct and supervise the administration of all county offices, departments, boards, commissions and agencies under the general control of the board of commissioners, subject to the general direction and control of the board.

7.0 Manager/Administrator Constraint

The County Manager shall not cause or allow any practice, activity, decision, or organizational circumstance which is either unlawful or in violation of commonly professional ethics, which are known or should have been known to him/her. The Manager shall recognize that the chief function of local government at all times is to serve the best interests of all of the people. The Manager shall keep the community informed on local government affairs; encourage communication between the citizens, elected officials, and all local government officers and staff; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service. The Manager shall not allow his/her personal opinions or interests to inappropriately influence the information provided to the Board and shall not filter information from the organization solely through the Manager's position. The Manager shall not endanger the organization's public image or credibility, particularly in ways that would hinder its accomplishment of mission. Said practice, etc. shall result in termination.

The International City/County Management Association Code of Ethics ("ICMA") is hereby incorporated into this Policy by reference.

8.0 Monitoring County Manager Performance

Monitoring of the County Manager job performance will be within the expected Manager Accountability/Communications and organizational operation boundaries established by Board policies and in the Management/Administration Constraints.

Accordingly:

- 8.1 Monitoring is simply to determine the degree to which Board policies are being met. Data which does not do this will not be considered to be monitoring data.
- 8.2 The Board will acquire monitoring data by one or more of three methods: (a) by internal report, in which the Manager discloses compliance information to the Board; (b) by external report, in which an external, disinterested third party selected by the Board assesses the organizational performance and compliance with Board policies; and (c) by direct Board inspection to assess compliance, using the appropriate criteria. Regardless of the method used, all information shall be disclosed to the entire Board.
- 8.3 The standard of compliance shall be that the Manager has faithfully executed a reasonable interpretation of the Board policy being monitored and Board stated expectations.
- 8.4 Performance evaluations shall be conducted, at a minimum, annually.
- 9.0 Treatment of “Consumers” or Residents

With respect to interactions with residents, the County Manager and/or board members shall not cause or allow procedures or decisions which fail to fulfill reasonable resident expectations for good service, responsive government, are unsafe, or unnecessarily intrusive. “Consumers” shall also include any persons transacting business or interacting with the County government.

Further, without limiting the scope of the foregoing by this enumeration, they shall not:

- 9.1 Approve and/or use forms that elicit information for which there is no necessity or policy;
- 9.2 Fail to provide appropriate accessibility and privacy in facilities;
- 9.3 Fail to establish with “consumers” a clear understanding of what may be expected and what may not be expected from the service offered.
- 10.0 Board Committee Principles

Boards and committees, when used, will be assigned to assist and make recommendations to the Board as directed or prescribed by statute and shall not interfere with delegation from the Board to the County Manager. Boards and committees shall be nonpartisan entities, formed to represent the interests of all citizens within the County.

Accordingly:

- 10.1 Board committees are to help the Board do its job. Committees ordinarily will assist the Board by preparing policy alternatives and implications for Board deliberations.
- 10.2 Board committees may not speak or act for the Board except when formally given such authority for specific and time-limited purposes. Expectations and authority will be carefully stated in order not to conflict with authority delegated to the County Manager.
- 10.3 Boards and/or committees cannot exercise authority over staff. Because the County Manager works for the Board of Commissioners, he/she will not be required to obtain approval of a Board committee before an administrative action. If a problem with direction, communication, etc. arises within the functions of a board or committee, said committee shall bring such concerns to the Board of Commissioners for resolution.
- 10.4 Board and/or committees report to the Board of Commissioners and will normally not have direct dealings with current staff operations other than to receive information and provide comment for Board consideration. The County Manager may establish staff liaisons for Boards and/or committees.
- 10.5 Every member of a Board with the potential to affect land use and/or property and development rights shall complete a "Conflict of Interest" form with the application to serve, to include the Planning Board, Board of Adjustment, Board of Equalization and Review, and the Public Works Advisory Board.
- 10.6 While a geographically representative membership on committees, boards, etc. is desirable, all committees, boards, etc. shall be appointed at-large, with an emphasis on experience and skill-set germane to the Board being populated, except as otherwise required by specific Board policy or applicable law.
- 10.7 No "cross-serving" on committees, boards, etc. shall be allowed on Boards that may affect land use and property value, to include the Planning Board, Board of Adjustment, Board of Equalization and Review, Parks and Recreation Advisory

Board, Agricultural Advisory Board, Historical Preservation Committee, Library Board of Trustees, Union County Partnership for Progress, and the Public Works Advisory Board.

Discussion of Pilot Project for Reclaimed Water:

Commissioner Mills moved to direct staff to explore opportunities for use of reclaimed water and then subsequently withdrew his motion to hear the Chairman's comments on this item.

Chairman Openshaw said that he was asking to start a pilot project using reclaimed water on the berm at Twelve-Mile Creek Wastewater Treatment Plant and to place a sign stating that it is a reclaimed water project. He explained he is calling for a consensus of the Commissioners to encourage Waxhaw to move forward with its Arbor Day Project, if it so desires. He said that he wanted to let Waxhaw know that the County was in favor of hearing what they have to say and not necessarily formally approving Waxhaw's request at this time but to give them encouragement to proceed with the Mayor's project of planting trees on the berm at Twelve-Mile Creek Wastewater Treatment Plant. He said that this would be his motion.

Commissioner Kuehler asked if the Chairman were referring to the part that is really overgrown. She asked if there was going to be a benefit with the trees being planted that it will be pretty rather than what it looks like now. Chairman Openshaw responded that there is a lot of land at that location, and anything that Waxhaw would do would be a huge improvement. He said that he wanted to encourage Waxhaw to bring a proposal to the Board if it is interested in planting trees in that area.

Commissioner Baucom said that he was not opposed to what is being proposed within some confines. He questioned what the costs would be. Chairman Openshaw said that the costs could be looked into.

Commissioner Baucom stated that since there is no figures on the cost, he recommended the costs within a range be brought to the Board. He said that he really did not want to vote for something where the costs would be exorbitant. The Chairman stated that he viewed this as being an opportunity to get a project started to use reclaimed water and lessen the demand on the sewage treatment plant's discharge and also on the potable water.

Commissioner Baucom said the Board had agreed to that previously, but before the Board voted on it, he would like to have what the costs would be.

Chairman Openshaw amended his motion to have staff to explore opportunities for use of reclaimed water along the berm, which has already been landscaped, at Twelve-Mile Creek Wastewater Treatment Plant in conjunction with Waxhaw if Waxhaw chooses to move forward with its proposed Arbor Day project to plant trees along the berm.

Following the discussion, the motion was passed unanimously.

Public Health Fee Requests for Environmental Health Services:

Phillip Tarte, Health Director, introduced Jeff Knight, Director of Environmental Health, and Christy Ford of Environmental Health. He explained that the fees proposed were unanimously approved by the Board of Health at its March meeting. He said that four of these fees are more or less voluntary: private pool testing, food management certification course, and the express plan review. He stated that these are not required but Environmental Health receives requests for those services, but it cannot respond to those requests because it has no fee structure included for those items. He clarified that under the item I – Current Food Safety Management Certification Training Fee, the fee should be \$1,000 rather than \$650. He said that this is a voluntary course that would be taught on site for several individuals making that request. He stated that the Board of Health believed the \$1,000 fee would be more reasonable based on the assessment of what private companies are charging for ServSafe Certification.

Commissioner Baucom pointed out that on the information included in the agenda package, the recommendation for the fee under Item I – Current Food Safety Management Certification Training Fee was \$650. Mr. Tarte stated that the Board of Health had voted for the fee at \$1,000.

Chairman Openshaw questioned the recommended fee of \$400 under Item d – Current Food Service Fee if Remodeling/Construction is Started Before Plans have been Submitted and Approved – Food Stands, Restaurants and Meat Markets. He said that the \$400 fee seemed a little high for a food stand but a full service restaurant he could understand. He stated that food stands were mentioned a number of times in the proposed fees. He said that these vendors for the food stands do not make a lot of money and totaling these fees seems like a lot of money.

Mr. Tarte said that there are mobile food units, push carts, and food stands, all of which have different regulatory requirements. Ms. Ford explained that food stands do not have seating such as Dominos Pizza. The Chairman asked if they were saying that food stands would apply to any kind of food chain or a significant organization and not necessarily a mom and pop organization, but not necessarily excluding them. He asked if there was any scale ability with these fees. Mr. Tarte responded that this was not discussed with the Board of Health, and as far as regulations are concerned, they do the same service for them as with any mobile food unit or push cart service.

Jeff Knight noted that some of the push cart vendors actually work out of restaurants. The Chairman asked if push cart vendors were included in the fee structure for mobile stands. It was stated that if the vendors are independent and have no other affiliation, then they would be covered under Item h.

Vice Chair Rogers asked if the fee under Item d is only incurred if the current food service remodels or construction starts before the plans have been submitted or approved. Mr. Tarte responded that the proposed \$400 fee is a penalty. Vice Chair Rogers asked for clarification of why there would be a charge under Item f – Change of Ownership. Ms. Ford explained that once the owner of a restaurant sells the restaurant, then the permit expires and it is a new application with another inspection.

Vice Chair Rogers also asked about Item K – Private Pool Testing. She questioned whether the \$75 recommended fee is comparable to private companies who would test the water at no charge. Mr. Knight said that Environmental Health does receive requests for this service from time to time, and if someone calls at the current time, there is no fee structure for this service. Mr. Tarte said that rather than Environmental Health turning down the opportunity to test the private pool water, this is a recommended fee if someone asks for this service.

Commissioner Mills said that Vice Chair Rogers had made a good point with the private pool testing. He stated that he would be shocked if anyone would request this service of Environmental Health, because the pool companies perform this service for free. Mr. Tarte said that Environmental Health has a list of reference numbers that are given out to customers now.

Following the discussion, Commissioner Baucom moved adoption of the following Public Health Fees for Environmental Health, as adopted by the Board of Health which was passed unanimously.

a. **Current Food Service Plan Review Fees - Food Stands and Restaurants - \$200**

**Approved: \$200 Plan Review Fee for:
Meat Market
Catered Elderly Nutrition
Limited Food Service (Concession Stands)**

- b. **Current Food Service Express Plan Review Fees - Food Stands and Restaurants - \$0**

**Approved: \$1,000 Express Plan Review Fee for:
Food Stands and Restaurants**

- c. **Current Food Service Fee if Plans Resubmitted or Modified After Plan Approval - Food Stands, Restaurants and Meat Markets - \$0**

Approved: \$100 Fee

- d. **Current Food Service Fee if Remodeling/Construction is Started Before Plans have Been Submitted and Approved - Food Stands, Restaurants and Meat Markets - \$0**

Approved: \$400 Fee

- e. **Current Food Service Fee if More than Two Site Inspections are Required for Approval of Construction of a Food Service Establishment - Food Stands, Restaurants and Meat Markets - \$0**

**Approved: \$100 Additional Site Visit Fee for:
Food Stands, Restaurants and Meat Markets**

- f. **Current Food Service Transitional Permit (Change of Ownership) and Major Renovations Fees - All Food Service Facilities - \$0.00**

Approved: \$125 Transitional Permit/Renovation Fee

g. Current Temporary Food Establishment Fee - Operation Permit - \$50.00

Approved: Add Event Coordinator Application Fee: \$200

h. Current Mobile Food Unit and Pushcart Sticker Fee - Operation Permit - \$0.00

Approved: \$125.00 Yearly Sticker Fee

**i. Current Food Safety Management Certification Training Fee (upon request)
Training Fee -- \$1,000 per facility**

Approved: \$1,000 Facility Training Fee

**j. Current Swimming Pool Fees Public Swimming Pool Operation Permit
\$275.00**

Public Swimming Pool Plan Review \$250.00

**Public Swimming Pool Re-Inspection (Pool "not ready")*
\$ 75.00**

Approved:

Add "Violation Re-Inspection Fee"* of \$75**

***Fees charged when the Certified Pool Operator or managing firm calls into office and sets up appointment to obtain Operating Permit. Return visit fee charged when public pool "not ready."**

****Re-inspection fee when violation(s) cause public swimming pool to be closed.**

k. Current Private Pool Testing

Test water quality for pH, Chlorine, and pertinent chemicals \$0.00

Approved:

\$75 Private Swimming Pool Water Quality Test

Chairman Openshaw commended the Health Department and the Health Board for continuing to review its fee structure. He said as it has been mentioned before, people need to pay for the services they receive.

Vice Chair Rogers also thanked Mr. Tarte and his staff for the detailed information which is provided to the Board each time that they come before the Board.

At approximately 9:03 p.m., the Chairman called for a five-minute recess of the meeting.

The Chairman reconvened the meeting at approximately 9:12 p.m.

Governing Board Resolution/Certification in Connection with the Application for DENR Fund Assistance (Anson Water 4-MGD Improvements):

Al Greene, County Manager, stated that the staff was notified of the opportunity to submit documentation for a potential grant through the Department of Environment and Natural Resources, which would be stimulus funds. He said that the total grant funds that the staff would like to request would be \$10,071,480 for the Anson 4-MGD Water Improvements. He stated this is a shovel-ready project and that pre-application materials have been sent in; however, the grant application is not formal until the Board adopts the Resolution authorizing the Certification of the grant. He said that it is also recommended that the Board designate the Manager or the Assistant County Manager as the authorized official to execute the categorical exclusion that is required to bypass the lengthy environmental process. Mr. Greene stated that the staff believes that this project qualifies for a categorical exclusion.

Following the explanation, Commissioner Mills moved adoption of the Resolution by the Governing Body of Applicant as recorded below, designation of the Manager or the Assistant County Manager as the authorized official to execute the categorical exclusion that is required to bypass the lengthy environmental process, and authorization for the Manager or Assistant Manager to execute other application documents as may be necessary.

RESOLUTION BY GOVERNING BODY OF APPLICANT

WHEREAS, The Federal Clean Water Act Amendments of 1987 and Safe Drinking Water Act Amendments of 1996 and the North Carolina Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater or drinking water system improvements; and

WHEREAS, Union County has need for and intends to construct a drinking water system project described as the construction of a 4 MGD expandable to a 6 MGD water booster pumping station, a 2 MGD water booster pumping station, and approximately 40,000 lf of 24-inch water main in order to decrease water age in Union County's Eastern Water System, help reduce disinfection by-products to assure compliance with the Stage 2 Disinfection By-Product Rule, reduce interbasin transfers, and provide water to existing customers and limited customers currently on individual wells exhibiting poor water quality; and

WHEREAS, Union County intends to request state grant assistance for the project.

NOW, THEREFORE, BE IT RESOLVED, BY THE UNION COUNTY BOARD OF COMMISSIONERS:

That Union County, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of Union County to make scheduled repayment of the loan, to withhold from Union County any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

That Al Greene, County Manager, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project; to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the 16th day of March, 2009, at Monroe, North Carolina.

Lanny Openshaw, Chairman of the Board

ATTEST:

Lynn G. West, Clerk to the Board

The motion was passed unanimously.

Vice Chair Rogers referred to the following statement in the Resolution “the Applicant will arrange financing for all remaining costs of the project . . . That the Applicant will adopt and place into effect on or before completion of the project a schedule of fees and charges . . . “ She said that she did not know what costs there would be and asked if this is a budgeted item. Matthew Delk, Assistant County Manager, responded that there would probably have to be a discussion about whether or not the Capital Improvement Plan (CIP) is budgeted. He said that he thought everything for water and sewer projects is included on the CIP, but whether or not the CIP is budgeted would need to be answered separately. He noted that the County is under a capital spending freeze at this time.

Appointment of Chair for Board of Equalization and Review:

Chairman Openshaw nominated Dutch Hardison to serve as the Chair for the Board of Equalization and Review. By acclamation, Mr. Hardison was appointed as Chair of the Board of Equalization and Review.

Commissioner Mills commented that he would like for the Board to reconsider videoing the Board of Equalization and Review meetings. He said that he has had numerous concerns brought to his attention about people not wanting to be in public talking about their property or their neighbors’ property. He stated that he believed it would be detrimental to people coming forth for appeals of the property values and it might cause squabbles amongst residents.

Commissioner Mills asked if there were other counties in the State that televise their Board of Equalization and Review meetings. John Petoskey, Tax Administrator, responded that he had checked with the State Tax Commission, and no other counties televise their Board of Equalization and Review meetings. He said that he had not had a lot of calls from the public about this. Commissioner Mills stated that he would like the Board to rethink video taping of those meetings.

The Chairman said that he thought Commissioner Mills had made a valid point, and he also would like to reconsider video taping of the meetings. He stated that the counterpoint would be it opens up the process.

Mr. Petoskey stated that the first meeting of the Board of Equalization and Review is in April and it is an organizational meeting. He said that might be a good time for that board to discuss this matter.

The Chairman said that he did understand that the members of the Board of Equalization and Review incur some lengthy meetings which is also a concern. He asked that the Board have some time to think about this matter.

Award of Bid – Love Mill Road Waterline Extension:

Al Greene, County Manager, explained that the Board authorized this project in November of 2006 for the extension of a waterline to serve New Salem Volunteer Fire Department No. 5 on Love Mill Road near its intersection of Green Road. He said that bids were received on February 5, 2009, for 2,800 linear feet of 8-inch waterline, valves, hydrants and appurtenances with 24 bids having been received ranging from \$121,703.17 to \$268,087.00. Mr. Greene said that T&H Construction Company of North Carolina was the low bidder in the amount of \$121,703.17. He stated that staff recommends that the Board accept the bids, award the bid to the low bidder, T&H Construction Company of North Carolina in the amount of \$121,703.17, and authorize the Manager to approve the construction agreements pending legal approval.

Following the explanation, Commissioner Baucom moved to accept the bids, as recorded below, award the bid to the low bidder, T&H Construction Company of North Carolina in the amount of \$121,703.17, and authorize the Manager to approve the construction agreements pending legal approval.

Vice Chair Rogers questioned why there had been such a lengthy time between approval of the project and when it was actually bid. Mr. Greene responded that he did not know the answer to her question. She asked if the project had been included in the 2006 budget and rolled forward. Mr. Greene responded that in the capital budget, the appropriations do not lapse. She said that this seemed odd to her to take three years to bid from the time of approval. Mr. Greene said that he thought it took awhile to be designed, and the first time he had been aware of the contract was when it was bid.

Vice Chair Rogers asked what type of contract this would be. Mr. Greene said that it is based on a detailed material listing.

Following the discussion, the motion was passed unanimously.

A summary of the bids is recorded below:

BIDS				
"8 Star Construction Co.	Advanced Development Concepts, LLC	BRS, Inc.	Buckeye Const. Co. Inc.	Bullseye Construction, Inc.
\$126,044.00	\$121,970.39	\$190,436.50	\$197,787.70	\$161,169.00
C&W Utilities	Classic City Mechanical, Inc.	CMI Contracting, Inc.	Concord Builders, Inc.	Davis Grading, Inc.
\$158,851.70	\$168,295.36	\$149,924.00	\$239,229.59	\$138,336.44
Dawn Dev. Co., Inc	Dellinger, Inc.	J. O. Flowe Grading Co., LLC	Landsdown Earth & Pipe, Inc.	MV Momentum Construction, LLC
\$187,677.53	\$149,991.00	\$268,087.00	\$141,831.00	\$158,257.09

Osborne Utility Construction, LLC	Propst Construction Company	RDR, Inc.	Ritchie Construction Co., Inc.	Roberts Enterprises, Inc. of NC
\$169,917.64	\$252,654.00	\$140,167.00	\$165,595.28	\$163,282.72
RF Shinn Contractor, Inc.	Siteworks, LLC	State Utility Contractors, Inc.	T & H Construction of NC, Inc.	
\$148,872.00	\$141,319.73	\$164,383.10	\$121,703.17	

Drayton Hall Homeowners Association (Not to Exceed \$30,000 Lump Sum Amount) – This item was moved from the Consent Agenda to the Regular Agenda at the Request of Chairman Openshaw:

Chairman Openshaw said that he was trying to determine who currently controls the Homeowners Association, the developer or the homeowners.

Jeff Crook, Senior Staff Attorney, responded that he did not know the answer to the question, but he had been communicating with the attorney for the Homeowners Association who had requested the funds.

The Chairman stated that the information in the agenda package indicates that the developer agrees to consent with the release for work that has not been done so work would be applied. He said that this kind of implies that the developer no longer controls the Homeowners Association. He asked if there is any time sensitivity on this item. Mr. Crook responded that he believed it could wait for the next meeting. He said that he has had a number of conversations with the attorney and they are anxious to have it completed. He stated that the consent of the developer had been at his request to have some kind of representation from the developer that the

County would not be held responsible for the release of his bond. He said that it does imply that the developer does not control the Homeowners Association, but he would verify this for the Board.

Following the discussion, Chairman Openshaw moved to defer action on this item until the April 6, 2009, meeting. The motion was passed unanimously.

HDR Engineering, Inc. of the Carolinas (Weddington Water Tank) – Task Order #47 (NTE: \$83,146 Lump Sum Amount) – This item was moved from the Consent Agenda to the Regular Agenda at the Request of Vice Chair Rogers:

Chairman Openshaw moved that the Board go into closed session to discuss this matter.

Mr. Crook noted that a closed session has been requested later in the meeting to discuss the Water Allocation Policy under the Attorney/Client provisions, and if the Board would like to discuss this matter in closed session, it could do so at the same time.

It was suggested that this item would become 16d on the agenda.

Amendment to Water Allocation Policy:

At approximately 9:26 p.m., Chairman Openshaw moved that the Board recess its regular meeting to the Personnel Training Room, Room 131, first floor, Union County Government Center, to go into closed session to consult with an attorney in order to preserve the attorney-client privilege in accordance with G.S. 143-318.11(a)(3). The motion was passed by a vote of four to one. Chairman Openshaw, Commissioner Baucom, Commissioner Kuehler, and Commissioner Mills voted in favor of the motion. Vice Chair Rogers voted against the motion.

The Board members moved to the Personnel Training Room for the closed session. The Chairman convened the closed session and at its conclusion at approximately 10:00 p.m., Chairman Openshaw moved to adjourn the closed session and to reconvene the regular meeting in the Board Room. The motion was passed unanimously.

The Board members then returned to the Board Room where the Chairman reconvened the regular meeting.

Amendment to Water Allocation Policy:

Jeff Crook, Senior Staff Attorney, stated that the Board might want to consider continuing suspension of applications for water permits for an additional number of days.

Chairman Openshaw moved to extend the suspension on allocation for water permits for an additional 60 days. The motion was passed unanimously.

Additional Services for the Water Allocation Policy – Amendment to Task Order #43 (this item was moved from the Consent Agenda to the Regular Agenda at the Request of Vice Chair Rogers):

Commissioner Baucom moved to authorize the County Manager to approve an Amendment to Task Order #43 in an amount not to exceed \$35,000 pending its legal review.

Vice Chair Rogers said that she had some questions that she needed to try and understand. She stated that the County has in-house staff that from where she was sitting could answer some of the questions that she had submitted on the Water Allocation Policy. She said that she agreed when the Manager says that the County has a very talented staff. She questioned how it is determined when to utilize in-house staff versus going outside the staff.

Mr. Greene responded that the time Mr. Mosteller from HDR had spent in answering the questions was insignificant. He said that Mr. Mosteller was already working on a number of issues related to that matter, so he prepared an initial draft response to the questions and e-mailed it to staff. He said that staff appreciated Mr. Mosteller taking the initiative to draft the response, because staff was very busy that day. He stated that either Scott Huneycutt, Interim Public Works Director, or Mr. Mosteller would probably be better suited to answer the questions regarding the work that Mr. Mosteller has been providing to the County over the past several months. He said that he sees portions of his work in the staff's weekly meetings. Mr. Greene said that he is not involved with a good deal of behind the scene work that Mr. Mosteller does, but he sees the final product when Mr. Mosteller brings it in. He stated that Mr. Mosteller spends approximately six hours per week meeting with County staff, but there is a lot of work that he does in between those meetings to keep the efforts going such as analyzing the County's consumption, and modeling how different irrigation patterns affect the demand, etc.

Vice Chair Rogers restated that she was not questioning if work has been done but is trying to determine at what point it is determined that work cannot be done in-house because either: a) there is a modeling system or program that can be better utilized, b) the staff does not have that particular experience; or c) there are too many items to work on and not enough staff.

Mr. Greene said that he could address item c and stated that anything extra that is done over and above day-to-day operations requires some assistance. He stated that the staff is very shorthanded.

Mr. Mosteller said that all of the efforts on this issue since the December 4th meeting of the Board have been very collaborative. He stated that there have been a lot of people working and there have been more hours from the County staff than from HDR's staff. He said that HDR's work could be summarized in three things. He stated that they have done a lot of technical analyses on the water and irrigation patterns. He explained that some of the work he has personally been able to do with the Catawba Wateree Drought Management Group. He said they have been looking at what some of Union County's neighbors have done and the impacts on their systems and, hopefully, this has been a value added piece of work. Secondly, he said that they have taken the lead on looking at the complicated issues on the water allocation policy and the revisions to it. He stated that as he has met with County's staff weekly, they have churned through some of those key issues and what changes in the language would do to the policy. He said that he did not want the Board to leave thinking that the County staff has not done a lot of the work. He said that Mike Garbark, Scott Huneycutt, and Eric Hardy have been heavily involved in the work and probably spent more time on it than HDR's staff has spent.

Mr. Mosteller pointed out that HDR's fee for this amendment is a not to exceed amount. He said that they had to place some number on the amendment without knowing how much work would be involved.

Chairman Openshaw said that his concern is that in the Agenda Summary, which the Board had been provided, states "As work continues to be on-going to support the Water Allocation Policy Revisions, HDR [h]as hereby requested consideration for additional services for Task Order No. 43 in an amount Not-to-Exceed \$35,000." He stated that implies that the \$35,000 is from this point forward, but he said the Manager has supplied the Board with information prior to the Board's closed session, that some of that amount has already been expended. He said to him that was one of the issues and another part of the issue is a question on what the Board asked to be done and the necessity to have a consultant would be another question versus the cost effectiveness of having another person on staff. Chairman Openshaw said that some of the questions he had asked on December 4th were all about the Yadkin Basin, which he was unsure if it would be covered in the Water Allocation Policy, so since the Board is going to be presented the Water Allocation Policy at some point, it would seem to him "why would the County commit to this money now when the Board has not seen the policy yet."

He said that he was somewhat concerned that for the second meeting in a row, the Board has found out that money has been spent before it was allocated and the Board approved the expenditure. He stated this was a grave concern to him and the Board is being asked to approve spending money for the future without seeing the work product that came out of the most recent situation. He explained that the two issues were: 1) that the amendment of Task Order #43 is for the future and 2) information presented to the Board earlier this evening that this payment is going toward work that is already being done without Board approval. He said that he did not like another unpleasant surprise and he did not like the fact that the system has been bypassed. He stated that he did not know what the status of the Water Allocation Policy is in terms of future expenditures. He said that he was not left with a comfortable feeling about this.

Commissioner Mills said that he did not believe he had attended the December 4th work session, but he read what the Board had asked the staff to do. He stated that the County had a Water Allocation Policy and the way he had understood what the Board had asked staff to do was to look at ways to make changes to the policy to find ways to free up water that was not being used and to use it for other projects. He said that he guessed if the Board was questioning if the Board asked for the staff to come up with this variance to the policy, then in the future, if that is the case, the Board needs to specifically determine what the costs would be before authorizing the staff to proceed with the ideas that the Board has asked staff to come forth with. He reiterated that in the future that the Board should find out exactly what it wants and then let the staff contact the engineers or whoever is going to do the work and find out what those costs will be and after the costs have been determined, ask staff to bring that to the Board and the Board can then decide if it wants to expend those amounts. He said that he thought HDR should be paid for its work.

Vice Chair Rogers clarified that she did not think the Board is questioning whether the work has been done, but as was said, at that meeting the Board asked staff to do the work. She said that her understanding is if staff is not going to do the work and an outside contractor will be utilized, then there is a process in place that follows for the approval of granting money for services. She stated that what she thought she was hearing Chairman Openshaw say is that he did not see that approval process and what she was hearing Commissioner Mills say is that HDR needs to be paid. She said that where she thought the disconnect might be, is that the money might have been expended, but where was the approval process to spend the money.

Mr. Greene responded that this was an existing task order that was negotiated when the Water Allocation process began, and the work was continued after December 4 when the Board directed that significant revisions be provided. He said that Mr. Mosteller had continued working for the County under the existing task order, and he assumed there were funds left in the task order, and at some point, the funds began to run low and Mr. Mosteller submitted a request for an increase in the task order at the Interim Public

Work Director's request. He stated that he did not know the status of the funds today, because he did not monitor those funds, and whether there are funds still in the original task order or whether or not any of these funds have been spent, he could not answer that question. He said that he did not monitor those matters but the department needed the additional funds in an amendment to the task order, and the task order was sent through the process. He further said that as soon as the task order arrived in the County Manager's office, it was placed on the agenda. He stated that without Mr. Nelson or Mr. Huneycutt present to answer the Board's questions, he was at a little disadvantage.

Vice Chair Rogers said that she thought the confusion was a result of the summary memo and the staff's recommended action to authorize the County Manager to approve an amendment in an amount not to exceed \$35,000 to Task Order 43 pending legal review. She stated that actually what is stated is that this expenditure has not been incurred yet. She said that for her, she thought it would be good to get a status of what point the task order is at, the full amount, what has been approved, what has been expended, and what is needed.

Mr. Crook stated that he would submit to the Board that the original task order, as he understood it, was approved in April of last year when the approval level was at \$5,000. He said that the original task order did come before the Board and this would constitute an amendment to that task order. He stated that the County has a long standing relationship with HDR and a number of other engineers, and HDR understood the pressure that the County was under to get the policy revised as requested by the Board. He said that the Board often, which is clearly understandable, has deadlines within which it wants to see projects come back to the Board, and the staff needed outside help. He stated that Kevin Mosteller has been invaluable to the process. He said that the Board recently reduced the County Manager's approval authority for contracts to \$20,000. He stated that he was hearing what the Board is saying, and going forward the staff would be certain to observe that work is not commenced until the Board has approved those contracts. He noted that this would slow projects down, and it is unavoidable that it will slow the process at times. He said that it is never ideal to commence work before all of the contracts are in place, but at times it does happen. He stated that the Board meets twice a month and staff is glad to bring contracts to the Board, but asked that the Board understand the effects that it would have on how projects proceed.

Vice Chair Rogers said that she did not want to create a problem when it was not needed. She stated that as she understood the process, Board approval is obtained before submitting the contracts. Mr. Crook responded that the Board receives the parameters of contracts. He explained that if the staff were to wait until the contracts were all in final form to submit to the Board, it would be an extreme delay and an extreme hardship on the legal department. He said that the Board receives the basic parameters of contracts and then the Board authorizes the County Manager to approve those that exceed \$20,000. He said that the process was in place when the

former Board reduced the limit to \$5,000, and he thought the process has worked fairly well. He stated that if the Board has questions about a specific contract, it can always pull the contract from the Consent Agenda and request additional information.

Mr. Crook said that he could not speak to the work that has been done by HDR outside the roundtable meetings with staff, but as the Manager has described, the engineer has been invaluable to the process. He reminded the Board that the County does not have a Public Works Director, and, therefore, the Public Works staff is somewhat thin. He said that in order to get this matter back to the Commissioners, this was the only route that he thought it could have gone.

Vice Chair Rogers said that she did not disagree with what Mr. Crook had said about the Board receiving the contract parameters versus the initial contract, but what she needed to understand was “Is the process that prior to monies being expended, that it needs to go through the Board to get that permission to expend those monies, not necessarily to do the contract, but to expend those monies?”

Mr. Greene responded that no funds from this amendment have been expended. Vice Chair Rogers again repeated her question and requested an answer to it. Mr. Crook said that he believed that in answer to Vice Chair Rogers’ question, the answer is “yes”, because the contract should be in writing before work begins. He said that in practice with old established relationships that the County has with vendors and service providers with whom the staff is comfortable sometimes the paperwork lags. He stated that staff does its best to assure that does not happen, but sometimes it does.

Commissioner Kuehler asked the amount of the original task order. Mr. Crook responded that he did not recall the original amount of the task order.

Mr. Mosteller said that he believed that the amount of the original task order was approximately \$80,000 and included some items beyond the water allocation policy. He stated that it included a scope of work related to a countywide water and sewer authority and other items beyond the water allocation policy. He said for clarification purposes, that HDR recognizes as a consulting firm doing business that time was of the essence and understood the process. He said that HDR understood the contract process and took the risk to perform the work, and as the Manager said earlier, HDR has not invoiced for those costs.

Vice Chair Rogers added that she was not advocating at all that HDR not be paid for its services. She said that HDR did the work and its expectation is to be paid for the work and her expectations are to pay them. She stated that what she was trying to understand is the process that the Board goes through and the staff goes through to get contracts in place and whether the process is

being followed. She said the question is not whether HDR did the work or receives payment. She expressed appreciation to Mr. Mosteller saying that she understood that his firm does the work in a hurry with the faith that it will receive payment. She reiterated that she was not questioning whether HDR did the work or would receive payment, but it was more an internal process that she was looking at now.

Chairman Openshaw said that he thought the Manager had said no funds have been expended from the task order. Mr. Greene responded that he had said that he does not monitor these matters, but he believed that Mr. Mosteller had said that he had not invoiced the County for anything under the amendment. He said that “yes” amounts have been expended under the original task order, but not under the amendment. Chairman Openshaw said that earlier in the meeting, the Manager had said funds have been expended when he had asked that specific question. Mr. Greene apologized and responded that he was making an assumption. He said that neither Mr. Nelson nor Mr. Huneycutt was present to assist in answering that question, and he had made an assumption in answering the Chairman’s question. Chairman Openshaw said that another concern is the Board is now being asked to approve \$35,000 more when no one here can tell him how much has been expended, how much funds remain, or how much is owed.

Mr. Greene said that the appropriate staff was not available to answer the Chairman’s question. The Chairman said that was the reason why the Board should not act on approving the Task Order at this time, because the Board has not seen the water allocation policy. He said that if Mr. Mosteller wanted to invoice the County for work already been done, then he would agree with Vice Chair Rogers. He said that there should be an accounting of the status of the task order.

Chairman Openshaw moved that the Board find out the status of the expenditures on the task order, have the water allocation policy presentation, and then make a decision from that point on how to proceed.

Commissioner Baucom questioned if the Chairman were offering his motion as a substitute motion.

Mr. Crook pointed out that the water allocation process is ongoing and there are still legal issues as well as technical issues that they are working through. He stated that the motion by the Chairman would hold that work in abeyance until the Board can determine the results of the task order payment.

Commissioner Baucom said that what he was hearing was first that there was instruction by the Board to bring back a water allocation policy under the stipulation of 18 million gallons per day and under the stipulations of two-day per week watering, and to determine how much allocation would be available to transfer. He said that staff is not just Public Works, but staff includes the

Manager, Legal, and Finance. He stated that he was hearing the Board say that maybe it wants to change the policy, but it does not know what the policy is. He said, if that is the case, that what he thought the Board was being told is that if the policy is changed, then do not expect an immediate response to the direction that the Board has previously given to staff.

Chairman Openshaw said that Commissioner Mills had used the same example and that very definition of staff. The Chairman said one of the points he had brought up is - was it cost effective to continue to use consultants. He stated another point he thought had been brought up by Vice Chair Rogers was the need for a consultant on the questions that the Board posed. He said that he was not saying there was an easy solution, but stressed that he was very concerned with the fact that the task order was being rolled over with no stopping point and no accountability. He said that at a time when times are tough, when accountability of funds is needed, he would like to see some accountability.

Vice Chair Rogers stressed that she wanted to clarify that she did not believe anybody, at least she knew she had not, requested that a policy be changed. She said she was trying to determine what the policy is and that whatever the policy is that it is followed. She said that if the policy is not being followed, then that is an issue, and if it needs to be changed, then the Board should look at changing it.

Chairman Openshaw commented that he hated to argue against Vice Chairman Rogers that the Board did ask to look at ways to free up additional water capacity. He said that surprisingly there were still requests for water, but he said it still begs the question whether that meant a consultant was needed to do the work versus the staff. He said that he thought either Vice Chair Rogers or Commissioner Kuehler had asked that the process be explained. He stated that what he heard Mr. Greene say was that a consultant was needed because the County was thinly staffed. Chairman Openshaw said his take is when to allocate for new staff versus a consultant and at what level. He stated that going back to the fact that there is no director for Public Works exacerbates the situation.

Mr. Greene said that he thought he had said that when additional workloads are added to Public Works, it creates a problem. He stated that certainly HDR's expertise has been invaluable on this process. He said that there is not a staff person who has expertise in the issues that Mr. Mosteller has.

At the request of Vice Chair Rogers, the Clerk read the motions on the floor, one by Commissioner Baucom and the second by Chairman Openshaw.

Commissioner Mills asked if the Chairman's motion was to table this matter until it could be determined what amount of money spent had been spent on the original task order. Commissioner Baucom asked if the net result of the motion would be deferring action on the water allocation policy. Chairman Openshaw asked if there had already been a motion approved to extend the suspension on allocation for water permits for an additional 60 days. He said that now the motion was talking about just basically an accounting of the status of funds paid under the original task order.

Commissioner Kuehler said that both Mr. Greene and Mr. Crook have said that if this Amendment to the Task Order is not approved today, then the work on the Water Allocation Policy will be stopped by HDR. Mr. Crook said that he would defer to Mr. Greene, but he thought that to that extent, HDR's services would be held up pending the Board's resolution of the Task Order.

Mr. Greene commented that in light of the Board's conversation, HDR could not be asked to do any additional work for Union County at this time. Commissioner Kuehler asked Mr. Greene if it were his belief that HDR has basically tapped out the original task order, and any work that they would do now would be without contract. Mr. Greene responded that it is his opinion in hearing the conversation he could not ask HDR to do any additional work until the task order is approved.

Mr. Mosteller stated that the original task order has been exhausted. The Chairman asked how the Board wished to proceed with this matter.

Vice Chair Rogers suggested recommending authorization of the amendment to the task order not to exceed \$35,000 so that things can keep moving. She said there is work that HDR is doing that it needs to be paid for but in addition that the Board request an accounting of what has been authorized and what has been expended as of March 16, 2009, to be either e-mailed to the Board or presented at the next meeting. She said that with this suggestion, she thought it was satisfying both concerns of paying HDR for work that is being done and the Board is also getting an accounting of the status of the task order.

The Chairman offered an amendment to add working out a better policy so that the Board will know in advance when funds have been exhausted under task orders or contracts. He said that the Board was going to be presented a water allocation policy, so it has to be pretty far along.

Mr. Crook said that a policy was not to have been presented tonight.

Following the discussion, the Chairman withdrew his substitute motion in favor of Vice Chair Rogers' motion.

Commissioner Baucom stated that he had placed the original motion on the floor for discussion. Vice Chair Rogers offered that if Commissioner Baucom would withdraw his motion, she would make a motion that would combine the two parts as a main motion. Commissioner Baucom withdrew his motion.

Vice Chair Rogers moved to approve the not to exceed \$35,000 to Task Order #43 pending legal review. The motion further included tasking the County Manager with providing a summary of expenditures to date in line with all task orders approved and granted through March 16, 2009.

Commissioner Baucom stated that he did not know what was meant by "all task orders." Vice Chair Rogers clarified that it was task orders related to the Water Allocation Policy.

The motion was passed unanimously.

HDR ENGINEERING, INC. OF THE CAROLINAS -TASK ORDER #47 NTE: \$83,146 Lump Sum Amount) - (Moved from the Consent Agenda at the Request of Vice Chair Rogers):

Chairman Openshaw moved to table this item pending review. The motion was passed unanimously.

At approximately 10:39 p.m., Commissioner Mills requested that the Board take a two-minute break. Chairman Openshaw called for a five-minute break. At approximately 10:44 p.m., the Chairman reconvened the regular meeting.

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; and 3) 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 (2 Vacancies)
- f. Planning Board (7 Regular Members and 2 Alternates)
- g. Board of Adjustment (5 Regular Members and 2 Alternates)

APPOINTMENTS TO BOARDS AND COMMITTEES:

- a. Juvenile Crime Prevention Council (JCPC) (Person Under Age of 18) - Chairman Openshaw moved to accept the Application of Deborah Brower and to appoint her to serve on the JCPC.
- b. Historic Preservation Commission - Chairman Openshaw moved to appoint Sis Dillon and to reappoint Edith Hudson to serve on the Historic Preservation Commission.

With there being no further nominations for these appointments, by acclamation Ms. Brower was appointed to serve on the JCPC and Mrs. Dillon and Mrs. Hudson were appointed to serve on the Historic Preservation Commission.

c. Nursing Home Advisory Committee - Chairman Openshaw nominated Lucy Burgess for reappointment to the Nursing Home Advisory Committee. With there being no further nominations, Mrs. Burgess was appointed to serve on the Nursing Home Committee by acclamation.

MANAGER'S COMMENTS:

Mr. Greene stated that staff would like direction from the Board regarding the Transportation Advisory Board. He said that the County appointments have not been announced and neither have the municipalities, the Chamber of Commerce, nor the schools been contacted. He requested authorization from the Board to begin that process and asked for the Board's thoughts on an appointee to serve as the Parks and Greenway Representative.

The Chairman stated while he was sure that the Board would be glad to grant that authorization, he would question the need for the authorization. He suggested that in the future, in order for the Board not to micromanage, when the Board approves matters that call for specific appointments, that the Board grant the Manager authority to move forward with the process.

COMMISSIONERS' COMMENTS:

Commissioner Kuehler said that she had been reading in the newspaper the last couple of days about the education lottery, which has also been discussed by the Manager. She stated that during the Governor's campaign, she basically said she wanted to take extra steps to insure that the profits from the North Carolina Education Lottery were spent solely on education. Commissioner Kuehler said that she has been in several states where that has been put into play, and for whatever reason, the money never ends up staying for education or the money goes for education, and their money is pulled out of the education fund. She said that she understands these are tough times. She stated that last week the Governor had said that she would use \$87.6 million in lottery profits to insure that there is money available in the State's operating accounts to pay the bills through mid April. She noted that by law approximately 35 percent of lottery ticket sales revenue is designated for education programs, class size reduction, pre-kindergarten programs, college scholarships, and school construction, but it means that some school districts and county managers are going to be scrambling to find money to make the debt payments on building projects. Commissioner Kuehler said that in Union County specifically it could mean a loss of \$3 million dollars.

She said that given the odds of winning the lottery and the certainty that the lottery sales dollars are not going to be used for the education of the children, Union County residents basically are going to contribute more to the schools and to the county by shopping in Union County and purchasing goods rather than the scratch off lottery tickets. She said that instead of scratch off cards to consider purchasing items that would last longer than the time it takes to rub off the lottery card. She stated that even though the cards say education lottery, it is, obviously, no longer benefiting the children. She said that Mecklenburg County is actually considering sending a letter to the Governor about this subject and she hopes that perhaps Union County would follow Mecklenburg County's lead if necessary.

Commissioner Mills asked if Commissioner Kuehler would be the one to draw up a resolution for the Board to send to the Governor and members of the County's legislative delegation expressing the Board's views on the lottery funds. He said that he thought it was a good point that Commissioner Kuehler had brought up and he would support the resolution if she saw fit to bring one forward.

Vice Chair Rogers thanked Commissioner Kuehler for all of the work that she has done in the three short months that she and Commissioner Kuehler have been on Board. She said that it was Commissioner Kuehler's efforts to have the Governance Policies, as well as the Transportation Advisory Board, and the Governance Advisory Board. She said that Commissioner Kuehler has done a lot of things for the citizens of the County and has put in many hours for her efforts. She stated that she is appreciative of Commissioner Kuehler showing that initiative in sending all of the recommendations to the Board because it makes her job easier by having the documents available for review.

Commissioner Baucom congratulated Jim Bention for being elected as President of the Union County Republican Party this past Saturday. He said that it had been a good convention and the Lincoln-Reagan Day lunch featured Senator Burr as the speaker. He also offered congratulations to Jeannette Sherrod who was awarded Citizen of the Year by the "A Few Good Men Organization." He said that Ms. Sherrod has been a very stable force in this county for many years and has received many accolades including being named "Citizen of the Year" by the Chamber of Commerce.

He referred to the Report included in the agenda package as information prepared by Fernsler and Levy, Consultants. He questioned if this report would become part of the minutes and made public. Mrs. West responded that the report had been included in the package as information. Commissioner Baucom explained for the benefit of the audience, this is a study that the Board unanimously authorized in December of last year. He requested that the report be included as an agenda item for the next meeting for presentation. He said that if at all possible, he would like Mr. Fernsler and Mr. Levy to be present to discuss the report with the Board.

Chairman Openshaw responded that Mr. Fernsler and Mr. Levy reside in Florida. Commissioner Baucom said that he wanted to make that request.

Chairman Openshaw announced that on Tuesday evening the Board would meet with the Wesley Chapel Town Council at 6:00 p.m. and, following that meeting, the Board will meet with the Town Council of Waxhaw at 7:15 p.m.

The Chairman said that he would be contacting the Board members regarding dates for future work sessions. He offered congratulations to those representing the County in the Odyssey of the Mind Competition. He said that Unionville Elementary has done exceptionally well and has three teams moving forward to the State competition; Kensington has one team, and Weddington Middle has one team moving forward to State competition. He said that there were 35 teams and seven of the qualifying teams came

from Union County. He noted that the teams for the competition included Union County, Mecklenburg County, Cabarrus County, Gaston County, and Iredell County. He congratulated the teams on a great job.

He also offered congratulations to Mera Liccione, who was a State semi-finalist in the geography bee. He said that the national winner of this competition receives a \$25,000 scholarship along with a trip.

Chairman Openshaw said he would tag on to Commissioner Kuehler's point about the lottery funds. He said that the Board had received a Legislative Bulletin from the North Carolina Association of County Commissioners where they have now asked that they divert the Average Daily Membership (ADM) fund monies which also go to the schools. He stated that he wanted the staff to look into it, because they are saying there are \$267 million of the Public School Building Capital Fund, which they say would cover any obligations for the next two years without any additional funding which comes from the corporate income tax. He said that Commissioner Kuehler had mentioned that Mecklenburg County was sending a letter regarding the lottery funds, and he would suggest that the County request a copy of Mecklenburg's letter.

He referred to comments made during the Informal Comments tonight where a gentleman talked about his concerns of how much time that the Board is spending on policies in this time of economic trauma. Chairman Openshaw said that Union County has no policies and that is why this is necessary, because there is a lot of remedial work that needs to be done in Union County. He stated that when the staff has asked, the Board has addressed the financial situation, but he could not think of a Board since he has been in Union County that has made the effort and has actually done what this Board has done to open up the meetings for televising. He said the Board has made it easier to access the meeting agenda that the public used to have to pay for. He said the Planning Board meetings will be televised for the first time as well as the Board of Adjustment. He said that he would like for the County to at some time in the future look at the system that Indian Trail uses for televising its meetings.

With there being no further discussion, at approximately 10:59 p.m., Vice Chair Rogers moved to adjourn the regular meeting. The motion was passed unanimously.