

Approved 8/31/09

Minutes of the Special Meeting of the Union County Board of Commissioners
Wednesday, April 8, 2009

The Union County Board of Commissioners met in a special meeting on Wednesday, April 8, 2009, at 10:00 a.m. in the Personnel Training Room, Room 131, 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 (joined the meeting at 10:30 a.m.), H. Ligon Bundy, Attorney at Law, Kevin Mosteller with HDR Engineering, Mike Garbark, Public Works Department, and Scott Huneycutt, Public Works Department

At approximately 10:00 a.m. Chairman Openshaw convened the special meeting and stated that as advertised the purpose of the work session was to discuss the Water Allocation Policy. He recognized Al Greene, County Manager, for comments.

Mr. Greene reiterated the purpose of today's meeting was to discuss the Water Allocation Policy and the efforts to develop ideas in accordance with the direction that staff received from the Board since December 4, 2008. He stated that one of the directions that the staff had received was that staff was to notify the Board each time 100,000 gallons of water capacity had been allocated. He provided the Board with a spreadsheet which he said constituted the first such notification. Mr. Greene explained that beginning December 15, 2008, the staff began tracking taps and the estimated flow for each tap. He said that on March 2, 2009, the allocation reached the 100,000-gallon threshold.

He said that staff planned to begin today's meeting with a presentation by Kevin Mosteller of HDR Engineering in open session and following the presentation, staff would like for the Board to consider going into closed session.

Kevin Mosteller said that his focus today would be to discuss the technical part of the Water Allocation Policy and the amount of water that the county currently has available for allocation. He stated that it was somewhat hard to predict what the future water demands would be, because, as he has mentioned in previous presentations, there are a number of factors that impact water demand.

He said that HDR Engineering and the County's staff have worked on this matter as a team, and they have reviewed the four elements of the Board's motion of December 4, 2008, and these elements impact the results that he will present today. He explained that one of the key elements of the December 4, 2008, motion was that staff was asked to develop a method or criteria to allow new development projects that are ready to move forward to secure water capacity ahead of those that might not be making any progress toward completion. Mr. Mosteller said the second element of that motion was to set as a precedent that the outdoor irrigation for the current customer base would be at least two days per week. He noted that the original Water Allocation Policy adopted last October set as a baseline for outdoor irrigation was one day per week with a provision to go to no irrigation.

He explained that the third element of the December 4, 2008, motion was to not allow any allocation above the County's current allocated capacity from the Catawba River Water Treatment Plant of 18 million gallons per day. He said that the original policy adopted last year allowed for over allocation, because it was believed that the timing of the new connections would be close to the time that new infrastructure would be put into place and new capacity would be coming on line. Finally, the fourth element noted by Mr. Mosteller from the December 4, 2008, motion was that staff was directed to notify the Board each time 100,000 gallons per day capacity was allocated.

Mr. Mosteller reviewed a graph showing the updated water demand placed on the County's water system for the Catawba River Water Treatment Service area. He said that the water demand pattern highly varies depending on the type of irrigation restrictions in place and also is tied to the season and climate conditions as well as other factors. He said that based on the December 4, 2008, motion, the team looked at two distinct periods during the last two and a half years. He explained that during times when the County was on a two-day per week irrigation pattern, the irrigation demand of the customer base was divided by 50 percent with the two-day per week schedule being Tuesday/Saturday or Thursday/Sunday. Mr. Mosteller said the same was true in 2008 when the County was on a one-day per week irrigation schedule and everyone was allowed to water one weekend day.

In response to questions by Vice Chair Rogers, Mr. Mosteller discussed the two low periods of water usage in November 2007 and November 2008 as shown on the graphs. Chairman Openshaw asked if staff had done any comparisons of the numbers on the average usage through the two low periods to see if there was any increase.

Scott Huneycutt responded that the average day is a little less in the current time period of 2008 than it was in 2007. He explained that he thought part of the reason for this was that irrigation is being allowed over a five-day period. He said that it is not a big difference and is less than a million gallons.

Mr. Mosteller reviewed the period of time in 2007 that the County was on a two-day per week irrigation schedule. He said that he felt it important to note that there was no watering allowed between the hours of 9:00 a.m. and 5:00 p.m. He explained that 2007 was a record low year for rainfall and focused on June through October and pointed out the trend line of capacity use. He noted that for several weeks water usage spiked around the month of August. Mr. Mosteller said that this was also important to note. He stated that the average base line use during that period was 13.4 million gallons per day and before that time the average base line usage was approximately nine million gallons per day. He stated that the peak usage was 19.5 million gallons per day. He said that using a ratio of 19.5 million gallons per day to 13.4 million gallons per day, the peak to average day ratio would be about 45 percent more during the period near August when people were watering their lawns on Tuesday/Saturday or Thursday/Sunday.

He stated that this was the number when the team came back to the Board and said there is no water if two-days-per-week irrigation is allowed. He explained that they took the top four days during that period and averaged those, which amounted to a 34 percent increase over the average day. He said they then took the average of 45 and 34 which is 40 percent. Mr. Mosteller stated that the peak day would be 18.8 million gallons per day. He said that the difference of 18.8 million gallons per day and the 13.4 million gallons per day, which is the amount of water being dumped on the ground through outside irrigation is 5.4 million gallons per day multiplied by two which is what everyone would like to use during that time. He said if that peak amount was distributed over three days, giving the customers a two-day per week schedule distributed over three days, the 10.8 million gallons per day can be shaved to 3.6 million gallons per day. He said that adding the 3.6 million gallons per day to average usage of 13.4 million gallons per day, the revised peak demand, if the irrigation pattern is changed to two days per week spread over six days, would be 17 million gallons per day.

Mr. Mosteller stated the new customer accounts added to the system since 2007 equates to 700,000 gallons per day which amounts to 17.7 million gallons per day. He stated this would leave approximately 300,000 gallons per day to allocate to the customers with two days per week irrigation spread over six days using the 18 million gallons per day capacity.

Commissioner Mills asked, as customers become more accustomed to the irrigation patterns, could the County go to a one-day-per-week irrigation schedule. He said that the Drought Management Group in the Catawba moved to a Stage I conditions, which are voluntary restrictions.

Mr. Greene said that the County has a Water Conservation Ordinance that might be more restrictive than the Stage I conditions by the Drought Management Group, but the staff has not had a chance to review the County's ordinance since yesterday. He stated that the County is not tied to the drought conditions but tied more so to capacity. He said that the staff needs to review how the County should handle its conservation measures in light of the downgrade by the Drought Management Group.

Commissioner Mills questioned whether one-day-per-week irrigation is off the table and not considered. Mr. Mosteller responded that he could not answer that question.

Mr. Mosteller next reviewed history from 2008, which had a one-day per week irrigation schedule, either Saturday or Sunday with no restrictions during the day. He said that the average daily usage at that point was 10.8 million gallons per day. He stated that meant during the week people were using less water overall, but the peak usage was still higher because they were using a lot of water for irrigation on Saturdays and Sundays.

Mr. Mosteller said that if irrigation goes to five or seven days, ideally it would be distributing the demand 14 percent and 20 percent. However, he stated that practically it is really only a 20 percent and 25 percent reduction. He said that the team evaluated these numbers over both the 2007 and 2008 periods, and if irrigation is distributed over five days, it calculates to be 1.9 million gallons per day available capacity, which is what was in the original allocation policy. Further, he said if irrigation is spread over seven days, it calculates to be 2.4 million gallons per day of available capacity.

Vice Chair Rogers asked what factors were included in these calculations. Mr. Mosteller responded that the allocations of 300,000 gallons per day, 1.9 million gallons per day, and 2.4 million gallons per day are based on the highest use in a hot, dry climate. Mr. Mosteller said that new accounts up until today have been included in the calculations. He stated that going forward all of the ones who do not have a tap yet will be additions.

Chairman Openshaw stated that since the 1.9 million gallons per day figure had been given, there have been over 218,000 gallons of capacity allocated as a result of the appeals process from the original policy. He questioned how the number could still be

1.9 million gallons per day. Mr. Mosteller responded that when the original policy was drafted, the team looked at historic data as far back as March and April of 2008 but also gathered new accounts and projected forward to October and November 2008.

Mr. Huneycutt interjected that he was not sure any of the 118,000 gallons per day allocated capacity as a result of the appeals process has actually been tapped into yet.

Mr. Mosteller stated that this concluded his presentation and offered to answer any questions of the Board.

Vice Chair Rogers recapped her understanding of what had been stated. She asked if it would be a fair statement that the first 1.9 million gallons per day was based more on projections than actuals and the second 1.9 million gallons per day was based more on actuals than projections. Mr. Mosteller responded that he thought a better, more fair statement would be that the original 1.9 million gallons per day was based on a start day of November 1, because the policy was adopted in mid October, and everything had been projected forward to approximately when the policy was going to be adopted. He explained that one change in the 1.9 million gallons per day since November 1, is the number of people that have actually put in a tap since November 1.

Vice Chair Rogers asked if a margin of error had been built into the policy. Mr. Mosteller responded that today, the team has looked at pretty much the worse case scenario of a cap of 18 million gallons per day, a hot, dry climate, and high irrigation as it was pre-drought. He said these are all contingency factors. He said that future projections for the unit rate of new residential connections are 250 gallons per day.

Mr. Greene stressed that he thought it was important to remember that projecting demand cannot be done precisely because there are so many factors. Vice Chair Rogers stated that she understood but said that she thought it was good when doing projections such as these that a margin of error or some kind of contingency be included, because it is not a solid, real number.

Mr. Greene said that he thought the Board should keep in mind the projections that Mr. Mosteller has provided are based on the best projections available.

Chairman Openshaw asked if the five peak days reviewed in Mr. Mosteller's presentation were all Saturdays or were some of those days Saturdays and Sundays. Mr. Mosteller responded that he thought they were all Saturdays. Chairman Openshaw asked what was the variance between Saturdays and Sundays on the highest usage days. Mr. Mosteller said that he did not have that information but did have it for the two-day per week irrigation.

Mr. Crook asked Mr. Mosteller to review for the Board again the last slide in his presentation regarding the numbers he wanted the Board to remember: 300,000 gallons per day for two days spread over six days; 1.9 million gallons per day for one day spread over five days; and 2.4 million gallons per day for one day spread over seven days. He said that the 300,000 gallons per day is what would be available if the Board remained with its motion of December 4th. He said if the Board were willing to go with a one-day irrigation schedule spread over five days, it would be 1.9 million gallons per day. Further, he said with a one-day per week irrigation schedule spread over seven days, it would be 2.4 million gallons per day. He stressed that none of the scenarios would be put into place 365 days per year. He said that these might have to be put into place if there is a high outdoor water usage associated with a hot, dry climate and the irrigation season demanded it.

After further discussion, Mr. Mosteller concluded his presentation at 10:55 a.m.

At approximately 10:55 a.m., Chairman Openshaw moved that the Board 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 unanimously. (Commissioner Mills was not in the meeting room at the time of the vote but had not been recused from voting. Therefore, his vote was counted in the affirmative.)

The Board members remained in the Personnel Training Room for the closed session.

At the conclusion of the closed session at approximately 12:55 p.m., Commissioner Baucom moved that the Board go out of closed session and reconvene the open session. The motion was passed unanimously. (Chairman Openshaw was not in the meeting room at the time of the vote but had not been recused from voting. Therefore, his vote was counted in the affirmative.)

At approximately 1:00 p.m., the Chairman reconvened the open session.

Mr. Greene stated that staff needed direction from the Board before additional capacity is obtained if there is a scenario where the Board would want residential permitted other than self-help projects. It was noted that there is an allocation included of approximately 30,000 gallons per day for self-help projects. There was discussion regarding the self-help projects that are currently being worked on: Polk Mountain, Wellington Woods, and Dodge City. The Chairman suggested that 20,000 gallons per day be added to the self-help allocation (total of 50,000 gallons per day) for residents that want to come forward with self-help projects.

Mr. Greene suggested that if the Board considers increasing the allocation for self-help projects, it might also want to consider allowing the increased allocation to be used not only for self-help projects but also for existing lots of record that are not in a subdivision. The Chairman said that he would also agree with that suggestion.

Mr. Crook noted that the current allocation policy allows for a one-tap reserve. The Chairman said that he thought the current policy states if a property is currently being serviced by a well and if there is a health, safety or welfare issue, then there is a mechanism in the policy for that property to be added immediately to the County's water system.

There was discussion on the status and timeframes of the Anson waterline improvements and the expansion of the Catawba River Water Treatment Plant. Commissioner Baucom questioned the status of moving forward with Anson County for long-term solutions. Mr. Greene responded that the revisions to the Agreement with Anson County are being drafted. Commissioner Baucom stressed that in his opinion that is the most progressive action that the County could do. Mr. Greene said it is not only the most progressive action but also is the only action that the Board can do.

Mr. Crook reminded that there is another Board action that was deferred in connection with the long-term aspect with Anson County. Mr. Greene responded that the consideration and recommendations for a long-term study was deferred, and staff is working toward a Board workshop in May to deal with those long-term issues. Commissioner Baucom stated that he thought that was paramount to dealing with the issues.

Vice Chair Rogers said that she had a couple of questions for clarification that she would like to have answered based on Mr. Mosteller's presentation. She said that she wanted to make sure her assumptions are correct that it would be going from the October 2008 water policy that was a zero day baseline to a policy with a one-day watering baseline. She asked if the new revision of the policy would be based on the current Catawba River Water Treatment Plant capacity (18 mgd) and not the expansion. She asked if the one-day-per-week baseline were approved today, would there be a need to restrict irrigation now.

Mr. Mosteller responded that he did not see a need to restrict irrigation now. Mr. Crook noted there is additional capacity from Lancaster through October of this year with perhaps the opportunity to renew that on an annual basis.

The Chairman said Union County's situation has had ramifications throughout the State because the State has come down on a number of municipalities to tighten their systems. He said that one of those municipalities that addressed this issue is Mooresville, and he recommended that staff obtain a copy of Mooresville's document to study. He stated that the document says that Mooresville

stays on top of projects to make sure the projects are moving forward and if they are not moving forward in a very tight timeframe, the projects are out of the system.

Mr. Bundy stated that a proposed motion had been drafted and copies provided to the Board to direct staff to move forward with drafting a policy that recognizes a one-day per week watering schedule as the baseline. In response to a question by Commissioner Kuehler regarding permits that have expired with the state and the County's ability to revoke those permits, Mr. Bundy said that the attorneys propose that where the County could draw a line to revoke such permits is whether or not infrastructure is in the ground.

Commissioner Kuehler stated her concern is with the permits that were issued from the State to the County, and the projects are not moving forward and the time has expired on the permits. Mr. Bundy asked if Commissioner Kuehler was suggesting that staff look at possibly having those permits revoked. Chairman Openshaw commented that he was not for extending anything that has to do with an expired date whether it has to do with a building permit or any sort of vested rights, not just water or sewer.

Mr. Bundy stated that if the draft policy allows water allocation for any development that has a water permit, staff believes there would be 300,000 gallons per day available capacity. He said that he thought Chairman Openshaw had an interest in taking care of the residential self-help projects. Mr. Bundy said that staff could draft different provisions in the policy. Chairman Openshaw said that he thought since the County's rate structure is encouraging people to get out of the County's system, then it was more than fair to say that if someone has a well and wants to tap into the County's system, they should be able to do so. The Vice Chair asked if these projects would be part of the 300,000 gallons per day allocation for new development. Chairman Openshaw responded that he thought it would be considered a one-tap allocation. He said that there is already a provision in the policy for one taps, but he wanted to expand the definition of one taps.

Mr. Crook asked for clarification whether the Chairman was suggesting removing the well restriction for one tap allocation. Chairman Openshaw responded this was correct.

Chairman Openshaw stated that a number of jurisdictions' policies state if a line is installed in front of a property owners' land, then the landowner would pay for the installation on a per foot frontage basis, whether or not it is used for water or sewer. He said that he was not necessarily advocating it.

Chairman Openshaw moved to:

- 1) Direct the staff to draft revisions to the Water Allocation Policy to allow for new development, with a baseline of one-day per week watering.
- 2) Direct that staff stop applying for all water permits under the Water Allocation Policy pending revisions to such Policy.

Mr. Bundy recapped his understanding of the motion as follows: to draft a policy that contemplates a baseline of one-day per week watering if necessary.

Mr. Crook pointed out that he thought it was important for the Board to understand its direction today to the staff is for the staff to come back with a revised policy.

There was discussion regarding the number of projects listed in Category "B" that were non-residential or governmental. Chairman Openshaw said that he was hearing that there is a lot more demand than there is supply. Mr. Crook stated that the list of projects under Category "B" included all of the projects of which staff was aware.

Mr. Crook noted that there was one other directive to staff discussed today which was to direct staff to pursue recovery of capacity relative to all expired permits.

Following further discussion, Chairman Openshaw amended his motion and restated it as follows to:

- Direct the staff to draft revisions to the Water Allocation Policy to allow for new development, with a baseline of one day per week watering.
- Direct that staff stop applying for all water permits under the Water Allocation Policy pending revisions to such Policy.
- Direct staff to pursue recovery of capacity relative to all expired permits.

Following 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. Commissioner Baucom and Commissioner Mills voted against the motion.

With there being no further discussion, at approximately 1:35 p.m., Vice Chair Rogers moved to adjourn the special meeting. The motion was passed unanimously.